

What if I don't agree with the results of my audit?

AUGUST 2006

How to exercise your rights as a Texas taxpayer

Dispute Resolution

After the exit conference, but before a *Notification of Audit Results* is produced, disagreed issues can be reviewed with the audit manager or supervisor in a reconciliation conference. If this is not adequate or if issues still remain after a reconciliation conference, a dispute resolution conference can be held. See publication #96-321 for information regarding the dispute resolution conference.

Notification of Audit Results

Question: I received a *Notification of Audit Results*. What is it?

Answer: The *Texas Notification of Audit Results* is the comptroller's official determination of the results of your audit. A *Notification* is issued for each tax or fee that was audited regardless of the outcome of the audit.

Question: I have open balances for return periods within the audit period. Are those balances included in the *Notification*?

Answer: No. The *Notification* balance will only reflect the results of the audit. Open balances from return periods will not be included in the audit results and any ongoing collection action will not be affected by an audit.

Question: I paid my deficiency before my audit was final. Will I receive a *Texas Notification of Audit Results*?

Answer: Yes. A *Notification* will be issued that reflects the audit balance as of the

date of the *Notification*. If the liability is paid in full (including penalty and interest) then the balance will show zero.

Penalty and Interest

Question: You mentioned penalty and interest. Just how much are you talking about?

Answer:
Penalty

Taxes and fees assessed in an audit are subject to a penalty of 10 percent of the amount due. An additional 10 percent is imposed if you do not pay on or before the date indicated on the *Texas Notification of Audit Results*.

Interest

Reports due before January 1, 2000: Interest accrues at 12 percent per annum on additional taxes and fees. There is no provision in the law for payment of credit interest.

Reports due after December 31, 1999: The interest rate is subject to change every January 1, based on the prime rate, as published in the *Wall Street Journal*, plus one percent. This is the rate that is assessed on any additional tax or fee liabilities, and effective January 1, 2000, this was also the rate of credit interest paid on any tax or fee overpayments.

Credits and refunds claimed after August 31, 2005: The rate of **credit interest** paid on overpaid taxes and fees changed effective September 1, 2005, to the lower of the prime rate, as published in the *Wall Street Journal*, plus one percent; or the annual

At the Comptroller's office, we want to be fair and give all taxpayers full consideration in every case. You have a right to "your day in court" to protest any audit result you feel is wrong. This brochure explains your rights and how to exercise them.



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rate of interest earned on deposits in the state treasury during December of the previous calendar year. The interest rate assessed on any additional liabilities did not change and is still at the prime rate plus one percent.

Question: How can I request a penalty or interest waiver?

Answer: There is no need to request a waiver of penalty or interest. When we conduct audit examinations, we presume taxpayers have requested waiver of penalty and interest. You will be notified of our decision on the waiver in the letter sent to you with the audit package. Penalty waivers are usually limited to periods originally filed in a timely manner.

Taxpayer Options

Question: Okay, so what happens next?

Answer: You have two options available:

1. If you agree with the audit results, send a check or money order payable to the State Comptroller for the total liability as calculated on the *Notification*, plus any additional interest that has accrued from the date of the *Notification*. A determination becomes final 30 days after this date (20 days

for a jeopardy determination). A 10% late payment penalty becomes due 40 days after the *Notification* date (20 days for a jeopardy determination). Interest continues to accrue on the tax/fee until paid or refunded.

2. If you do not agree with the audit results, you can request a redetermination hearing by sending a statement of grounds. All tax and fee audits are subject to the hearings process no matter what the final results may be. Your statement of grounds must be postmarked on or before the due date indicated on the *Notification*. If you choose this method, you are not required to pay the assessment at that time, but if you do not pay, interest continues to accrue on the amount of tax/fee ultimately determined to be owed the state. If you miss the deadline to file for a redetermination hearing, then the entire liability must be paid before a refund hearing can be granted.

Statute of Limitations

All periods in an audit are open for refund up to six months after the liability becomes final (usually 30 days from the *Notification* date) and is paid. Refund claims filed after this six-month interval can only include periods that

fall within the four-year statute of limitations. Hearing requests made more than 30 days after the *Notification* date, but within six months after becoming final, can cover all periods in the audit, limited to the transactions at issue in the audit, unless the transaction would normally fall within the four-year statute of limitations.

