

Ministry of Finance

Tax Bulletin



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Bulletin GEN 002

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Appeals

Latest Revision: *The revision bar (|) identifies changes to the previous version of this bulletin dated February 2015. For a summary of the changes, see Latest Revision at the end of this document.*

This bulletin describes the steps involved in appealing assessments, including penalties and interest, disallowed refunds or other decisions made by the Ministry of Finance.

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Overview

If you believe an error was made in an assessment, disallowed refund or other decision made by the Ministry of Finance, you may have the right to formally appeal to the Minister of Finance under the terms of the applicable legislation.

Your appeal will be reviewed by the Tax Appeals and Litigation Branch (Appeals Branch). After reviewing your appeal, the Appeals Branch will make a recommendation to the minister for decision.

The minister or the minister's designate will review the recommendation, decide on the appeal and notify you in writing of the results. The minister's decision will result in one of the following:

- **Allowed:** the original assessment, disallowed refund or decision is reversed, and if any tax dollars are at issue, the account is adjusted or the refund is issued for the full amount under appeal. In cases involving appointments or permits, the minister may require the director to appoint the appellant, or issue the permit that was the subject of the appeal.
- **Varied:** the original assessment, disallowed refund or decision is changed or partially reversed, and if any tax dollars are at issue, the account is adjusted or the refund is issued as stated in the ministerial decision letter.
- **Affirmed:** the original assessment, disallowed refund or decision is maintained.

Mandate

The Appeals Branch is responsible for conducting a fair and impartial review of all appeals initiated with the Ministry of Finance under the applicable legislation.

The Appeals Branch is also committed to providing a timely response to your appeal. Appeals are generally addressed on a first-in, first-out basis. However, there may be a number of factors that influence the timing of the completion of your particular appeal, such as the complexity of the evidence, legal and policy issues, and the need to obtain further information or submissions.

The *Taxpayer Fairness and Service Code* provides information to taxpayers regarding the standards and behaviour they can expect from ministry staff. All taxpayers are entitled to fair treatment, which includes just, fair and timely decisions that take all relevant circumstances into account, applying legal and policy criteria consistently and impartially.

What You Can Appeal

Under the relevant legislation, you can appeal assessments, disallowed refunds or other decisions. For a list of appealable issues by tax or program, see Appendix A at the end of this bulletin. Please refer to the legislation that governs your particular tax matter for more detailed information.

The following taxes and programs allow for appeals of various decisions to the Minister of Finance.

- Carbon Tax
- Home Owner Grant
- Insurance Premium Tax
- International Business Activity Program
- Logging Tax
- Mineral Tax
- Motor Fuel Tax
- Oil and Gas Royalties and Freehold Production Tax
- Property Transfer Tax
- Provincial Sales Tax
- Stumpage (*Forest Act*)
- Tax on Designated Property (Vehicles, Boats and Aircraft)
- Tobacco Tax

On July 1, 2010, the harmonized sales tax (HST) replaced the social service tax. On April 1, 2013, the provincial sales tax (PST) replaced the HST. However, you can continue to submit appeals of decisions made under the *Social Service Tax Act*, provided your appeal is received within the filing deadlines outlined in Appendix A.

Appeals of HST/GST-related matters are administered by the Canada Revenue Agency (CRA). Appeals of assessments issued under the *Income Tax Act* (BC) are also administered by the CRA. For more information, contact the CRA or visit their website at cra-arc.gc.ca

The ministry is unable to consider appeals related to your annual municipal or rural property taxes and penalties for late payments. Information on [annual property taxes](#) is available on our website.

For information on appealing your annual property assessment under the *Assessment Act*, see BC Assessment's website at bcassessment.ca

Contacting the Ministry Before Initiating an Appeal

Before you appeal to the Minister of Finance, you may wish to contact the branch that issued the notice or letter you received. If you contact the branch, they may be able to answer questions, provide further information and help to resolve your concerns.

You can contact the branch using the information listed on the notice or letter you received. You can find useful information and branch contact information on our [website](#).

Contacting the branch does not constitute serving a Notice of Appeal. It also does not extend the deadline for submitting the appropriate appeal documents. We recommend you submit your appeal while the issuing branch is dealing with your inquiry, unless the matter is resolved before the appeal deadline.

