

**RULES
OF
STATE BOARD OF EQUALIZATION**

**CHAPTER 0600-01
CONTESTED CASE PROCEDURES**

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0600-01-.01 DEFINITIONS.

As used in these rules, unless the context otherwise requires:

- (1) "Administrative judge" means an individual employed or appointed under authority of Tenn. Code Ann. section 67-5-1505 or otherwise to conduct contested cases with or on behalf of the Board or Commission;
- (2) "Agent" means a person who is authorized under the provisions of Tenn. Code Ann. section 67-5-1514 to represent taxpayers and assessors of property in a contested case before the State Board of Equalization;
- (3) "Assessing authority" means the assessor of property where the assessment at issue is of locally assessed property and the Office of State Assessed Properties of the Comptroller of the Treasury where the assessment at issue involves centrally assessed public utility property;
- (4) "Board" means the State Board of Equalization created by Tenn. Code Ann. section 4-3-5101;
- (5) "Commission" means the Assessment Appeals Commission created by the Board pursuant to Tenn. Code Ann. section 67-5-1502;
- (6) "Contested case" is defined as in Tenn. Code Ann. section 4-5-102(3);
- (7) "County board" means a city, county or metropolitan board of equalization established under Tenn. Code Ann. section 67-1-401 et seq;
- (8) "Executive Secretary" means the Executive Secretary of the Board appointed under Tenn. Code Ann. section 4-3-5104.
- (9) "Party" means a person permitted to participate in a contested case;
- (10) "Person" means any individual, firm, company, association, corporation, or other artificial or governmental entity.

Authority: T.C.A. §67-1-305. **Administrative History:** Original rule certified June 7, 1974. Repeal filed and effective July 1, 1984. New rule filed June 30, 2000; effective September 12, 2000.

0600-01-.02 APPLICABILITY.

- (1) Unless otherwise provided herein, these rules shall govern the conduct of all contested cases before the Board, the Commission, or an administrative judge.
- (2) In the event of any conflict between these rules and the Uniform Rules of Procedure for Hearing Contested Cases Before State Administrative Agencies (Chapter 1360-4-1), the provisions of these rules shall control.

Authority: T.C.A. §67-1-305. **Administrative History:** Original rule certified June 7, 1974. Repeal filed and effective July 1, 1984. New rule filed June 30, 2000; effective September 12, 2000.

0600-01-.03 INITIATING A CONTESTED CASE.

- (1) A contested case before the Board may be initiated by:
 - (a) completing and filing Form No. SBOE-4 if the case relates to action taken or reviewable by a county board;
 - (b) completing and filing Form No. SBOE-7 if the case relates to an initial determination of the Board designee on an application for property tax exemption;
 - (c) filing a specific written petition or complaint, if neither (1) nor (2) above is applicable; or
 - (d) filing data in such computer-readable format as the Board may authorize, subject to technical requirements approved by the Board. An electronic filing may be used to establish the appeal filing date for purposes of the statutory deadline to appeal, but the sworn and written appeal form must still be filed before the appeal is docketed for a hearing on the merits, or earlier if directed by the administrative judge. Electronic filing is not available when the number of parcels in a single filing is fewer than 100.
- (2) Any appeal form or written complaint under paragraph (a) of this rule shall be:
 - (a) signed and sworn to by the party in whose behalf it is prosecuted, or an authorized representative of such party; and
 - (b) accompanied by a copy of any pertinent notice or decision received by the appellant from the assessing authority or county board.
- (3) The submission of a written request for an appeal form may be considered an appeal to the Board for purposes of an appeal deadline if it reasonably identifies the property and taxpayer, provided any form required by these rules is completed and filed within 30 days or other deadline specified by the administrative judge.
- (4) Contested cases commenced by action of the Board will be initiated by notice to affected parties. In the case of a declaratory proceeding notice shall be supplemented by publication of notice in the Tennessee Administrative Register, including a citation and summary of any rule or statute at issue and a statement of any proposed ruling.
- (5) The filing of a complaint for revocation of exemption under Tenn. Code Ann. §67-5-212 does not commence a contested case until there has been a finding of probable cause for revocation and referral of the matter to an administrative judge.

