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 File Date: 5/30/13
 Effective Date: 8/28/13

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission: State Board of Equalization
Division:
Contact Person: Kelsie Jones, Executive Secretary
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0600-01	Contested Case Procedures
Rule Number	Rule Title
0600-01-.03	Initiating a Contested Case
0600-01-.10	Counterclaims

Substance of rule amendments:

Rule 0600-01-.03 would be amended by deleting the following language at the end of paragraph (1)(d):

An electronic filing may be used to establish the appeal filing date for purposes of the statutory deadline to appeal, but the sworn and written appeal form must still be filed before the appeal is docketed for a hearing on the merits, or earlier if directed by the administrative judge. Electronic filing is not available when the number of parcels in a single filing is fewer than 100.

Rule 0600-01-.10 would be amended by designating the existing language as paragraph (1) and by adding the following new paragraph (2):

An original real property appeal timely filed at the Board may be amended as of right to include an assessment year or years subsequent to the year for which the original appeal was filed, until the next reappraisal. An original real property appeal filed late may be amended to include an assessment year or years subsequent to the year for which the original appeal was filed, until the next reappraisal, if 1) the late appeal was nonetheless eligible for a reasonable cause determination under section 67-5-1412; and 2) the written order disposing of the original appeal was entered later than ten (10) days before the deadline for appealing the subsequent year assessment to the county or state boards of equalization. All other requests to amend shall lie within the discretion of the administrative judge. The appellant permitted to amend shall file a separate appeal form for the subsequent year

or years if directed by the executive secretary or administrative judge, and the appellant shall be responsible for additional hearing or processing costs related to the subsequent year assessments.

Authority: T.C.A. §§67-1-305, 67-5-1412 and 67-5-1501 (d).

Legal Contact:

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State Board of Equalization
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312 Rosa L. Parks Ave.
Nashville, TN 37243-1102
615/747-5379

Contact for disk acquisition: Kelsie Jones

The roll call vote by the Board on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent
Bennett	X			
Button	X			
Hargett				X
Lillard				X
Roberts	X			
Slatery				X
Wilson	X			

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the State Board of Equalization on 3/15/2013 and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 9/20/11

Notice published in the Tennessee Administrative Register on: _____

Rulemaking Hearing(s) Conducted on: 11/21/11



Date: April 25, 2013

Signature: Kelsie Jones

Name of Officer: Kelsie Jones

Title of Officer: Executive Secretary

Subscribed and sworn to before me on: April 25, 2013

Notary Public Signature: Rhonda G. Wright

My commission expires on: July 7, 2014

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

REC Cooper

Robert E. Cooper, Jr.
Attorney General, and Reporter

5-16-13

Date

Department of State Use Only

Filed with the Department of State on: *5/30/13*

Effective on: *8/28/13*

Tre Hargett

Tre Hargett
Secretary of State

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SECRETARY OF STATE

Public Hearing Comments

The Board received public hearing comments on this rule as summarized, with agency response, below.

1. Andrea McKinnon, an attorney practitioner before the Board, expressed concern that assessors of property should not be permitted to amend an appeal for the purpose of contending a value in excess of the assessor's certified value for the year at issue. Agency Response: The Board's proposed amendment merely creates a right in any party to an appeal to amend the appeal to include a subsequent tax year if specified conditions are met. The proposed rule does not preclude an opposing party raising any relevant issue, such as whether the assessor should or should not be permitted to argue for a value in excess of certified value.

2. Robert Lee, General Counsel to the state Comptroller, argued that assessors should have the same right to amend as taxpayers, either to merely bring up the issue of later years or to bring previously undiscovered certified value errors to the attention of the Board while all parties are present. Mr. Lee also argued the Board should not permit taxpayer amendments to include subsequent years if the amendments were offered merely to avoid the taxpayer having to appear before the county board of equalization for the subsequent year. Agency Response: If the assessor believes a particular taxpayer is abusing the rule as amended, the assessor may request the Board to remand for hearing before the county board of equalization before the matter proceeds to a Board hearing on the merits.

Impact on Local Governments

Pursuant to T.C.A. 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The proposed amendment to Rule 0600-01-.10 permitting amendment of property tax appeals to include subsequent years would not significantly affect local governments because the right is recognized under existing precedent. The rule amendment clarifies when amendment is permitted to assure consistent application of this precedent.

