



**BOARD OF COMMISSIONERS OF COOK COUNTY
BOARD OF COMMISSIONERS**

Cook County Building, Board Room, 118 North Clark Street, Chicago, Illinois

New Items Agenda

Thursday, April 25, 2019, 10:00 AM

Third Set

[19-3039](#)

Sponsored by: LARRY SUFFREDIN, Cook County Board of Commissioners

PROPOSED ORDINANCE AMENDMENT

COOK COUNTY TAXPAYER'S BILL OF RIGHTS

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 34 - FINANCE, ARTICLE III. - UNIFORM PENALTIES, INTEREST AND PROCEDURES, SECTION NUMBERS 34-64, 34-68, 34-69, 34-77, 34-79, 34-80, 34-82, 34-91, and 34-92 of the Cook County Code is hereby amended as Follows:

Sec. 34-64. - General powers.

(a) In addition to the powers provided in other tax ordinances, the Director may adopt, promulgate, and enforce rules and regulations pertaining to the administration and enforcement of the provisions of this article and any tax ordinance.

(b) The Director:

(1) May correct or amend any tax return or remittance return at any time.

(2) Is authorized to determine and assess any tax, interest or penalty due under this article, or under any tax ordinance, and may amend a tax determination and assessment at any time before it becomes final. Any tax determination and assessment, or amended tax determination and assessment, shall be deemed prima facie correct and the burden shall be on the person assessed to prove the contrary.

(c) The Department is authorized to examine the books and records of any taxpayer or tax collector during business hours to verify the accuracy of any return made or, if no return was made, then to ascertain and assess the tax imposed by any tax ordinance.

(d) In the course of any audit, investigation or other inquiry, the Director may require any taxpayer or tax collector to file information on a form prescribed and furnished by the Department.

(e) The Director ~~may~~ shall provide ~~by rule~~ for a conference between a taxpayer or tax collector and a representative of the Department to be held after the audit of the taxpayer or tax collector is completed, and at least 20 calendar days but before the Tax Director issues a notice of tax determination and assessment; provided, however, that the Department shall not be required to hold a conference if the Director determines in his or her sole discretion either:

(1) that delay will jeopardize the collection of any unpaid taxes; or

(2) that the taxpayer or tax collector will not agree to a date for holding the conference that is within 14 calendar days after the Department notifies the taxpayer or tax collector that the audit has been completed. Conferences shall be held in person if deemed practicable by the Department or otherwise by telephone.

(f) The Director may compromise all disputes in connection with any tax, interest or penalty due or any tax, interest or penalty assessed.

(g) In addition to all other rights, duties and responsibilities imposed by this ordinance, the Department shall have the following duties and responsibilities:

(1) The Department shall furnish a written statement of rights to every taxpayer or tax collector that is issued a notice of tax assessment and determination, a tax bill, or a denial of a claim for credit or refund, or that requests a copy of such a written statement or rights. The statement shall describe in summary form the rights of the taxpayer or tax collectors, and the obligations of the Department with respect to the administration, enforcement and collection of city taxes.

(2) The Department shall provide a brief written explanation of all taxable liabilities and penalties on or with every tax notice issue.

(3) The Department shall not cancel any payment agreement unless the taxpayer or tax collector fails to comply with the material terms of the agreement, such as failing to pay any amount due, and fails to cure any breach of agreement within the time permitted by the agreement or by the Department.

(4) Except in judicial proceedings, the Department shall place any seized taxpayer or tax collector's bank accounts in escrow with the bank for 20 calendar days immediately following the seizure to permit the taxpayer or tax collector to correct any departmental error.

Sec. 34-68. - Late penalties.

(a) If a tax ordinance does not impose a penalty for late filing of a tax return or remittance return required by the ordinance and the return is not filed within the time or in the manner provided by the ordinance, a late filing penalty equal to ~~ten~~ five percent of the total tax due applies for the period for which the return is being filed. This penalty does not apply if the failure to file penalty provided by Section 34-69 applies.