Authority: T.C.A. §67-1-305. **Administrative History:** Original rule certified June 7, 1974. Repeal filed and effective July 1, 1984. New rule filed June 30, 2000; effective September 12, 2000.

0600-01-.04 FILING.

- (1) An appeal form, complaint, or other document constituting part of the record in a contested case before the Board is deemed to be filed:
 - (a) on the date it is received by the Board; or
 - (b) if transmitted through the United States mail, on the postmark date.
- (2) Filing of a document by facsimile ("fax") transmission is permitted, provided that by the end of the next business day after the date of transmission the original document is delivered or mailed to the Board and a copy is served upon all parties.

Authority: T.C.A. §67-1-305. **Administrative History:** Original rule certified June 7, 1974. Repeal filed and effective July 1, 1984. New rule filed June 30, 2000; effective September 12, 2000.

0600-01-.05 RESERVED.

Authority: T.C.A. §67-1-305. **Administrative History:** Original rule certified June 7, 1974. Repeal filed and effective July 1, 1984. New rule filed June 30, 2000; effective September 12, 2000.

0600-01-.06 PARTIES.

- (1) The parties in an appeal to the Board concerning the classification and/or valuation of property shall be:
 - (a) the appellant;
 - (b) the taxpayer with respect to the property at issue (if not the appellant);
 - (c) the assessing authority responsible for the assessment at issue (if not the appellant); and
 - (d) any other person admitted as a party.
- (2) The parties in an appeal involving a property tax exemption shall be:
 - (a) the person claiming exemption;
 - (b) the assessor of property in the county where the property in question is located;
 - (c) any complainant in a proceeding for revocation of exemption; and
 - (d) any other person admitted as a party.

Authority: T.C.A. §67-1-305. **Administrative History:** Original rule certified June 7, 1974. Repeal filed and effective July 1, 1984. New rule filed June 30, 2000; effective September 12, 2000.

0600-01-.07 REPRESENTATION BY AGENT.

- (1) Entry of an appearance in a contested case by an agent shall be made by:
 - (a) the filing of an appeal form or written complaint;
 - (b) the filing of a notice of appearance; or

(Rule 0600-01-.07, continued)

- (c) appearance as agent at a hearing or pre-hearing conference.
- (2) An agent may not enter an appearance under paragraph (a) of this rule or otherwise act on behalf of a taxpayer in a contested case without valid written authorization. Such authorization must:
- (a) identify the taxpayer;
 - (b) identify the property by street address, assessor's identification number, or otherwise;
 - (c) be signed and dated by the taxpayer or an individual with authority to act for the taxpayer;
 - (d) indicate the signatory's title (if the party represented is a corporation or other artificial entity); and
 - (e) specify the tax year to which the authorization applies.
- (3) When a party is represented by an agent, only the agent is entitled to question witnesses and present argument at any stage of the case. An agent may not participate in the hearing of an appeal if he or she actually represents another agent or person who is not a party in the proceeding.
- (4) Once having entered an appearance in a contested case, an agent who wishes to withdraw from representation shall notify the Board and all parties in writing.

Authority: T.C.A. §67-1-305. **Administrative History:** Original rule certified June 7, 1974. Repeal filed and effective July 1, 1984. New rule filed June 30, 2000; effective September 12, 2000.

0600-01-.08 CONDITIONS FOR APPEAL AND HEARING.

