

12-6.003 Protest of Notices of Proposed Assessment Issued by the Department Which Result From an Audit.

(1)(a) A taxpayer may secure review of a Notice of Proposed Assessment (Assessment) by implementing the provisions of this section.

(b) To secure review of an Assessment, a taxpayer must file a written protest postmarked or faxed within 60 consecutive calendar days (150 consecutive calendar days if the Assessment is addressed to a person outside the United States) from the date of issuance on the Assessment.

(c) Protests postmarked or faxed more than 60 consecutive calendar days (150 consecutive calendar days if the Assessment is addressed to a person outside the United States) after the date of issuance on the Assessment will be deemed late filed, and the Assessment becomes final for purposes of Chapter 72, F.S., upon the expiration of 60 consecutive calendar days (150 consecutive calendar days if the Assessment is addressed to a person outside the United States) after the date of issuance on the Assessment, unless the taxpayer has timely secured a written extension of time within which to file a protest.

(d)1. A taxpayer may request an extension of time for filing a protest by mailing or faxing a written request to the address or fax number designated on the Assessment. In order for the taxpayer's request to be considered timely, the request must be postmarked or faxed within 60 consecutive calendar days (150 consecutive calendar days if the Assessment is addressed to a person outside the United States) from the date of issuance on the Assessment. Each extension of time will be for 30 consecutive calendar days. Within a 30 consecutive calendar day extension period, the taxpayer may submit a request in writing to the address or fax number designated on the Assessment for an additional 30 consecutive calendar day extension within which to submit a written protest.

2. Failure to mail or fax the written protest or failure to mail or fax a written request for an additional extension within a 30 consecutive calendar day extension period shall result in forfeiture of the taxpayer's rights to the proceedings provided by this rule and the proposed assessment will become a final assessment for purposes of Chapter 72, F.S., at the expiration of the extended filing period.

(2)(a) The protest shall be filed by mailing or faxing a written request to the address or fax number designated on the Assessment, and shall include:

1. The taxpayer's name, address, telephone number, federal taxpayer identifying number, and audit number.
2. The tax type, the periods, and the dollar amount of tax, interest, or penalty protested.
3. A list of the unagreed items.
4. A statement of facts and a description of any additional information not previously available that supports the list of unagreed items.
5. A statement explaining the law or other authority on which the taxpayer's position is based.
6. A copy of the Assessment.
7. A statement whether oral presentation and argument are requested.

(b)1. If the protest does not contain this required information, the taxpayer will be notified in writing that the required information must be submitted within 15 consecutive calendar days. Within this 15 consecutive calendar day period, the taxpayer may submit a request in writing at the address or fax number listed on the written notification for an additional 15 consecutive calendar days within which to submit this required information. Within the 15 consecutive calendar day extension period, the taxpayer may submit a request in writing for an additional 15 consecutive calendar day extension within which to submit this required information.

2. Failure to submit this information or to request an additional 15 consecutive calendar day extension within either the original 15 consecutive calendar day period or an additional 15 consecutive calendar day extension period shall result in issuance of a written dismissal of the protest and forfeiture of the taxpayer's right to the proceedings provided by this rule.

3. If the taxpayer either fails to submit the required information or fails to request an extension of time within which to submit the required information, the Assessment shall become a final Assessment for purposes of Chapter 72, F.S., on the later of:

- a. The date a 15 consecutive calendar day period expires pursuant to this rule; or
- b. The expiration of 60 consecutive calendar days after the date of issuance on the Assessment.

(3)(a) Upon receipt of a complete, timely filed written protest, Technical Assistance and Dispute Resolution will review the protest and may require the office originating the Assessment to provide a written explanation, report, or narrative setting forth the basis for the Assessment. A copy of any explanation, report, or narrative provided by the originating office pursuant to this subparagraph shall be given to the taxpayer, if such document is disclosable pursuant to applicable law. If requested by the taxpayer, an opportunity for submission of additional information and an oral conference will be provided. Conferences are conducted informally

in Tallahassee, Florida, and no transcript of the proceedings will be made by the Department.

(b) If a protest is timely filed, Technical Assistance and Dispute Resolution will issue a Notice of Decision (NOD). The Assessment will become a final Assessment for purposes of Chapter 72, F.S., as of the date of issuance on the NOD, unless the taxpayer timely files a petition for reconsideration of the NOD.

(4)(a)1. A taxpayer shall have 30 consecutive calendar days from the date of issuance on the NOD to file a petition for reconsideration.

2. Petitions for reconsideration must be in writing, postmarked or faxed to the address or fax number stated on the NOD, and must contain additional facts or arguments in support of the taxpayer's position.

3. The Department will not grant an extension of time for filing a petition for reconsideration.

(b)1. If the petition for reconsideration does not contain this required information, the taxpayer will be notified in writing by Technical Assistance and Dispute Resolution that the required facts or arguments must be submitted within 15 consecutive calendar days. Within this 15 consecutive calendar day period, the taxpayer may submit a request in writing to Technical Assistance and Dispute Resolution for an additional 15 consecutive calendar day extension within which to submit this required information. Within a 15 consecutive calendar day extension period, the taxpayer may submit a request in writing to Technical Assistance and Dispute Resolution for an additional 15 consecutive calendar day extension within which to submit this required information.

2. Failure to submit this information or to request an additional 15 consecutive calendar day extension within either the original 15 consecutive calendar day period or an additional 15 consecutive calendar day extension period shall result in issuance of a Notice of Reconsideration (NOR) that dismisses the petition for reconsideration and sustains the NOD. The Assessment will become a final Assessment for purposes of Chapter 72, F.S., as of the date of issuance on the NOR.

(c) If a petition for reconsideration is timely filed, the Department will issue a Notice of Reconsideration (NOR). The Assessment will become a final Assessment for purposes of Chapter 72, F.S., as of the date of issuance on the NOR.

(5) Procedures outlined in this section shall be for investigative purposes as specified in Section 120.57(5), F.S.

Rulemaking Authority 72.011(2), 213.06(1), 213.21(1) FS. Law Implemented 72.011(2), 213.21(1), 213.34 FS. History—New 12-31-81, Formerly 12-6.03, Amended 7-1-88, 3-6-03, 1-19-15.