Please note: Some decisions (e.g. the refusal or cancellation of a permit or licence) cannot be reversed by the branch that issued them. In these cases, you must submit your appeal to the Minister of Finance.

How and When to Appeal

Appealing to the minister is your first step in the appeal process. This step must be taken before an appeal can be filed in the courts. The particular method and timing required for serving an appeal on the minister depends on the legislation that governs the matter under appeal.

Generally, appeals must be received by the minister within 90 days of the date of the decision under appeal. However, there are exceptions. For a list of filing deadlines by tax or program, see Appendix A at the end of this bulletin.

Please note: The deadline for filing an appeal under the Petroleum and Natural Gas Royalty and Freehold Production Tax Regulation is 60 days.

Although the requirements for initiating an appeal differ slightly between the various tax acts, you can generally appeal an assessment, disallowed refund or other decision by completing the *Appeal to Minister* form ([FIN 298](#)) available on our website. You should include:

- any documents that support your appeal
- a copy of the assessment or decision you are appealing

Alternatively, you can appeal by writing a letter to the Minister of Finance. Your letter must be signed by you, or by an authorized person in the case of a corporation or trust. You should include the following:

- your name, address and daytime telephone number
- the date of the assessment or decision you are appealing
- the facts and reasons for your appeal
- any supporting documents, including a copy of the assessment or decision
- if applicable, your account number, the tax year under appeal and the amount you are disputing

If your appeal is being handled on your behalf by your legal representative or another person as your agent, you must provide the ministry with written authorization before we can discuss your appeal with that person. The *Appeal to Minister* form ([FIN 298](#)) contains a section for representative information. An [authorization form](#) is also available on our website.

When you start an appeal, the burden of proof is on you to show the assessment, disallowed refund or decision is incorrect. If you believe the ministry's decision is based on incorrect assumptions, you will need to provide documentary evidence during the appeal process to support your position.

The ministerial appeal process is conducted by written submission. There is no formal hearing process. However, as discussed below, an appeals officer will contact you during the process to clarify the issues and provide you with an opportunity to make additional submissions if necessary.

Please note: Personal information provided during the appeals process is collected for the purpose of administering the relevant tax act(s) under the authority of sections 26(a) and 26(c) of the *Freedom of Information and Protection of Privacy Act* (FOIPPA). Questions about the collection or use of this information can be directed to the Director, Appeals, PO Box 9629 Stn Prov Govt, Victoria BC V8W 9N6 (telephone: Victoria at 250 356-0890 or toll-free at 1 800 663-7867 and ask to be re-directed).

Where to Send Your Appeal

You can send your appeal by mail or courier to the address set out on the assessment, disallowed refund or other decision. Appeals may also be sent by fax or hand-delivered to the Appeals Branch. The Appeals Branch does **not** accept appeals over the telephone or by email.

Tax Appeals and Litigation Branch

Ministry of Finance
PO Box 9629 Stn Prov Govt
Victoria BC V8W 9N6
Phone: 250 356-0890
Fax: 250 387-5883

By courier:

Tax Appeals and Litigation Branch

Ministry of Finance
1st Floor Reception, 1802 Douglas Street
Victoria BC V8T 4K6

Acknowledgement

Once the Appeals Branch has received your appeal, it is reviewed to see if it meets the legislative requirements. If your appeal meets the requirements, an acknowledgement letter will be sent to you. Otherwise, a letter explaining why your appeal does not meet the requirements will be sent to you.

The acknowledgement letter will include the name and contact information for the appeals officer assigned to review your appeal. During the appeal process, the appeals officer will contact you (if your contact number has been provided) to:

- discuss your case
- explain the assessment or other decision you are appealing
- request additional information or documents (if necessary)
- respond to any questions you may have

Cost of Initiating an Appeal

There is no charge for serving a Notice of Appeal or for the work done by the ministry in reviewing your appeal.

However, regardless of the outcome of the appeal, you are responsible for any outside costs that you may incur with respect to your appeal (e.g. legal, accounting, appraisal fees).

Reference Material

You can find important information on our [website](#).

Free access to up-to-date legislation and regulations is available on the Queen's Printer's website at BCLaws.ca You can also obtain information from your local library.