- (1) Except by written directive of the Executive Secretary, no appeal which is initiated under Rule 3(1)(1), (2), or (4) will be docketed for a hearing or pre-hearing conference before an administrative judge unless the appropriate appeal form appears to have been fully completed in good faith. If the valuation of the subject property is at issue, the appeal form must include, without limitation:
- (a) a bona fide estimate of the market value of the property as of the relevant assessment date; and
 - (b) a brief statement of the basis for that opinion.
- (2) For the purpose of determining whether the Board has jurisdiction, a taxpayer or owner will not be deemed to have appealed the property in question to the county board if the taxpayer or owner, or the taxpayer's or owner's authorized representative:
- (a) did not timely appeal the disputed classification and/or value to the county board;
 - (b) failed to make a personal or (if permitted) written appearance before the county board; or
 - (c) requested the county board to affirm the disputed classification and/or value.

This subsection shall not be construed in derogation of any right of appeal to, or hearing before, the Board under the provisions of state law.

(Rule 0600-01-.08, continued)

- (3) After the delinquency date for payment of any tax levied on real or personal property, no appeal concerning the classification and/or assessment of the property will be heard if the undisputed portion of the tax has not been paid. The "undisputed portion of the tax" is the amount that would be imposed on the basis of the classification and market value (equalized by the prevailing appraisal ratio in the county) claimed on the appeal form.

Authority: T.C.A. §67-1-305. **Administrative History:** Original rule certified June 7, 1974. Repeal filed and effective July 1, 1984. New rule filed June 30, 2000; effective September 12, 2000.

0600-01-.09 ASSIGNMENT OF CASES.

Except as the Board may otherwise direct, contested cases shall be heard initially by an administrative judge assigned by the executive secretary or his designee, and the initial decision and order of the administrative judge shall be reviewable by the Commission as otherwise provided in these rules.

Authority: T.C.A. §67-1-305. **Administrative History:** Original rule certified June 7, 1974. Repeal filed and effective July 1, 1984. New rule filed June 30, 2000; effective September 12, 2000.

0600-01-.10 COUNTERCLAIMS.

Counterclaims in a contested case must be filed no later than thirty (30) days prior to the date of scheduled hearing. This rule does not preclude any party, at the hearing of the appeal, from propounding a higher or lower value for the property in question than that determined by the county board.

Authority: T.C.A. §67-1-305. **Administrative History:** Original rule certified June 7, 1974. Repeal filed and effective July 1, 1984. New rule filed June 30, 2000; effective September 12, 2000.

0600-01-.11 HEARINGS BEFORE ADMINISTRATIVE JUDGE.

- (1) In the hearing of an appeal before an administrative judge concerning the classification and/or assessment of a property, the party seeking to change the current classification and/or assessment shall have the burden of proof.
- (2) In the hearing of an appeal from an initial determination on an application for property tax exemption, the party seeking to change the initial determination shall have the burden of proof. In a show cause hearing for revocation of an exemption, the person claiming exemption shall bear the burden of showing by a preponderance of evidence why the exemption should not be revoked. Upon request of a party or order of the administrative judge, the Board designee who made the initial determination under appeal will attend the hearing. The designee may testify and, at the discretion of the administrative judge, examine witnesses or otherwise participate in the hearing. The designee may be permitted to participate by telephone or other electronic means when hearings are conducted at locations other than Nashville.
- (3) A record of the hearing of any appeal before an administrative judge will be made by tape recording. Any party may, at its own expense, procure a court reporter to record the oral proceedings.

Authority: T.C.A. §67-1-305 and 67-5-1501(d). **Administrative History:** Original rule certified June 7, 1974. Repeal filed and effective July 1, 1984. New rule filed June 30, 2000; effective September 12, 2000. Amendment filed February 1, 2011; to have been effective May 2, 2011. On April 29, 2011, the Government Operations Committee stayed the rule for 15 days; new effective date May 17, 2011.

0600-01-.12 REVIEW OF INITIAL ORDER.

- (1) The Commission may review initial decisions and orders of the administrative judges on its own motion or on appeal of any party. Unless a party has timely appealed or the Commission has acted to review the initial decision and order on its own motion within the time provided for appeal, the initial decision and order will become a final order of the Commission. Final orders of the Commission will serve as the basis of a final certificate of assessments unless further reviewed by the Board.
- (2) An appeal of an initial order entered by an administrative judge to the Commission shall be filed with the Executive Secretary. The appeal need not be in any particular form, but must:
 - (a) be filed within the period of time allowed under Tenn. Code Ann. section 67-5-1501(3); and
 - (b) identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order;
- (3) The Executive Secretary or his/her designee shall acknowledge receipt in writing of any appeal under this rule.