(b) If a tax ordinance does not impose a penalty for late payment or remittance of the tax imposed by the ordinance and the tax is not paid or remitted within the time provided by this article, a late payment or remittance penalty equal to ~~ten~~ five percent of the tax due and not timely paid or remitted applies. However, this penalty does not apply if a late filing penalty as provided in Subsection (a) of this section applies.

(c) If the Director determines that the taxpayer or tax collector had reasonable cause for any of the

following:

- (1) Paying late;
- (2) Remitting late;
- (3) Underpaying the applicable tax;
- (4) Filing a late or incomplete tax return; or
- (5) Filing a late or incomplete remittance return, the applicable penalty shall be waived.

Sec. 34-69. - Failure to file penalty.

If a tax ordinance does not impose a penalty for failure to file a tax remittance return required by the ordinance and no return is filed prior to the Department issuing a notice of tax determination and assessment ~~deficiency or a notice of tax liability~~ to the taxpayer or tax collector, a failure to file penalty equal to 25 percent of the total tax due for the applicable reporting period applies, unless the Director determines that the failure to file a return was due to reasonable cause. This penalty may apply in addition to any late payment or remittance penalty provided by Section 34-68(b).

Sec. 34-77. - Statute of limitations.

(a) Except as otherwise provided in Subsections (b), (c), and (d) of this section, the Director shall not issue any notice of tax determination and assessment to a taxpayer or tax collector for any period more than ~~seven~~ four years after the end of the calendar year in which the return for the period was filed with the Department or the end of the calendar year in which the return for the period was due, whichever is later.

(b) No statute of limitations applies ~~if~~ where the person named in the tax determination and assessment:

- (1) ~~A~~ filed a fraudulent tax return or remittance return was filed;
- (2) ~~No tax return or remittance return was filed;~~
- (3) ~~(2) No tax payment or tax remittance was paid or if a payment or remittance was made, the amount paid or remitted was less than 75 percent of the tax due failed to remit collected taxes to the Department; or~~
- (4) ~~The person~~ (3) agrees to waive the applicable statute of limitations.

(c) If for any tax, during any ~~seven~~ four-year period for which the Director may issue a notice of tax determination and assessment, the total tax paid or remitted was less than 75 percent of the total tax

due for that four-year period, then subject to the provisions of subsection (b) of this section, no statute of limitations applies to that tax and the Director may issue a notice of tax determination and assessment to a taxpayer or tax collector for any and all past periods that commenced on or after six calendar years prior to the January 1 immediately preceding the date on which the notice of tax determination and assessment is issued.

(d) Notwithstanding the total tax paid or remitted during any four-year period, and subject to the provisions of subsection (b) of this section, the statute of limitations set forth in subsection (a) of this section shall be extended by two years with respect to any period if:

(1) no tax return or remittance return was filed for that period; or

(2) the amount of tax paid for that period was less than 75% of the tax due.

(~~e~~) (e) If an amended return was filed for any tax period, the ~~seven~~ four-year period shall commence at the end of the calendar year in which the amended return was filed. However, subject to the provisions of subsection B of this section, the Department shall not issue a notice of tax determination and assessment to a taxpayer or tax collector more than six years after the original return was filed.

(~~e~~) (f) This The additional time limitations on the issuance of notices of tax determination and assessment imposed by the amendments to this section as a result of this ordinance shall apply only to notices of tax determination and assessment issued on or after December 31, 2019 ~~returns filed or payments due after April 1, 1993.~~

Sec. 34-79. - Postmark rule.

Unless otherwise provided, any notice, payment, remittance or other filing required to be made with the Department under this article, or under any County tax ordinance, shall be considered late unless it is either:

(1) Physically received by the Department on or before the due date; or

(2) Received in an envelope or wrapper displaying a valid, readable United States mail postmark dated on or before the due date, properly addressed to the Department, with adequate postage prepaid, and the Department shall retain all envelopes or wrappers to demonstrate what the postmark displays, and if the Department does not retain such envelopes or wrappers or if the envelopes or wrappers do not have a readable post mark or any postmark, then the sender can show by any competent evidence, including an affidavit or an employee or a certificate of mailing that the payment was deposited in the United States mail, properly addressed to the Department, before or on the due date.

