

POLICY GUIDANCE

Audio and Video Recording of Proceedings Before the Board of Finance & Revenue

Introduction

Pennsylvania Board of Finance and Revenue (“the Board”) issues this Policy Guidance statement regarding its intention to audio and video record public hearings, which will increase and promote public access and transparency in the administrative appeals process. As a Commonwealth agency, the Board is subject to the provisions of both the Sunshine Act and the Right-to-Know Law.¹

The Board is a statutorily established quasi-judicial administrative board² responsible for the consideration and resolution of final tax determinations from the Department of Revenue.³ In 2013, the Board’s enabling authority was amended by the General Assembly⁴ to establish a greater level of independence from the Department of Revenue and to formalize the appeals process. Since that time, a series of reforms have been initiated to provide greater transparency into the Board’s operations and to make the appeals process more accessible to taxpayers.

Consistent with this purpose, and following the best practices of other administrative agencies and boards, the public sessions of Board meetings will be recorded and made available on the Board’s internet homepage⁵ in order to permit individuals and tax professionals throughout the Commonwealth to view Board proceedings without having to physically attend meetings in

¹ 65 Pa.C.S. § 702; 65 P.S. § 67.301.

² 71 P.S. § 62.

³ 72 P.S. § 9704(a).

⁴ 2013 Bill Text PA H.B. 465 (Act No. 2013-52).

⁵ <https://www.patreasury.gov/bfr/>

Harrisburg. The purpose of this policy is to outline the policies and procedures as it relates to the audio and video recording of public meetings before the Board.

a. Public Hearings

Hearings before the Board, except where provided for by law, are open to the public.⁶

b. Recording Notice

The Board will provide notice that public hearings before the Board, except where provided for by law and this policy, will be video recorded and made available to the public on the Board's website. Such notice shall include (1) a verbal statement prior to the commencement of public hearing sessions, (2) written notice on the Board's website and/or on Board forms, (3) signs in and around the courtroom, and (4) correspondence from the Board scheduling a hearing. Notices will inform attendees of their right to request executive session if the disclosure of confidential information is required.

c. Executive Session

Executive session is that portion of an otherwise public hearing that is allowed to be closed to the public for the purpose of discussing information that is protected by law. The Tax Reform Code of 1971 provides that the Board may conduct all or part of a hearing in executive session if requested by either party or deemed necessary by the Board and it would violate a lawful privilege or lead to the disclosure of information or confidentiality protected by law if the hearing was held in public.⁷

⁶ 72 P.S. § 9704(d.6).

⁷ 72 P.S. § 9704(d.6)

The Board shall provide notice of the availability of and procedure for requesting a hearing in executive session in order to protect confidential information as defined by law. The Board shall exercise due diligence to notify pro se taxpayers of their right to protect confidential information, and shall notify pro se taxpayers at the start of each oral presentation. Upon notification by the parties, the Board shall also redact from the video recording confidential information inadvertently disclosed at a public hearing. The decision to grant an executive session request, and redaction determinations, are at the sole discretion of the Board.

d. Executive Session Request

Unless a shorter time period is deemed necessary by the Board, requests to remove all or part of a hearing to executive session must be in writing and submitted to the Board at least 10 days prior to the hearing. Executive session is only allowed to discuss information that is protected by law as confidential or privileged. Accordingly, requests must specifically set forth:

1. Specific information deemed to be protected by law as confidential or privileged;
2. The law that protects the information; and
3. Measure taken by the taxpayer to protect the information as confidential or privileged.

The decision to grant an executive session request is at the sole discretion of the Board. No video or audio record shall be made of an executive session.

e. Public Access

Public hearings before the Board, except where provided for by law and this policy, will be video recorded and made available to the public online. All video recordings are for informational purposes only and are the exclusive property of the Pennsylvania

Treasury Department, and shall not be downloaded, embedded, or otherwise used for any purpose prohibited by law. Consistent with applicable law, the Board, in its sole discretion, may elect not to post a video, or any part thereof, online. Due to the nature of technical equipment, the Board does not guarantee that audio or video recordings will be continuous or fault-free.

f. Video Retention

Videos shall be retained on the Board's website for six (6) months, after which time the recordings will be archived and destroyed in accordance with applicable law and record retention standards. Treasury's Office of Information Technology shall be responsible for the edits and archival of video recordings, and arrangement for access (in conjunction with Treasury's Right to Know Office), security and destruction of archived audio and video recordings.

g. Disclaimers

While it is the Board's intent to record and post video recorded public Board hearings in their entirety, the Board, at its discretion, may discontinue the video recording of a meeting at any time it deems necessary. The Board, acting on advice of Treasury's legal staff, will determine which portions, if any, of its video recordings will not be posted on line due to abusive, obscene or potentially defamatory statements by those in attendance at the hearing.