The law may change over time. If you are unsure what legislation was in effect at the time your assessment, disallowed refund or other decision was issued, please contact the branch that issued it, or the appeals officer assigned to your appeal.

Payment of Taxes Under Appeal

Taxes, penalties and interest are payable even if an appeal has been initiated. You should pay your assessment immediately to avoid additional interest charges. Paying the assessment does not mean you accept the assessment and has no impact on how your appeal will be resolved.

As long as the assessment remains unpaid, you may be subject to collection action and interest will continue to be added to the amount owing. If your appeal is successful, you will be credited for any overpayment plus applicable interest.

For information on the collection process, see [Bulletin GEN 001](#), *Collecting Overdue Taxes* or contact the Receivables Management Office by phone, mail, courier or fax at:

Receivables Management Office

Ministry of Finance
PO Box 9445 Stn Prov Govt
Victoria BC V8W 9V5
Toll-free: 1 866 566-3066
Fax: 250 356-1090

By courier:

Receivables Management Office

Ministry of Finance

1st Floor Reception, 1802 Douglas Street

Victoria BC V8T 4K6

Appealing to the Courts

If you do not agree with the decision of the minister, you may have a right to further appeal that decision to the **Supreme Court of BC** under the terms of the applicable legislation.

Please note: The *Home Owner Grant Act* and the Petroleum and Natural Gas Royalty and Freehold Production Tax Regulation do not provide for an appeal to the court.

Supreme Court of BC appeals are initiated by filing a petition (naming Her Majesty the Queen in right of the Province of BC as the respondent) at a BC Supreme Court registry within **90 days** of the date on the minister's decision letter. The petition must then be served on the government by providing a copy to the Attorney General at the Ministry of Justice in the City of Victoria within **14 days** after the filing date.

If the Supreme Court of BC makes a decision on your appeal that you disagree with, you may be able to appeal that decision to the **BC Court of Appeal**.

There are costs associated with filing a court petition, court proceedings and having a lawyer represent you. You may be compensated for part of your costs if your appeal is successful and the court makes an award of costs in your favour. However, it is also possible to have an award of costs made against you.

Property Transfer Tax

The *Property Transfer Tax Act* provides the right to arbitration as an alternative to an appeal to the Supreme Court of BC. A request for arbitration must be served on, and received by, the administrator within **90 days** of the date on the minister's decision letter. The request must indicate that you waive the right to appeal to the Supreme Court of BC, and require the assessment to be decided by arbitration.

To proceed, both parties must agree to an arbitrator and how the arbitration will proceed. The typical process is as follows:

- the arbitration is by written submission
- each party will pay a certain part of the arbitrator's fee and disbursements

- each party will bear its own costs of legal representation
- the outcome of the arbitration is provided in writing

The outcome of the arbitration is final and binding.

It is up to you to initiate the process for the appointment of an arbitrator. While not specified in the legislation, property transfer tax arbitrations are generally handled using the services of the [BC Arbitration and Mediation Institute](#).

Send your request for arbitration to:

Administrator
c/o Tax Appeals and Litigation Branch
Ministry of Finance
PO Box 9629 Stn Prov Govt
Victoria BC V8W 9N6

Fax: 250-387-5883

By courier:

Administrator
c/o Tax Appeals and Litigation Branch
Ministry of Finance
1st Floor Reception, 1802 Douglas Street
Victoria BC V8T 4K6

 **Need more info?**

Online: gov.bc.ca/taxappeals

Tax Appeals and Litigation Branch

Ministry of Finance

PO Box 9629 Stn Prov Govt

Victoria BC V8W 9N6

Phone: 250 356-0890

Toll-free: 1 800 663-7867 (ask to be transferred to 250 356-0890)

Fax: 250 387-5883

The information in this bulletin is for your convenience and guidance and is not a replacement for the legislation. You can find the legislation and regulations online at BCLaws.ca

Latest Revision

July 2015

- Removed reference to the Residential Energy Credit and Rebate Program and Hotel Room Tax
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Appendix A – What You Can Appeal to the Minister of Finance

