

Notice of Taxpayer Rights

Disagreeing with a Tax Department decision

Request for review

You have the ability to request a review of a bill or notice you do not agree with. Usually, a request for review is the easiest, fastest, and least expensive way to resolve a problem. To contact us:

Online: Many notices you may receive from us allow you to use our *Respond to Department Notice* online service. You must have an Online Services account with the Tax Department.

Phone or mail: If you cannot respond online, the notice will tell you who to call and where to mail your protest.

Protest

In some cases, you may timely file a **protest** to have your dispute decided impartially. Your notice will indicate whether you have protest rights, which normally means you may request a conciliation conference or a Division of Tax Appeals hearing.

Conciliation conference

An impartial person, known as a *conferee*, will review the evidence that you and the Tax Department present, and determine a fair result. You will receive a proposed resolution called a *consent*. If you do not agree with the consent, the conferee will issue a binding conciliation order. If you do not agree with the order, you must file a petition for a hearing with the Division of Tax Appeals. Visit our website to learn how to request a conciliation conference.

Division of Tax Appeals hearing

You and a Tax Department representative will have the opportunity to present evidence in a hearing before an impartial administrative law judge. The judge will review the evidence and make a determination. If you do not agree with the judge's determination, you may seek further review before the Tax Appeals Tribunal. The Tribunal will review the hearing record and your legal arguments, and then issue a decision or refer it back to the judge for further review. If you do not agree with the Tribunal's decision, you may seek further review in a court of law. For more information, contact the Division of Tax Appeals directly at www.nysdta.org or Division of Tax Appeals, Agency Building 1, Empire State Plaza, Albany NY 12223.

Estate Tax

If you are protesting an estate tax matter, you may request a conciliation conference, or begin a legal proceeding against the Tax Department in your county's Surrogate's Court. You may not seek review of estate tax matters through the Division of Tax Appeals.

Representation

If you would like someone else to contact the Tax Department on your behalf with regard to a request for review or protest, visit our website to learn more.

Getting a refund

If you think you paid too much tax, or if you think you were not required to pay a particular tax, you have the right to request a refund.

Usually, you must request a refund within three years of the date you filed the return, or within two years of the time you paid the tax, whichever is later. The time limits for requesting a refund differ, depending on the type of tax and whether you filed a return. Contact us at 518-457-5434 to learn your time limits, and whether you need to use a particular form.

The audit process

In an audit, the Tax Department reviews your tax return and tax records to verify that you paid the correct amount of tax. If we select you for an audit, it does not mean you have done anything wrong. We want only to confirm the amounts on your tax return. The Tax Law requires that you give the department all records needed to verify the information on your return.

For more information, see Publications 130-D (desk audit) and 130-F (field audit), *The New York State Tax Audit – Your Rights and Responsibilities*.

The collection process

If you do not pay the tax due on your return, or if we find that you owe additional tax, penalties, or interest, we will send you a notice or bill. If you have an Online Services account with us, you can view and pay your bills online.

If you are behind on your tax payments, it is in your best interest to contact us as soon as possible, before we begin collection actions. If you cannot pay what you owe in full, you may be eligible for:

- a payment plan that allows you to spread out your payments; or
- our *Offer in Compromise* program, which can reduce the amount you have to pay under certain circumstances, such as economic hardship.

If you do not pay your bill (or protest) after a certain period, we will file a tax warrant against you.

A **warrant** is the equivalent of a legal judgment against you. It gives us the legal right to seize your property without your consent. Warrants are public records filed with the Department of State and with your county clerk's office. A warrant may affect your credit rating or your ability to buy or sell real property.

In addition to filing a warrant, we may take other collection actions against you, such as:

A **levy** is a legal seizure of your property, usually bank accounts. Before we do this, we send you a notice indicating what kinds of property we cannot seize, such as Social Security and pension income. The bank withdraws the money from your account and sends it to us.

An **income execution**, also known as a *garnishment*, is a levy against your wages. We first allow you to voluntarily pay up to 10% of your wages to satisfy your tax debts. If you do not make the voluntary payments, we contact your employer to automatically deduct the payment from your wages. The payments continue until you have paid your tax debt in full.

As a last resort, we physically **seize** your non-exempt property and sell it at auction. Before the auction, you can pay what you owe and get your property back. If the property is sold at auction, we apply the proceeds to your tax debt. If the proceeds are greater than your debt and our expenses, we return the surplus to you.

If New York State, another state, or the Internal Revenue Service owes you money, we may withhold those payments from you, applying them instead against your tax debts.

Innocent spouse

As a general rule, if you file a joint personal income tax return, you and your spouse are both responsible for paying the tax and any interest or penalties that may be due. Under certain circumstances, we will not require an innocent spouse to pay certain tax debts.

To learn more, see Publication 89, *Innocent Spouse Relief (and Separation of Liability and Equitable Relief)*.

Complaints

If you have an issue with the Tax Department that you cannot resolve through normal channels, the New York State Office of the Taxpayer Rights Advocate may be able to help you. The Taxpayer Rights Advocate's Office will listen to you, learn about your problems or concerns, and work with you to resolve them. For more information, visit the Taxpayer Rights Advocate page at www.tax.ny.gov/tra.

To learn more

For more information on all these topics, see Publication 131, *Your Rights and Obligations Under the Tax Law*.

Need help?



Visit our website at www.tax.ny.gov

- get information and manage your taxes online
- check for new online services and features



Telephone assistance

Business Tax Information Center: 518-457-5342

Personal Income Tax Information Center: 518-457-5181

Estate Tax Information Center: 518-457-5387

To order forms and publications: 518-457-5431

Test Telephone (TTY Hotline): 7-1-1