

port your reasons. The request will either be granted or denied. If there is no response to your request by the hearing date, you must be prepared to go forward with the hearing. See 04 N.C. Admin. Code 24D .1105.

What will happen at the tax hearing?

The Hearing Officer will begin by identifying everyone present for the hearing, and give instructions about the order of testimony and how the hearing will proceed. Each party will have an opportunity to present evidence and question witnesses. **NOTE:** If the party who filed the protest fails to appear for the tax hearing, the Board will dismiss the case. See N.C. Gen Stat. § 96-4(q).

What will happen after the tax hearing is over?

The Board members will consider all of the evidence given at the hearing, and issue a written decision that will address the issues that were before the Board. The Board’s written decision in a tax case is called a Tax Opinion. The Tax Opinion will contain information about your right to appeal the opinion, and will be sent to each party in the case. See N.C. Gen Stat. § 96-4 (q); 04 N.C. Admin. Code 24D .1107.

Where can I get a copy of the Employment Security Law?

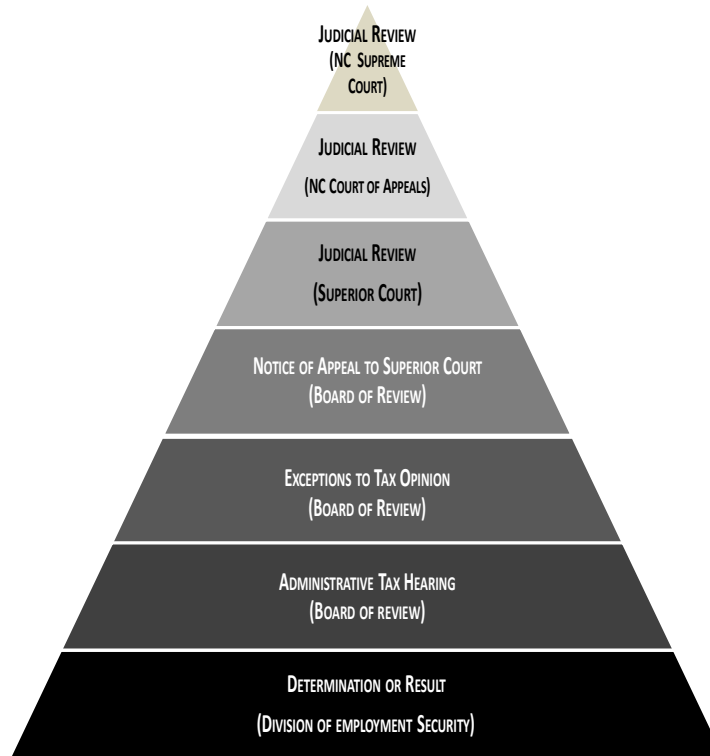
The Employment Security Law is found in Chapter 96 of the North Carolina General Statutes and in Title 4, Chapter 24 of the North Carolina Administrative Code. You can access a copy of the governing law on the DES website at www.ncesc.com, General Assembly’s website at www.ncga.state.nc.us, or the Office of Administrative Hearings website at www.oah.state.nc.us/rules.

The unemployment insurance program in North Carolina is administered by the North Carolina Department of Commerce.

CONTACT INFORMATION

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LEVELS OF APPEALS - TAX



Published by the North Carolina Department of Commerce.

Form NCBOR 570-E (Created 11/2015)



TAX LIABILITY

TAX HEARINGS BEFORE THE BOARD OF REVIEW

This pamphlet contains important information about your rights under the Employment Security Law. It explains what you should expect when you are involved in a tax hearing before the North Carolina Department of Commerce, Board of Review.

If you do not comply with all the requirements established by law, you may lose your right to appeal.

For claims filed on or after June 30, 2013, claimants are subject to repayment of benefits received from any decision that is later reversed on appeal. N.C. Gen. Stat. § 96-18(g)(2).



For more information about appeals in tax liability cases, visit the “Frequently Asked Questions” (FAQ) section of the North Carolina Department of Commerce, Division of Employment Security’s website at www.ncesc.com

Usted puede obtener una copia de este folleto en español en la oficina del Departamento de Comercio, División del Desempleo de Carolina del Norte .

What is a protest?

A protest is an appeal. It is a written statement that explains your disagreement with a determination or result (decision) that was issued by the North Carolina Department of Commerce, Division of Employment Security's Tax Administration Section (Division). See 04 N.C. Admin. Code 24D .1101.

What is the deadline for filing my protest?

The determination or result that you are protesting will tell you the deadline for filing your appeal. The date listed in the document that you are appealing controls your deadline. If the appeal deadline falls on a weekend or a legal state holiday, the appeal period ends on the next work day. See 04 N.C. Admin. Code 24D .0104.

Now that I filed a protest, what should I expect?

