

New York State Division of Tax Appeals
Agency Building 1, Empire State Plaza, Albany, NY 12223

Hearing Memorandum – Supplemental Information

Purpose of the Hearing Memorandum

The Hearing Memorandum is intended to eliminate surprises at the hearing by informing the Administrative Law Judge and the parties of the issues that will be in dispute; the witnesses that are expected to testify; and the evidence that is expected to be introduced.

Each party involved in a hearing is required pursuant to 20 NYCRR 3000.14 to submit a Hearing Memorandum (TA-140) to the Supervising Administrative Law Judge and to the opposing party **at least ten days prior to** the hearing date specified in the hearing notice.

Contents

The Hearing Memorandum is required to contain the following information:

1. A brief statement of the issues being contested.
2. A list of your witnesses and a very brief summary of their anticipated testimony.
3. A statement of the legal authorities relied upon.
4. If the parties have stipulated to any facts, a copy of the stipulation.
5. A list of proposed exhibits to be introduced at the hearing.

Amendment

If, after filing a Hearing Memorandum, a party wishes to call witnesses or introduce evidence not listed on the Hearing Memorandum, that party must amend its Hearing Memorandum as soon as it is practical.

Failure to Comply

If a party has failed to make a good faith effort to comply with the requirements of 20 NYCRR 3000.14, the Administrative Law Judge may preclude the testimony of witnesses or the introduction of evidence not included in the Hearing Memorandum. Documents or testimony introduced solely for purposes of rebuttal or impeachment of a witness may be allowed without inclusion on the Hearing Memorandum.

Suggestions

1. The parties should discuss the case before the day of the hearing. Cases are frequently settled, in whole or in part, before the hearing. At the very least, the opposing parties should agree as to which issues continue to be in dispute and will need to be addressed at the hearing. Parties should exchange their documentary evidence before the day of the hearing.
2. Bring to the hearing at least three copies of all documents to be offered into evidence. One copy will become part of the official record of the case. One copy is for the opposing party. The third copy is for each party's own records. A photocopy of a document can be accepted into the official record in place of the original document. Prepare all copies ahead of time. Parties should not assume that they will be able to make copies on the day of the hearing.
3. The hearing is the only opportunity either party will have to make a factual record; therefore, it is essential to come to the hearing with all relevant evidence. Do not assume that the Division of Taxation will offer into evidence documents previously given to auditors, conferees or the Division of Taxation's legal representatives. Do not assume that the auditor will be at the hearing to testify.

Please contact the Division of Tax Appeals with questions by calling (518) 266-3000.