

CHAPTER 2 REPRESENTATION

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§2-01 General.

(a) An applicant may be self-represented or may be represented by a representative. Any individual or firm authorized by an applicant may act as his or her representative unless that individual has been suspended from practice before the Tax Commission.

(b) Only natural persons may be self-represented. All other applicants, including without limitation corporations and partnerships, must be represented by a representative.

(c) On the application, the applicant shall state that the applicant will be self-represented or shall designate a representative.

(d) On the form prescribed for such purpose, the applicant shall notify the Tax Commission of any of the following changes in representation:

(1) where the applicant is represented and wants to change representatives or become self-represented; or

(2) where the applicant is self-represented and wants to designate a representative.

(e) The Tax Commission shall communicate only with the applicant's designated representative or with a self-represented applicant with respect to an application, unless otherwise specifically provided hereinafter.

(f) Representation of an applicant before the Tax Commission encompasses all presentations, both oral and written, including but not limited to, preparing and filing applications and other documents, corresponding and communicating with the Tax Commission, and appearing at hearings.

§2-02 Standards of Conduct and Integrity for Representatives and Self-Represented Applicants.

(a) Representatives and self-represented applicants shall observe in good faith the law governing the administrative review of assessments, this title, and forms and instructions.

(b) Representatives and self-represented applicants shall exercise due diligence in:

(1) learning and observing applicable statutes, rules, and instructions governing the disposition of applications before the Tax Commission;

(2) adhering to schedules for appearances;

(3) preparing or assisting in the preparation of, approving, and filing forms, documents, and other papers relating to applications; and

(4) determining whether their oral and written arguments and representations to the Tax Commission are correct.

(c) A representative who knows or has reason to believe that an applicant has made a factual error in or omission from an application or other document submitted to the Tax Commission shall advise the applicant promptly of such error or omission. The representative shall urge the applicant to correct the error and promptly submit the corrected information. If the applicant refuses to do so, the representative shall withdraw from representation regarding the application where continued representation would violate this section or the applicable code or rules of professional conduct prescribed for the representative's profession.

(d) Representatives and self-represented applicants shall not file an application, submit a document, or present testimony or other evidence that is obviously false or that the representative or applicant knows or has reason to believe is false or fraudulent or contains false information.

(e) Representatives and self-represented applicants shall not make any representation or fail to disclose any fact in any situation where such representative or applicant knows or has reason to know such representation or failure to disclose will mislead the Tax Commission.

(f) Representatives and self-represented applicants shall not present a demand or an opinion of fact or law to the Tax Commission at a hearing unless the representative or applicant holds it in good faith and can support it on reasonable grounds.

(g) An application shall not advance a claim unwarranted under existing law, unless supported by a good faith argument for extension, modification or reversal of existing law.

(h) A representative shall not sign an application in the name of the applicant. A representative signing an application pursuant to a written power of attorney must sign in the representative's own name.

(i) Representatives and self-represented applicants shall exercise due diligence in ascertaining and reporting to the Tax Commission transactions concerning the property occurring after an application is filed until the application is determined or an offer (if any) is accepted, whichever occurs later. Such transactions include: (1) any transfer of the property under review; (2) any transfer of an ownership interest in the property; or (3) the execution of a contract to transfer the property.

(j) Representatives and self-represented applicants shall not request hearings on applications which in the exercise of due diligence and good faith they know are ineligible for review pursuant to law or this title.

(k) Representatives and self-represented applicants shall not attempt to initiate conversations or correspondence about particular cases with the hearing officer before or after the hearing. At the hearing, representatives and self-represented applicants shall discuss the scheduled matters only. Representatives and self-represented applicants shall not telephone or write the hearing officer or other employees of the Tax Commission before or after the hearing with additional argument or information. Unless directed by the hearing officer, after the hearing additional material or argument shall not be submitted to supplement an application. After a hearing, correspondence on particular applications, if any, shall be addressed to the Director of Appraisal and Hearings of the Tax Commission.

(l) Upon the request of the Tax Commission, representatives and self-represented applicants shall make inquiry, obtain information, check facts about use, occupancy or physical description of the property under review, or resolve any factual discrepancies arising from an application. If such information is privileged or impossible to furnish, the representative or self-represented applicant can submit, on or before the date such information is due, a written statement explaining why the information cannot be provided.