Regulatory Flexibility Addendum

Pursuant to TCA §4-5-401 et seq., the Board has reviewed these amendments for their impact on small business and determined the impact would be negligible. This conclusion is based on the following findings or assumptions:

- (1) The amendment to Rule 0600-01-.03 conforms the rule to new statutory authorization for electronic signature, and deletes obsolete language relating to filing appeals on a floppy disk (remember those?).
- (2) The amendment to Rule 0600-01-.10 clarifies the right to amend an appeal to include subsequent years and will benefit small businesses who neglect to appeal subsequent years to their local board of equalization while working through the state appeal process.

Additional Information Required by Joint Government Operations Committee

The following information is submitted in compliance with Tenn. Code Ann. §4-5-226:

(A) Brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule.

These rule amendments delete obsolete language regarding electronic filing of appeals, and modify existing rules in Board procedures for hearing contested case property tax appeals to assure the right to amend an appeal to include subsequent tax years.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto.

No federal law. State law is Tenn. Code Ann. §67-1-305.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by the rule, and whether the aforementioned urge adoption or rejection of the rules.

The rules affect primarily participants in state-level property tax appeals. No comments were received from either taxpayers, taxpayer consultants, or local governments.

(D) Identification of any opinions of the Attorney General and Reporter or any judicial ruling which directly relates to the rules.

None.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based.

None.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rules.

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(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees (including address and telephone number).

Same as above.

(H) Contact information

Same as above.

(I) Additional information relevant to the rules will be provided upon request of the committees or committee staff.

Will be provided upon request.

AMENDMENTS TO CHAPTER 0600-01 CONTESTED CASE PROCEDURES, ADOPTED 10/15/10

'REDLINE' DEPICTION OF RULES AS AMENDED, PER TCA 4-5-226 (i):

0600-01-.03 INITIATING A CONTESTED CASE.

(1) A contested case before the Board may be initiated by:

- (a) completing and filing Form No. SBOE-4 if the case relates to action taken or reviewable by a county board;
- (b) completing and filing Form No. SBOE-7 if the case relates to an initial determination of the Board designee on an application for property tax exemption;
- (c) filing a specific written petition or complaint, if neither (1) nor (2) above is applicable; or
- (d) filing data in such computer-readable format as the Board may authorize, subject to technical requirements approved by the Board. ~~An electronic filing may be used to establish the appeal filing date for purposes of the statutory deadline to appeal, but the sworn and written appeal form must still be filed before the appeal is docketed for a hearing on the merits, or earlier if directed by the administrative judge. Electronic filing is not available when the number of parcels in a single filing is fewer than 100.~~

(2) Any appeal form or written complaint under paragraph (a) of this rule shall be:

- (a) signed and sworn to by the party in whose behalf it is prosecuted, or an authorized representative of such party; and
- (b) accompanied by a copy of any pertinent notice or decision received by the appellant from the assessing authority or county board.

(3) The submission of a written request for an appeal form may be considered an appeal to the Board for purposes of an appeal deadline if it reasonably identifies the property and taxpayer, provided any form required by these rules is completed and filed within 30 days or other deadline specified by the administrative judge.

(4) Contested cases commenced by action of the Board will be initiated by notice to affected parties. In the case of a declaratory proceeding notice shall be supplemented by publication of notice in the Tennessee Administrative Register, including a citation and summary of any rule or statute at issue and a statement of any proposed ruling.

(5) The filing of a complaint for revocation of exemption under Tenn. Code Ann. §67-5-212 does not commence a contested case until there has been a finding of probable cause for revocation and referral of the matter to an administrative judge.

0600-01-.10 COUNTERCLAIMS.

(1) Counterclaims in a contested case must be filed no later than thirty (30) days prior to the date of scheduled hearing. This rule does not preclude any party, at the hearing of the appeal, from propounding a higher or lower value for the property in question than that determined by the county board.

(2) An original real property appeal timely filed at the Board may be amended as of right to include an assessment year or years subsequent to the year for which the original appeal was filed, until the next reappraisal. An original real property appeal filed late may be amended to include an assessment year or years subsequent to the year for which the original appeal was filed, until the next reappraisal, if 1) the late appeal was nonetheless eligible for a reasonable cause determination under section 67-5-1412; and 2) the written order disposing of the original appeal was entered later than ten (10) days before the deadline for appealing the subsequent year assessment to the county or state boards of equalization. All other requests to amend shall lie within the discretion of the administrative judge. The appellant permitted to amend shall file a separate appeal form for the subsequent year or years if directed by the executive secretary or

administrative judge, and the appellant shall be responsible for additional hearing or processing costs related to the subsequent year assessments.