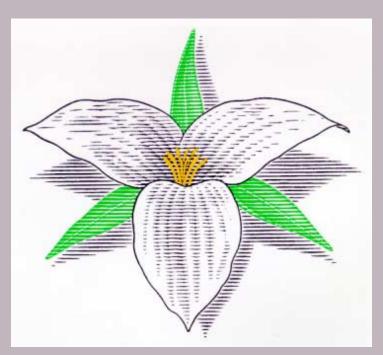


ONTARIO TAXES AND PROGRAMS

Objection and Appeal Procedures



Before You File an Objection

There may be a simple solution to your problem. Informal discussions solve many disagreements and misunderstandings about tax and program decisions. If you do not agree with a decision, you should contact the appropriate office of the Ministry. The address and telephone number for that office are in the letters and forms which you have received. If you still disagree, you should serve your objection within certain time limits as set out in the legislation.

Payment of Taxes in Dispute

Although you have the right to object or appeal, you must make suitable arrangements with the Collections and Compliance Branch to pay an assessment while your objection or appeal is being reviewed. The efforts by the Collections and Compliance Branch to collect an assessment are independent of the Tax Appeals Branch and will not delay the review process.

Taxpayers who successfully object or appeal will be paid interest on any amounts paid on an assessment, from the dates the payments were made. However, the amount refunded, including interest, will first go to reducing other tax liabilities owed to Ontario before any refund is made to you.

Property Assessment Appeals

The Tax Appeals Branch does not review property assessment appeals. For information on a Request for Reconsideration of your property's valuation, call your local Ontario Property Assessment Corporation (OPAC) office. The telephone number is listed in the Blue Pages, under Property Assessment (M-Municipal Services). The procedures for filing a formal Complaint to the Assessment Review Board (ARB) are included in your Property Assessment Notice.

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Introduction

The objection and appeal process in Ontario includes the administrative review of Notices of Objection by the Tax Appeals Branch and the review of Notices of Appeal by the Ontario Superior Court of Justice.

The Tax Appeals Branch reviews Notices of Objection served under the tax and program acts administered by the Ministry of Finance. This process is simple, inexpensive and easily accessible to any taxpayer or applicant who does not agree with an assessment, reassessment or disallowance. The objections can be based on the facts or on the interpretation of the law. The majority of cases are solved at the objection stage, following an exchange of information and opinions.

If the taxpayer or applicant does not agree with the Ministry's decision on the objection, a Notice of Appeal may be filed, which may lead to a court hearing.

The purpose of this guide is to outline the procedures that apply to the objection and appeal process. In this guide, the term "taxpayer" or "applicant" also includes any authorized representative who provides written confirmation of authorization. This guide has been developed from the relevant acts, but is not a substitute for them. For complete information, refer to the relevant acts.

Intent and Scope

- The following objection and appeal procedures are used to solve disagreements between taxpayers or applicants and the Ministry of Finance.
- The procedures apply to all objections and appeals filed with the Tax Appeals Branch of the Ministry of Finance.
- 3 The procedures provide guidelines that clarify the administration of the objection and appeal legislation.
- The procedures should be interpreted in their total context. They are not meant to limit or repeal the rights given or the requirements imposed by the legislation.
- 5 Legislative requirements are described in bold print. Where the words or expressions used in this publication differ from those used in the legislation, the legislation will prevail.

Notices of Objection

Filing an Objection — Taxation Acts

This section explains the objection and appeal procedures for these acts:

Corporations Tax Act
Electricity Act, 1998
Employer Health Tax Act
Fuel Tax Act
Gasoline Tax Act
Land Transfer Tax Act

Mining Tax Act
Retail Sales Tax Act
Tobacco Tax Act
Tobacco Tax Act

^{*}Gross receipts tax on telephone and telegraph companies

The procedures also apply, with some exceptions, to these acts:

Income Tax Act (Ontario)*

Ontario Guaranteed Annual Income Act

Ontario Home Ownership Savings Plan Act

Community Small Business Investment Funds Act

The exceptions deal with forms and time limits, as noted in paragraphs 60 to 65 of this guide.

Notice of Objection Form

To object to an assessment, reassessment or disallowance under a taxation act, the taxpayer should serve a Notice of Objection on the Minister of Finance.

