Ohio Appeal Procedure

R.C. 5703.60, 5703.70, 5717.02, 5747.11, 5747.13

Ohio | Department of Taxation

3/2019

Administrative Appeal Authority

- Administrative Appeals are primarily in response to:
  - Petitions for Reassessment
  - Applications for Refund

- Chapter 5747 relates to income tax, pass-through entity tax, and withholding tax
  - R.C. 5747.11 & 5747.13

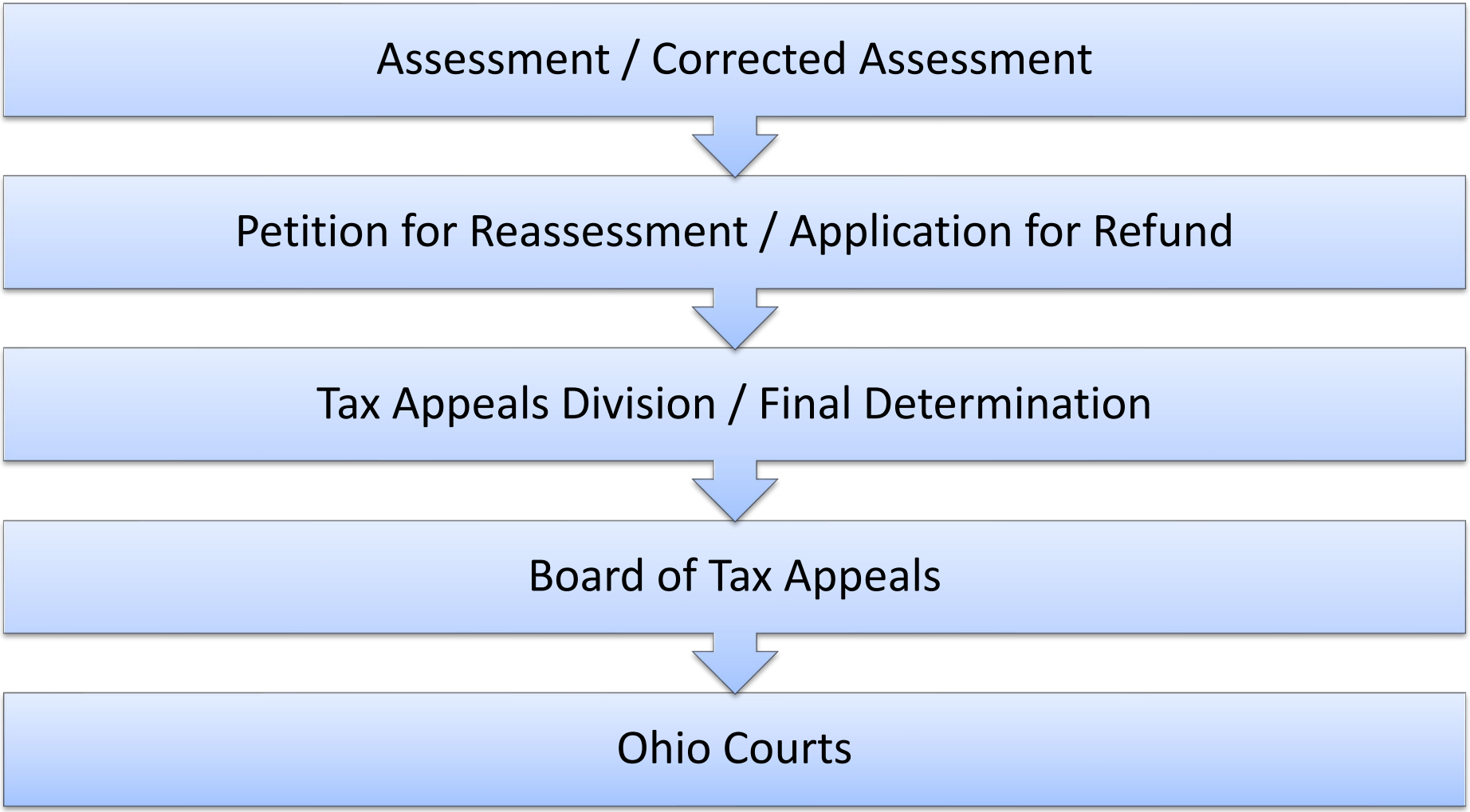
- Chapter 5703 lays out the general roles, duties, and procedures of the Tax Commissioner and Department of Taxation
  - R.C. 5703.60 & 5703.70

