

Policy and Procedure Memorandum

PPM No. 50.4

Subject: Requests to attend protest Hearings

Effective Date: March 14, 2019

This Policy and Procedure Memorandum supersedes any previously issued memoranda that conflict with these directives.

A. Purpose

The purpose of this policy directive is to provide guidelines for the Board or its Designee regarding participation in Hearings scheduled to consider protests for a redetermination of a Local Collector's Notice of Intent to Assess delinquent sales and use tax, interest and penalty.

The enabling statute, R.S. 47:337.49(B), is specific only as to the right of a Local Collector or Taxpayer to request attendance, method of notice to the Board and appointment by the Board of a Designee to serve in place of a Board Member at such Hearing.

B. Statutory or Regulatory Authority

R.S. 47:337.48 and R.S. 47:337.49.

C. Definitions

Board—the eight individual Board Members, or their designated proxies, appointed to serve on the Louisiana Uniform Local Sales Tax Board as described in R.S. 47:337.102(B).

Chairperson—the duly elected person serving as Chairperson of the Board at the time a request for a Hearing is received.

Designee—either a full time employee of the Board or the head of a single Local Collector's office who has been selected by the Chairperson, as an alternative to a Board Member, to attend a Hearing on behalf of the Board.

Taxpayer—the party, including any duly authorized representative of that party, which has filed a protest to a Local Collector's Notice of Intent to Assess defined under R.S. 47:337.48(A) or (B).

Local Collector—the single Collector for a parish as defined in Article VII, Section 3 of the Constitution of Louisiana and any of the Collector's duly authorized assistants.

Executive Director—the Executive Director of the Louisiana Uniform Local Sales Tax Board.

Hearing—as provided in R.S. 47:337.49(A), the designated date, time and place determined by the Local Collector for the purpose of considering the facts and figures to evaluate the arguments in a Taxpayer's protest to a notice of tax due.

D. General Procedures

1. A request for a Board Member to attend a Hearing shall be directed to the Executive Director in writing, including through email, at least five business days prior to the date of the Hearing.
2. Procedures for selecting the Board's attendee:
 - a. The Executive Director will poll Board Members as soon as possible to determine all available to participate.
 - b. If possible, Board Members should respond within 48 hours to indicate their availability to participate in the hearing.
 - c. The Executive Director will forward to the Chairperson either the list of available Board Members or a memo stating that no Board Member is available.
 - d. The Chairperson will choose a Board Member or Designee to represent the Board as allowed under R.S. 47:337.49(B). The Chairperson should select a candidate that would be perceived by the parties as independent and having an interest to promote uniformity of interpretation of the laws.
 - e. The Executive Director will be notified of the Chairperson's selection.
 - f. The Executive Director is responsible for notifying the Local Collector and the Taxpayer who has been selected to attend the hearing on behalf of the Board.
3. A Memorandum of Understanding (MOU) must be executed by the Board's attendee, the Local Collector, and the Taxpayer prior to the start of the Hearing. The Board's attendee will, if possible, deliver the executed MOU to the Executive Director at the next Board meeting.
4. The MOU must contain the following terms:
 - a. Any information presented during the Hearing is considered confidential under the provisions of R.S. 47:1508 and is permissible by consent of all the parties in attendance.
 - b. Any confidential information received by the Board's attendee shall not be divulged to any party not in attendance unless expressly waived by all attendees.
 - c. The Board's attendee has no responsibility to either the Taxpayer or the Local Collector other than to observe the Hearing.
 - d. The Board's attendee should not be considered an expert on any subject matter discussed during the Hearing.

- e. The Board's attendee should not be considered a mediator during the proceedings and has no responsibility to respond to questions unless mutually authorized by the Local Collector and the Taxpayer.
 - f. The Board's attendee has no responsibility to record any testimony provided during the Hearing.
 - g. The Board's attendee shall not be asked or required to serve as a witness for any party attending the Hearing or in any pending or future legal or court proceeding.
 - h. Any other terms specified in the MOU must be agreed upon, in writing, by all parties attending the Hearing prior to its commencement.
5. If for any reason the scheduled Hearing date is cancelled or postponed, the Board's attendee must be promptly notified, including any rescheduling of the matter. If the Board's original attendee cannot attend the rescheduled Hearing, the Chairperson will select a new attendee under the procedures in D(2).
 6. The Board's attendee will not be compensated by the Board, Taxpayer or Local Collector for attending any Hearing. The Board shall reimburse the attendee for reasonable travel expenses directly related to the attendance of the Hearing.
 7. The attached MOU will be used to document the agreement between the Local Collector, Taxpayer and Board's attendee.

The Board, in its sole discretion, may authorize exceptions to this policy by unanimous vote of its members.

Revision History: March 14, 2019, adopted by the Board (new document).

Signatures

Gregory Ruppert, Chairperson
Louisiana Uniform Local Sales Tax Board

Amber Hymel, Vice-Chairperson
Louisiana Uniform Local Sales Tax Board