- To obtain a Notice of Objection form, access the Ministry's website or call the Ministry of Finance at one of the telephone numbers listed at the end of this guide. The Ministry's telephone numbers are also listed in the telephone directory, in the **Blue Pages** under Taxes (P-Province of Ontario).
- To serve an objection without using a Notice of Objection form, write to the Director, Tax Appeals Branch. The letter should include all of the information listed in paragraph 8 and should be signed by the taxpayer, an employee of the company or an authorized representative. If an authorized representative signs the objection, written confirmation of authorization must be provided.
- 8 A Notice of Objection must include the following information:
 - the taxpayer's name
 - account or permit number, if applicable
 - the taxation act under which the assessment, reassessment or disallowance was issued
 - date and number of the assessment, reassessment or disallowance
 - period and transaction in dispute
 - amount of tax or refund.

In addition, the Notice must clearly describe each issue raised by way of objection and must fully set out the facts and reasons relied on by the taxpayer in respect of each issue.

Method of Service

The Notice of Objection form should be sent by registered mail, addressed to the Minister in care of the Director, Tax Appeals Branch. The Minister may prescribe other methods of service.

Although service by registered mail is recommended, a Notice of Objection will be accepted if it is sent by regular mail, by facsimile transmission or if it is hand delivered to either the Tax Appeals Branch or any other Ministry of Finance office. A signed hard copy of any facsimile transmission should also be mailed to the Tax Appeals Branch.

^{*} Ontario Child Care Supplement for Working Families and Ontario Research Employee Stock Option Tax Overpayment

Time Limitation

The Notice of Objection must be sent to the Minister within 180 days [for International Fuel Tax Agreement (IFTA) objections, within 30 days] from the date the assessment, reassessment or disallowance was mailed or personally delivered.

- 10 If a Notice of Objection is sent by mail, the date of the postmark on the envelope will be considered to be the date that the objection is served.
- If the last day for sending the objection is on a weekend or a public holiday, the next working day will be considered to be the due date.
- 12 A Notice of Objection delivered by hand or by facsimile transmission will be considered to be served on the date on which it is received by the Ministry.
- The Ministry will give a receipt for a hand delivered Notice of Objection, if a receipt is requested at the time of delivery.

Extension of Time

The time for serving a Notice of Objection may be extended if the taxpayer has reasonable grounds and applies to the Minister for an extension either before or after 180 days [30 days for IFTA objections] from the date the assessment, reassessment or disallowance was mailed or personally delivered, provided the application is made within one year from the date the assessment, reassessment or disallowance was mailed or personally delivered.

- A request for an extension of time should be sent in writing to the Director, Tax Appeals Branch. The request should explain the reasons why an extension is required and should indicate how much extra time is needed.
- Additional extensions must be requested before the current extension of time expires.
- An extension may be granted if the taxpayer does not have the business records, is ill or is unable to complete the Notice of Objection because of extenuating circumstances beyond the taxpayer's control. An extension will not be granted for reasons such as workload, vacation, inventory-taking or year-end timing.
- In unusual circumstances, the Director, Tax Appeals Branch, may give an extension following a request made by telephone. This may happen if an emergency prevents the taxpayer from sending a written request within the time limit. Extensions granted by telephone will be confirmed in writing by the Director, Tax Appeals Branch.
- 18 If a Notice of Objection is incomplete, an extension of time may be granted, provided the Notice of Objection was served within the required time limit (see paragraph 25).
- 19 When a taxpayer wants to serve a Notice of Objection after 180 days [30 days for IFTA objections], the taxpayer must explain why the request was not made within the required time limit. If the explanation is not satisfactory, the extension of time will not be granted and the Notice of Objection will not be accepted.

Designated Assessment

When a designated assessment under the *Corporations Tax Act* (CTA) is based on a federal assessment and the provisions of the *Corporations Tax Act* and the *Income Tax Act* (Canada) relating to the item are identical, both the corporation and the Minister of Finance will be bound by the results of any federal objection, providing that no objection has been served under the *Corporations Tax Act* against the designated assessment (section 92 CTA).

