

Appeals of Tax Assessments or Disallowed Refunds

*Social Service Tax Act, Hotel Room Tax Act,
Tobacco Tax Act, Motor Fuel Tax Act*

The information in this bulletin is provided for your convenience and guidance and is not a replacement for the legislation. The *Social Service Tax Act, Hotel Room Tax Act, Tobacco Tax Act, Motor Fuel Tax Act* and Regulations can be found on the web at www.gov.bc.ca/sbr

In this issue...

- *Assessments and refunds*
- *Appeals*

ASSESSMENTS AND REFUNDS

Tax Assessments

The Ministry of Small Business and Revenue conducts periodic audits and inspections of taxpayers' records to ensure tax is applied fairly and consistently throughout the province. Such audits and inspections occasionally result in assessments of tax liabilities.

Refund Claims

The consumption tax statutes provide for refunds of tax where certain conditions are met. Refund claims are reviewed by the ministry, and may be approved or disallowed, depending upon whether the claim meets the criteria established under the statute.

APPEALS

Legislative Authority

Tax assessments and disallowed refund claims are subject to two levels of appeal: a first appeal to the Minister of Small Business and Revenue, and a subsequent appeal to the courts. The following

legislative provisions allow for appeals of tax assessments and disallowed refund claims.

Statute	Appeals to the Minister	Appeals to the Courts
<i>Social Service Tax Act</i>	s. 118	s. 119
<i>Hotel Room Tax Act</i>	s. 18	s. 19
<i>Motor Fuel Tax Act</i>	s. 50	s. 51
<i>Tobacco Tax Act</i>	s. 23	s. 24

Before Filing an Appeal

General procedures for appealing assessments and disallowed refund claims are outlined on page 2. However, to ensure that all statutory requirements are met, persons who intend to appeal a tax assessment or disallowed refund should also refer to the provisions of the statute under which the assessment has been made or the refund disallowed.

Appeals to the Minister

Persons who dispute liability for assessments of taxes, interest or penalties, or who dispute the disallowance of a refund claim, may personally, or by their agent, serve notice of appeal on the Minister of Small Business and Revenue. The notice of appeal must be served within 90 days from the date of the notice of assessment or the notice of the disallowed refund claim. If a person

chooses to serve their appeal using the mail or a courier, it must be "received" by the ministry within the 90-day period.

The notice of appeal must be in writing and addressed to the

Minister of Small Business and Revenue
PO Box 9629 Stn Prov Govt
Victoria BC V8W 9N6

The notice must clearly state the reasons for the appeal and provide all relevant facts.

On receipt of this notice, the minister will consider the matter, amend or affirm the assessment or disallowed refund, and notify the appellant of the decision. Taxpayers who are dissatisfied with the minister's decision may appeal to the Supreme Court of British Columbia.

Appeals to the Court

An appeal to the court is commenced by filing a petition under Rule 10 of the Supreme Court Rules. The petition must be filed in the Supreme Court Registry within 90 days after the date on the minister's notification of decision. The Crown is styled in the petition as "Her Majesty The Queen in Right of the Province of British Columbia".

Within 14 days of filing the petition in the registry, it must be served on the Attorney General in Victoria. The petition is considered to be sufficiently served if left between 8:15 a.m. and 5:00 p.m. with a solicitor on the staff of the Attorney General in Victoria, or mailed by registered mail to the Deputy Attorney General in Victoria. In both cases, the address for service is 11th Floor 1001 Douglas Street, Victoria BC V8V 1X4.

Appellants who are dissatisfied with the decision of this court may request leave to appeal the court decision to the Court of Appeal from a justice of that court.

Tax Payable While Assessment is Under Appeal

All assessments for tax liabilities are due and payable even if the assessment is under appeal. If the assessment is later set aside or reduced as a result of the appeal, the excess tax paid will be refunded.

NEED MORE INFO?

This bulletin is provided for convenience and guidance. If you still have questions call us at 604 660-4524 in Vancouver or toll-free at 1 877 388-4440 elsewhere in Canada or refer to the legislation.

Information is also on the web at www.gov.bc.ca/sbr While there, you can subscribe to our free electronic update service.

References: *Social Service Tax Act*, Sections 118, 119, 120; *Hotel Room Tax Act*, Sections 18, 19, 21; *Motor Fuel Tax Act*, Sections 50, 51, 52; *Tobacco Tax Act*, Sections 23, 24, 26