

Tobacco Tax Act Administrative Hearings

This publication outlines the administrative hearing process made available when:

- An Applicant or Registrant disagrees with a proposed decision to refuse, suspend or cancel registrations under the Tobacco Tax Act (TTA) and requests a hearing to show why a permit or registration certificate should not be refused, suspended or cancelled.
- A Raw Leaf Tobacco Producer or Processor has received notice of intended action to seize, impound, hold or dispose of raw leaf tobacco and requests a hearing to show why the action should not be taken.
- A Retail Dealer has received notice of a temporary prohibition (or a proposed prohibition) and requests a hearing to show why the temporary prohibition should not be imposed.

Why a hearing is held

Hearings provide an opportunity for persons to make submissions to a representative of the Minister of Finance to show reasons why the ministry should not proceed with a proposed action or continue an already initiated action.

People at the hearing

Hearings are not open to the public as it may be necessary for confidential tax information or personal matters to be disclosed in the hearing.

Hearing Chairperson

A Chairperson will conduct the hearing. The Chairperson will be a Ministry of Finance employee who has been delegated the authority to conduct the hearing.

Attendees and observers

It is not mandatory for an Applicant or Registrant to attend the hearing. The Applicant or Registrant may choose to send an authorized representative on their behalf or attend with their representatives.

Download: Authorizing or Cancelling a Representative form.

Attendees at the hearing may also include a court reporter and a ministry legal or advisory representative to assist the Chairperson in conducting the hearing. In addition, other ministry employees may attend as observers or to assist the Chairperson.

Date, time and location

The ministry determines the date, time and location of a hearing. A hearing will typically be scheduled two to six weeks after a request from the Applicant or Registrant has been received by the ministry. If the ministry is in a position to immediately suspend a registration (forthwith suspensions), or impose a prohibition, a hearing will be held within 10 calendar days from the date the ministry receives the Applicant or Registrant's request for a hearing.

On hearing requests related to notices to seize, impound, hold or dispose of raw leaf tobacco and notices of proposed temporary prohibitions, the TTA requires the ministry to hold a hearing within 15 days from the date of receiving the hearing request. However, the hearing date may be extended at the request of the Applicant or Registrant for a reasonable amount of time, if more time is required to prepare for the hearing.

Hearings are held in person, at a Ministry of Finance office, or through a telephone conference call (if required). An attempt will be made to select a Ministry of Finance location that is mutually convenient to the Minister's delegate and the Applicant or Registrant.

Before the hearing

You may contact the Ministry of Finance to seek clarification or answers to any questions related to the ministry's proposed action (or already initiated action), or to understand how the hearing will be conducted.

Submissions at a hearing

Submissions may be oral or written and may include supporting documents.

All documents to be presented at the hearing must be filed with the ministry at least five business days before the scheduled hearing date, or as agreed upon by the ministry and the Applicant or

Registrant. Such documents should be sent to the attention of the Chairperson at the Ministry of Finance address provided in the hearing notification letter.

At the hearing

The following is a typical sequence of events at a hearing:

- Chairperson, attendees and observers are introduced.
- Court reporter may make requests or remarks.
- Chairperson delivers the opening remarks.
- Applicant or Registrant provides submissions.
- Chairperson may ask the Applicant or Registrant questions to clarify the Applicant or Registrant's position, including questions related to any submissions made.
- Chairperson typically reserves his or her decision.
- Chairperson concludes the hearing with closing remarks.

Decision

The decision of the Chairperson will be the decision of the Minister.

With respect to registration certificates and permits, the Chairperson may:

- a. Confirm the ministry's intention to refuse, suspend or cancel a registration
- b. Determine that the registration should be granted or continued, or
- c. Determine that registration be granted or continued, subject to particular conditions.

With respect to intended action to seize, impound, hold or dispose of raw leaf tobacco, the Chairperson may:

- a. Confirm the ministry's intention to seize, impound, hold or dispose of raw leaf tobacco
- b. Decide that the ministry will rescind the notice of intended action, or
- c. In lieu of the intended action, impose reasonable conditions and limitations on the Raw Leaf Tobacco Producer or Processor.

With respect to temporary prohibitions, the Chairperson may:

- a. Confirm or uphold the proposed or temporary prohibition
- b. Rescind or cancel the proposed or temporary prohibition, or
- c. In lieu of a proposed temporary prohibition, impose reasonable conditions and limitations on the retail dealer.

The Chairperson will make the decision as quickly as possible and will provide the Applicant or Registrant with the final decision in writing.

The Chairperson will send the final decision by letter via Registered Mail to the Applicant's or Registrant's most recent address known to the ministry.

Record of hearing

The ministry will make arrangements for a record of the hearing to be made by a court reporter. The Applicant or Registrant may request a copy of the transcript from the court reporter. Any related cost associated with the Applicant or Registrant obtaining a copy of the hearing record is the responsibility of the Applicant or Registrant.

Effect of non-attendance at hearing

Where an Applicant or Registrant (or their representative) does not attend the hearing as scheduled, the hearing may proceed and the Applicant or Registrant is not entitled to a further hearing.

Request for written interpretations

To obtain a written interpretation on a specific situation not addressed in this publication, please send your request in writing to:

Ministry of Finance
Advisory Services, Tobacco Tax
33 King Street West, 3rd Floor
Oshawa ON L1H 8H5

For more information

Visit ontario.ca/finance or contact the Ministry of Finance at 1 866 ONT-TAXS (1 866 668-8297) or 1 800 263-7776 for teletypewriter (TTY).

Cette publication est disponible en français sous le titre « Audiences administratives en vertu de la Loi de la taxe sur le tabac ». Vous pouvez en obtenir un exemplaire en appelant le 1 866 ONT-TAXS (1 866 668-8297) ou en visitant ontario.ca/finances.

ISBN: 978-1-4606-2616-0 (Print)

ISBN: 978-1-4606-2614-6 (PDF)

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