

Appeals Process

1. Preliminary: Audit w/assessment or refund denial is followed by taxpayer's appeal to the Comptroller's Hearings & Appeals Section, Compliance Division. If taxpayer not satisfied with decision, they appeal to Maryland Tax Court.
2. Appeal to Maryland Tax Court:
 - a. A person or governmental unit aggrieved by the action in the Notice of Final Determination may appeal. (TG, § 13-510(a))
 - b. This is the only forum for taxpayer to contest the assessment of tax or denial of refund (TG, § 13-505)
 - c. 30-days from date on Notice of Final Determination (TG, § 13-510(c))
 - d. 30-days to file answer (TG, § 13-516; COMAR 14.12.01.02)
 - e. Limited/restricted discovery (TG, § 13-521)
 - f. Sanctions for failure to comply with summons or subpoena - only enforceable through a request by Tax Court to Circuit Court for show cause order (TG, § 13-522, COMAR 14.12.01.09)
 - g. Pre-trial conference (COMAR 12.12.01.13)
 - h. Trial de novo (TG, § 13-523; COMAR 14.12.01.11)
 - i. Technical rules of evidence do not apply (TG, § 13-524; COMAR 14.12.01.11)
 - j. Burden on taxpayer, except with regard to fraud (TG, § 13-528(b) and § 13-411)
 - k. Taxpayer may represent themselves. Corporate officer or partner in a partnership may represent entity. Otherwise, have to be represented by an attorney. (TG, § 13-515)
 - l. Written decision should state grounds for decision and finding of facts
3. Appeal from Maryland Tax Court
 - a. First Level Appeal is to Circuit Court
 - i. Venue is any jurisdiction in which one of the parties is present
 - ii. No stay of Maryland Tax Court decision
 - iii. With very limited exceptions, the appeal is on the record
 - iv. Appellant must contact Tax Court clerk to have recorded and transcript prepared and submitted to Circuit Court
 - b. Second Level Appeal to Maryland Court of Special Appeals

- i. A party may appeal to the Court of Special Appeals if dissatisfied with decision of the Circuit Court
- ii. Party has right to this level of appeal and does not have to seek permission to have the appeal heard by the Court of Special Appeals
- iii. Review will be of Tax Court decision, not Circuit Court decision

c. Higher levels of appeal are not by right. The appellant must file a petition for writ of certiorari to the Court of Appeals.

4. References

- a. Tax General Art., Title 13, Subtitle 5
- b. COMAR 14.12.01
- c. State Government Art., § 10-201, etc.

5. Misc.

- a. Collections are done in a completely different forum and in the same manner as the collection on any other lien or judgment. These are handled by in-house attorneys
- b. License revocations, forfeitures, criminal matters
- c. Federal court matters: Not a forum used for assessment or collection. Majority of these are cases initiated by taxpayers wherein they allege violation of some federal or constitutional right by the Comptroller

**MARYLAND TAX COURT
RULES OF PROCEDURE**

March 1, 1993

The following rules of procedure have been adopted by the Court and are codified in the Code of Maryland Regulations (COMAR), Title 14, Subtitle 12. All statutory references designate both the revised and prior sections of the Annotated Code of Maryland.

1. 12.01.01 **RULE 1. Petition of appeal - Form and Content**

A. All proceedings shall be initiated by filing with the Court a Petition of Appeal. In an appeal by a taxpayer, the Supervisor of Assessments, the State Department of Assessments and Taxation, or other initial assessing or taxing authority, as the case may be, shall be designated as Respondent. In an appeal by an assessing or taxing authority or representative thereof, the taxpayer shall be designated as Respondent.

B. There shall be no fee for filing a Petition in the Court.

C. Each paragraph of the Petition shall be separately numbered. It shall set forth succinctly the nature of the case, the facts involved, and the question or questions to be reviewed by the Court, as provided by TG 13-516 (Art. 81, Section 229 (a)). Where applicable, the Petition shall also set forth that the assessment or classification appealed from is illegal, specifying the ground or alleged illegality, or that it is erroneous by reason of overvaluation or undervaluation, or that the assessment is unequal in that it has been made at a higher proportion of value than other property of the same class or the Petition may assign any other errors which exist in the particular case for which an appeal is allowed, and on account of which the Petitioner claims to be injured, as provided by TG 13-510 and TP 14-512 (Art. 81, Section 256).