Tax	What You Can Appeal
Carbon Tax	<p>What You Can Appeal</p> <ul style="list-style-type: none"> ▪ A disallowed refund claim ▪ A refusal or cancellation of an appointment as a collector ▪ A refusal or cancellation of a registration certificate, <i>Registered Consumer Certificate</i>, <i>Registered Air Service Certificate</i> or <i>Registered Marine Service Certificate</i> ▪ An estimate or assessment ▪ A refusal to grant an exemption ▪ A lien against property ▪ Interest or penalties <p>Deadline Your appeal must be received by the Minister of Finance within 90 days of the date of the decision you are appealing.</p> <p>Legislation Carbon Tax Act, sections 56 and 57</p> <p>Website Carbon Tax</p>
Home Owner Grant	<p>What You Can Appeal</p> <ul style="list-style-type: none"> ▪ A Notice of Disentitlement <p>Deadline Your appeal must be received by the Minister of Finance within 90 days of the date on the Notice of Disentitlement you are appealing.</p> <p>Legislation Home Owner Grant Act, section 17</p> <p>Website Home Owner Grant</p>

Tax	What You Can Appeal
Insurance Premium Tax	<p>What You Can Appeal</p> <ul style="list-style-type: none"> ▪ An assessment ▪ A tax return ▪ Interest or penalties <p>Deadline</p> <p>Your appeal must be postmarked by Canada Post or faxed within 90 days of the date the assessment was mailed, or if there has not been an assessment, within 90 days of the date you filed the original return.</p> <p>A postmark is a marking applied by Canada Post to show the date and place your appeal was mailed. A meter mark is not the same as a postmark and is not accepted. A meter mark just shows that postage has been prepaid.</p> <p>Legislation</p> <p><i>Insurance Premium Tax Act</i>, sections 17 and 18</p> <p>Website</p> <p>Insurance Premium Tax</p>
International Business Activity Program	<p>What You Can Appeal</p> <ul style="list-style-type: none"> ▪ A refusal, suspension or cancellation of a registration ▪ An effective date of registration ▪ A determination of tax refund ▪ A decision of unsatisfactory proof for a refund ▪ Interest or penalties <p>Deadline</p> <p>Your appeal must be received by the Minister of Finance within 90 days of the date of the decision you are appealing.</p> <p>Legislation</p> <p><i>International Business Activity Act</i>, sections 38 and 39</p> <p>Website</p> <p>International Business Activity</p>

Tax	What You Can Appeal
Logging Tax	<p>What You Can Appeal</p> <ul style="list-style-type: none"> ▪ An assessment ▪ Interest or penalties <p>Deadline</p> <p>Your appeal must be postmarked by Canada Post or faxed within 90 days of the date the assessment was mailed.</p> <p>A postmark is a marking applied by Canada Post to show the date and place your appeal was mailed. A meter mark is not the same as a postmark and is not accepted. A meter mark just shows that postage has been prepaid.</p> <p>Legislation</p> <p><i>Logging Tax Act</i>, sections 23 and 24</p> <p>Website</p> <p>Logging Tax</p>
Mineral Tax	<p>What You Can Appeal</p> <ul style="list-style-type: none"> ▪ An assessment ▪ Interest or penalties <p>Deadline</p> <p>Your appeal must be received by the Minister of Finance within 90 days of the date of the decision you are appealing.</p> <p>Legislation</p> <p><i>Mineral Tax Act</i>, sections 26 and 27</p> <p>Website</p> <p>Mineral Tax</p>

Tax	What You Can Appeal
Motor Fuel Tax	<p>What You Can Appeal</p> <ul style="list-style-type: none"> ▪ A disallowed refund claim ▪ A suspension, cancellation or refusal of an authorization ▪ A refusal or cancellation of an appointment ▪ A refusal or cancellation of a <i>Registered Consumer Certificate</i> ▪ A refusal to grant an exemption ▪ An estimate or assessment ▪ A refusal to issue or renew a licence ▪ A cancellation or suspension of a licence ▪ Interest or penalties <p>Deadline Your appeal must be received by the Minister of Finance within 90 days of the date of the decision you are appealing.</p> <p>Legislation Motor Fuel Tax Act, sections 50 and 51</p> <p>Website Motor Fuel Tax</p>
Oil and Gas Royalties and Freehold Production Tax	<p>Before you can appeal to the minister, you must request a reconsideration by the collector or administrator.</p> <p>What You Can Appeal</p> <ul style="list-style-type: none"> ▪ An invoice or assessment of royalties or tax ▪ A producer price decision ▪ Interest or penalties <p>Deadline Your appeal must be postmarked by Canada Post or faxed within 60 days of the date of the decision of the collector or administrator.</p> <p>A postmark is a marking applied by Canada Post to show the date and place your appeal was mailed. A meter mark is not the same as a postmark and is not accepted. A meter mark just shows that postage has been prepaid.</p> <p>Legislation Petroleum and Natural Gas Royalty and Freehold Production Tax Regulation, section 12</p> <p>Website Oil and Gas Royalties and Freehold Production Tax</p>

