

# **Pennsylvania Board of Finance and Revenue**

## **Mediated Settlement Guidance**

### Background

Last year, the Pennsylvania Tax Reform Code of 1971 was amended to include two important changes to the tax appeals process before the Pennsylvania Board of Finance and Revenue<sup>1</sup> – (1) extending the time a taxpayer has to file an appeal of a final tax decision of the Department of Revenue with the Board of Finance and Revenue; and, (2) establishing a formal, independent mediated settlement process to resolve tax assessment disputes.

Both provisions are intended to enhance the ability of Commonwealth taxpayers to equitably and timely raise and resolve state tax assessment appeals that are before the Board of Finance and Revenue.

The Board of Finance and Revenue does not charge the taxpayer for a mediated settlement conference.

These changes take effect on **January 27, 2025**.

### New Filing Date for State Tax Appeals

The Tax Reform Code was amended to change the period in which a taxpayer may appeal an assessment of a state tax, penalty or interest imposed by the Department of Revenue under Article III (personal income tax, fiduciary income tax, employer withholding tax, and pass-through tax or related penalties or interest). In particular, a taxpayer may now file a Petition for Review (an appeal) with the Board of Finance and Revenue within 90 days after the mailing date of the Department of Revenue decision and order. Previously, a taxpayer had only 60 days to file an appeal of these types of state taxes.

In addition, in matters involving an appeal of assessments of state personal income tax, fiduciary income tax, employer withholding tax, pass-through tax, or related penalties or interest, an extension of time may be allowed by the Board for cause shown, but may not exceed an additional 30 days.

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<sup>1</sup> Act of October 29, 2024 (P.L. , No. 123).

On or after January 27, 2025, taxpayers may file with the Board of Finance and Revenue, appeals of assessments of state personal income tax, fiduciary income tax, employer withholding tax, pass-through tax or related penalties or interest within 90 days of the mailing date of the decision and order of the Department of Revenue, Board of Appeals. The filing dates for all other types of state tax appeals are unchanged.

The procedures and forms to file an appeal are substantially unchanged.

**A Petition Form can be found at the following link:**

<https://bfirtaxappealportal.patreasury.gov>.

**After logging into the Portal, go to “Petition Form.”**

\*An example of the Petition Form can be found at the end of this document.

### New Independent Mediated Settlement Process

#### **What is a mediated settlement conference?**

As part of Act 123 of 2024, the legislature established a new, independent, mediated settlement process to be integrated as part of the tax appeals procedure before the Board of Finance and Revenue. The mediated settlement process is intended to encourage and facilitate settled resolutions of tax disputes between taxpayers and the Department of Revenue, thereby avoiding the costly and lengthy appeals process. Though not appropriate for all tax appeals, the new settlement process will be overseen by an independent mediator, appointed by the Board, who will possess substantial state taxation experience, either an attorney or certified public accountant.

The mediated settlement process does not replace or otherwise supplant existing statutory compromise authority (72 P.S. §9704) that permits the taxpayer and the Department of Revenue to submit proposed compromise agreements to the Board, at any time during the pendency of an appeals, for acceptance. Rather, the new independent mediated settlement process is complementary – directing an independent mediator to oversee and facilitate formal settlement discussions to help resolve specifically identified disputed facts or issues.

Unlike the previously existing compromise authority, the formal mediated settlement process, while underway, would temporarily stay the statutory period in which the Board is to issue a final decision resolving the underlying appeal.<sup>2</sup>

### **Who may request a settlement conference?**

The Board, on its own, or in response to a request by either the taxpayer or the Department of Revenue, may, in its sole discretion, refer an appeal to a settlement conference overseen by a Board-appointed mediator. Not every appeal will be appropriate for mediated settlement, and not every request will be approved for referral by the Board.

In considering a request for mediated settlement referral, the Board may consider some or all the following:

- (1) Nature of dispute and the likelihood of achieving a settlement agreement;
- (2) Doubt as to liability;
- (3) Promotion of effective tax administration;
- (4) Inability to provide level of evidence required by Revenue; or
- (5) Requiring payment of full amount at issue is unfair or inequitable due to exceptional circumstances.

The following appeals would not be appropriate for referral to a mediated settlement conference:

- (1) Denial of property tax or rent rebate;
- (2) Denial of charitable tax exemption;
- (3) Revocation of sales tax license;
- (4) Jeopardy assessment;
- (5) Relating to the Gaming Control Act;
- (6) Refund of a tax which is not paid;
- (7) Generally, a settlement request to pay nothing.

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<sup>2</sup> 72 P.S. §9704.1(b)(1).

