



## NEW MEXICO ADMINISTRATIVE HEARINGS OFFICE

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### **Self-Represented Tax Protest Hearing Checklist**

This guide is for your personal use and is not intended to provide legal advice. It is designed to help you understand and prepare for each step of the tax protest hearing process. Because every case is different, some parts of this checklist may not apply to your situation, and it may not address every issue that could arise.

#### **Before the Hearing**

##### ☐ Review Your Protest and Applicable Law

- Understand what issues you raised and what relief you are seeking.
- Understand the law you will cite in support of your position and consider the evidence needed to establish key facts.
- If you plan to cite a statute, rule, or case, bring a copy or provide a citation so it can be located.
- Review the Administrative Hearing Office rules: <https://www.aho.state.nm.us/>.

##### ☐ Read the Scheduling Order Carefully

- Note all deadlines including those for completing discovery, making disclosures, filing motions, and other pre-hearing activities.
- The scheduling order may include instructions for remote hearings or filing requirements.

##### ☐ Understand and Use Motions, If Needed

- A motion is a written request asking the hearing officer to take a specific action before, during, or sometimes even after the hearing.
- Common motions in a tax protest include:
  - Motion for Continuance (to reschedule a hearing)
  - Motion for Summary Judgment (to decide a case where there is no disagreement between the parties about the facts)
  - Motion to Compel Discovery (to require the other side to share information)
- Before filing a motion, contact the other party to find out whether they agree or object. If the parties agree on the request, you should state that in the motion.
- Motions must be submitted in writing to [tax.pleadings@aho.nm.gov](mailto:tax.pleadings@aho.nm.gov), with a copy sent to the Department's attorney. If the motion is opposed, the other party has 14 days to respond in writing unless otherwise stated in the scheduling order.
- The hearing officer may rule on some motions based solely on the written filings, or may schedule a separate hearing to discuss them.

##### ☐ Gather and Organize Your Evidence

- Evidence will depend on the unique circumstances of your protest. It might include:
  - Tax returns
  - Letters from the Department
  - Proof of payment
  - Business records
- Label exhibits clearly (see your scheduling Order for instructions).

##### ☐ Arrange for Witnesses to Attend

- Witnesses can testify about relevant facts, business practices, or records.

- If you need witnesses to testify, coordinate with them in advance.
  - If necessary, request subpoenas from the Administrative Hearings Office.
- ☐ Submit Exhibits Before the Deadline
- Follow the instructions in your scheduling order for how and when to submit or exchange exhibits. Requirements may vary depending on how the hearing will be conducted (in-person, video, telephone).
- ☐ Submit Pre-Hearing Filings or Other Submissions
- Motions, stipulations, notices, and other documents may be filed by [tax.pleadings@aho.nm.gov](mailto:tax.pleadings@aho.nm.gov), U.S. Mail, other delivery service (e.g. FedEx, UPS), or personal hand delivery.
  - Exhibits may also be submitted using the same methods, but they will not be reviewed unless admitted as evidence during the hearing or agreed upon by the parties.
  - Filings must be copied to the opposing party; failure to do so may result in rejection.
- ☐ Decide Whether to Request a Remote Hearing
- If your circumstances change, you may request permission (see motions) to appear by phone or video.
- ☐ Consider Whether to Request an Interpreter or ADA Accommodation
- Submit your request as early as possible.
- ☐ Communicate with the opposing party
- The parties can simplify or even resolve issues through communication.
- ☐ Technology Check
- Test your video conferencing software, microphone, and internet connection to avoid technical issues during the hearing.
  - Become familiar with basic operation of the software.
- ☐ Understand What the Record Is
- The hearing officer can only consider evidence and arguments made during the hearing or submitted in filings. Anything not included in the record will not be reviewed.
- ☐ Ex Parte Communication Is Not Allowed
- Ex parte communication means contacting the hearing officer directly—outside of the hearing or formal filings—to talk about your case. This is not allowed.
  - You must not call, email, or speak to the hearing officer about your case unless both parties are included (such as during a scheduled hearing or in shared filings).
  - All communications must be filed properly and copied to the other party.
  - This rule protects fairness by making sure both sides have the same opportunity to be heard.

### **Day of the Hearing**

- ☐ Be on Time
- Arrive early (or call or log in early, if remote) with all materials ready.
- ☐ Bring Copies of Your Exhibits
- Bring one copy for yourself, one for the hearing officer, one for the witness, and one for the other party. If the hearing is remote, follow instructions in your Scheduling Order for how to submit or share exhibits.
- ☐ Prepare to Present Your Case Clearly
- You will explain why you believe the Department was incorrect.

☐ Be Respectful and Professional

- It is normal to feel nervous, frustrated, or even angry. You may ask for a break if needed, including to collect your thoughts or manage stress.
- Remember that the hearing officer will give both sides an opportunity to speak.

☐ Notetaking During the Hearing

- Bring a notebook and pen to record key points, questions asked, and responses given during the hearing.