Inquiries & Billing Notices

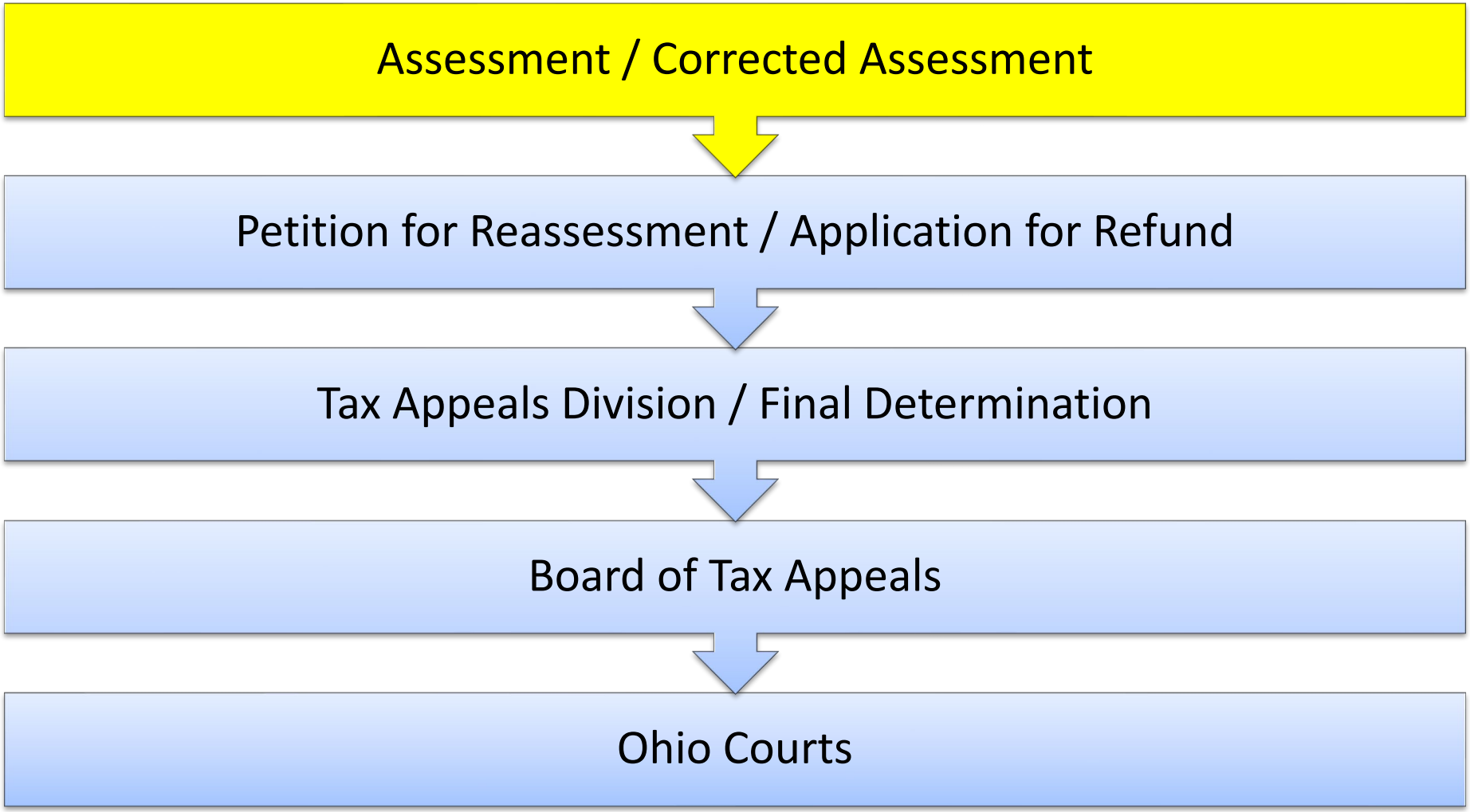
- First contact from Department of Taxation is generally an inquiry and/or billing notice
  - Initial notice that debt might be due
  - Provides the taxpayer an opportunity to address the issue pre-assessment

