

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1992, R.S. 47:2301 and R.S. 47:2321.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 13:188 (March 1987), LR 13:764 (December 1987), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 32:435 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008), LR 35:501 (March 2009), LR 36:781 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1403 (May 2011), LR 38:811 (March 2012), LR 40:539 (March 2014).

§3103. Appeals to the Louisiana Tax Commission

A. The Louisiana Constitution provides that the correctness of assessments made by an assessor will be subject to review first by the parish governing authority, then by the Louisiana Tax Commission, and finally by the courts, all in accordance with procedures established by law. La. Const. Article VII, Section 18(E).

B. An appeal to the Louisiana Tax Commission shall be filed by depositing in the United States Mail by certified mail (return receipt requested) with the commission within fifteen (15) business days after the Board of Review's written decision was mailed to the appealing taxpayer and assessor. In order to institute a proceeding before the commission, the taxpayer or assessor shall file by depositing in the United States Mail by certified mail (return receipt requested) Form 3103.A and, if applicable, Form 3103.B.

1. The assessor shall confirm, in writing, to the Tax Commission that the Board of Review has issued a written determination to each taxpayer and to the assessor's office in the format required by §3101(J). Upon filing an appeal to the Louisiana Tax Commission, the appealing party must simultaneously by deposit in the United States Mail by certified mail (return receipt requested) to the other party that an appeal was filed with the Louisiana Tax Commission. Failure to timely notify the other party, as provided herein, shall void the appeal to the Louisiana Tax Commission.

C. All filings to the Louisiana Tax Commission shall be filed in proper form, consisting of an original and seven (7) copies on letter size paper, with the Office of the Administrator. All exhibits, where it is helpful, to the consideration of such exhibits, shall be indexed, numbered, color coded, tabbed or otherwise so identified as to provide ready accessibility. All appeals and filings shall be deemed filed when deposited with the United States Postal Service and can be evidenced by proof of mailing by registered or certified mail.

1. The Office of the Administrator shall be sent one (1) "service copy" of

all State Court, Federal Court, Appellate Court, and/or Supreme Court pleadings in which the LTC is named party in addition to Special Counsel for the LTC.

D.1. All parties shall receive notice of the scheduling of an appeal hearing at least thirty (30) days prior to the scheduled hearing date.

2. In addition to the initial filing of Forms 3103.A and 3103.B, the taxpayer or assessor appealing the Board of Review decision may attach a pleading containing further information concerning the appeal.

3. A taxpayer (except a homeowner appealing their personal residence) or assessor who has appealed the decision of the Board of Review shall file and serve on the opposing party at least fifteen (15) days prior to the scheduled hearing date a pleading containing the following:

- a. name under which the property is assessed;
- b. description of the property;
- c. determination of the Board of Review;
- d. a prayer stating the type of relief, action or order desired by the pleading party;
- e. a list of exhibits to be presented at the hearing;
- f. a list of witnesses who may be called, with a brief description of the anticipated testimony of the witness;
- g. anticipated time needed to present the case; and
- h. an appraisal report or other appropriate evidence concerning the fair market value of the property.

4. The party who has not appealed the Board of Review decision shall notify the Louisiana Tax Commission and the opposing party at least ten (10) days prior to the scheduled hearing of the following:

- a. a list of exhibits to be presented at the hearing; and
- b. a list of witnesses who may be called with a brief description of the anticipated testimony of the witness.

E. Upon written notice by the commission, the parties and/or their attorneys or other representatives may be directed to meet and confer together by telephone or

otherwise prior to the hearing, for the purpose of formulating issues and considering:

1. simplification of issues
2. a limitation, where possible of the number of witnesses
3. the time required for presentations
4. stipulations as to admissibility of exhibits
5. submission of proposed findings of fact
6. such other matters as may aid in the simplification of the proceedings and the disposition of the matters in controversy

F. Actions requested and agreed upon at the conference shall be recorded in an appropriate statement by the party, which has initiated the appeal to the commission. The statement shall be filed with the commission seven (7) days prior to the scheduled hearing before the commission. In the event of a disagreement over any item discussed at the conference, the statement filed with the commission shall state the specific item as to which there is disagreement together with a brief summary of the nature of the disagreement.

G. Upon written notice by the commission, the parties or their attorneys or other representative may be directed to file legal memorandums with the commission fifteen (15) days prior to the hearing. The legal memorandum shall address in a concise manner the legal issues presented in the appeal to the commission together with a statement of any legal authority supporting the party's position.

H. Any party with leave of the commission or hearing officer may present prepared sworn deposition testimony of a witness either narrative or in question and answer form, which shall be incorporated into the record as if read by a witness. The opposing party will be allowed to cross-examine and/or submit any sworn testimony given by the witness in the deposition. Seven (7) copies of the prepared deposition testimony shall be filed with the commission.

I. Any taxpayer or assessor may appear and be represented by an attorney at law authorized to practice law before the highest court of any state; a natural person may appear in his own behalf, or through an attorney or other representative; or a corporation, partnership or association may appear and be represented to appear before the commission by a bona fide officer, partner, full time employee, or any other person duly authorized as provided for on "Exhibit B, Appointment of Taxpayer Agent in Louisiana Tax Commission Ad Valorem Tax Appeal" (Form 3103.B).

