

Quick Facts

ALTERNATIVE DISPUTE RESOLUTION



Introduction

The Vision of the Louisiana Department of Revenue (LDR) is to be a results-based, innovative and focused organization that is capable of rapidly responding to the needs of its citizens/stakeholders. LDR recognizes its responsibility to ensure compliance with the state's tax laws, provide taxpayers with a reasonable opportunity to disagree with a tax assessment, and satisfactorily resolve a dispute.

Louisiana Revised Statute 47:1522 authorizes LDR to use Alternative Dispute Resolution to resolve issues regarding the collection of taxes, penalties, or interest in disputes which arise between the taxpayer and the Department. Alternative Dispute Resolution provides a voluntary, confidential, and cooperative means of resolving tax disputes, which can reduce the costs and risks of litigation for the taxpayer and the Department. Alternative Dispute Resolution can also expedite the tax collection and refund processes.

Initiating Arbitration

The alternative dispute resolution process may be initiated by the Secretary of the Department of Revenue or by the taxpayer. The process, which is also known as mediation, is used by LDR to assist in the collection of any taxes, penalties, or interest due. The total value of the case disputed must be less than \$5 million in taxes, penalties and interest as of the date of selection in order to participate in the arbitration process. If the Secretary selects a case for arbitration, written notice will be sent to the taxpayer within 30 days. If the taxpayer desires to participate in arbitration, he/she must give written notice to the Department. The notice must be signed by the taxpayer or the taxpayer's representative and contain the following: taxpayer's name, tax identification number, address, telephone number, fax number, and e-mail address. The notice should also include the name of the taxpayer's representative and contact information, a brief description of the nature of the dispute, the issues and the relief requested, reasons supporting the relief, and any other relevant information supporting the claim. The taxpayer may represent themselves or may select an attorney, a certified public account or enrolled agent to represent their interests in the arbitration process.

Selecting the Arbitrator

The Department and taxpayer will select an arbitration company from a registry maintained by the Department. Thereafter, the arbitration company will select an arbitrator to preside over the matter.

Arbitration Hearing

Hearings may be held at the LaSalle Building in Baton Rouge or at any other place designated by the arbitrator, with consideration of convenience to the parties and their witnesses.

The arbitrator will select a hearing date. Each party must notify the arbitrator in writing at least 10 business days before the initial arbitration session of the following:

1. The party's intention to present witnesses;
2. Whether the party will be represented by counsel;
3. Who will attend the hearing.

The Department and taxpayer must submit a brief statement of facts, law, and issues to be resolved. The statement may not exceed 15 legal-size pages.

The following sequence will be followed at the hearing:

1. **Introduction.** The arbitrator may make an introduction.

2. **Opening statements.** The taxpayer or his representative will make an opening statement, followed by the Department's representative.
3. **Taxpayer's case.** The taxpayer may introduce evidence, examine witnesses, and submit exhibits. The Department's attorney or representative may cross-examine the witnesses.
4. **Department's case.** The Department may introduce evidence, examine witnesses, and submit exhibits. The taxpayer or taxpayer's representative may cross-examine the witnesses.
5. **Evidence procedure.** Each party will have the opportunity to present relevant and credible evidence during the hearing. All statements will be made under oath administered by the arbitrator. The Rules of Evidence followed in the state district courts of Louisiana will apply to all evidence presented. Objections will be permitted.
6. **Rebuttal.** The taxpayer may present evidence and argument in rebuttal followed by arguments of the Department.
7. **Summation.** Each party may present a closing statement.
8. **Concluding remarks.** The arbitrator may make closing remarks concerning the case.
9. **Judgment.** The arbitrator shall render a decision within 30 business days after the date of the close of the hearing.

All arbitration sessions are private and confidential. No one participating in the session may disclose the existence, content, or results of the session without the written consent of all parties.

Fees & Expenses

Each party will bear the fees and expenses for its own counsel, expert witnesses, travel, and preparation and presentation of its case. The fees and expenses of the arbitrator will be borne equally by the taxpayer and the Department, in accordance with the arbitration company's fee schedule, unless the parties agree otherwise. If an arbitration session has been scheduled and a party fails to appear at the session, the party failing to appear will be responsible for payment of the reasonable costs and fees of the arbitrator and the reasonable travel expenses incurred by the other party, unless the party has provided reasonable notice in writing to the arbitrator and all other parties that they will not appear. It will be presumed, subject to a contrary showing under the circumstances, that giving five business days advanced written notice is reasonable notice. If reasonable notice is not provided, the arbitrator shall determine if there was good cause for the failure to appear.

It is the duty of the taxpayer to protect his right to protest or appeal any assessment or proposed assessment or to pursue any right to refund relating to any issue that may also be subject to the alternative dispute resolution process. Any agreement between a taxpayer or taxpayer representative and a representative of the Department to alter the conditions or time limits must be authorized by the Secretary of the Department of Revenue and executed in writing by both parties to be effective.

When required by either party, a written waiver or extension of any and all applicable prescriptive periods must be executed to each party's satisfaction. If a waiver is required by any party the arbitration process is halted until the waiver has been executed. Once a waiver is requested by either party, LDR and the taxpayer will have 30 business days to execute the waiver.

If no waiver is executed during this time period, then the alternative dispute resolution process is terminated. LDR and the taxpayer do have the right to initiate a new mediation process. However, if the second attempt to initiate the alternative dispute resolution fails, no subsequent attempts will be allowed unless the arbitrator agrees it is in the parties' best interest to continue to arrive at an agreement.



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