

STATE OF MICHIGAN



JOHN ENGLER, Governor

**DEPARTMENT OF TREASURY**

TREASURY BUILDING, P.O. BOX 1528, LANSING, MICHIGAN 48901  
DOUGLAS B. ROBERTS, State Treasurer

**REVENUE ADMINISTRATIVE BULLETIN 1995 - 2**

**Approved:** March 17, 1995

**TOBACCO PRODUCTS TAX ACT  
SEIZURE OF CONTRABAND TOBACCO PRODUCTS -- ADMINISTRATIVE HEARING**

**RAB-95-2.** This bulletin describes the administrative hearing held in cases in which tobacco products have been seized and a hearing has been requested. This hearing is authorized by section 9 of the Tobacco Products Tax Act, Act No. 327 of the Public Acts of 1993, MCL 205.421 et seq.; MSA 7.411(31) et seq.

**Hearing for Seized Property**

A person from whom the tobacco products were seized or any person claiming an interest in the property may file a demand for hearing within 5 business days of the date of service of the inventory statement or, in the case of publication, within 5 business days after the date of last publication. The request for hearing shall be filed with the commissioner of revenue by registered mail, facsimile transmission, or personal service.

A hearing shall be scheduled and held within 5 business days of the receipt of the request, unless additional time is sought by the person requesting the hearing. After receipt of the request for hearing, the department shall immediately contact the person or his or her representative by telephone or facsimile communication during normal business hours, and shall advise the person or his or her representative of the time and place of the hearing and the referee before whom the hearing will be held.

The hearing is not a contested case proceeding and is not subject to the Administrative Procedures Act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being MCL 24.201 et seq.; MSA 3.560(101) et seq. or the Open Meetings Act, Act No. 267 of the Public Acts of 1976, as amended, MCL 15.261 et seq.; MSA 4.1800(11) et seq.

The referee shall conduct the hearing in an informal manner that facilitates the exchange of information needed to determine whether the property is subject to seizure and forfeiture under the act or is to be returnable to the person entitled to possession.

The person or persons are entitled to appear before the department, to be represented by counsel, and to present testimony and argument. The referee shall hear and receive testimony. Matters alleged as fact may be submitted in the form of affidavit or may be declared to be true under the penalties of perjury. The person requesting the hearing may submit his or her presentation in the form of a brief or a written statement that contains the facts, a discussion of the relevant law, and the legal arguments in favor of his or her position.

If the person requesting the hearing fails to appear at the hearing, the referee may dismiss the request for

hearing. A person requesting the hearing may make a sound recording of the hearing, but not a video recording, at that person's expense. A formal record of the hearing will not be made.

After reviewing the testimony, evidence, comments, and written submissions, the referee shall prepare a written recommendation to the department.

The department, acting through the commissioner, shall issue a decision within 10 business days after the hearing. The decision shall be personally served on the person or his or her representative by registered mail.

#### **Appeal From Administrative Decision**

If a person is aggrieved by the decision of the department, the person may appeal to the circuit court of the county where the seizure was made as prescribed by the act.