Authority: T.C.A. §67-1-305. **Administrative History:** Original rule certified June 7, 1974. Repeal filed and effective July 1, 1984. New rule filed June 30, 2000; effective September 12, 2000.

0600-01-.13 HEARINGS BEFORE COMMISSION.

- (1) An administrative judge assigned by the Executive Secretary and licensed to practice law in the state of Tennessee shall conduct and preside at the hearing of any contested case before the Commission. The administrative judge shall have all of the powers and duties in that capacity which are enumerated in the Uniform Administrative Procedures Act (Tenn. Code Ann. section 4-5-101 et seq) and the Uniform Rules of Procedure for Hearing Contested Cases Before State Administrative Agencies.
- (2) Insofar as a party takes exception to an initial order in an appeal, that party shall have the burden of proof in the hearing of the matter before the Commission. The hearing shall be based on the existing record and any additional or supplemental evidence which a party wishes to introduce that is relevant to an issue raised in the appeal.
- (3) Not less than ten (10) days prior to the scheduled hearing date, the parties shall exchange by mail or personal delivery copies of all documents or exhibits they intend to present at the hearing; provided, however, that this requirement does not include:
 - (a) photographs;
 - (b) maps; or
 - (c) records concerning the property under appeal (e.g., property record cards) which are available for public inspection in the assessor's office.

Any document or exhibit which is not timely furnished in accordance with paragraph (1) of this rule may be excluded from the record. This subsection shall not apply to whatever extent it may conflict with the terms of a discovery order, pre-hearing conference order, or notice of hearing entered by the administrative judge in the case.

(Rule 0600-01-.13, continued)

- (4) A record of the hearing of any appeal before the Commission will be made by a court reporter selected and compensated by the Board. The cost of obtaining a transcript of the proceedings shall be borne by the party or parties requesting it.

Authority: T.C.A. §67-1-305. **Administrative History:** Original rule certified June 7, 1974. Repeal filed and effective July 1, 1984. New rule filed June 30, 2000; effective September 12, 2000.

0600-01-.14 PETITION FOR BOARD REVIEW.

- (1) A petition for review by the Board of action taken by the Commission shall be filed with the Executive Secretary. The petition need not be in any particular format, but must:
 - (a) be filed within the period of time allowed under Tenn. Code Ann. section 67-5-1502(j)(2); and
 - (b) state its basis and the relief requested.
- (2) The Executive Secretary or his/her designee shall acknowledge receipt in writing of any petition under this rule, and send a copy of the petition to each member of the Board. If any member of the Board requests a meeting with respect to the petition, the executive secretary will convene a meeting of the Board to vote on whether to grant review of the petition.

Authority: T.C.A. §67-1-305 and 67-5-1501(d). **Administrative History:** Original rule certified June 7, 1974. Repeal filed and effective July 1, 1984. New rule filed June 30, 2000; effective September 12, 2000. Amendment filed February 1, 2011; to have been effective May 2, 2011. On April 29, 2011, the Government Operations Committee stayed the rule for 15 days; new effective date May 17, 2011.

0600-01-.15 HEARINGS BEFORE BOARD.

If, upon its own motion or upon the filing of a petition under Rule 15, the Board decides to review action taken by the Commission, the hearing shall be based solely on the record before the Commission unless the Board otherwise directs.

Authority: T.C.A. §67-1-305. **Administrative History:** Original rule certified June 7, 1974. Repeal filed and effective July 1, 1984. New rule filed June 30, 2000; effective September 12, 2000.

0600-01-.16 SIGNING OF FINAL ORDERS.

