

Vermont Department of Taxes Emergency Rule on Hearing Procedure

Effective July 1, 2020 – December 26, 2020

The purpose of this Emergency Rule is to establish a procedure for handling taxpayer appeals in a fair and timely manner during the increased risk of exposure from COVID-19, which was established as a global pandemic by the World Health Organization as of March 11, 2020.

In order to limit in-person contact among and between members of the public and Department of Taxes personnel, this Emergency Rule provides for Commissioner's Hearings to be held remotely. Notwithstanding any provision herein, the Commissioner retains discretion to resume in-person hearings should the public health situation surrounding COVID-19 improve significantly.

1. Commissioner's Hearing: Notice and Participation. If the Department and taxpayer (referred to herein as the "parties") are unable to resolve all issues, the matter will be docketed for hearing before the Commissioner. The hearing is the parties' opportunity to present evidence to the Commissioner in support of their respective positions. The admissibility of evidence will be determined pursuant to 3 V.S.A. § 810(1)-(4). Notice of hearing shall be mailed to the taxpayer at the last address provided by the taxpayer to the Department no less than three weeks before the date of the hearing unless the parties agree to a shorter notice period.

- a. Hearings shall be held by telephone. The Department Clerk shall provide a call-in phone number for a telephone conference on the notice of hearing sent to the parties. Parties must call the call-in number at the time and date on which their hearing is scheduled.
- b. Hearings may also be held by videoconference at the taxpayer's request. Taxpayers who have video conference capability and wish to participate in the hearing in this manner may request a video conference. Such requests must be made to the Department Clerk within two weeks of the scheduled hearing. The Clerk will then set up a video conference and provide the parties with access information by secure email within one week of the hearing date.

2. Submission of Evidence. Facts may be presented to the hearing officer by oral testimony over the phone, by pre-filed testimony, through documentary evidence, by written stipulation of facts, or by any combination of these four methods. Any document that must be signed by one or both parties may be signed electronically.

All evidence other than oral testimony must be submitted to the Department Clerk by email at least one week prior to the hearing. The Department Clerk will circulate such evidence to the parties and to the hearing officer by secure email prior to the hearing.

Any party that is unable to provide documents electronically may instead mail documents to the Department. Upon receipt, the Department Clerk will scan such evidence for circulation to

the parties and hearing officer by secure email. Any party submitting evidence by mail must do so at least two weeks prior to the date of the hearing and must notify the Department Clerk at the time of the mailing.

Any party that is unable to access electronic copies of evidence may request paper copies from the Department Clerk. A request for paper copies should be submitted in writing to the Department Clerk as soon as practicable, but no later than two weeks prior to the hearing date.

- a. Factual Stipulation. A stipulation of facts may be submitted in lieu of, or to supplement, a Commissioner's Hearing. The stipulation must be signed by both parties.
- b. Pre-filed Testimony. Either or both parties may choose to submit testimony of a witness in writing. A witness or party submitting pre-filed testimony will be subject to the same rules of admissibility and cross-examination as oral testimony at the hearing.
- c. Documentary Evidence. Documentary evidence is subject to the same rules of admissibility as evidence that would be offered at an in-person hearing.

At the end of the hearing the Commissioner's record is closed and the findings of fact made by the Commissioner shall be based exclusively on the evidence and matters officially noticed as required by the Vermont Administrative Procedure Act.

3. Other Provisions. Any provisions from the Department's Rule of Organization and Procedure, effective January 1, 2019, that are consistent with this Emergency Rule, are hereby incorporated by reference into this Emergency Rule. Any provisions from the Department's Rule of Organization and Procedure that are inconsistent with this Emergency Rule are suspended for the duration of this Emergency Rule.

4. Effective Dates. This Emergency Rule shall become effective on July 1, 2020 and shall cease to be effective on December 26, 2020.