(m) Before commencing or causing to be commenced assessment review proceedings in court, representatives and self-represented applicants shall confirm that an application for review of the assessment was timely filed at the Tax Commission.

(n) Representatives and self-represented applicants shall not attempt to influence or offer or agree to attempt to influence any hearing officer or employee of the Tax Commission by the use of threats, false accusations, duress or coercion, a promise of advantage, or the bestowing or offer of any gift, favor or thing of value. A representative or self-represented applicant shall report promptly any such acts of which the representative or self-represented applicant is aware to the New York City Department of Investigation.

(o) Representatives before the Tax Commission shall carry on their representation in accordance with the applicable code or rules of professional conduct prescribed for their profession. The Tax Commission may require a representative to furnish a statement, under oath, detailing the circumstances of the representative's engagement regarding an application, subject to limits of any applicable evidentiary privilege.

(p) Representatives shall acknowledge in writing their agreement to observe Tax Commission rules and instructions in good faith and with due diligence before they may appear before the Tax Commission.

(q) The Tax Commission may deny or defer review of an application or withdraw an offer affected by a representative's or applicant's failure to comply with a rule in this section.

(r) After providing the representative with an opportunity to be heard, the Tax Commission may suspend for up to five years from practice before the Tax Commission any representative who fails to comply with a rule in this section. Upon a determination of probable cause that a representative has failed to comply with a rule in this section, the representative may be temporarily suspended pending a final determination of suspension.

(s) After providing the representative with an opportunity to be heard, the Tax Commission may suspend such representative for up to one year from practice before the Tax Commission on all or some applications in cases where the representative fails to comply with a Tax Commission instruction or rule not in this section or to adhere to a schedule for appearance, provided that the Tax Commission has warned the representative in writing of a prior instance of similar noncompliance within the past three years. Upon a determination of probable cause that a representative, after having been sent a warning, has failed to comply with an instruction or rule not in this section or to adhere to a schedule for appearance, the representative may be temporarily suspended pending a final determination of suspension.

(t) The Tax Commission may publish notice and may notify applicants that it has disqualified or suspended a representative.

(u) For representatives who are attorneys:

(1) the standards of conduct set forth in this section shall apply unless inconsistent with applicable attorney ethical rules; and

(2) subdivisions (r) and (s) of this section shall not apply; however, in appropriate cases, the Tax Commission may report to the governing disciplinary authorities any conduct that violates this title and/or applicable attorney ethical rules.

(v) After providing the representative with an opportunity to be heard, the Tax Commission may publish notice of a determination to deny or defer review of an application for a procedural defect or a representative's failure to comply with a rule in this section. Such notice may identify the applicant, property and representative.

§2-03 Administrative Procedures for Group Representatives.

(a) Group representatives shall provide to the Tax Commission in writing: (1) their firm name; (2) the name(s) of the individual(s) within the firm who are responsible for the firm's appearances at the Tax Commission; and (3) the business mailing address, telephone number, fax number, and email address for the firm and for such individual(s). Group representatives shall provide timely written notice of any change of such information.

(b) Group representatives that designate another firm to appear for them before the Tax Commission shall promptly notify the Tax Commission in writing of such designation. Such designation will remain in effect until the Tax Commission receives notice of a change.

(c) Group representatives may request notification when the Tax Commission issues notices so that they may arrange for pick-up instead of delivery by mail.

(d) Group representatives who file 500 applications or more in a calendar year shall arrange for pick-up of notices and reports prepared by the Tax Commission that are too voluminous to be mailed to such representatives by the Tax Commission. The Tax Commission will notify such representatives of the notices and reports that they must arrange to have picked up.

§2-04 Application Filing Procedures for Group Representatives.

(a) Group representatives shall file applications in person at the Tax Commission's Office in accordance with this section.

(b) Group representatives shall make appointments by telephone before they file 50 or more applications at one time. No appointment is necessary for applications filed on the last day fixed by law to timely file an application.

(c) Applications shall be filed by group representatives at the specific places at the Tax Commission's Office designated for each of the following categories:

(1) Category 1. Category 1 includes an application meeting the criteria set forth in either of the following two subparagraphs:

(i) An application on a property indicated on the assessment roll by block and lot, including a condominium unit, assessed at \$40,000,000 or more, or such other amount specified in the instructions of the Tax Commission.

(ii) An application on 200 or more condominium units, or such other number specified in the instructions of the Tax Commission.