Sec. 34-80. - Right to protest tax determination and assessment.

(a) Any person to whom the Director issues a tax determination and assessment shall be given

written notice of the tax determination and assessment along with written demand for payment.

The person named in the tax determination and assessment may file with the Department a written protest and petition for hearing. The written protest and petition must be filed within ~~20~~ 35 days of ~~mailing~~ receiving the notice of tax determination and assessment by the Department.

(b) If a timely written protest and petition for hearing is filed, the Director shall fix the time and place for the hearing and shall give written notice thereof.

(c) If a written protest and petition for hearing is not filed within the ~~20~~ 35-day period, the tax determination and assessment shall become a final assessment without further notice and without the necessity of a final assessment being issued the day after the last date for which a protest can be filed; provided, however, that a person who fails to file a written protest within the 35-day period may nevertheless obtain a hearing, as if the person has timely filed a protest, if, within 30 days after the Department issues to the person a written notice that the 35-day period has expired, the person:

(1) pays under protest the tax stated in the tax determination assessment, together with related interest; and

(2) files a written protest, including therein the request that the amounts paid under protest be returned.

(d) In the event that a tax determination and assessment is amended, the Department shall give the affected person written notice and an opportunity to be heard with respect to the amendment.

Sec. 34-82. - Officer and employee liability.

(a) Any officer or employee of any taxpayer or tax collector who controls, supervises, or is responsible for filing tax returns or remittance returns or who is responsible for paying or remitting any tax imposed by any tax ordinance, and who willfully fails to file any applicable return or willfully fails to pay or remit any applicable tax, interest or penalty shall be personally liable for a penalty equal to all those amounts due and owing.

(b) The personal liability of any person described in Subsection (a) of this section shall survive the dissolution of the taxpayer or tax collector.

Sec. 34-91. - Disposition of claims.

(a) As soon as practicable after a claim for credit or refund is filed, the Director shall examine the credit or refund request and determine the amount of credit or refund due, if any, and shall issue a written notice to the claimant of a tentative determination.

(b) The tentative determination of claim shall be prima facie correct and the claimant has the burden of proving with books, records, or other documentary evidence that the determination is incorrect.

(c) If the claimant disagrees with the tentative determination, the claimant may file with the Department a written protest. The written protest must be filed within ~~20~~ 35 days of ~~mailing~~ receiving the written notice of tentative determination of claim.

(d) Upon the receipt of a timely protest, the Director shall fix the time and place for hearing, by giving written notice to the claimant.

(e) Any hearing held under this section shall be governed by the procedures set forth in Section 34-70.

(f) Upon conclusion of the hearing, the hearing officer shall make a recommendation to the Director. The Director shall adopt, reject or modify the recommendation based on a review of the record and shall issue a final determination. Written notice of the Director's final determination shall be given to the claimant.

(g) If the claimant fails to file a timely written protest, the tentative determination shall become final without further notice the day after the last day for protest.

(h) The Director may issue to a claimant a letter of credit if the director determines that a claimant may be able to use the credit in the foreseeable future or may issue a refund certificate, in lieu of a letter of credit, on application by a claimant who cannot use, sell or assign a letter of credit. Refund certificates shall be numbered serially as issued and shall be paid in the order of issuance from funds appropriated for that purpose.

Sec. 34-92. - Bulk sales or transfers.

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~~(e) *Statute of limitations.* The statute of limitations provided by Section 34-77 shall apply with respect to the issuance of a notice of tax determination and assessment to the purchaser or transferee in a bulk sale. The statute of limitations with respect to the issuance of a notice of tax determination and assessment to a purchaser or transferee in a bulk sale shall be 4 years from the date of transfer.~~

BE IT FURTHER ORDAINED, by the Cook County Board of Commissioners, that Chapter 34 - FINANCE, ARTICLE III. - UNIFORM PENALTIES, INTEREST AND PROCEDURES, of the Cook County Code is hereby amended by adding Sections 34-88.1, 34-98, 34-99, and 34-100 as Follows

Section 34-88.1. Removal of Liens.