- When the Tax Appeals Branch receives a Notice of Objection to a designated assessment, the corporation will be notified of its right to take advantage of section 92. The corporation should respond to the Tax Appeals Branch within 30 days of the date of the notification, stating whether or not the corporation will take advantage of the procedure under section 92.
- 21 If the Tax Appeals Branch does not receive a reply, the Tax Appeals Branch will assume that the corporation has taken advantage of the procedure under section 92 and the corporation will not be required to file an Ontario objection. After the federal objection is resolved, the corporation should contact the Ontario Ministry of Finance's Corporations Tax Branch concerning any resulting tax adjustments.
- If the corporation decides not to take advantage of the provisions of section 92, the Tax Appeals Branch will review the Ontario objection. The Tax Appeals Branch may exchange relevant information with the Canada Customs and Revenue Agency (formerly Revenue Canada, Taxation).

Specified Assessment

A specified assessment is an Ontario *Corporations Tax Act* assessment which acts on a federal General Anti-Avoidance Rule (GAAR) assessment (section 92(5) CTA).

The Ministry of Finance and the taxpayer are bound by the results of any federal objection. The taxpayer cannot serve a separate Ontario objection to a specified assessment.

Validity of Notice of Objection

- When a Notice of Objection is received, it will be examined to ensure that it meets the requirements of the act under which it is served.
- A Notice of Objection is incomplete if the objection is not signed by the taxpayer, an employee of the company or an authorized representative (see paragraphs 7 and 8), or if the objection fails to meet another requirement that can only be corrected by the taxpayer. The taxpayer will be advised of the action required and, if applicable, the length of the time extension granted in order to complete the Notice of Objection.
- The Minister is authorized to request further information if a Notice of Objection does not fully set out the facts and reasons relied on by the taxpayer in respect of each issue raised in a Notice of Objection. If the missing information is not provided within 60 days, the assessment under objection will be confirmed.

- A Notice of Objection is invalid if it is not served within the time limit or if the reasons for the objection are not considered proper. For example, disputes concerning the application of payments or arrears brought forward from other years are not proper grounds for objecting to an assessment.
- 28 If a Notice of Objection is invalid, the taxpayer will be advised in writing.
- If, during the review of an objection, it is necessary to issue a reassessment or determination under section 80 of the *Corporations Tax Act*, such reassessment or determination will not invalidate the Notice of Objection (subsection 84(7) CTA).
- The taxpayer may (refer to paragraphs 20 to 23) if section 92 of the Corporations Tax Act does not apply, serve an additional objection in respect of any new matters raised in the reassessment or determination.

Acknowledgement

- The Tax Appeals Branch will send a letter to the taxpayer acknowledging the receipt of a Notice of Objection.
- After a Notice of Objection has been received by the Tax Appeals Branch, the taxpayer should not contact the assessing branch of the Ministry of Finance. All communications on the issues in the year or period under objection should be directed to the Tax Appeals Branch.

Appointment of Taxpayer's Representative

Taxpayers serving a Notice of Objection may appoint a representative to act on their behalf by completing the Appointment of Representative section on the objection form or by appointing a representative in writing at any time during the objection review process. The Tax Appeals Branch will not communicate with representatives unless they have written authority, as required under the *Freedom of Information and Protection of Privacy Act*.

Administrative Review

- 34 An Appeals Officer will review and consider the Notice of Objection.
- In considering the Notice of Objection, the Appeals Officer will review the assessing branch's files, all submissions by the taxpayer, legal opinions and case law.

Requests for Additional Information

- **36** The Appeals Officer may request additional information from the taxpayer.
- 37 The taxpayer will be given 30 days to supply the information. This period may be extended, at the Appeals Officer's discretion, if a request for an extension is made within the 30-day period.

- 38 The Appeals Officer may request additional information from the assessing branch.
- The assessing branch will be given 30 days to supply the information. This period may be extended, at the Appeals Officer's discretion, if a request for an extension is made within the 30-day period.

Further Representations

- The taxpayer will be given an opportunity to make further representations to clarify facts or to raise further points of law.
- 41 Such representations may be made in writing or at a meeting with the Appeals Officer. In some cases, the representations may be made by telephone.

Meetings

- When necessary, the Appeals Officer may arrange a meeting with the taxpayer or the taxpayer's representative.
- 43 Meetings will be held at the Tax Appeals Branch at a mutually convenient time. Occasionally, the Appeals Officer may need to visit the taxpayer's place of business.
- The Appeals Officer may ask a representative of the assessing branch to attend the meetings if the Appeals Officer considers it necessary or if the situation requires technical expertise, such as asset appraisal skills.
- The Appeals Officer may ask a lawyer from the Ministry's Office of Legal Services to attend the meetings when issues of law are discussed.