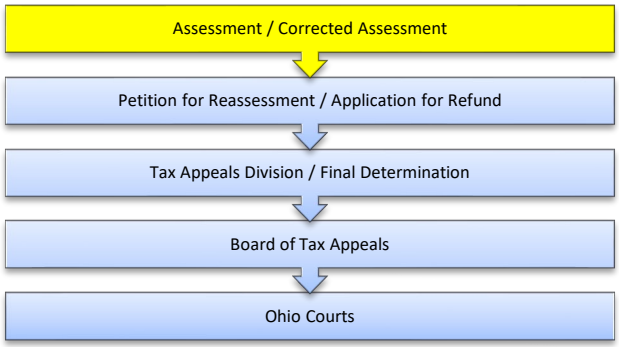
- Inquiries and billing notices are prior to the beginning of the appeals process
  - Bills cannot be appealed because they are not a formal notice of a tax debt

Appeals Process Flowchart



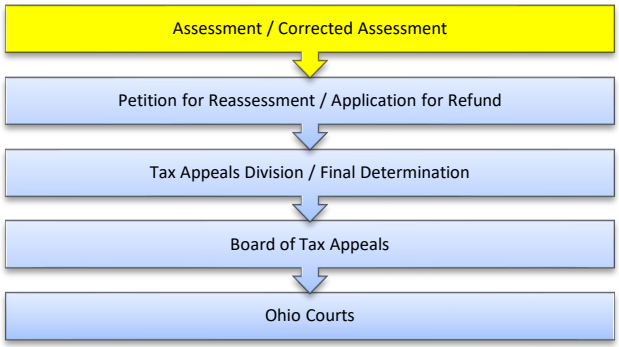
Assessment/ Corrected Assessment





Assessments

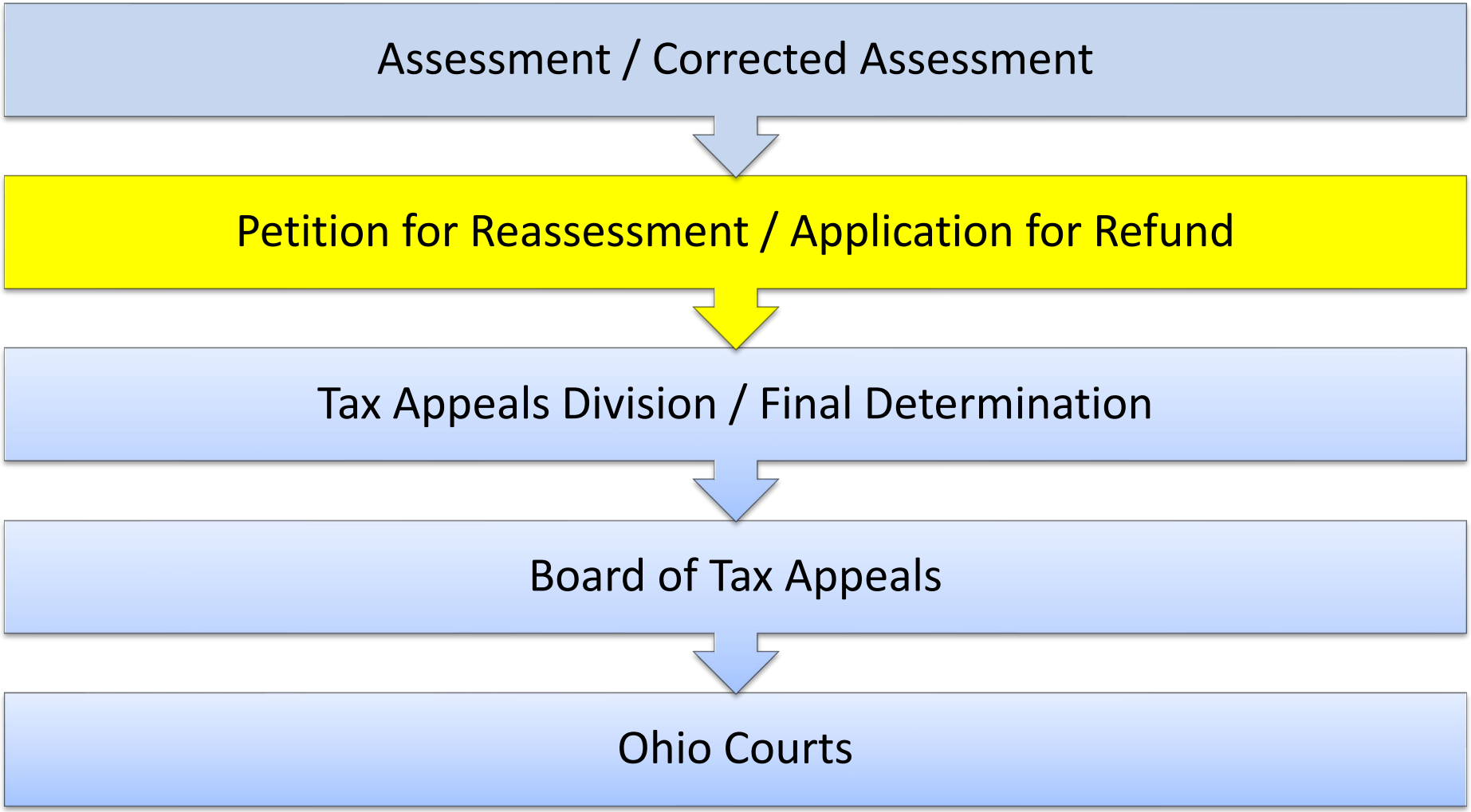
- No response or insufficient documentation, will move the bill to the assessment stage
- An assessment is the legal notice of a tax debt
  - Made based on upon the best information in the Commissioner's possession
  - Sent by certified mail
- Subject to some exceptions, there is a 4-year limitation on assessments

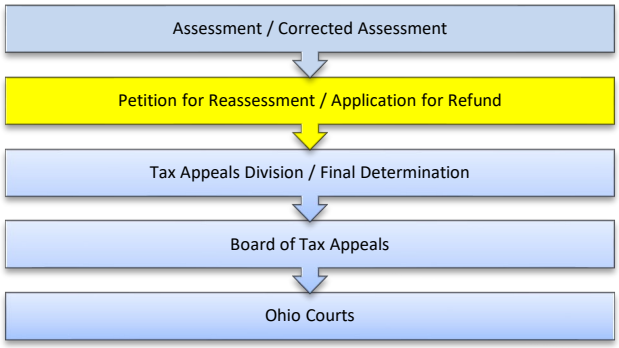


Corrected Assessments

- Process allows the Commissioner to correct any assessment in response to new information
  - Can **reduce or increase** previous assessment based on new or additional information
  - Delivered by ordinary mail
- A corrected assessment nullifies any previously filed petition for reassessment
  - Taxpayer must file a new petition within 60 days of corrected assessment
- Taxpayers can opt-out of this process

