

PREAMBLE

The Department of Revenue (Department), under authority contained in the acts of April 9, 1929 (P.L. 343, No. 176) (72 P.S. § 6) and (P.L. 177, No. 175) (71 P.S. § 66) proposes amendments to 61 Pa. Code, Chapter 7. Board of Appeals and Chapter 901. Local Option Small Games of Chance to read as set forth in Annex A.

Purpose of Regulation

This regulation contains amendments to Parts I and VII of Title 61. The regulation is being proposed to consolidate all administrative appeals under the jurisdiction of the Department's Board of Appeals (the "Board"). Additionally, the regulation will streamline the administrative appeals process by creating a uniform set of procedures for all administrative appeals within the Department. The regulation preserves the Board's jurisdiction over tax appeals.

Explanation of Regulatory Requirements

The current regulations at §§ 7.1 - 7.7 are reserved.

Section 7.10 (relating to definitions) is added and contains the definition for "Board" previously contained in § 7.1 as well as the addition of new definitions "Administrative Proceeding" and "Appeal."

Section 7.11 (relating to jurisdiction) is added and explains that the Board's jurisdiction includes appeals and administrative proceedings as defined in § 7.10.

Section 7.12 (relating to manner of proceeding before the Board) is new language explaining that all proceedings before the Board are initiated by the filing of a petition.

Section 7.13 (relating to petitions) was previously § 7.3 with some minor modifications explained below.

Subsection 7.13(a) contains language that was previously in subsection 7.3(a) stating that petitions should be filed with the Board.

Subsection 7.13(b) is an expansion of language that was previously in subsection 7.3(a) regarding the time limits for filing a petition.

Subsection 7.13(c) is an expansion of language that was previously in subsection 7.3(a) regarding receipt of a petition.

Subsection 7.13(d) is language that was previously in subsection 7.3(b) and is now expanded to include electronically filed petitions.

Subsection 7.13(e) is language that was previously in paragraph 7.3(b)(1) and explains the general requirements and contents of a petition and also the additional requirements for an appeal petition.

Subsection 7.13(f) is language that was previously in subsection 7.3(c) and has been revised to now explain the process of docketing petitions.

Subsection 7.13(g) is language that was previously in subparagraph 7.3(b)(1)(ix) and is now in its own subsection regarding additional information.

Subsection 7.13(h) is new language added to include electronic signatures.

Section 7.14 (relating to board practice and procedure) is added and was previously § 7.5 with minor modifications explained below.

Paragraph 7.14(a)(1) is the identical language that was previously paragraph 7.5(c)(2) explaining the burden of proof before the Board.

Paragraph 7.14(a)(2) is nearly the identical language that was previously in subsection 7.5(b) with minor rewording.

Paragraph 7.14(a)(3) is new language that explains the Board's discretion to consolidate or sever multiple proceedings.

Paragraph 7.14(a)(4) is made up primarily of the language that was previously in subsections 7.5.(c) and 7.5(d) regarding the conduct and procedures of hearings.

Paragraph 7.14(a)(5) contains the identical language that was previously in subsection 7.5.(e).

Paragraph 7.14(a)(6) is language that was previously subsection 7.5.(f) with minor rewording.

Paragraph 7.14(a)(7) is language that was previously in subsection 7.5(h).

Paragraph 7.14(a)(8) contains language that was previously in § 7.6 regarding the Board's decision and order.

Paragraph 7.14(a)(9) is generally the language that was previously in § 7.7 but is being modified to clarify the Board's ability to issue corrected orders for clerical and computational errors.

Subsection 7.14(b) contains language that was previously in paragraphs 7.5(c)(5), 7.5(c)(7), subsection 7.6(c) and subparagraph 7.3(b)(2)(ii).

Subsection 7.14(c) is new language that explains additional practices and procedures for administrative proceeding matters before the Board.

Section 901.1 (relating to definitions) has been amended to change the definition of "Board" to mean the BOA rather than The Small Games of Chance Board.

Section 901.161 (relating to jurisdiction and purpose) is unchanged except for the last sentence regarding the Board's recommendation to the Secretary, which is deleted to maintain consistency with other changes in this regulation.

Sections 901.162 (relating to composition) and 901.163 (relating to powers and duties) are reserved.

Section 901.164 (relating to petitions) is amended by deleting all language except for the language that was previously in subsection (a) regarding the time frame for filing petitions.

Section 901.165 (relating to board practice and procedure) is amended by removing the existing language and adding new language that states what sections in the regulations now govern the practice and procedures before the Board.

Sections 901.166 (relating to board recommendation) and 901.167 (relating to stay of appeal) are reserved.

Section 901.168 (relating to stay of appeal) is amended by updating language in subsections (a) and (b) to be consistent with other changes made within this regulation.

Affected Parties

Pennsylvania taxpayers and tax practitioners may be affected by the regulation.

Fiscal Impact

The Department has determined that the proposed amendment will have _____ fiscal impact on the Commonwealth.

Paperwork

The proposed amendment will not create additional paperwork for the public or the Commonwealth.

Effectiveness/Sunset Date

The regulation will become effective upon final publication in the Pennsylvania Bulletin. The regulation is scheduled for review within five years of final publication. No sunset date has been assigned.

Contact Person

Interested persons are invited to submit in writing any comments, suggestions, or objections regarding the proposed amendment to Mary R. Sprunk, Office of Chief Counsel, PA Department of Revenue, P.O. Box 281061, Harrisburg, Pennsylvania 17128-1061, within thirty (30) days after the date of the publication of this notice in the Pennsylvania Bulletin.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on _____ the Department submitted a copy of this proposed amendment to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Finance and the Senate Committee on Finance. In addition to submitting the amendment, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with

Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

The Committees may, at any time prior to the submittal of the final-form regulation, convey to the agency and the Commission, their comments, recommendations and objections to the proposed regulation. The Independent Regulatory Review Commission may, within 30 days of the close of the public comment period, submit to the agency and Committees any comments, recommendations and objections to the proposed regulation. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review of objections raised, prior to final publication of the amendments, by the Department, the General Assembly and the Governor.

3/1/11

DANIEL MEUSER
ACTING SECRETARY OF REVENUE