

INCOME TAX BOARD OF APPEALS

AUTHORITY AND PURPOSE

The Income Tax Board of Appeals (Board) was created by City Ordinance Section 95.13. This Board was created to hear appeals of assessments, rulings, or decisions of the City Income Tax Department (Department) by taxpayers (Appellants). The Board shall, on hearing, have jurisdiction to affirm, reverse, or modify any such assessment, ruling or decision, or any part thereof, made by the City Treasurer (Treasurer) from which an appeal has been filed as provided in Section 95.13.

MEMBERSHIP

The Board, consisting of three representative citizens of the City, not otherwise employed by the City, are to be appointed by the Mayor and Treasurer (Appointing Authorities) pursuant to Section 95.13(A). They serve without compensation.

DUTIES OF MEMBERS

The Board shall choose one of its members to be Chair of the Board and another as Secretary. Other than the setting of meetings and ministerial acts to facilitate the meeting or hearing by the Chair, no Board member as such has individual authority and all actions by the Board shall be the result of collective Board group action.

CHAIR - The Chair shall conduct the meeting and administer oaths to witnesses.

In the absence of the Chair, another member will fulfill the duties of Chair until that hearing is completed.

SECRETARY - The Secretary shall make appropriate records as needed and turn them over to the Income Tax Administrator (Administrator) for preservation.

STANDARDS OF CONDUCT

ATTENDANCE -

Attendance by all members is expected at meetings/hearings.

CONFIDENTIALITY -

All hearings by the Board may be conducted privately and the provisions of Section 95.09 (E) with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as

may be heard on appeal before the Board. Any information gained as a result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes, or except when ordered by a court of competent jurisdiction. Any person divulging such information in violation of Chapter 95 may be guilty of a misdemeanor. Each disclosure may constitute a separate offense. Except for administrative communications with the Administrator or the Administrator designee (Designee), Treasurer, Law Director, and taxpayer representatives, information about appeals is only to be discussed at official meetings/hearings. There is no time limitation on this confidentiality section. This confidentiality section applies even after the member's term is over unless waived by the taxpayer or a taxpayer representative.

CONFLICT OF INTEREST - Each Board member has the obligation to disclose potential conflicts of interest with respect to the individual making the appeal, the tax preparer or tax preparation firm, or the basis of the appeal.

DEMEANOR - All Board members shall conduct themselves in a professional manner.

ROLE OF TAX DEPARTMENT PERSONNEL

The Administrator or Designee is the staff person assigned to the Board. In this capacity, the Administrator or Designee, shall:

- * Provide information to taxpayers on how to appeal a decision of the Department.
- * Notify Board members of any requests for an appeal hearing.
- * Contact all members to schedule the hearing.
- * Notify Board members and Appellant of hearing date(s) and time(s) and names of Board members.
- * Mail the Board's decision to the appellant.
- * Prepare agenda for meetings/hearings.
- * Make arrangements for a recording device or a court reporter for the Hearing/Meeting.
- * Advertise open meetings at the request of the Chair of the Board.
- * Respond to any requests for additional information required by the Board, including coordinating requests for Legal Counsel.
- * Collect all written material generated as a result of any meeting/hearing. This material shall be summarized into a

docket, organized and securely placed in a separate file for the Board.

- * Represent the Department at all meetings/hearings.
- * Prepare copies of tax returns, correspondence, etc., pertinent to the appeal for the hearing.
- * Explain to the Board any actions/decisions affecting the handling of the tax matter being appealed.
- * Not discuss any aspect of a pending appeal other than at a formal appeal meeting/hearing where the appellant is present or has had the opportunity to be present.
- * Contact new Board members and provide copies of the procedural manual and Income Tax Ordinance.
- * Provide an orientation tour of the Department.

LEGAL COUNSEL

If deemed necessary by the Board, counsel from the Law Director's office may be available for the Board. Upon notification by the Board that legal counsel is needed, the Administrator shall contact the Law Director to coordinate the assistance needed. The Law Director shall determine whether Special Counsel shall be retained for the Board and shall make all such arrangements.

HOW TO APPEAL A DECISION OF THE TAX DEPARTMENT AND TREASURER

The Appellant shall request an appeal in writing, stating why the decision should be deemed incorrect or unlawful. The appeal shall be filed within 30 days after the Administrator issues the decision. A decision shall be deemed issued when received by the taxpayer or the taxpayer's counsel. The first appeal is to the Treasurer. When the Treasurer issues a decision under Section 95.13(C) of the Ordinance, the appeal will be referred to the Income Tax Board of Appeals upon a written appeal submitted by the taxpayer within 30 days after the Treasurer issues a decision. If a taxpayer elects to file an "early" appeal, it will not change the sequence of notices or procedures required.

PROCEDURAL RULES

This manual constitutes the procedural rules of this Board. It is subject to review and modification by the Board at all times. Any revisions will be delivered to the Administrator for use and publication as required. A copy of this manual and the Tax Ordinance is given to each Board member and is available to the public upon request.

MEETINGS/HEARINGS

WHEN MEETINGS/HEARINGS ARE HELD -

Generally, appeals are generated by a taxpayer contesting a decision of the Administrator, which has been the subject of a review decision of the Treasurer. When a request for an appeal is received by the Administrator, the Board members will be notified within five (5) days. The Administrator may also bring procedural matters before the Board such as conflicts and challenges. All meetings are open to the public except when confidential tax matters are being discussed at a hearing.

