

Loudoun County Business Tax Appeal Process

What do I do if I disagree with a business tax assessment levied by Loudoun County?

This document outlines the process available to Loudoun County taxpayers to resolve issues concerning local business tax assessments. These processes have been instituted by the Virginia General Assembly and pertain to the assessment amount, tax classification, rate applied and late filing penalty, if any. Staff in the Office of the Commissioner of the Revenue can answer questions and provide guidance, if necessary, in order to seek clarification of local tax treatment or contest a local business tax assessment. Virginia Code citations are provided to assist you in your research. Unfortunately, the Office of the Commissioner of the Revenue does not have authority over tax payment and collection issues. Questions concerning tax collections should be directed to the [Loudoun County Treasurer's Office](#).

What is tax classification?

Businesses are treated differently based on their classification, which pertains to the nature of the business being conducted. Businesses may be subject to different tax rates or benefit from certain deductions or exemptions based on their tax classification. The classification is also the controlling factor in determining what other business taxes may apply in addition to business license and business personal property taxes. The classification determination is made by the Commissioner of the Revenue or assessing official by interpreting and applying the Code of Virginia and local ordinance.

Which taxes are considered business taxes?

The term "business taxes" is a general term and includes Business Professional Occupational License (BPOL) Tax, Business Personal Property (BPP) Tax (including Machinery & Tools, computer equipment and datacenter equipment), Daily Short-Term Rental Property Tax, Transient Occupancy Tax, Bank Franchise Tax, Consumer Utility Tax, Mixed Beverage License Tax, and other Fixed Fee License Taxes.

What is an "assessment"?

An assessment according to Va. Code §58.1-3700.1 is a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax that is due, including additional or omitted tax as well as late filing penalties. An assessment includes a written assessment made pursuant to written notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. A return filed or tax paid before the last day prescribed by ordinance for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be. An assessment includes a return filed on behalf of the taxpayer by the local assessing officer.

What is a statutory assessment?

A statutory assessment is an assessment levied by the Commissioner of the Revenue or assessing official and is an increase in an assessment or an assessment of tax when no return was filed by the taxpayer. When a taxpayer fails to file their business taxes or underreports their receipts or property, Va. Code §58.1-3903 requires the Commissioner of the Revenue to assess "for any tax year" and "the three preceding tax years" business taxes that were not filed or were filed but reported for taxation at "less than the law requires."

How do I request a written ruling from the Commissioner of the Revenue?

Va. Code §58.1-3703.1(A)(8) allows any taxpayer or authorized representative of a taxpayer to request from the Commissioner of the Revenue a written ruling regarding the application of a local license tax to a specific situation. Any person requesting such a ruling must provide all facts relevant to the situation placed at issue and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. In addition, the taxpayer or authorized representative may request a written ruling regarding the classification applicable to the taxpayer's business, including whether the business properly falls within a business license subclassification established by the locality. Localities are authorized to create separate license categories for tax assessment and rate purposes. These classifications can be viewed [here](#).

I disagree with my business tax assessment. Can I file an appeal?

In order to file an appeal an "assessment" must have occurred; specifically, the business tax was filed, statutorily assessed and/or was paid. However, there are certain time limitations and other requirements as noted below that may affect eligibility to file an appeal. An Administrative Appeal to the Virginia Tax Commissioner can only be made after an Administrative Appeal has been made to the Commissioner of the Revenue.

Appeal Application for Correction to the Commissioner of the Revenue

A taxpayer assessed any local tax may file an Appeal Application for Correction. The Appeal may be submitted to request an amendment, reclassification, or correction of the assessment of any local tax authorized by the Code, including Business Professional Occupational License Tax (BPOL), Business Personal Property Tax (BPPT), and Transient Occupancy Tax (TOT). Va. Code §§58.1-3980(A)

An appeal must be timely filed, or it cannot be considered. The Appeal Application for Correction must be filed within three (3) years from the last day of the tax year for any assessment resulting from a filing by the taxpayer or within one (1) year from the date of an assessment made by the assessing official, whichever is later. Va. Code §58.1-3980(A)

Once an Appeal Application for Correction is filed, the Commissioner of the Revenue will issue a determination. If a taxpayer disagrees with the determination of the Appeal Application for Correction, the taxpayer may file an Administrative Appeal to the Commissioner of the Revenue for reconsideration within one (1) year of the date of the determination letter of the Appeal Application for Correction.

Administrative Appeal to the Commissioner of the Revenue

A taxpayer may be entitled to file an Administrative Appeal to the Commissioner of the Revenue if they disagree with the Commissioner of the Revenue's determination. An Administrative Appeal may be filed after an audit, Appeal Application for Correction determination or a statutory assessment.

Administrative Appeal of Business Professional Occupational License Tax

An appealable event must occur before an Administrative Appeal may be made to the Commissioner of the Revenue. Va. Code §58.1-3703.1(A)(5)(a) defines an appealable event as:

1. an increase in the assessment of a local license tax payable by a taxpayer;
2. the denial of a local license tax refund;

3. or the assessment of a local license tax where none previously was assessed;
4. determination of classification applicable to taxpayer's business, including whether the business properly falls within a business license classification established by Loudoun County.

To qualify as an appealable event under 1, 2, or 3, the action must arise out of the local assessing official's:

- a. examination of records, financial statements, and other information;
- b. determination regarding the rate or classification applicable to the licensable business;
- c. assessment of a local license tax when no return was filed by the taxpayer;
- d. denial of an Appeal Application for Correction attendant to the filing of an amended application for license.