J. Every taxpayer or assessor, witness, attorney or other representative shall conduct himself in all proceedings with proper dignity, courtesy and respect. Disorderly conduct will not be tolerated. Attorneys shall observe and practice the standards of ethical behavior prescribed for attorneys at law by the Louisiana Bar Association. Any taxpayer or assessor, witness, attorney or other representative may be excluded by the commission from any hearing for such period and upon such conditions as are just for violation of this rule.

K. All official hearings conducted in any proceeding shall be open to the public. All hearings shall be held in Baton Rouge, LA, unless the commission shall designate another place of hearing.

L. A continuance shall not be granted due to an unexcused absence of a taxpayer, assessor or any representative, attorney or witness, at the time and place set for a scheduled hearing before the commission, without consent of the taxpayer and/or assessor. If such consent is refused, the hearing shall proceed.

M. The hearing shall be conducted informally. It will be the responsibility of the taxpayer or assessor to retain the services of an official reporter for a scheduled hearing should either anticipate the need for a transcript. The Tax Commission shall be notified within three (3) business days, prior to the scheduled hearing that an official reporter will be in attendance.

N. All parties testifying shall be placed under oath by the commission at the onset of each hearing.

O. Any evidence, which would be admissible under the Louisiana Rules of Evidence shall be deemed admissible by the commission. The Louisiana Rules of Evidence shall be applied liberally in any proceeding before the commission. Either party may object to evidence not previously disclosed by the opposing party. The commission may exclude evidence, which is deemed by the commission to be incompetent, immaterial or unduly repetitious.

P. The commission shall take official notice without further identification of the contents of the original records and documents in possession of the commission when duly certified copies thereof are offered into evidence and made a part of the record. Evidence offered at the Board of Review is not forwarded to the Tax Commission and must be submitted by the assessor/taxpayer in accordance with filing procedures for written appeals. The commission may receive other documentary evidence in the form of copies or excerpts or that which is incorporated by reference.

Q. Documents and papers offered into evidence for a hearing before the commission shall be marked as exhibits and bound. All exhibits, where it is helpful, to the consideration of such exhibits, shall be indexed, numbered, color coded, tabbed or

otherwise so identified as to provide ready accessibility. Seven (7) copies of all exhibits shall be provided to the commission, with a copy to the opposing party ten (10) days prior to the scheduled appeal. Exhibits offered by a taxpayer shall be marked "Exhibit Taxpayer_____" and shall be consecutively numbered. The taxpayer shall, at the time an exhibit is offered, state whether the exhibit contains information not furnished to the assessor before the end of the period for public exposure of the assessment lists. Exhibits offered by the assessor shall be marked "Exhibit Assessor_____" and shall be consecutively numbered. Exhibits offered by the commission or its staff representative shall be marked "Exhibit Tax Commission_____" and shall be consecutively numbered. Legal memorandum submitted by the parties will be made part of the record of proceedings before the commission, but shall not be filed as exhibits to be offered into evidence for the hearing before the commission.

R. Hearings may be conducted by a hearing officer selected and appointed by the commission. The hearing officer shall have the authority to administer oaths, may examine witnesses, and rule upon the admissibility of evidence and amendments to the pleadings. The hearing officer shall have the authority to recess any hearing from day to day.

S. The hearing officer shall have the responsibility and duty of assimilating testimony and evidence, compiling a written summary of the testimony and evidence, and presenting a proposed order to the commission.

T. At the close of evidence, each side will be allowed a reasonable amount of time to argue its case. This time will be allotted by the chairman or hearing officer.

U. The parties to an appeal shall be simultaneously notified in writing, by United States Mail by certified mail (return receipt requested), of the final decision by the commission. The taxpayer or assessor shall have thirty (30) days from certified mailing date of the Order to appeal to a court of competent jurisdiction. The Louisiana Tax Commission may not create a cumulative notice to multiple taxpayers who are represented by the same taxpayer representative. The Louisiana Tax Commission may, however, send the multiple separate individual taxpayer determinations compiled, organized and grouped by taxpayer to the taxpayer representative in one (1) certified mailing.

V. The commission may, at its discretion, grant the request of a taxpayer or assessor for a rehearing; provided the rehearing request is made in accordance with the Administrative Procedure Act.

W. Subpoenas for the attendance of witnesses or for the production of books, papers, accounts or documents for a hearing may be issued by the commission upon its own motion, or upon the written request of the taxpayer or assessor. No subpoena shall be issued until the party who wishes to subpoena the witness first deposits with the

agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Any subpoena duces tecum shall allow no less than five days to assimilate and to deliver said documents subpoenaed by the subpoena recipient. The form of subpoena attached hereto as Form SUBP.T-2 (found on the Tax Commission's website under General Forms), or a reasonable variation thereof, shall be filled out and presented with the subpoena request. Service of the subpoena may be accomplished by any of the methods prescribed by the Louisiana Administrative Procedure Act.

X. The word "commission", as used herein, refers to the chairman and the members or its delegate appointed to conduct the hearing.