HOW A MEETING/HEARING IS CONDUCTED -

- * Initiating a recording device or introducing a court reporter of the meeting/hearing.
- * Introductions.
- * Declaration of confidential nature, if any, of the meeting/hearing.
- * Declaration of what is being appealed.
- * Reading of Conflict of Interest Statement.
 - "Is anyone present aware of a potential conflict of interest or challenge in this appeal concerning the taxpayer making the appeal, the tax preparer, or the basis of the appeal?"

Any member who disqualifies himself/herself may not attend the meeting/hearing unless they are the preparer of the tax return and/or are representing the Appellant. The Appointing Authority of the member recusing himself or herself shall be notified so that an alternate may be duly appointed for the subject case only.

- * City presents its case.
- * Appellant or representative presents its case.
- * Response time to Appellant's statements - City.
- * Response time to City's statements - Appellant.
- * Questions by the Board members to both the City and Appellant.
- * City representative and Appellant are excused.
- * In the event additional information or Legal Counsel is needed, the Board may suspend the meeting/hearing until sufficient information is received. All parties will be notified of when the meeting/hearing will resume.
- * Board members shall discuss the case in private. After discussions are concluded, each member shall write his/her opinion on the appropriate form.

- * Chair will summarize all opinions on the Summary sheet. The majority opinion of the members prevails.
- * Members will review and sign the summary. This summary sheet is given to the Tax Department representative who will distribute a copy to the appellant, via certified mail, within thirty (30) days.
- * If deemed appropriate by the Board, a verbal decision may be given at the meeting/hearing. If so, a copy of the written summary will also be mailed to the appellant. All materials and information used for this meeting/hearing are to be turned in to the Administrator or Designee before leaving the meeting site.

Unless waived by the parties and agreed to by the remaining board members, the entire hearing shall be before all three members of the Board. Upon the withdrawal, recusal, absence, or other disqualification of a board member, before or during hearing, the hearing shall be suspended and the Appointing Authorities advised of the need for appointment(s). If the appeal is decided with only two (2) members and it is a split decision, the case will be referred for new hearing to a second Board of Appeals (Alternative Board) consisting of three disinterested persons appointed by the Appointing Authorities. The Alternative Board shall follow the same procedures as the Board. The decision and the record of both separate proceedings shall be maintained by the Department and shall be available for appellate review pursuant to the Ohio Revised Code.

RECORD OF PROCEEDINGS

The Record of Proceedings shall be the forms completed at the appeal meeting/hearing, information provided through Legal Counsel, the agenda and the recording of the proceedings. All material must be kept at City Hall, and given, at the end of the meeting/hearing, to the Administrator or Designee attending the meeting/hearing. Individual members may retain their notes and resource materials. Recording may be by any medium which records the words of all present at the meeting and which is attested to by the person responsible, normally the Administrator. If an appeal is taken from the proceedings of this Board, a copy of the Recording shall be maintained by the Administrator either in transcript or audible media form. Any party to the proceeding is entitled to a transcript (or copy of the Record in audible form if that is the existing media) upon payment of the costs of transcription or

duplication to the Administrator who shall make the copy. In the event of a conflict between these Procedures and the enabling Ordinance, the Ordinance shall control to the extent that it addresses the issue. Likewise the Ohio Revised Code shall prevail over the Ordinance. Opinions of the Attorney General, State Auditor, Law Director or other authorities shall be accorded the weight that the Board of Appeals determines appropriate.

BOARD OF APPEALS INSTRUCTIONS

Should one find it necessary to appeal a decision of the Cambridge Income Tax Department or the Treasurer, please use the following information.

1. The Appellant (person appealing the decision) or the Appellant's Representative shall deliver a written request for a hearing stating reasons why the decision should be found incorrect or unlawful. The request must be filed within 30 days after the Tax Administrator issues the decision and 30 days after the Treasurer's decision. Please include a telephone number where the Appellant or Representative may be contacted during the day.

2. The written Appeal must be placed in an envelope marked CONFIDENTIAL (sealed if confidentiality is to be maintained) and sent (or deliver) to:

Cambridge Income Tax Board of Appeals
c/o Tax Administrator
City Hall
1131 Steubenville Ave.
Cambridge OH 43725

3. The Board normally holds the hearings at the City Hall Building, Steubenville Avenue, Cambridge Ohio. Notice of the time and place will be given to the Appellant or Counsel, if any.

4. If The Appellant cannot attend the hearing at the time scheduled, contact the Tax Administrator at (740-439-2355). Every attempt will be made to reschedule the hearing or the Appellant may appeal in writing. Should one request an appeal solely in writing, be certain the writing contains all relevant facts and clearly indicates that the submission to the Board of Appeals is solely on the written record. The Board shall decide whether the request for only written submissions shall be approved, after providing the City with the opportunity to be heard and shall inform the Appellant and the City of that decision.

5. The Board shall, on hearing, have jurisdiction to affirm, reverse, or modify any such assessment, ruling or decision, or any part thereof, provided by the law.

6. The Appellant will be notified by mail of the Board's decision within 90 days of the hearing.

7. For questions or needed assistance, please contact the Tax Administrator at City Hall or by telephone at (740-439-2355).