Tax	What You Can Appeal
Property Transfer Tax	<p>What You Can Appeal</p> <ul style="list-style-type: none"> ▪ An assessment ▪ A refusal to refund tax paid under the First Time Home Buyers' Program ▪ Interest or penalties <p>Deadline</p> <p>Your appeal must be postmarked by Canada Post or faxed within 90 days of the date of the decision you are appealing.</p> <p>A postmark is a marking applied by Canada Post to show the date and place your appeal was mailed. A meter mark is not the same as a postmark and is not accepted. A meter mark just shows that postage has been prepaid.</p> <p>Legislation</p> <p><i>Property Transfer Tax Act</i>, sections 19, 21 and 22</p> <p>Website</p> <p>Property Transfer Tax</p>
Provincial Sales Tax	<p>What You Can Appeal</p> <ul style="list-style-type: none"> ▪ An assessment ▪ A refusal, suspension or cancellation of a registration certificate ▪ A disallowed refund claim ▪ Interest or penalties <p>Deadline</p> <p>Your appeal must be received by the Minister of Finance within 90 days of the date of the decision you are appealing.</p> <p>Legislation</p> <p><i>Provincial Sales Tax Act</i>, sections 211 and 212</p> <p>Website</p> <p>Provincial Sales Tax</p>

Tax	What You Can Appeal
Social Service Tax	<p>What You Can Appeal</p> <ul style="list-style-type: none"> ▪ An assessment or valuation ▪ A disallowed refund claim ▪ Interest or penalties <p>Deadline</p> <p>Your appeal must be received by the Minister of Finance within 90 days of the date of the decision you are appealing.</p> <p>Legislation</p> <p>Social Service Tax Act, sections 118 and 119</p>
Stumpage (Forest Act)	<p>What You Can Appeal</p> <ul style="list-style-type: none"> ▪ An assessment ▪ Interest or penalties <p>Deadline</p> <p>Your appeal must be received by the Minister of Finance within 90 days of the date of the decision you are appealing.</p> <p>Legislation</p> <p>Forest Act, sections 142.9 and 142.91</p> <p>Website</p> <p>Stumpage</p>
Tax on Designated Property (Vehicles, Boats and Aircraft)	<p>This tax only applied from July 1, 2010 to March 31, 2013.</p> <p>What You Can Appeal</p> <ul style="list-style-type: none"> ▪ An assessment ▪ A deemed purchase price ▪ A disallowed refund claim ▪ Interest or penalties <p>Deadline</p> <p>Your appeal must be received by the Minister of Finance within 90 days of the date of the decision you are appealing.</p> <p>Legislation</p> <p>Consumption Tax Rebate and Transition Act, sections 41 and 42</p> <p>Website</p> <p>Tax on Designated Property (Vehicles, Boats and Aircraft)</p>

Tax	What You Can Appeal
Tobacco Tax	<p>What You Can Appeal</p> <ul style="list-style-type: none"> ▪ An assessment ▪ A refusal to grant a dealer’s permit ▪ A suspension or cancellation of a dealer’s permit or a retail authorization ▪ A refusal to grant an exemption ▪ A limit set on the quantity of tobacco that may be purchased for resale ▪ A disallowed refund claim ▪ Interest or penalties <p>Deadline Your appeal must be received by the Minister of Finance within 90 days of the date of the decision you are appealing.</p> <p>Legislation <i>Tobacco Tax Act</i>, sections 23 and 24</p> <p>Website Tobacco Tax</p>