Statement of Grounds

If you disagree with the results of an audit, your statement of grounds must list the items in the audit with which you disagree, either individually or by category, and set out why you disagree. If you disagree with the agency's interpretation of the law, you must cite legal authority for your position.

Your statement of grounds should be sent to:

Carole Keeton Strayhorn
Texas Comptroller of Public Accounts
Austin, Texas 78774-0100

Question: What happens after I send in my statement of grounds?

Answer: The Audit Processing section of the Audit Division will determine if the request is timely and complete. If timely and complete, a letter will be sent acknowledging the receipt of the request and granting 60 days to provide to the auditor any additional documentation to support the statement of grounds.

Question: What happens after the auditor reviews my additional documentation and statement of grounds?

Answer: If the auditor agrees with all of your contentions, the audit will be amended and no hearing will be held. If other issues remain, your case will be assigned to a hearings attorney who will contact you or your representative

Additional Information

The Rules of Practice and Procedure (publication #96-145) explain in detail the administrative appeals system for taxpayers who disagree with audit assessments or tax law interpretations. You may obtain a copy of the rules from any of our field offices or by calling our toll-free hotline.

The Comptroller's office also publishes many brochures and booklets that detail Texas tax laws and how to comply with them.

You can request copies of these publications and get answers to questions on specific state taxes by calling one of the toll-free numbers listed on the back of this publication. The local Austin number is 512/463-4600.

to try to resolve the case. The hearings attorney will review your case and prepare a Position Letter or Agreed Motion to Dismiss. This will explain the position being taken in your case by the Tax Administration Division. If you are sent a Position Letter, you can accept the position stated in the letter or you can ask to have your case heard by an Administrative Law Judge (ALJ). If you receive an Agreed Motion, we will assume you agree unless you tell us otherwise.

Comptroller's Decision

Question: What happens if I ask to have my case heard by an ALJ?

Answer: You have two options: If you want an oral hearing, you will receive a notice indicating the date and time you are to appear to present evidence

and argument. If you want your case considered on the basis of written submissions, you will be given a deadline to get them to the ALJ for review. After the oral hearing or review of the written materials, the ALJ will propose a decision to you and to the Tax Administration Division. The comptroller will render the final decision. If you plan to challenge the decision in court by filing a refund or protest suit, you should consider consulting immediately with a private attorney who can advise you on how to preserve your rights.

Comptroller's Authority

Freezing Assets: The comptroller may freeze a taxpayer's assets, including bank accounts, for delinquent taxes without notifying the taxpayer before the assets are frozen.

Seizure and Sale of Assets: The comptroller has authority to seize and sell the non-exempt real and personal property of a delinquent taxpayer. This may be done if other collection efforts fail.

Corporate Forfeiture: The comptroller has authority to forfeit a corporation's corporate privileges in Texas for failure to file required franchise tax reports or for failure to pay the taxes due. Forfeiture of the corporation's corporate privileges could expose the corporate officers or directors to personal liability for all debts, including taxes.

Texas Taxpayer "Bill of Rights"

As a Texas taxpayer, you have a right to expect:

- Fair and courteous treatment from all our employees.
- Tax forms and information written in plain language.
- Prompt and accurate responses to all questions and requests for tax assistance.
- Ready access to public records.
- Strict confidentiality for the financial information you give to us.
- Tax notices that provide a clear explanation of the amount being billed.
- A clear set of rules and procedures to resolve tax problems that arise from the interpretation and administration of our tax laws.
- A fair and timely hearing on a dispute of any liability.
- That our employees are not paid or promoted as a result of money billed or collected from taxpayers.
- That we'll listen with an open mind to your suggestions about how we can better serve you.





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21 audit offices across Texas and the U.S. provide convenient, courteous tax help near you...