D. One complete, accurately conformed copy of each Petition of Appeal shall be filed with the signed original.

E. A letter or other written communication from the party wishing to appeal or his representative, although not conforming to the provisions of Section C, may be considered an informal Petition if it is filed within the statutory time for filing an appeal. In such event the Court by order shall require that a formal Amended Petition of Appeal be filed which complies with the provisions of this Rule, or may require such explanations, amendments and/or additions as may be necessary or desirable, so that the case may be properly tried and determined. If such order is not complied with within the time fixed by the Court in said order, the proceedings may be dismissed on the Court's own motion or on motion of the opposing party.

2. 01.02 **RULE 2. Responsive Pleading - Form and Content**

A. Respondent shall, within thirty (30) days after being served by mail or otherwise with a copy of a formal Petition of Appeal by the Clerk, file with the Court an Answer, Motion to Dismiss, Notice of Intention to Defend, or other pleading. In

the event that the Respondent's first pleading is other than an Answer, or Notice of Intention to Defend, the Court shall, in its order ruling on such other pleading, specify the time within which an Answer shall be filed.

B. An Answer shall be divided into paragraphs which shall be separately numbered, and insofar as possible, each paragraph shall contain a separate and distinct averment or denial. An Answer shall specifically admit, deny or explain the facts alleged by Petitioner, unless the Respondent is without knowledge thereof, in which event it shall be so stated; and such statement shall operate as a denial. All the material allegations in the Petition of Appeal shall be answered. The proceeding shall be deemed at issue when an Answer has been filed.

C. A Notice of Intention to Defend shall notify the Court of the Respondent's intention to defend the assessment appealed. This pleading may only be filed in response to a Petition of Appeal which concerns the assessment of real property. The proceeding shall be deemed at issue when such Notice has been filed.

D. Prior to filing, or concurrently therewith, a copy of the Answer or other pleading shall be served by mail or otherwise on the opposing side and the Answer or other pleading shall contain a statement that the copy of said Answer or other pleading has been mailed to or otherwise served on the opposing side.

E. One complete, accurately conformed copy of each pleading shall be filed with the signed original.

F. All Motions filed with the Clerk in any proceeding, shall be considered by the Court Ex Parte unless a hearing is requested in the Motion, or in an Answer thereto. The Court may in its discretion, require a hearing on any Motion.

G. Should a hearing on a Motion be requested by a party or required by the Court, each side shall be limited to fifteen (15) minutes of argument unless the Court is notified in writing ten (10) days prior to the scheduled hearing that additional time is necessary.

RULE 3. Signatures, Captions, etc.

A. Petitions of Appeal, Answers and other pleading filed with the Court shall be signed by the Petitioner or Respondent, as the case may be, or by an attorney admitted to practice before the Court of Appeals of Maryland representing such Petitioner

14.12.01.03

or Respondent. A pleading by an individual taxpayer shall be signed by the taxpayer himself or by his attorney. A pleading by a partnership shall be signed by the attorney representing the same, or by a member of the partnership. A pleading by a corporation shall be signed by the attorney representing the same or by an officer of the corporation. The person signing a pleading shall type or print his name, capacity, mailing address and telephone number beneath his signature. The Court shall be notified in writing of any changes in address.

B. All papers filed with the Court must be in clear and legible form. Printed forms for Petitions furnished by the Clerk may be used, but are not compulsory.

C. All papers shall be bound together at the side only, and shall have no backs or covers. The left-hand margin shall be at least one and one-half inches wide.

D. All papers shall have a caption and a signature.

RULE 4. Where and When to File Papers. Papers in connection with any appeal to this Court shall be mailed or otherwise delivered to the Clerk.

RULE 5. Joinder of Appeals as to Real Property.

Where two or more real properties are in the same ownership and within the same taxing jurisdiction, they may be included in a single Petition of Appeal whenever there exists any substantial question of law or fact common to all the properties. The Court, however, may order separate Petitions filed if in the Court's opinion the issues involved may not conveniently be disposed of in the same proceeding. Where properties are not in the same ownership, they must be made the subject of separate Petitions of Appeal, even though common questions of law or fact may be involved.

RULE 6. Docketing - Summons - Copies.

