

**RULES OF PRACTICE AND PROCEDURE OF THE
NEW YORK CITY TAX APPEALS TRIBUNAL**

§1-13 Review by tribunal commissioners.

(a) (i) *Filing and serving of exception.* Within 30 days of the giving of notice of the determination of an administrative law judge, or within 30 days of service of a copy of an exception taken by the other party, any party may take exception to such determination and seek review thereof by the tribunal commissioners, by filing an exception and 3 conformed copies with the president of the tribunal, either in person or by certified or registered mail addressed to the tribunal. A copy of the exception shall be served at the same time on the other party.

(ii) The president of the tribunal may extend the 30-day period for filing and serving an exception, provided an application for extension is filed with the president of the tribunal within such period and served on the other party, and if good cause is shown.

(b) *Form of exception; briefs.* (1) The exception shall contain:

(i) the particular findings of fact and conclusions of law with which the party disagrees;

(ii) the grounds of the exception, with references, wherever possible, to the relevant pages of the transcript of hearing and exhibits; and

(iii) alternative findings of fact and conclusions of law. A form of exception shall be available from the tribunal upon written request.

(2) A brief and 3 copies in support of the exception may be submitted at the time the exception is filed or within 45 days thereafter. The party taking exception shall serve a copy of the brief in support on the other party. Within 45 days of service of the brief in support, or, if no such brief is filed, within 45 days of the expiration of the time to file such brief in support, the other party may submit a brief and 3 copies in opposition and/or make cross-exceptions and shall serve a copy thereof on the party taking exception.

(c) *Transmittal of record.* Whenever an exception to an administrative law judge's determination is filed, the chief administrative law judge shall transmit to the president of the tribunal the record of the hearing before the administrative law judge.

(d) *Oral argument.* (1) A party taking exception may request, at the time of the filing of the exception, an opportunity for oral argument before the tribunal commissioners. Within the time allowed for submitting a brief in opposition, the other party may request, in writing, an opportunity for oral argument. Failure to make such a request in writing within the prescribed time period shall be deemed a waiver of oral argument.

(2) The tribunal commissioners may grant, deny or limit any request for oral argument and may on their own motion request oral argument from either party. The president of the tribunal shall advise the parties of the time and place at which oral argument, if any, will be heard. A request for postponement of the argument must be made in writing at least 15 days in advance of the date fixed for argument.

(3) A commissioner who is not present at oral argument but who is otherwise authorized to participate in a decision may participate in rendering such decision.

(e) *Adjournment; default.* (1) At the written request of either party, made on notice to the other party and received at least 15 days in advance of the scheduled date for oral argument, if any, an adjournment may be granted where good cause is shown. In the event of an emergency, an adjournment may be granted on less notice. Upon continued and unwarranted delay of the proceedings by either party, the tribunal commissioners shall render a default decision against the dilatory party.

(2) In the event a party or the party's representative does not appear at a scheduled date for oral argument and an adjournment has not been granted, the tribunal commissioners may render a decision based upon the parties' written submissions or take such other action as they shall deem appropriate under the circumstances.

(3) Upon written application to the tribunal commissioners, a default decision may be vacated where the defaulted party shows a reasonable excuse for the default and a meritorious case.

(f) *Decision.* (1) The tribunal commissioners shall review the record and shall, to the extent necessary or desirable, exercise all the powers which they could have exercised if they had made the determination.

(2) After such review, the tribunal commissioners shall issue a written decision, containing findings of fact and conclusions of law, affirming, reversing or modifying the administrative law judge's determination, or the tribunal commissioners may remand the case for additional proceedings before the administrative law judge or for further action by the commissioner of finance. The tribunal commissioners shall issue a decision within 6 months of the date of

the filing of the exception; however, where oral argument is granted or briefs are submitted, the 6-month period will begin on the date oral argument is concluded or briefs are submitted, whichever is later.

(3) The tribunal commissioners are authorized to rule on the validity of the rules of the commissioner of finance where such rules are at issue.

(g) When the tribunal commissioners review a matter, there must be a majority of commissioners present and no fewer than two votes shall be necessary to take any action.