Petition for Reassessment/ Refund Applications

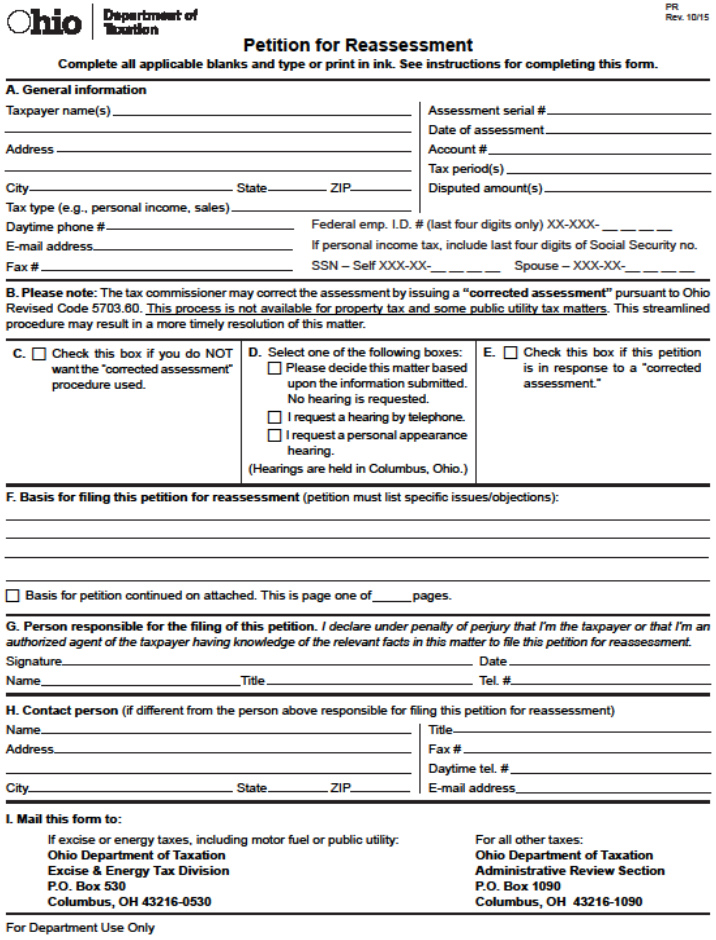




Petition for Reassessment

- A Petition for Reassessment **must**:
  1. Be in writing;
  2. Be filed with the Commissioner within 60 days of receipt of the assessment;
  3. Be signed by the party assessed or the party's authorized agent (include TBOR-1 if signed by agent); and
  4. Indicate all objections of the party assessed.

- A Petition for Reassessment **may** request a hearing



Ohio | Department of Taxation

PR
Rev. 10/15

Petition for Reassessment

Complete all applicable blanks and type or print in ink. See instructions for completing this form.

A. General information

Taxpayer name(s) _____ Assessment serial # _____
_____ Date of assessment _____
Address _____ Account # _____
_____ Tax period(s) _____
City _____ State _____ ZIP _____ Disputed amount(s) _____
Tax type (e.g., personal income, sales) _____
Daytime phone # _____ Federal emp. I.D. # (last four digits only) XX-XXX- __ __ __ __
E-mail address _____ If personal income tax, include last four digits of Social Security no.
Fax # _____ SSN – Self XXX-XX-__ __ __ __ Spouse – XXX-XX-__ __ __ __

B. Please note: The tax commissioner may correct the assessment by issuing a **"corrected assessment"** pursuant to Ohio Revised Code 5703.60. This process is not available for property tax and some public utility tax matters. This streamlined procedure may result in a more timely resolution of this matter.

C. ☐ Check this box if you do NOT want the "corrected assessment" procedure used.

D. Select one of the following boxes:
☐ Please decide this matter based upon the information submitted. No hearing is requested.
☐ I request a hearing by telephone.
☐ I request a personal appearance hearing.
(Hearings are held in Columbus, Ohio.)

E. ☐ Check this box if this petition is in response to a "corrected assessment."

F. Basis for filing this petition for reassessment (petition must list specific issues/objections):
_____
_____
_____
_____

☐ Basis for petition continued on attached. This is page one of _____ pages.