An Administrative Appeal of Business Professional Occupational License Tax to the Commissioner of the Revenue must be filed within one (1) year of the date of an appealable event or within one (1) year from the last day of the tax year, whichever is later. Va. Code §58.1-3703.1(A)(5)(b)

Administrative Appeal of Business Personal Property Tax and Other Local Business Taxes

An Administrative Appeal of Business Personal Property Tax or other Local Business Tax must be filed within one (1) year from the last day of the tax year for which such assessment is made by the Commissioner of the Revenue or within one (1) year from the date of an assessment resulting from a Commissioner of the Revenue's determination, whichever is later. Va. Code §58.1-3983.1(B)(1)

Once an Administrative Appeal is filed, the Commissioner of the Revenue will issue a Final Local Determination. If a taxpayer disagrees with the Final Local Determination of the Administrative Appeal, the taxpayer may file an Administrative Appeal to the Virginia Tax Commissioner for consideration within 90 days of the date of the Final Local Determination.

Administrative Appeal to the Virginia Tax Commissioner

A taxpayer may file an Administrative Appeal to the Virginia Tax Commissioner only after having been issued a final local determination of an Administrative Appeal from the Commissioner of the Revenue wherein the taxpayer's request was denied in whole or in part. The appeal to the Virginia Tax Commissioner must be filed within 90 days of the date of the final local determination of an Administrative Appeal issued by the Commissioner of the Revenue. Any taxpayer whose Administrative Appeal to the Commissioner of the Revenue has been pending for more than one (1) year without the issuance of a final local determination may, upon not less than 30 days' written notice to the Commissioner of the Revenue, elect to treat the application as denied and appeal the assessment to the Virginia Tax Commissioner. Va. Code §58.1-3703.1(A)(5)(e) and §58.1-3983.1(B)(6), Va. Code §58.1-3703.1(A)(6)(a) and §58.1-3983.1(D)(1)

An Appeal Submitted in Good Faith

All appeals must be submitted in good faith. A submission in good faith is not "frivolous" or "jeopardized by delay". Va. Code §58.1-3703.1(A)(5)(a) and §58.1-3983.1(A)

Frivolous means a finding, based upon specific facts, that the party asserting the appeal is unlikely to prevail upon the merits because the appeal is (i) not well grounded in fact;

(ii) not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; (iii) interposed for an improper purpose, such as to harass, to cause unnecessary delay in the payment of tax or a refund, or to create needless cost from the litigation; or (iv) otherwise frivolous.

Jeopardized by delay means a finding, based upon specific facts, that a taxpayer designs to (i) depart quickly from the locality, (ii) remove his property therefrom, (iii) conceal himself or his property therein, or (iv) do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

How to File an Appeal to the Commissioner of the Revenue

1. A letter requesting an appeal must be submitted and must specify:
 - a. the name and address of the taxpayer,
 - b. the physical location(s) of the business,
 - c. the taxpayer's Federal Employer Identification Number (FEIN) and local tax account number(s),
 - d. clearly identify the assessment(s) and the amount(s) in dispute,
 - e. an explanation of the alleged error(s) in the assessment and the grounds upon which the taxpayer relies, including facts, issues and how the attached supporting documentation supports the taxpayer's claim,
 - f. provide Va. Code references or Tax Commissioner rulings that support the taxpayer's claim,
 - g. the specific remedy sought by the taxpayer.
2. Include all supporting documentation with the letter. Documentation may include federal and or state income tax returns, sample contracts or other material that supports the taxpayer's position.
3. Appointment of Representative – An Appointment of Representative form must be submitted if appeal is being filed by a third party on behalf of the taxpayer. The [Appointment of Representative form](#) is available on our forms page.
4. Appeals and supporting documentation should be submitted by email to businesstaxappeals@loudoun.gov or mail to:

Deputy Commissioner Compliance
Office of the Commissioner of the Revenue
Loudoun County
P.O Box 8000
Leesburg, VA 20177-9804

Appeals may also be submitted in person at either our Leesburg or Sterling office. If mailed, the appeal is considered to have been filed as of the postmarked date.

Incomplete appeal requests will not be accepted. The Commissioner of the Revenue, or his/her Deputies or Representatives, shall reject all incomplete appeal submissions. If rejected by the Commissioner of the Revenue, or his/her Deputies or Representatives, the taxpayer shall be notified and given 30 days to complete the request.

The Commissioner of the Revenue, or his/her Deputies or Representatives, may request to hold a conference with the taxpayer or request the submission of additional information or documentation. A request for documentation customarily affords the taxpayer 30 days to submit

the information. Additionally, the Commissioner of the Revenue, or his/her Deputies or Representatives may conduct a further audit or gather any other evidence deemed necessary for a proper and equitable determination of the appeal. Upon receipt of the full and complete appeal request, a full review will be conducted, and a written determination will be issued within 90 days of receipt of all requested/required documentation. If the taxpayer does not provide all the documents or information requested, the appeal will be decided based on the available information known to the Commissioner of the Revenue, or his/her Deputies or Representatives. If sufficient information is unavailable to permit an adequate analysis, the appeal will be denied.

The utilization of the appeal process does not preclude remedies available to the taxpayer through the Circuit Court.