Upon receipt of a Petition by the Clerk, the proceeding will be entered upon the docket and will be assigned a number and the parties will be notified thereof. The docket number shall be placed by the parties on all papers thereafter filed in the proceeding and referred to in all correspondence with the Court. Pursuant to TG 13-520 (Art 81, Section 229), upon receipt of a Petition, the Clerk shall forthwith issue a summons and subpoena duces tecum to the assessing or taxing authority or other agency appealed from, requiring it to produce at the hearing the record of the proceedings, as well as all maps, plats, documents and other papers connected with the record, or a properly certified copy thereof.

RULE 7. Notice of Reliance on Other Properties - Service of List - Ten Days.

A. In every case where for the purpose of showing equality

or inequality of assessment or for any other relevant purpose, either party proposes to offer evidence concerning any properties (including any properties to be referred to, used or relied upon by an expert witness as a basis for his opinion), other than the property which is the subject of the appeal, as to:

(1) Sales thereof, and/or (2) Assessment thereon, and/or (3) Construction costs thereof, and/or (4) Income therefrom, said party shall at least ten (10) days before the date set for hearing serve by mail or otherwise on the opposing side an itemized list of such other properties, clearly identifying them by their street address, if any, or by other means, and giving the name of the owner or reputed owner of each such property.

B. If the purpose is to show a sale of any such property, the date of sale and the sale price shall be stated.

C. If the purpose is to show the assessment on any such property, the amount of the assessment and the year or years in which said assessment was applicable shall be given.

D. If the purpose is to show construction costs, the amount of said costs shall be given and also the year or years in which construction was begun and completed.

E. If the purpose is to show income derived, a detailed statement of the income and expenses shall be given for the year or years in which the said income was received.

The notice required by this Rule must be given even though the same properties were referred to at the hearing before the assessing authority from which the appeal is taken to the Maryland Tax Court.

RULE 8. Continuances.

Once a case has been set down for a hearing, a request for a continuance shall be granted only upon written request and order of Court, except that the Court may, for good cause shown, waive the requirement of a written request and order.

The written request shall set forth in detail the reasons for said request, and the Court shall have the right to require such documentary proof of said reasons as it may deem proper. Prior to filing, or concurrently therewith, a copy of said request shall be served by mail or otherwise on the opposing side and the request shall contain a statement that a copy of said request has been mailed to or otherwise served on the opposing side.

RULE 9. Summonses and Subpoenas.

An original and two signed copies of requests for summonses and/or subpoenas duces tecum shall be delivered to the Clerk at least five (5) working days before the date the case is scheduled for trial. The signature of such request shall be taken as a guarantee of any Sheriff's costs for making service of the summons or subpoena.

B. Failure to obey a summons or subpoena of this Court, lawfully issued and served, may subject the person guilty of such failure to contempt proceedings pursuant to TG 13-520 (Art. 81, Section 231).

1.12.01.10 **RULE 10: Consolidation**

A. When Petitions involving a common question of law or fact are pending, the Court, on its own motion, or upon application of any party for good cause shown, may order a joint hearing or trial of any or all of the matters in issue; order any or all of the cases consolidated for trial; and make such orders governing the proceedings as may tend to avoid unnecessary costs or delay.

B. When subsequent petitions involve the same issues as a petition previously filed, the Court may order said subsequent petitions withheld from the hearing docket to abide the ultimate result of the hearing of the prior petition, or any appeals therefrom.

1.12.01.11 **RULE 11. Conduct of Hearings, Briefs, and Memoranda of Grounds for Decision**

A. As provided by TG 13-523 (Art. 81, Section 229), proceedings before the Court shall be de novo, and shall be conducted in a manner similar to the proceedings in the Courts of Equity in this State. Opening statements and closing arguments shall be permitted each party, the Court reserving the right to determine the time limit thereof. Each party shall have the right to introduce testimony, offer exhibits and cross-examine adverse or hostile witnesses. The Court shall not be bound by the technical rules of evidence, but the testimony of witnesses must be responsive to questions asked and must be relevant to the issues of the case. Each party may submit a brief or written memorandum within such time after the hearing as may be determined by the Court. An original of any brief or memorandum, together with a copy for each judge who participated in the hearing, shall be filed with the Clerk, and a copy shall be served by mail or otherwise on the opposing side.

