

January 7, 2009

CONTESTING A NOTICE OF DEFICIENCY DETERMINATION

Issue:

How much time does a taxpayer have to file a petition for redetermination to contest a Notice of Deficiency Determination?

Conclusion:

Taxpayers generally have 60 days from the date of postmark of a Notice of Deficiency Determination to file a petition for redetermination.

Analysis:

Previously, a taxpayer had 30 days to file a petition for redetermination of a Notice of Deficiency Determination issued prior to January 1, 2009 for all state tax programs except income taxes, drug tax, and jeopardy assessments. Petitions for redetermination of state **income tax** deficiency notices issued prior to January 1, 2009 had to be filed within 90 days of the postmark date of the notice. Petitions for redetermination of **drug tax assessments** and **jeopardy assessments** issued prior to January 1, 2009 had to be filed within ten days of the postmark date of the notice.

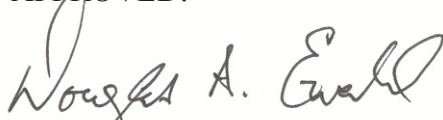
In 2008, Legislative Bill (LB) 914 was enacted by the Legislature setting the period for filing a petition for redetermination of a deficiency determination at 60 days for most state tax programs. If the petition for redetermination is not filed or postmarked within the applicable 60-day limitation period, the Notice of Deficiency Determination becomes final, and any tax, interest, and penalty is due and payable. The Department's [Practice and Procedure Regulations](#) do not currently allow a faxed or electronic protest to meet the statutory filing requirements.

See the Department of Revenue's Information Guide on "[Procedures for Reviewing and Appealing a Notice of Deficiency Determination and Notice and Demand for Payment](#)" for more detailed information on contesting a notice of deficiency determination.

Nebr. Rev. Stat. §§ [66-722](#), [66-723](#), [66-1344](#), [77-1783.01](#), [77-2709](#), [77-2775](#), [77-2777](#), [77-2778](#), [77-2793](#), [77-2796](#), [77-27,100](#), and [77-5726](#) contain the provisions authorizing the 60-day petition for redetermination filing period. These statutes may be accessed from the Nebraska Legislature's Web site at <http://nebraskalegislature.gov/laws/laws.php>.

The changes reflected in this ruling are effective for a Notice of Deficiency Determination issued on and after January 1, 2009.

APPROVED:



Douglas A. Ewald
Tax Commissioner

January 7, 2009