## **How to request a settlement conference**

Requests for a mediated settlement conference shall be made by either the taxpayer or the Department of Revenue within 30 calendar days following the filing of the tax appeal with the Board of Finance and Revenue. Requests shall include a brief description of the dispute and identify the relief or outcome sought. The Board, on its own, may also direct a mediated settlement conference. The 30-day deadline for filing mediated settlement conference requests may be extended by the Board for good cause.<sup>3</sup>

**Request for Mediated Settlement Conference Form can be found at the following link: <https://bfrtaxappealportal.patresury.gov>**

**After logging into the Portal, go to “Dashboard” and then “Request for Mediated Settlement.”**

Within 10 business days following the submission of a request for a mediated settlement conference, the non-requesting party shall file a written response in support or opposition to the request.<sup>4</sup>

**Non-Requesting Party Response to Request for Mediated Settlement Form can be found at the following link: <https://bfrtaxappealportal.patresury.gov>**

**After logging into the Portal, go to “Dashboard” and then “Response to Request for Mediated Settlement Conference Form.”**

\*Examples of the Request for Mediated Settlement Conference and Response to Request for Mediated Settlement can be found at the end of this document.

## **How a settlement conference is conducted**

Once a written response opposing or supporting a request for a mediated settlement conference is submitted, the Board will issue a formal notice granting or denying the request within 5 business days. If granted, the Board will provide notice of the appeal being placed into the mediated settlement conference and defer consideration

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<sup>3</sup> 72 P.S. §9704.1(b).

<sup>4</sup> 72 P.S. §9704.1(b)(3).

and resolution of the appeal until after termination of the mediation settlement process.

**NOTE:** A taxpayer may refuse to participate in a Board-directed mediated settlement conference by providing **written** notice to the Board and the Department of Revenue within 5 business days following a formal referral issued by the Board to a mediated settlement conference. However, if a taxpayer declines to participate in a mediated settlement conference, the underlying appeal will not be paused, and the Board will issue a final decision and order within 6 months.

A mediated settlement conference between the taxpayer and the Department of Revenue will be held within 60 days following the Board's formal issuance of a referral. The assigned mediator will contact the taxpayer (or the taxpayer's representative) and the Department of Revenue to schedule the time, date, and place of the conference.<sup>5</sup>

A mediated settlement conference:

- is private, confidential and may not be recorded;
- may be conducted in person or virtually;
- must be attended by each party or their representative, who shall be prepared for and engage in meaningful and productive discussions;
- is informal and may involve separate and multiple meetings; and,
- may involve the exchange of records, documents, proposals, admissions and such other information requested by the mediator, all of which shall be treated as confidential.<sup>6</sup>

Participants in the mediated settlement conference may continue to communicate with the mediator and exchange proposals for an additional period of 30 calendar days following the initial settlement conference date.<sup>7</sup>

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<sup>5</sup> 72 P.S. §9704.1(c)(1).

<sup>6</sup> 72 P.S. §9704.1(c).

<sup>7</sup> 72 P.S. §9704.1(d)(3).

## **How a settlement conference is concluded**

If the taxpayer and the Department of Revenue successfully reach a settled agreement, in whole or part, the parties are to submit the terms of the proposed settlement to the Board within 10 business days after reaching an agreement.<sup>8</sup>

**Mediated Settlement Agreement Form can be found at the following link: <https://bfrtaxappealportal.patreasury.gov>**

**After logging into the Portal, go to “Dashboard” and then “Mediated Settlement Agreement Form.”**

\*An example of the Mediated Settlement Agreement Form can be found at the end of this document.

If the parties are unable to agree to a settlement, the settlement conference may be terminated by a written declaration:

- (1) by the mediator that additional efforts to resolve the dispute will not be productive;
- (2) by the taxpayer and the Department of Revenue that the conference is terminated; or
- (3) by the mediator that there has been no communication between the mediator and the parties for 21 days following the settlement conference.

If a settlement conference is terminated because the parties are unable to reach a settlement agreement, the Board will proceed with the ordinary appeals process and issue a decision and opinion within 6 months.

If you have any questions about the Mediated Settlement Conference process, please email [BFR@patreasury.gov](mailto:BFR@patreasury.gov).

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<sup>8</sup> 72 P.S. §9704.1(d)(4).

# Board of Finance & Revenue Petition Form



## 1 BOARD OF APPEALS DOCKET NUMBER(S)

  
DOCKET NUMBER

## 2 PETITIONER

<input type="text"/>	<input type="text"/>		
NAME OF PETITIONER	CONTACT PERSON		
<input type="text"/>			
STREET ADDRESS	CITY	STATE	ZIP
<input type="text"/>	<input type="text"/>	<input type="text"/>	
TELEPHONE NUMBER	FAX NUMBER	EMAIL ADDRESS	

## 3 REPRESENTATIVE

<input type="text"/>	<input type="text"/>		
NAME OF REPRESENTATIVE / CONTACT PERSON	NAME OF ORGANIZATION / FIRM		
<input type="text"/>			
STREET ADDRESS	CITY	STATE	ZIP
<input type="text"/>	<input type="text"/>	<input type="text"/>	
TELEPHONE NUMBER	FAX NUMBER	EMAIL ADDRESS	

## 4 TAX TYPE AT ISSUE

<input type="text"/>	<input type="text"/>	<input type="text"/>
TAX TYPE	TAX PERIOD START	TAX PERIOD END
<input type="text"/>	<input type="text"/>	<input type="text"/>
TAXPAYER IDENTIFICATION NUMBER e.g.(SSN, EIN, ACCT. #)	ASSESSMENT NUMBER	TAX AMOUNT

Please note: Effective January 27, 2025, the deadline for filing review of reassessment petitions to BF&R for personal income tax, personal income tax for fiduciaries, employer withholding tax, pass-through assessments and any assessment of tax, penalties or interest imposed under Article III is now 90 days from the mail date of the Board of Appeal decision and order.