(2) Category 2. Category 2 includes an application meeting the criteria set forth in any of the following three subparagraphs:

(i) An application on a property indicated on the assessment roll by block and lot assessed at less than \$40,000,000, or such other amount specified in the instructions of the Tax Commission, where such application is:

(A) by an applicant who is neither the owner nor net lessee of the property;

(B) signed by a fiduciary who must file documentation of authority to establish authority in the year of filing;

(C) signed by an agent who must attach a power of attorney and proof of personal knowledge; or

(D) seeking Tax Commission review of a claim of misclassification, unlawfulness, or full or partial exemption.

(ii) An application on fewer than 200 condominium units, or such other number specified in the instructions of the Tax Commission, where such application is:

(A) by an applicant who is neither the owner nor net lessee of the property, other than a board of managers designated by unit owners as their agent;

(B) signed by a fiduciary who must file documentation of authority to establish authority in the year of filing;

(C) signed by an agent who must attach a power of attorney and proof of personal knowledge; or

(D) seeking Tax Commission review of a claim of misclassification, unlawfulness, or full or partial exemption.

(iii) An application on a property indicated on the assessment roll by identification number.

(3) Category 3. An application on one or more condominium units not otherwise covered by Category 1 or 2.

(4) Category 4. An application not otherwise covered by Category 1, 2 or 3.

(d) Within each of the four categories set forth above, group representatives shall sort applications in borough/block/lot sequence.

(e) Group representatives who file application data by electronic means shall file such applications at the specific places designated for such purpose at the Tax Commission's Office.

(f) Copies of applications and other papers required to be filed by this title shall be delivered in accordance with the instructions of the Tax Commission.

(g) Group representatives shall clearly mark copies of applications as copies.

(h) Group representatives shall conspicuously mark applications excluded from their electronic application data on the face of the application, and shall file such applications in the place designated for such filings.

§2.05 Electronic Notice of Filing by Group Representatives Who File Fifty or More Applications in One Calendar Year; Application Data.

(a) For the purposes of this section, "group representative" means a group representative, as defined in §1.03 of chapter one of this title, who files fifty or more applications in a calendar year.

(b) Group representatives shall provide notice of filing applications by electronic means in an electronic file format prescribed by the Tax Commission, in order to obtain calendar pages. The Tax Commission may schedule hearings on applications as provided in §4-09(i) of chapter four of this title or defer review of applications of group representatives that provide notice of filing applications by electronic means in a defective format or a format not prescribed by the Tax Commission. For group representatives that do not provide notice of filing applications by electronic means, the Tax Commission may schedule hearings on applications as provided in §4-09(i) of chapter four of this title.

(c) Notice of filing applications by electronic means shall include the following application data: (1) borough, block and lot of each property for which the representative filed an application for correction of the assessment; (2) the application form number; (3) the relationship between the applicant and the property; (4) whether the application seeks Tax Commission review of a claim of misclassification or exemption; (5) whether the application is ineligible for review because a required income and expense schedule was not timely filed; (6) whether review is requested, and if so, whether a hearing or review on the papers submitted is requested; (7) the name of the applicant (8) the representative's group number assigned by the Tax Commission; (9) the condominium lots covered by an application, if any; and (10) any other data the Tax Commission determines is necessary or appropriate.

(d) Application data shall be accurate when filed and shall accurately report the applications filed by the representative.

(e) Application data shall not include a record of a property indicated on the assessment roll by an identification number.

(f) Application data in the format prescribed shall be transmitted electronically in the manner designated by the Tax Commission.

(g) Notice of filing applications by electronic means shall be filed by 5:00 P.M. of the fourth business day following the last day fixed by law to timely file the subject applications.

(h) The Tax Commission shall reject notices of filing applications by electronic means whose format is defective and shall notify the representative of format defects. At the request of the representative, the Tax Commission shall return defective application data files to the representative for correction. In the event format corrections are not completed within two business days of the notice of defect, the Tax Commission may defer review of the applications.

(i) The Tax Commission may review on papers submitted or defer review of applications that are inaccurately recorded on or erroneously omitted from a representative's application data file.

(j) The Tax Commission may require that group representatives that provide notice of filing by electronic means provide a certified written summary of the notice of filing, including the total number of applications in an application data file, the number of applications filed on each type of form, the number of applications seeking reclassification and exemption, and such other tracking information as the Tax Commission deems necessary or appropriate.