The Division's Tax Administration Section will assemble the file documents in your case and forward them to the Division's General Counsel. The General Counsel will assign an attorney to represent the Division. The attorney will draft a motion to the North Carolina Department of Commerce, Board of Review (Board), and request that the Board appoint a Hearing Officer to conduct a tax hearing in the case. The Board will later issue an Order appointing a Hearing Officer.

What is the Board of Review?

The Board was established in 2011 N.C. Sess. Laws 401. It is made up of three members that are appointed by the Governor and confirmed by the General Assembly to determine appeals policies and procedures, and to hear appeals from the decisions made by the Division. See N.C. Gen. Stat. § 96-15.3.

What is a tax hearing?

A tax or tax liability hearing is an administrative hearing where interested parties to a protest give testimony under oath and present evidence.

What are the types of issues in a tax hearing?

The issues in a tax hearing involve (1) an individual's monetary eligibility for unemployment insurance benefits, (2) the legal relationship between a claimant and an employer, or (3) the rights, status and liabilities of an employer. Another issue in a tax hearing may be whether the appeal was filed by the required deadline. If the appeal was filed

late, you must be prepared to provide a legally sufficient reason for the late filing. See N.C. Gen. Stat. §§ 96-4(q) and 96-15(b)(2); 04 N.C. Admin. Code 24D .0104.

Who conducts the hearing in a tax liability case?

Tax hearings are conducted by Hearing Officers appointed by the Board. Hearing Officers are licensed attorneys and must be members of the North Carolina Department of Commerce's legal staff. See N.C. Gen. Stat. § 96-4(q).

What happens after the Board appoints a Hearing Officer?

The Hearing Officer will schedule a hearing on your appeal. Your hearing notice is called a Summons to Hearing, and contains such information as the hearing date, time of the hearing, and the issues to be decided by the Board. The Summons will be mailed to each party at least 14 days before the hearing date. See N.C. Gen. Stat. §§ 96-4(q) and (u); 04 N.C. Admin. Code 24D .1102.

Am I required to have legal representation in a tax hearing?

You may, but are not required to have legal representation in administrative proceedings. Claimants or employers may file their own appeals and represent themselves (pro se) throughout the administrative appeal process, or have a legal representative represent them. If you plan to have a legal representative represent you, you should obtain one before any administrative hearing. See 04 N.C. Admin. Code 24C .0504.

Who can be a legal representative?

A legal representative must be a licensed attorney, or a person supervised by a licensed attorney. See N.C. Gen. Stat. § 96-17(b) and Chapter 84 of the North Carolina General Statutes.

Where can I find an attorney?

You may call the North Carolina Bar Association's Lawyer Referral Service at (800) 662-7660, Legal Aid of North Carolina toll-free at (866) 369-6923, or check your local telephone directory.

Do I have to tell the Board or the Hearing Officer that I have a legal representative?

Yes. Pursuant to 04 N.C. Admin. Code 24C .0504(e), notices or certification of representation must be in writing and provided to the Board to become part of

the official record of the case. When you have a legal representative, all information required to be provided to you will only be sent to your legal representative, unless you make a written request to the Board containing other instructions. See 04 N.C. Admin. Code 24C .0504.

What should I do to prepare for the hearing?

Read the hearing notice carefully. Gather your notes, documents, and any other evidence that supports your case. If you have documents that you believe are relevant to the case, you can submit this evidence, but you must provide a copy of the documents to the Hearing Officer and to each party before the hearing date. See N.C. Admin. Code 24C .0505. If you do not provide copies to the other party and the Hearing Officer, the Board may not take that evidence into consideration when making a decision in your case. Carefully review the documents that will be offered as exhibits during the hearing. Choose your witnesses and arrange for them to be available for the hearing. For telephone hearings, provide your witnesses' names and telephone numbers by completing and returning the Telephone Hearing Questionnaire that came with your hearing notice. See 04 N.C. Admin. Code 24D .1103.

If I ask a witness to testify voluntarily in the hearing, or to provide documents or recordings that are relevant to my case, and the witness refuses, how can the witness be made to comply?

You should contact the Hearing Officer listed in your hearing notice and request that the Hearing Officer issue a subpoena for the witness and/or other evidence. Legal representatives shall issue subpoenas at their own expense and discretion. Subpoena requests must be in writing and comply with 04 N.C. Admin. Code 24D .1106. See N.C. Gen. Stat. § 96-4 (k).

If I cannot appear at the hearing as scheduled, can I get the date and/or time changed?

Maybe. If made before the hearing, your request to reschedule the hearing must be in writing and sent to the Hearing Officer listed in your hearing notice, and to each party. The request must give the specific reasons for the request. You must show a legally sufficient reason for wanting to reschedule the hearing. Be prepared to provide documentation to sup-