## 5 SCHEDULING

- HEARING DESIRED.
- NO HEARING DESIRED. Please decide on the basis of petition and submission(s).
- REQUEST FOR COMPROMISE. See instructions.
- THIS CASE IS REQUESTED TO BE HELD PENDING ACTION OF THE COURT ON THE SAME ISSUE(S).

<input type="text"/>	<input type="text"/>
CASE NAME	COURT CITATION

## 6 SIGNATURES All petitions must be signed by Petitioner or an authorized representative.

### AFFIDAVIT

Under penalties prescribed by law, I hereby affirm that this petition has been examined by me and to the best of my knowledge, information and belief, is true and correct and is not made for the purpose of delay. Also, if this is a petition for a cash refund, I further affirm that all taxes have been paid to the Commonwealth and there are no outstanding tax liabilities.

Please check one:

- PETITIONER
- AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
DATE

# Board of Finance & Revenue Petition Form



## 7a RELIEF REQUESTED:

## 7b ARGUMENTS:

**FOR PAPER SUBMISSION(S):**  
Board of Finance and Revenue  
1101 South Front Street, Suite 400  
Harrisburg, PA 17104-2539

**FOR ELECTRONIC SUBMISSION(S):**  
Email: [bfr@ptreasury.gov](mailto:bfr@ptreasury.gov)  
Fax: 717.783.4499  
Phone: 717.787.2974





# BOARD OF FINANCE & REVENUE

## Petitioner's Request for Mediated Settlement Conference

### Petition Information:

Petitioner Name: \_\_\_\_\_ Petition Date: \_\_\_\_\_

Petition ID: \_\_\_\_\_

Docket Number: \_\_\_\_\_ Additional Docket Numbers: \_\_\_\_\_

Representative (if applicable): \_\_\_\_\_

Representative Email (if applicable): \_\_\_\_\_

Tax Type: \_\_\_\_\_ Tax Period: \_\_\_\_\_

### Request Details:

Request Date: \_\_\_\_\_

Yes, Petitioner requests a mediated settlement conference.

### Briefly explain the settlement requested and the reasons for your request:

Requestor Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Any forms filed with the BF&R must be simultaneously emailed by the Petitioner to the Department of Revenue at: [RA-RVOCCBFRNOTIF@pa.gov](mailto:RA-RVOCCBFRNOTIF@pa.gov) or mailed to:**

Department of Revenue  
Attn: BFR Matter  
Office of Chief Counsel  
327 Walnut Street, 10<sup>th</sup> Floor  
P.O. Box 281061  
Harrisburg, PA 17128-1061



# BOARD OF FINANCE & REVENUE

## Response to Request for Mediated Settlement Conference

**This response is due from the non-requesting party within 10 business days of requester's submission. No response will be deemed an approval.**

**Petition Information:**

Petitioner Name: \_\_\_\_\_ Petition Date: \_\_\_\_\_

Petition ID: \_\_\_\_\_

Docket Number: \_\_\_\_\_ Additional Docket Numbers: \_\_\_\_\_

Representative (if applicable): \_\_\_\_\_

Representative Email (if applicable): \_\_\_\_\_

Tax Type: \_\_\_\_\_ Tax Period: \_\_\_\_\_

**Yes. I support.**

**No. I oppose.**

**Briefly explain whether you support or oppose having a mediated settlement conference and why:**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Any forms filed with the BF&R must be simultaneously either emailed or provided to the other party.**

Department of Revenue  
Attn: BFR Matter  
Office of Chief Counsel  
327 Walnut Street, 10<sup>th</sup> Floor  
P.O. Box 281061  
Harrisburg, PA 17128-1061

[RA-RVOCBFRNOTIF@pa.gov](mailto:RA-RVOCBFRNOTIF@pa.gov)



# BOARD OF FINANCE & REVENUE

## Mediated Settlement Agreement Terms

The mediator must provide this settlement agreement form to the BF&R within 10 business days after reaching the settlement.

### Petition Information:

Petitioner Name: \_\_\_\_\_ Petition Date: \_\_\_\_\_

Petition ID: \_\_\_\_\_

Docket Number: \_\_\_\_\_ Additional Docket Numbers: \_\_\_\_\_

Representative (if applicable): \_\_\_\_\_

Representative Email (if applicable): \_\_\_\_\_

Tax Type: \_\_\_\_\_ Tax Period: \_\_\_\_\_

### Settlement Agreement Terms

Blank area for Settlement Agreement Terms.

Petitioner's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

DOR Signature: \_\_\_\_\_ Date: \_\_\_\_\_