A final order of the Board or Commission shall be signed by the member who acted as its chairperson at the hearing of the case. A duly signed final order is deemed to be entered on the date that it is attested by the Executive Secretary.

Authority: T.C.A. §67-1-305. **Administrative History:** Original rule certified June 7, 1974. Repeal filed and effective July 1, 1984. New rule filed June 30, 2000; effective September 12, 2000.

0600-01-.17 FEES.

- (1) Persons initiating a contested case before the Board shall pay a fee to defray the expense of processing case documents and a fee to defray the costs of hearing, as provided in this rule. No fee shall be due from a person who qualifies as an indigent person for purposes of civil actions in the courts of Tennessee and who establishes indigence by filing a uniform affidavit in the form stated in Rule 29 of the Rules of the Supreme Court of Tennessee. No fee shall be due from an appellant who has attained the age of sixty-five (65) years at the time of filing the appeal, where the subject property of the appeal is owned by the appellant and used as the appellant's primary residence and has a value not in excess of \$150,000.

(Rule 0600-01-.17, continued)

- (2) The processing fee shall be two dollar (\$2) per parcel for any appeal filed in electronic format and seven dollars (\$7) per parcel for each appeal using the paper form otherwise required by these rules. The fee for a paper filing shall be in addition to any fee previously paid for an electronic filing for the same parcel.
- (3) The fee for hearing costs shall be proportionate to the value of the property as recorded by the assessor or as determined by the Board, or in the case of exempt properties for which no assessor value has been established, the value as estimated by staff based on available information. The fee shall be thirty dollars (\$30) for property valued at less than \$100,000, forty-two dollars (\$42) for property valued from \$100,000 to less than \$250,000, sixty dollars (\$60) for property valued from \$250,000 to less than \$400,000, and one hundred twenty dollars (\$120) for property valued at \$400,000 or more. Where appeals for multiple tax years involving the same property have been consolidated for hearing, only one fee is due for the consolidated hearing.
- (4) The fee for processing, and one-half the fee for hearing shall be due upon the filing of the appeal, except that an attorney or registered agent for a taxpayer may file a statement agreeing to be surety for fees ultimately due, and fees due from a city, county or county assessor may be accumulated and billed or deducted periodically from funds otherwise payable by the Board to the city or county. The remaining half of hearing fees shall not be due if the initial decision and order is allowed to become final, or if the original appellant withdraws an appeal from an initial decision and order before a hearing on the appeal is heard. If an appeal from an initial decision and order is filed by a party other than the original appellant, the remaining one-half of hearing fees shall be assessable against the party appealing the initial decision and order. No proceedings shall be conducted until any fee due is remitted or agent's surety given and the appeal may be dismissed if the fees are not paid or surety given within a reasonable time. Fees must be remitted by check or money order, no cash accepted.
- (5) Hearing fees are refundable: a) if a matter is withdrawn or concluded by entry of an agreed order of the Board prior to a scheduled hearing; b) if the appellant obtains relief equal to half or more of the relief claimed, provided that if relief awarded equals less than half claimed, hearing fees will be refunded in proportion to the amount of relief awarded. To the extent hearing fees are refunded on the basis of relief granted after a hearing, the non-prevailing party to the appeal will be assessed such fees. An additional processing fee of ten dollars (\$10) per parcel shall be due for settlements.
- (6) Fees assessed against a county or county assessor may be deducted from funds otherwise due the county pursuant to grants administered by the Board, unless the county or county assessor elects to remit the assessed fees directly.
- (7) For purposes of calculating fees, a public utility property appealed to the Board as a single property pursuant to Tenn. Code Ann. §67-5-1327, shall be considered one property or parcel of property.

Authority: T.C.A. §§67-1-305 and 67-5-1501(d). **Administrative History:** Original rule filed April 30, 2004; effective July 14, 2004. Amendments file February 1, 2011; to have been effective May 2, 2011. On April 29, 2011, the Government Operations Committee stayed the rule for 15 days; new effective date May 17, 2011.