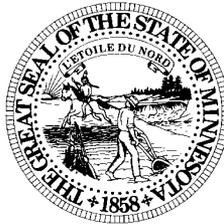


**Presenting Appeals
of Orders of the
Commissioner of Revenue
to the
Minnesota Tax Court**



Minnesota Tax Court

245 Minnesota Judicial Center
25 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN
55155
(651) 539-3260

<http://mn.gov/tax-court/>

Presenting Appeals to Orders of the Commissioner of Revenue *to the* Minnesota Tax Court

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The Minnesota Tax Court

You have appealed or are considering whether to appeal a Commissioner's Order denying a refund or assessing additional tax, penalty and/or interest. This appeal gives you an opportunity to tell a Minnesota Tax Court Judge why you believe the Commissioner incorrectly denied your refund or made this additional assessment.

The Minnesota Tax Court is an independent court created to hear tax related disputes. A Minnesota Tax Court Judge will hear the facts of the case and decide the legal issues. The Judge does not take sides and cannot help you make your presentation. If you have appealed without the assistance of an attorney, you will have the rights and obligations of attorneys appearing before the Court.

The Judge's decision will be based on his or her conclusions to questions of law, findings of fact or both. Questions of law can include whether the law applies to your situation; whether the Commissioner is interpreting and applying the law the way it was intended; or whether the law or the application of the law is constitutional. If your objection to the Order involves the question of whether a statute is constitutional, you will be required to follow strict procedural steps, not discussed here, to bring that issue before the Minnesota Tax Court. Whether you have a question of law for this Court to address is something you should determine with your attorney.

Questions of fact are the more common issues determined by the Court. An income tax case, for example, can require the Court to determine the amount of income you received during the year, the amount of deductions you are entitled to take, or whether the facts support the assessment of a penalty.

Although you have the right to pursue your case in the Minnesota Tax Court, please remember that negotiation is the best way to settle most disputes. You should try to settle your case with the Commissioner.

This pamphlet is intended to provide public information, not legal advice.

Office Hours

Monday through Friday,
8 a.m. to 4:30 p.m.

Address

245 Minnesota Judicial Center
25 Rev. Dr. Martin Luther King Jr. Blvd
St. Paul, MN 55155

The Judges of the Minnesota Tax Court

Judge Joanne H. Turner

Judge Bradford S. Delapena

Judge Thomas G. Haluska

Your Appeal

What happens after I file the Appeal?

The Commissioner of Revenue's representative is required to file a Return and Answer to your appeal with the Minnesota Tax Court within 30 days. However, the Commissioner's representative may request a 30-day extension of this deadline. The Commissioner's representative will mail you a copy of the Commissioner's Return and Answer.

Who decides my case?

Your appeal will be decided by one of Minnesota's three Tax Court Judges.

Do I need an attorney?

Minnesota Tax Court rules require certain types of taxpayers to be represented by a attorney in cases heard in the Regular Division. In Small Claims Division attorneys are permitted, but not required. An experienced attorney can be helpful, as the Rules of Civil Procedure and Rules of Evidence apply to tax appeals just as they do in other litigation. Only you can decide whether you need a attorney to help you.

Understanding Tax Court

"Pro Se"

Definition: on one's own behalf;
without an attorney

If I act as my own attorney, what are my responsibilities?

In every type of legal dispute, one party has what is called the burden of proof, or the greater responsibility to prove its case. Minnesota law assumes that the Commissioner of Revenue has corrected assessed the tax. As the appellant—the person bringing the case—the "burden of proof" therefore rests with you. You must prove the Commissioner erred to win your appeal.

Like an attorney, you must gather evidence and research the legal or factual issues involved in your case. You may need to call witnesses and question them. You will have the right to question or cross-examine any witnesses brought by the Commissioner of Revenue's representative. You also may be a witness and give testimony on your behalf and respond to questions from the Commissioner's representative.

You also are the Minnesota Tax Court's main contact for your case. If your case is settled, needs to be delayed, or any other significant developments occur, you must contact the Minnesota Tax Court.

Who will represent the Commissioner of Revenue in my case?

The Commissioner of Revenue is represented by an attorney from the Attorney General's Office in Regular Division matters. In Small Claims Division matters, the Commissioner of Revenue is often represented by an appeals officer from the Commissioner's Office.

How will I know when my case is going to be heard?