Abilene

209 S. Danville
Suite C 222 79605-1464
325-695-6715

Amarillo

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7120 I-40 West
Bldg. A, Suite 240 79106-2500
806-355-9763

Austin

Central Services Bldg., Ste. 410
1711 San Jacinto
P. O. Box 13003 78711-3003
512-305-9800

Baumont

6442 Concord 77708-4315
409-898-7962

Chicago

O'Hare Atrium Office Centre
2800 River Road, Suite 270
Des Plaines, Illinois 60018-6003
847-296-0175

Corpus Christi

400 Mann Street
Suite 608 78401
361-882-1616

Dallas East

9241 LBJ Freeway
Ste. 200 75243-3451
972-644-4300

Dallas West

2655 Villa Creek Drive
Suite 270 75234-7316
972-488-8726

El Paso

401 E. Franklin Ave.
Suite 170 79901
915-834-5660

Fort Worth

Crosslands Plaza
6320 Southwest Blvd.
Suite 201 76109
817-377-8855

Houston North

1919 North Loop West
Suite 311 77008-1394
713-864-0276

Houston South

2656 South Loop West
Suite 400 77054-2600
713-314-5700

Los Angeles

Buckingham Heights Business Park
5601 Slauson, Suite 201
Culver City, California 90230-6582
310-642-6567

Lubbock

Plaza West Office Building
4630 50th Street
Suite 406 79414-3519
806-791-0785

McAllen

3231 North McColl Road
78501-5538
956-687-9477

New York

215 Lexington Avenue
19th Floor
New York, New York 10016
646-742-1155

Odessa

4682 East University
Suite 200 79762-8104
432-550-9113

San Antonio

6875 Bandera Road
78238-1359
210-257-4600

Tulsa

Town Centre
10830 E. 45th, Suite 201, Building C
Tulsa, Oklahoma 74146-3809
918-622-4311

Tyler

3800 Paluxy Drive
Suite 300 75703-1663
903-561-1601

Waco

801 Austin Avenue
Suite 940 76701-1937
254-755-7709



Receive tax help via e-mail at tax.help@cpa.state.tx.us
For more information, visit our Web site www.window.state.tx.us



We're Here To Help! *Call Toll-Free!*

If you have questions or need information on a specific tax, please call our toll-free numbers:

1-800-252-5555

911 Emergency Service/Equalization
Surcharge
Automotive Oil Fee
Battery Fee
Boat and Boat Motor Sales Tax
Customs Broker
Fireworks Tax
Mixed Beverage Tax
Off-Road, Heavy-Duty Diesel Equipment
Surcharge
Oyster Fee
Sales and Use Taxes
Telecommunications Infrastructure Fund

1-800-531-5441

Cement Tax
Inheritance Tax
Local Revenue
Miscellaneous Gross Receipts Taxes
Oil Well Servicing Tax
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1-800-531-5441 ext. 3-3630

WebFile Help

1-800-252-1381

Bank Franchise
Franchise Tax

1-800-252-7875

Spanish

1-800-531-1441

Fax on Demand
(Most frequently requested Sales
and Franchise tax forms)

1-800-252-1382

Clean Vehicle Incentive Program
Manufactured Housing Tax
Motor Vehicle Sales Surcharge, Rental
and Seller Financed Sales Tax
Motor Vehicle Registration Surcharge

1-800-252-1383

Fuels Tax
IFTA
LG Decals
Petroleum Products Delivery Fee
School Fund Benefit Fee

1-800-252-1384

Coastal Protection
Crude Oil Production Tax
Natural Gas Production Tax

1-800-252-1387

Insurance Tax

1-800-252-1385

Coin Operated Machine Tax
Hotel Occupancy Tax

1-800-252-1386

Certificates of Account Status/Good
Standing
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1-800-862-2260

Cigarette and Tobacco

1-888-4-FILING (1-888-434-5464)

TELEFILE: To File by Phone

1-800-252-1389

GETPUB: To Order Forms & Publications

1-800-654-FIND (1-800-654-3463)

Treasury Find

1-800-321-2274

Unclaimed Property Claimants
Unclaimed Property Holders
Unclaimed Property Name Searches
512/463-3120 (Austin)

1-877-44RATE4 (1-877-447-2834)

Interest Rate

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