

INTERNAL POLICY DIRECTIVE 2013-2

May 30, 2013

HEARINGS DIVISION INFORMAL CONFERENCES

POLICY ISSUES

What is the procedure for reviewing a rebuttal to a recommendation drafted by an informal conference referee?

POLICY DETERMINATIONS

A rebuttal to an informal conference referee's recommendation will be reviewed by the Deputy Treasurer for Tax Administration prior to issuance.

DISCUSSION

The Revenue Act provides that a taxpayer is entitled to an informal conference on the question of liability for an assessment upon timely service of written notice upon the department after the taxpayer receives a notice of intent to assess, remittance of the uncontested portion of the liability, and provision of a statement of the contested amounts and an explanation of the dispute. MCL 205.21(1)(c). The informal conference is not subject to the Administrative Procedures Act of 1969, but is subject to rules governing informal conferences as promulgated by the department. MCL 205.21(1)(d). After the informal conference is held, the department renders a decision and order in writing, setting forth the reasons and authority for the decision. MCL 205.21(1)(e).

Rule 11 (ACS R 205.1011) provides that after holding an informal conference, the referee will prepare a written recommendation to the commissioner. The commissioner (or an authorized representative) will review the recommendation and issue a written decision and order that either accepts the referee's recommendation or rejects that recommendation (in whole or in part) with a written rebuttal explanation of the reasons for rejecting the referee's recommendation. Rule 11(2). There is no longer a Revenue Commissioner; the State Treasurer now holds the authority, powers, duties, function, and responsibilities of the Revenue Commissioner. Executive Order No. 1991-19. The State Treasurer has delegated signatory authority for all orders, decision, and determinations relating to informal conferences conducted in accordance with MCL 205.21 to the Administrator of the Office of Hearings and the Director of the Bureau of Tax Policy. That signatory authority remains in effect until revoked by the State Treasurer.

The Deputy Treasurer for Tax Administration oversees administration of taxes administered under the Revenue Act. It is important that the Deputy Treasurer for Tax Administration be knowledgeable of decisions issued as the result of informal conferences, and particularly rebuttals issued in explanation of reasons for rejecting a referee's recommendation. Accordingly, a rebuttal to a recommendation drafted by an informal conference referee will be

reviewed by the Deputy Treasurer for Tax Administration prior to issuance of the decision and order pertaining to the informal conference.