



KEVIN C. KARNES
CLERK OF THE COURT
& COMPTROLLER
LEE COUNTY, FLORIDA

PROCEDURE FOR THE
PROTEST AND APPEAL RIGHTS
TOURIST DEVELOPMENT TAX

The Lee County Clerk of Court (Clerk) provides each taxpayer with a means of resolving disputes arising out of the assessment of Tourist Development Tax (TDT). A taxpayer may secure a review of proposed assessments and denial of tax refunds by implementing the protest provisions contained in this document, without prejudicing later judicial or administrative review. If the taxpayer is not satisfied with a final assessment, the taxpayer has the right to pursue judicial and administrative remedies pursuant to § 72.011, Florida Statutes.

1. **Written Protest.** To secure informal review of proposed assessments and denial of claims for refund, a taxpayer must file a written protest within thirty (30) days from the issuance of the proposed assessment or denial of claim for refund. The protest shall be filed with the Lee County Clerk of the Court & Comptroller at:

P.O. Box 2469, Fort Myers, FL 33902 or
Email touristtaxaudit@leeclerk.org

The written protest must contain the following information:

- a. The taxpayer's name, address, and TDT account number.
- b. The period covered under the assessment (or denial of claim for refund) and the amount of tax protested.
- c. A schedule of the protested adjustments.
- d. A statement of the factual and legal grounds for the objection, and any contested factual issues.
- e. A description or copy of the notice of assessment and consent report or denial of claim for refund.
- f. A statement of whether oral presentation and argument are requested.
- g. A declaration that the statement of facts is true to the best knowledge of the taxpayer.

If the protest is made by a qualified representative of the taxpayer, it shall be sufficient if the representative states "I certify that I have made reasonable inquiry and the protest is well grounded in fact."

2. **Extension of Time.** The taxpayer may request an extension of time for submitting information required in Paragraph 1 by writing to the Clerk within a sufficient time to permit him to receive and to act on the request prior to the expiration of the thirty (30) day deadline for filing a written protest. The taxpayer must file a written protest with the information it has available within the thirty (30) day deadline. If the written protest does not contain all the information required in paragraph 1, then the taxpayer may be granted an additional fifteen (15) days by the Clerk to submit the required information. The taxpayer's failure to submit the information within the extension period of fifteen (15) days shall result in dismissal of the protest and forfeiture of the taxpayer's rights to the protest proceedings.
3. **Late Filed or Incomplete Protests.** Written protest postmarked or otherwise delivered more than thirty (30) days after the issuance of the proposed assessment or denial of claim for refund for incomplete protests will be deemed late filed, unless the taxpayer has secured a written extension of time from the Clerk within the time to file a written protest. The Clerk (or his designee) shall issue a dismissal letter to the taxpayer and the date of the dismissal letter is the date the assessment becomes final for purposes of the taxpayer's administrative or judicial appeal.
4. **Oral Presentation.** Upon receipt of a timely filed complete written protest the Clerk or his Designee will review the protest and, if requested by the taxpayer may allow the taxpayer an opportunity for an oral presentation. The oral presentation will be conducted informally in one of the Clerk's offices, and no transcript of the proceedings shall be made.
5. **Notice of Decision.** After review of the written protest and oral presentation (if any), the Clerk or his designee will issue a Notice of Decision.
6. **Final Assessments.** Pursuant to the Florida Statutes, section 72.011, a taxpayer has sixty (60) days from the date an assessment becomes final to file a Petition pursuant to the Administrative Procedures Act (Chapter 120, Florida Statutes) or a complaint in circuit court challenging the assessment, or the taxpayer will be barred from contesting the assessment. An assessment becomes final as follows:
 - a. A proposed assessment becomes a final assessment sixty (60) days after the date of issuance, unless the taxpayer has filed a complete protest or secured a written extension of time from the Clerk within which to file an informal protest prior to the expiration of the 30th day. If the taxpayer has secured a written extension of time within which to file a complete written protest and fails to file the additional information within the extended time

period, the proposed assessment will become a final assessment at the expiration of the 60th day after the issuance of the assessment.

- b. If a protest is timely filed the assessment will become a final assessment as of the date of the issuance of the Notice of Decision.

- 7. **Qualified Representative.** Any person who appears before the Clerk in any proceeding may be accompanied by an attorney or other qualified representative. Qualified representatives include certified public accountants holding a license to practice in Florida, general partners of a general or limited partnership, officers of a corporation, or an authorized employee of an individual, partnership or corporation who has actual knowledge of the issues. Any person qualified as a representative must file a power of attorney in a form which is acceptable to the Clerk, signed and sworn by the taxpayer.
- 8. **Compromise and Settlement.** The Clerk may compromise and settle liability for tax, interest, and penalty pursuant to the guidelines contained in Florida Administrative Code Rules, Chapter 12-13.
- 9. **Taxpayer's Bill of Rights.** The Florida Taxpayer's Bill of Rights is contained in § 213.015, Florida Statutes.