After the Commissioner's representative has filed the Return and Answer to your appeal, you may be asked to provide the Tax Court with more information to help schedule your case. You will be notified by mail of the time, date, and place to appear for trial. The notice will be sent to the address shown on the appeal. If you move after filing your appeal, you must notify the Minnesota Tax Court of your new address.

What happens if I cannot appear in court on the scheduled date?

If you cannot appear on the scheduled hearing date, you must notify the Tax Court promptly. It may be possible to reschedule (continue) your hearing for another time, if the Commissioner of Revenue's representative agrees. *Failure to notify the Minnesota Tax Court that you will not attend the hearing may result in dismissal of your case and you being charged for court costs, such as fees for the court reporter.*

Where will my case be heard?

Your case will be heard at the county courthouse in the county where you live or, if you choose, at the Minnesota Tax Court, Minnesota Judicial Center, in St. Paul. Arrive at the courthouse early so you will be ready when the hearing begins. Check in with Minnesota Tax Court Administration for courtroom information.

Understanding Tax Court

Minnesota Administrative Rules

Chapter 8610, Tax Court Rules of
Procedure

The Office of the Revisor of Statutes,
State of Minnesota

May I negotiate a settlement after the hearing date has been set?

Yes! In the time between setting the hearing date and the hearing, you may negotiate with the Commissioner of Revenue's representative to reach a settlement. Settling may save you and the state time and money. Settlement negotiations before the hearing will also give you the chance to share information with the Commissioner's representative. If you settle your case or if you decide to dismiss your case, you must notify the Tax Court immediately. If you do not, you will be liable for court reporter fees and any penalty the court may impose.



The Day of the Trial



What should I bring to court?

Bring all of the documents, plus two sets of copies, and witnesses you wish to present to the Judge. Make sure your witness(es), if any, are available to testify. You do not have to bring witnesses, but it might be difficult to prove your case without information that your witnesses can provide. You may testify as a witness on your own behalf.

Who speaks first?

As the appellant, you will be asked to make a brief statement to the Court explaining the basis of your case and the evidence you will present to prove your position. You will present your evidence first. If you bring witnesses, the Commissioner of Revenue's representative will be allowed to question them after you are finished with your questions. You will be allowed to question the Commissioner's witnesses as well.



How can I make a strong presentation?

- **Prepare.** Make a list of key points you want the Court to understand. Keep it with you for reference.
- **Follow courtroom etiquette.** Be on time. Dress neatly. Address your statements to the Judge, not the Commissioner's representative. It is the Judge who needs to understand your case, not the Commissioner's representative. Address the Judge as "Your Honor." Stand when addressing the Court.
- **Set the scene.** Tell the Judge right away what issues are in dispute and your position on each issue, so the Judge will understand your arguments more fully.
- **Ask specific questions of witnesses.** Whether you are questioning a witness you have brought or one the Commissioner called, ask specific questions to gather information. Do not argue with witnesses.
- **Keep your presentation brief and factual.** If you have prepared well, you should know exactly what evidence you want to present. Do it directly and factually.
- **Listen respectfully to the opposition.** After you have told the Court your story and called your witnesses, it will be the Commissioner's turn to make its case. Listen respectfully. Do not interrupt. Make notes on any points you would like to clarify further when you get a chance to question the Commissioner's witnesses. And when you are questioning the Commissioner's witnesses, do so respectfully. Don't argue.
- **Be prepared to sum up your case.** After both sides have questioned their witnesses, you will have a chance to summarize your case for the Court. This is your chance to show the Judge how your evidence supports your case. Keep your statements brief and factual. A long speech will not improve your case if the facts do not support your position.



How long will the trial last?

The hearing will continue until all evidence is presented. There is no specific time limit.

What costs of the trial am I responsible for?

You are responsible for any costs related to preparing and presenting your case. If your case is heard in the Regular Division, a court reporter must be present to record what is said. You are responsible for paying the court reporter. Please make arrangements to pay the court reporter before the hearing starts.

When will I find out if I have won my case?

Usually the Judge will end the hearing by taking the case under advisement. This means that the Judge will not decide your case on the day of the trial but will take time to carefully consider the information presented. Both parties will receive the Court's decision within 3 months of the last submission to the Court.



What happens if I win? Can the Commissioner appeal?

Cases heard in the Small Claims Division of the Minnesota Tax Court cannot be appealed. The Judge's decision is final. If your case was heard in the Regular Division, however, the Commissioner may appeal the decision to the Minnesota Supreme Court. If you wish to appeal the decision to the Minnesota Supreme Court, you are encouraged to consult an attorney for assistance.