Upon the written request of any affected person, the Director shall have removed at the Department's own expense any improper lien recorded by the Department, and shall make every reasonable effort to correct the affected party's credit record. The Director shall issue appropriate orders to insure that liens are placed or maintained on property only when authorized by law.

Section 34-98. Problems Resolution.

The Director shall establish a problems resolution committee within the staff of the Department, which shall have as its primary purpose the resolution of complex administrative or processing problems concerning taxes, expediting of matters when unreasonable delays have occurred, assuring the taxpayer rights are protected in the administration of the tax laws, and giving priority treatment to time-sensitive inquiries or cases of truly urgent nature. The committee shall consider matters referred to it by the Director in his or her sole discretion, either at the request of a taxpayer or otherwise as the Director may determine. Any communication, recommendation, action or decision of the Director or committee regarding the problems resolution process shall be confidential and shall be within the sole discretion of the Director or committee.

Section 34-99. Annual Filing Option.

(a) Where a tax ordinance provides for the payment or remittance of a tax on a monthly or quarterly basis, a taxpayer or tax collector having average monthly liability of less than \$100 for that tax during the immediately preceding 12 months may apply to the Director to pay or remit the tax, and to file all related returns, on an annual calendar basis rather than a monthly or quarterly basis. All returns due for any calendar year pursuant to this section shall be submitted to the Department with payment by January 31 of the following year.

(b) The Director shall approve an application for annual filing after confirming the facts stated herein, and this approval shall continue indefinitely without further action of the taxpayer or tax collector; provided, however, that (1) the Director may deny the application if the Director determines in his or her sole discretion that the approval would jeopardize the collection of any taxes to be paid or remitted in the future, (2) the Director may, with at least 60 days written notice to the taxpayer or tax collector withdraw any approval already given if the Director determines in his or her sole discretion that continuation of the approval would jeopardize the collection of any taxes to be paid or remitted in the future, and (3) the Director shall, with at least 60 day's written notice to the taxpayer or tax collector, withdraw any approval already given if the person's average monthly liability in a calendar year subsequently exceeds \$100. Any notice of withdrawal shall include a schedule for the submission of returns and payments covering periods for which returns and payments have not already been submitted.

Section 34-100. Erroneous Written Information or Written Advice.

In the event that a taxpayer or tax collector demonstrates reasonable reliance upon erroneous written information or a written advice from the Department or the Cook County State's Attorney's Office, then the Director shall abate any taxes, interest or penalties that result from such information or advice.

Effective date: This ordinance shall be in effect on January 1, 2020.

[19-3144](#)

Sponsored by: SEAN M. MORRISON, KEVIN B. MORRISON, JOHN P. DALEY, BRIDGET DEGNEN, BRIDGET GAINER, BILL LOWRY, DONNA MILLER, STANLEY MOORE, PETER N. SILVESTRI, LARRY SUFFREDIN and SCOTT R. BRITTON, Cook County Board of Commissioners

PROPOSED ORDINANCE AMENDMENT

TIME REQUIREMENT FOR NOTICE OF MEETINGS

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 2 ADMINISTRATION, ARTICLE III COUNTY BOARD, Sec. 2-105. - PRIOR NOTICE TO PUBLIC FOR MEETINGS OF THE BOARD, ITS COMMITTEES AND SUBCOMMITTEES of the Cook County Code is hereby amended as Follows:

Sec. 2-105. - Prior notice to public for meetings of the Board, its Committees and Subcommittees.

(a) *Minimum time requirement for notice of meeting.* No less than ~~72 hours~~ four (4) business days before any meeting, not including Special Board or Emergency meetings, notice and an agenda for such meeting shall be provided by the Clerk for meetings of the Board or the Secretary for meetings of a Committee or Subcommittee.

Effective date: This ordinance shall be in effect immediately upon adoption