**Tips for Presenting Your Case**

☐ Opening Statement

- Briefly summarize what your case is about and what decision you're asking for.
- Describe the evidence and witnesses the hearing officer will hear.
- Keep it short—this is not your full testimony.

☐ Testifying

- Tell the truth and speak clearly.
- Stick to what you personally know.
- Explain your side of the story in the order events occurred.
- Refer to exhibits where helpful (e.g., “As shown in Exhibit B...”).
- You may be asked questions by the Department’s attorney or the hearing officer.

☐ Questioning Your Own Witnesses

- Ask open-ended questions that help your witness explain relevant facts. Example: “Can you describe how the records were kept?”
- Avoid leading questions that suggest the answer. Example: “Isn’t it true that...?”
- Let the witness speak—don’t interrupt or argue.

☐ Cross-Examining the Other Side’s Witnesses

- You may ask leading questions.
- Ask short, focused questions about things they already said.
- You may use this time to question the accuracy or credibility of the testimony presented.
- Stay calm and polite, even if you disagree.

☐ Closing Argument

- Summarize the most important facts and evidence that support your side.
- Explain how the law or rules support your position.
- Keep your argument organized, and don’t introduce new evidence.

**After the Hearing**

☐ Decision and Order

- The hearing officer’s decision will be based only on the evidence and arguments presented on the record—that is, what is submitted in writing or stated during the hearing.
- You will receive a written decision.
- Either party may file an appeal if they disagree. The appeal is filed with the New Mexico Court of Appeals within 30 days of the written Decision and Order. Self-represented parties may obtain more information at <https://coa.nmcourts.gov/self-representation/>.

| Term                          | Plain-Language Definition   |
|-------------------------------|---|
| <b>ADA Accommodation</b>      | A change in procedure, schedule, or setup provided to ensure equal access for someone with a disability. You can request one in advance if you need help hearing, seeing, moving, speaking, or understanding the process. |
| <b>Administrative Hearing</b> | A formal legal proceeding, like a court trial, where an independent hearing officer decides a dispute between you and the Taxation and Revenue Department.  |
| <b>Burden of Proof</b>        | The responsibility to prove your claims. In most tax protests, the taxpayer must prove that the Department's decision was incorrect.  |
| <b>Continuance</b>            | A request to reschedule a hearing for another day.  |
| <b>Decision and Order</b>     | The written ruling issued by the hearing officer after the hearing. It explains what the hearing officer decided and why. It tells you whether your protest was granted or denied, and how to appeal.                     |
| <b>Default</b>                | What happens when a party fails to appear or respond as required. For example, missing your hearing may result in your protest being denied by default.   |
| <b>Discovery</b>              | The process of exchanging information and documents with the other party before the hearing. Discovery may include written questions, document requests, or informal exchanges.   |
| <b>Due Process</b>            | Your right to a fair and impartial hearing, including the chance to present your case, respond to the other side, and be heard by a neutral decision-maker.   |
| <b>Evidence</b>               | Documents, testimony, or other materials presented to support your case. Must be admitted at the hearing to be considered.  |
| <b>Ex Parte Communication</b> | Private communication with the hearing officer about your case, without the other party being included. This is not allowed.  |
| <b>Exhibit</b>                | A document, record, photo, or object submitted as evidence at the hearing. Must be labeled and disclosed in advance.  |
| <b>Filing</b>                 | Submitting a document (such as a motion, notice, or pleading) to the Administrative Hearings Office.  |
| <b>Hearing Officer</b>        | A neutral decision-maker who presides over the hearing and issues a written decision. Like a judge, but for administrative cases.   |
| <b>Legal Authority</b>        | A statute, rule, or case that supports your argument. If you refer to a legal authority, be ready to explain how it applies.  |
| <b>Motion</b>                 | A formal request asking the hearing officer to make a decision or take action before, during, or after the hearing.   |
| <b>Order</b>                  | A written ruling by the hearing officer that directs what will happen next in your case.  |
| <b>Pre-Hearing Conference</b> | A meeting scheduled before the hearing (usually by phone) where the parties and hearing officer discuss scheduling or procedural matters.   |
| <b>Protest</b>                | A formal challenge to a decision made by the Taxation and Revenue Department.   |
| <b>Record</b>                 | The official set of documents and testimony that the hearing officer considers in making the decision. Only what's on the record can be used.   |
| <b>Remote Hearing</b>         | A hearing conducted by phone or video instead of in person. May require advance approval.   |
| <b>Stipulation</b>            | A written agreement between both parties that certain facts are true and don't need to be proven at the hearing.  |
| <b>Subpoena</b>               | A legal document ordering a person to appear at the hearing to testify or provide records.  |
| <b>Testimony</b>              | A statement made under oath by a party or witness at the hearing.   |
| <b>Waive</b>                  | To give up a right or step in the process. For example, you may waive (skip) your opening statement if you choose.  |
| <b>Witness</b>                | A person who provides testimony about relevant facts. Can be you, someone you know, or an expert.   |