

ORDER OF THE TAX APPEALS COMMISSION
Creating s. TA 1.15(2m), relating to
petitions for review

Analysis by the Tax Appeals Commission

Statutory authority: s. 73.01(5)(b), Stats.

Statute interpreted: s. 73.01(5)(b), Stats.

An appeal to the tax appeals commission is, in most cases, preceded by either the department of revenue or department of transportation issuing an assessment to a person, or by a person filing a claim for refund of a tax or fee.

If a person disagrees with an assessment, the person may ask the department to reconsider. The document requesting reconsideration is commonly in letter form and is called a "*petition for redetermination*."

If a department denies a claim for refund, partially or entirely, the department will issue a *notice of denial*. The claimant may ask the department to reconsider the denial. The document requesting reconsideration is commonly in letter form and is called a "*petition for redetermination*."

If a department denies a petition for redetermination, it will issue a "*notice of action*." The person aggrieved by the denial may then file an appeal ("*petition for review*") with the tax appeals commission.

This rule requires that persons file a separate petition for review. No petition for review may be filed by more than one person unless each person filing the petition for review is

aggrieved by the same notice of action (ex., two related corporations are the subject of a single assessment; or a married couple appeal on the same issue with respect to a joint income tax return). A separate filing fee shall accompany each petition for review.

The Wisconsin tax appeals commission issues this order creating s. TA 1.15(2m), relating to petitions for review.

SECTION 1. TA 1.15(2m) is created to read:

TA 1.15(2m) A separate petition for review shall be filed with the commission by an aggrieved party from each notice of action of the department of revenue or the department of transportation on a petition for redetermination. No petition for review may be filed by more than one person unless each person filing the petition for review is aggrieved by the same notice of action. A separate filing fee shall accompany each petition for review.

NOTE: The format and content of a petition for review are prescribed in s. TA 1.15(1), Wis. Admin. Code, titled "Forms for appeals."

Examples of how the proposed rule will be administered follow:

(1) The department of revenue denies 5 petitions for redetermination of 5 unrelated people on a similar or the same issue. Each person must file a separate petition for review with the commission and pay a filing fee.

(2) The department of revenue denies one petition for redetermination of a corporation and its subsidiary, or a limited liability company ("LLC") and one of its members, on similar or related issues. The corporation and its subsidiary, and the LLC and its member, *may* file a single petition for review with the commission and pay a single filing fee.

(3) The department of revenue issues an assessment to a married couple with respect to a tax issue arising out of their joint income tax return, then denies the married couple's petition for

redetermination. The married couple may file a single petition for review with the commission and pay a single filing fee.

SECTION 2. INITIAL APPLICABILITY. This rule first applies to a petition for review filed with the tax appeals commission on the effective date of this rule.

SECTION 3. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro), Stats.

Dated: October 9, 2003

WISCONSIN TAX APPEALS COMMISSION

Don M. Millis, Chairperson