If I asked for a refund, when will I get it?

Refunds are handled by the Department of Revenue. If you have no other tax liabilities, the Department will send you a check.

Can I be repaid for the money I have spent on my case?

The Minnesota Tax Court has the authority to order that you be repaid for your out of pocket costs. To recover costs you must win your case and give to the court an affidavit of the expenses, with receipts, you have incurred. For procedural information please refer to Minnesota Tax Court Rules of Procedure.

What happens if I lose? Can I appeal my case?

Cases heard in the Small Claims Division of the Minnesota Tax Court cannot be appealed. The Judge's decision is final. If your case was heard in the Regular Division, however, you may appeal the decision to the Minnesota Supreme Court. If you wish to appeal the decision to the Minnesota Supreme Court, you are encouraged to consult an attorney for assistance.

Will I have to pay the Commissioner's out of pocket costs if I lose?

The Commissioner may request that you pay certain costs. The Minnesota Tax Court has the authority to order you to pay them.

If I owe money, when will I have to pay?

If you owe money, it is your responsibility to arrange payments with the Department of Revenue.



Glossary

Affidavit: A written statement of facts made voluntarily and confirmed by the oath or affirmation of the party making it. An affidavit must be sworn before a person having authority to administer oaths, such as a notary public.

Appellant: The party bringing the case, the taxpayer.

Appellee: The party against whom a claim is brought. In tax disputes, this is the Commissioner of the Minnesota Department of Revenue.

Burden of Proof: The greater responsibility to prove a claim correct. In income, employment and sales tax disputes, the burden of proof rests with the Appellant.

Court reporter: The independent person who records all testimony presented at the trial.

Notice of Appeal: The document you signed and filed to object to the Commissioner's assessment of tax, penalty, or interest or denial of a refund and to ask the Minnesota Tax Court to hear your case.

Presumption: The Commissioner's order is presumed valid in tax appeals. The burden is on the Appellant to prove that the Commissioner is wrong.

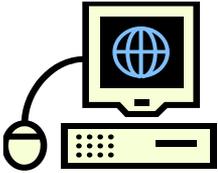
Settlement: An agreement reached through negotiation by parties involved in a legal dispute.

Testimony: Information supplied by people involved in a dispute. Testimony is given under oath – a legally binding promise to tell the truth.

Transcript: A written record of the testimony at trial prepared by the court reporter.

Under Advisement: Under consideration.

Witness: An individual with information about a legal dispute who is called to provide that information to a court.



Using the MN Tax Court Web Site

The MN Tax Court web site, <http://mn.gov/tax-court/>, includes a wealth of information to guide you through the Tax Court process. This is public information and is not intended to constitute legal advice.

On our Home Page you will find a menu to direct you to the different pages of our web site:

[About Us](#) [Decisions](#) [Forms](#) [Contact Us](#)

About Us: Learn more about the judges, the staff, and the law clerks at the Tax Court.

Decisions: These are published decisions from 1992 to the present. Use the box on the first page to enter your search term. Search by term (i.e. valuation, homestead, institution of purely public charity), or search by case name, file number, or date, for example. Look at cases that are similar to yours in terms of legal issues and facts. Be warned: the web site does not update the subsequent history of cases reported. You must search the Minnesota Supreme Court web site to determine if a Tax Court case has been reversed or affirmed by the Supreme Court. You can link to the Supreme Court web site through the links box at the bottom of our Home Page.

Forms: This includes MN Tax Court Forms 7 (Property Tax Petition) and 1 (Commissioner of Revenue Appeal), Information Sheets, Procedural Guidelines for Working with the Tax Court, and *informa pauperis* (Waiver of Court Fees and Costs) forms. Here you will find handbooks to assist you in presenting your appeal to the Tax Court. These in-depth guides are created specifically for taxpayers who represent themselves ("Pro Se") in Tax Court.

Contact Us: This offers you the Tax Court's address, telephone number and driving directions to the Minnesota Judicial Center. Also included are email links for questions and submissions you may have.

Upon request this pamphlet will be made available in alternate format such as large print or Braille.

TDD users may call this agency through the Minnesota Relay Service:
Twin Cities 612-297-5353; Greater Minnesota 1-800-627-3529 ask for 651-539-3260



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