B. The Court shall upon motion of any party, made at any time prior to the expiration of the time for appeal, dictate to the court stenographer or reporter, or prepare and file with the Clerk a brief statement of the grounds for its decision.

1.12.01.12 **RULE 12. Computing Time**

In computing any period of time prescribed or allowed by these Rules, the day of the act or event after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless: (1) it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday or a holiday; (2) the act to be done is the filing of some paper in this Court, and the office of the Clerk of this Court on said last day of the period is not open, or is closed for a part of a day, in which event, the period runs until the end of the next day which is neither a Saturday, Sunday, a legal holiday, or a day on which the said office is not open the entire day during ordinary business hours. When the period of time allowed is more than seven (7) days, intermediate Saturdays, Sundays and holidays shall be considered as other days; but if the period of time is seven (7) days or less, intermediate Saturdays, Sundays and holidays shall not be counted in computing the period of time.

RULE 13. Pretrial Conference 14.12.01.13

In any proceeding, the Court may in its discretion direct the parties or their attorneys to appear before it, for a pretrial conference to consider such matters as may aid in the disposition of the case.

RULE 14. Further Appeals 14.12.01.14

A. If any party to a proceeding shall appeal from a final order of this Court to the Circuit Court of any county or Baltimore City, such party shall be required to order and furnish the Maryland Tax Court with a transcript of the testimony and shall be charged with the expense of such transcription, unless the parties shall agree upon a statement in lieu of record as provided by Rule B7 of the Maryland Rules of Procedure.

B. In all cases of appeal from the Court's final order, the Court shall file and include in the record of the case its findings of fact and conclusions of law on which it based its decision and order.

RULE 15. Hearing Examiners 14.12.01.15

A. The Court may assign all cases involving the assessment of Real Property to a Hearing Examiner.

B. The Hearing Examiner shall hear the evidence presented and promptly thereafter provide the Clerk with a written recommendation.

C. Copies of the recommendation shall be sent by mail to all parties of record, before submission to the Court. Within 15 days of the date of mailing, a party may file Exceptions with the Clerk, with a copy to be served by mail or otherwise on the opposing side, or sides, concurrently. Within that period or within 15 days after service (date of mailing plus 3 days) of the first Exceptions, whichever is later, any other party may file an Exception of Response. An Exception of Response is to be in writing and is to set forth the asserted error with particularity. Any matter not specifically set forth in the Exceptions is waived unless the Court finds that justice requires otherwise. The Court may not consider the Exceptions filed by any party who fails to comply with any of the above procedures.

D. The recommendation will be submitted to the Court after the time period allowed for the filing of Exceptions in Section C of this regulation. The Court, in its discretion, may require a hearing.

E. The Court shall either adopt, modify or reject the recommendation.

MARYLAND TAX COURT
301 W. Preston Street, Suite 1513
Baltimore, Maryland 21201
410-767-4830 (Toll Free: 1-866-223-6075)
internet: www.txcrf.state.md.us

Petitioner
VS.
Respondent

CASE NO.
SSN.
(Income Tax Appeals only)

PETITION OF APPEAL

- 1. This is an appeal from: (please check one)
(Please attach a copy of the decision from which you are appealing)
An Assessment
An Allowance/Disallowance of a Claim for Refund of Tax
Denial of Claim for Property Tax Credit
Other:

- 2! Type of Tax Being Appealed:
Income/Withholding Tax
Sales/Use Tax
Transfer/Recordation Tax
Other:

3. The amount in controversy is:

4. The tax year(s) involved:

5. The date of the assessment notice or action complained of was:

Any additional questions to be reviewed by the Court should also be provided. Continue on the back if necessary.

6. Please set out the reason(s) you believe that the action taken against you was illegal or erroneous. Any additional questions to be reviewed by the Court should also be provided. Continue on the back if necessary.

Signature
(Capacity)
Name, Mailing Address and Telephone: (Please Print or Type)

Date:

PLEASE NOTE:

If the petitioner is an individual this petition should be signed by said petitioner or an attorney. If petitioner is a partnership, it should be signed by an attorney for the partnership or by any partner. If petitioner is a corporation, it should be signed by the corporation's attorney or by any officer of the corporation. The person signing should designate the capacity in which he/she signs. In any instance, the attorney must be duly admitted to practice before the Court of Appeals.