Notification of the Appeals Officer's Opinion

- 46 Before making a recommendation to the Minister, the Appeals Officer will, in writing, notify the taxpayer of the proposed action in response to the objection. This notification will include the reasons for the proposed action.
- 47 The notification will be mailed to the taxpayer.
- If no additional information is submitted or a response is not received within 30 days, the Appeals Officer will prepare a recommendation.
- 49 If the taxpayer raises any new facts or points of law within 30 days, the Appeals Officer will consider them. The Appeals Officer will mail a final notification to the taxpayer and prepare a recommendation.
- All recommendations will be approved by the senior management of the Tax Appeals Branch.
- At the conclusion of the review, the Director, Tax Appeals Branch or the Assistant Deputy Minister, Tax Revenue Division will issue a decision letter.

Notification of the Minister's Decision

- 52 The approved recommendation represents the decision of the Minister.
- 53 The taxpayer will be notified of the Minister's decision in writing.
- 54 The assessing branch will also be notified of the Minister's decision.
- If an assessment or disallowance has been changed, a new assessment or statement of account will be sent to the taxpayer.
- **56** Refunds may be credited to the taxpayer's account or mailed to the taxpayer.

Withdrawal

- If the objection was the result of a misunderstanding and the objection has been solved or allowed, the taxpayer may be asked to withdraw the objection.
- The taxpayer will withdraw the objection either by letter or by completing a withdrawal form. A withdrawal letter or withdrawal form must be signed by the taxpayer or the taxpayer's representative. However, if an objection has been allowed in full, the Tax Appeals Branch may assume that the objection has been withdrawn, even if a formal notice is not received.
- 59 A Minister's decision letter will normally be sent to the taxpayer in order to close the file.

Filing an Objection — Other Acts

The acts dealt with under this section are as follows:

Income Tax Act (Ontario)*

Ontario Guaranteed Annual Income Act

Ontario Home Ownership Savings Plan Act

Community Small Business Investment Funds Act

Except for paragraphs 6 to 8 and 14 to 23, the procedures stated in the previous section also apply here. Paragraphs 6 to 8 and 14 to 23 are replaced by the following:

Notice of Objection Form

An objection to a proposal, determination, decision, disallowance, demand, direction, notification or notice is instituted by serving on the Minister a Notice of Objection in the approved form.

- Specific Notice of Objection forms are available for each of these acts. To obtain a Notice of Objection form, access the Ministry's website or call the Ministry of Finance at one of the telephone numbers listed at the end of this guide. The numbers are also listed in the telephone directory, in the Blue Pages under Taxes (P-Province of Ontario).
- * Ontario Child Care Supplement for Working Families and Ontario Research Employee Stock Option Tax Overpayment

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- 61 A Notice of Objection must include the following information:
 - The name of the person or corporation objecting
 - Old age security or social insurance numbers
 - Date of the Minister's proposal, determination, decision, disallowance, demand, direction, notification or notice.
- If a Notice of Objection does not include enough information to identify the dispute, it will not be accepted. The objection will be returned for completion and resubmission if it can be served on time. For objections under the *Income Tax Act* (Ontario), the Minister is authorized to require further particulars of facts and reasons supporting each issue. If the missing information is not provided within 60 days, the objection may be considered to be void.

Time Limitation

Under the *Ontario Home Ownership Savings Plan Act* and the *Community Small Business Investment Funds Act*, a Notice of Objection must be served on the Minister within 60 days from the day of mailing of the proposal, determination, decision, disallowance, demand or direction. This time limitation is 90 days under the *Ontario Guaranteed Annual Income Act* and the *Income Tax Act* (Ontario) - Ontario Child Care Supplement for Working Families and Ontario Research Employee Stock Option Tax Overpayment.

- A Notice of Objection must be served as set out in paragraphs 10, 11, 12 and 13.
- Only the *Income Tax Act* (Ontario), Ontario Child Care Supplement for Working Families and Ontario Research Stock Option Tax Overpayment, provides for an application for an extension of time within 180 days from the day of mailing of the notice of entitlement, which is the subject of the objection. The other acts in this section do not allow for any extensions of time for serving Notices of Objection; therefore, a Notice of Objection under any of the other acts that is not served on time will not be accepted.
- If a Notice of Objection is found to be invalid, the taxpayer or the applicant will be advised in writing.

Notices of Appeal

Filing an Appeal — Taxation Acts

Notice of Appeal Form

If, after receiving notification of the Minister's decision, the taxpayer wishes to dispute the matter further, then the taxpayer must appeal to the Superior Court of Justice by filing a Notice of Appeal in the approved form with the court, paying the applicable court filing fee and serving a copy of the Notice of Appeal as filed on the Minister.

- To obtain a Notice of Appeal form, access the Ministry's website or call the Ministry of Finance at one of the telephone numbers listed at the end of this guide. The numbers are also listed in the telephone directory, in the **Blue Pages** under Taxes (P-Province of Ontario).
- A Notice of Appeal that is not in the approved form will not be accepted. If the original submission was made within the prescribed time limit, the Notice of Appeal will be returned to the taxpayer and an extension of time will be granted so that the taxpayer may comply with the requirements of the legislation and the Superior Court of Justice.
- 68 A Notice of Appeal must include the following information:
 - The name and account or permit number of the appellant
 - The taxation act under which the appeal is lodged
 - Date of the Minister of Finance's decision and Notice of Objection file number
 - Date and number of the assessment, reassessment or disallowance
 - Period and transaction in dispute
 - Amount of tax or refund
 - A statement of allegations of fact, reasons for dispute and laws relied on in support of the appeal.
- A Notice of Appeal that is not completed properly within the specified time limit is invalid (see paragraph 81). Note that a Notice of Appeal is limited to the issues raised in the Notice of Objection and to new issues raised in a reassessment or variation by the Minister when disposing of the Notice of Objection.

Method of Service

A Notice of Appeal is served by filing the Notice of Appeal with the Superior Court of Justice and sending, by registered mail, a copy of the Notice of Appeal as filed to the Minister, in care of the Director, Tax Appeals Branch.

A Notice of Appeal which is delivered by regular mail, facsimile transmission or by hand delivery will be accepted by the Ministry if all other requirements are met.

- 71 To file a Notice of Appeal in the Superior Court of Justice, a Notice of Appeal must be hand delivered to the office of a local registrar of the court. You will find the nearest court office listed in your telephone directory, in the **Blue Pages** under Courts (P-Ontario Provincial Services), Superior Court of Justice, Civil Filing Office or at www.attorneygeneral.jus.gov.on.ca/html/FAQ/FAQ.htm. Ensure that the Notice of Appeal has been received and accepted by the court office by paying the court filing fee for the appeal and obtaining a court action number. Advise the Tax Appeals Branch of the action number and the location of the court office. Many court offices do not accept Notices of Appeal sent by mail.
- 72 The procedures for mail and hand delivery of Notices of Appeal to the Minister are the same as the procedures for Notices of Objection (see paragraphs 10 to 13).

Time Limitation

A Notice of Appeal must be filed with the Superior Court of Justice and a copy of the Notice of Appeal as filed must be served on the Minister within 90 days from the date that the notification of the Minister's decision was mailed.

73 If a Notice of Appeal is not filed in the court by the deadline, no extension of time can be granted and the Notice of Appeal will be invalid. In such cases, the taxpayer will be advised in writing that the appeal will not be considered.

Extension of Time

The time for serving a Notice of Appeal may be extended if the taxpayer has reasonable grounds and applies to the Minister for an extension before the deadline for serving an appeal expires.

- A request for an extension of time should be sent in writing to the Director, Tax Appeals Branch. The request should explain the reasons why an extension is required and should indicate how much extra time is needed. An extension may be granted if the taxpayer does not have the business records, is ill or is unable to complete the Notice of Appeal because of extenuating circumstances beyond the taxpayer's control. An extension will not be granted for reasons such as workload, vacation, inventory-taking or year-end timing.
- 75 Additional extensions must be requested before the current extension of time ends.
- In unusual circumstances, the Director, Tax Appeals Branch may give an extension following a request made by telephone. This may happen if an emergency prevents the taxpayer from sending a written request within the time limit. Extensions granted by telephone will be confirmed in writing by the Director, Tax Appeals Branch.
- If a Notice of Appeal is incomplete or in the wrong form, an extension of time may be granted, provided the Notice of Appeal was served within the required time limit (see paragraphs 67 and 79).

Validity of Notice of Appeal

- When a Notice of Appeal is received, it will be examined to ensure that it meets the requirements of both the statute under which it is served and the requirements of the Superior Court of Justice.
- 79 If the time limit has not expired and a Notice of Appeal is incomplete, unsigned or fails to meet any requirement that can only be corrected by the taxpayer, it will be considered to be an application for an extension of time. The taxpayer will be advised of the action required and, if applicable, the length of the extension of time granted in order to complete the Notice of Appeal.
- 80 If the Notice of Appeal is not completed within the time granted, the Notice of Appeal will be considered to be invalid.
- The Director, Tax Appeals Branch will advise the taxpayer in writing that an invalid Notice of Appeal cannot be considered any further.
- 82 If, during the course of an appeal, it is necessary to issue a reassessment or determination under section 80 of the *Corporations Tax Act*, such a reassessment or determination will not invalidate the appeal (subsection 84(7) CTA).

Acknowledgement

When a valid Notice of Appeal is received, the Office of Legal Services will send a letter of acknowledgement to the taxpayer.

Appointment of Taxpayer's Representative

Though the taxpayer may file a Notice of Appeal without legal counsel, it is advised that legal counsel be used to deal with the specific legal requirements and procedures of the Superior Court of Justice.

Minister's Reply

The Office of Legal Services will serve the appellant with, and will file in the Superior Court of Justice, the Minister's reply to the Notice of Appeal within 180 days from the date of service of the Notice of Appeal, or within such additional time as may be arranged with the consent of the appellant.

- **85** The reply will set out:
 - An acceptance or rejection of the allegations of fact and the arguments put forward by the taxpayer
 - Additional allegations of fact
 - Arguments of the Minister
 - Prayer for relief, indicating the course of action that the Minister advises the court to take with respect to the judgement and costs in the matter.

- 86 If a Notice of Appeal does not include a complete statement of allegations of fact, law or reasons, the solicitor for the Minister may bring a motion to request further particulars.
- 87 If the taxpayer does not provide the particulars as directed by the court, the Notice of Appeal will be declared invalid.
- Should a Notice of Appeal be declared invalid, no further action will be taken by the Ministry of Finance.
- 89 If the Minister's reply is not filed within the required time limit, the taxpayer may, on 21 days notice to the Minister, apply to a judge for an order that the reply be served within a time set out by the judge. If the Minister's reply is not served within such time, the assessment may be cancelled.
- 90 If the Office of Legal Services and the taxpayer do not reach an out of court settlement, the appeal may be heard in court.

Filing an Appeal — Other Acts

The Minister's decision is final and is not subject to appeal except when the dispute involves the interpretation of a provision of the act or an issue of law in which no facts are in dispute or when the dispute involves the proper inference to be drawn from facts that are not in dispute.

- 91 The appellant or the appellant's representative should contact the Ministry of Finance's Tax Appeals Branch in order to negotiate an agreed statement of facts.
- 92 After the statement of facts is completed, the Office of Legal Services may apply to the Divisional Court which is a branch of the Superior Court of Justice, to have the issue determined.

Information

If you would like more information about objections and appeals, please visit in person or write to the:

Tax Appeals Branch 1600 Champlain Avenue, 3rd floor Whitby, ON L1N 9B2

You can also telephone one of the following numbers:

•	Toll-free	. 1-800-263-7965
•	Outside of Ontario	. 1-905-433-6000
•	French language enquiries	. 1-800-668-5821
•	Teletypewriter (TTY)	. 1-800-263-7776
•	TAX FAX Service	. 1-877-482-9329 or 1-877-4-TAX-FAX

The Ministry of Finance's website is **www.gov.on.ca/FIN/**. Notice of Objection forms, Notice of Appeal forms and this Tax Appeals Branch publication can be found on this website.

You can also contact any other Ministry of Finance office. You will find the addresses listed in your telephone directory, in the **Blue Pages** under Taxes (P-Province of Ontario).

If your group or organization would like to know more about the objection and appeal process, the Tax Appeals Branch would be pleased to provide a speaker for your next meeting. Please send your request in writing to the Tax Appeals Branch at the address listed above.