G. Person responsible for the filing of this petition. *I declare under penalty of perjury that I'm the taxpayer or that I'm an authorized agent of the taxpayer having knowledge of the relevant facts in this matter to file this petition for reassessment.*
Signature _____ Date _____
Name _____ Title _____ Tel. # _____

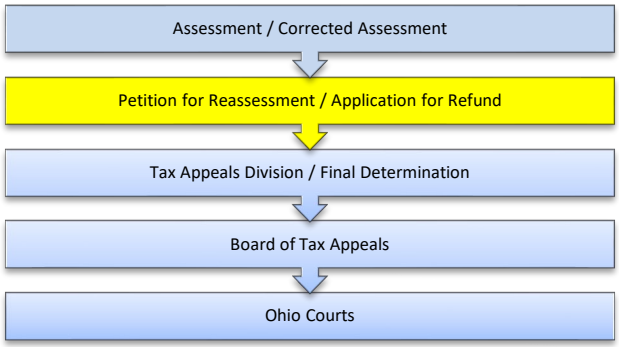
H. Contact person (if different from the person above responsible for filing this petition for reassessment)
Name _____ Title _____
Address _____ Fax # _____
_____ Daytime tel. # _____
City _____ State _____ ZIP _____ E-mail address _____

I. Mail this form to:

If excise or energy taxes, including motor fuel or public utility:
Ohio Department of Taxation
Excise & Energy Tax Division
P.O. Box 530
Columbus, OH 43216-0530

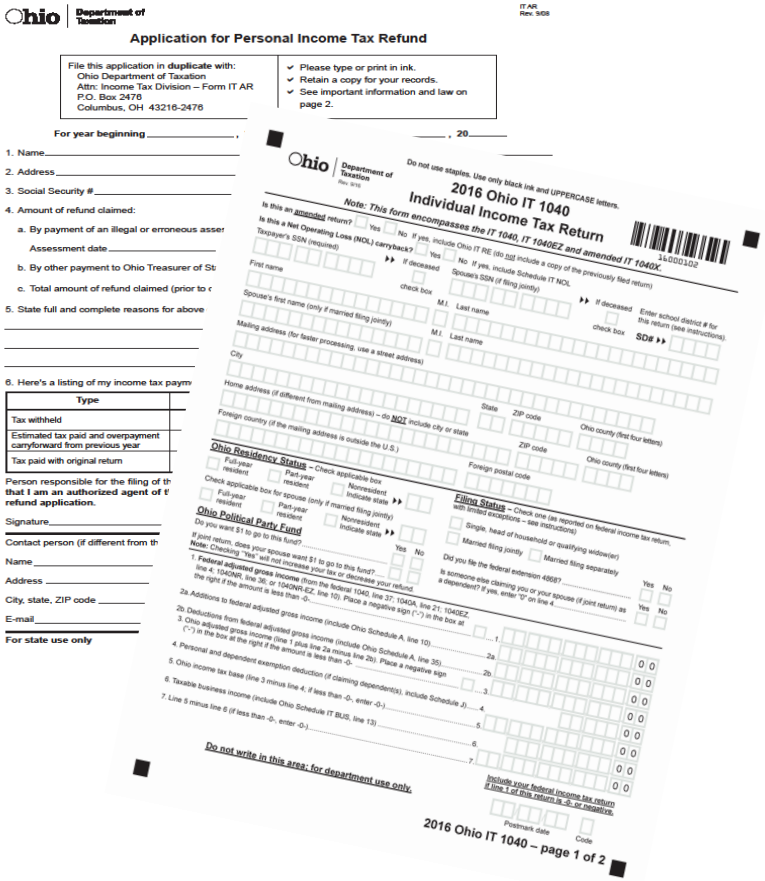
For all other taxes:
Ohio Department of Taxation
Administrative Review Section
P.O. Box 1090
Columbus, OH 43216-1090

For Department Use Only



Applications for Refund

- R.C. 5747.11(A) governs refunds to employers, qualifying entities, or taxpayers for **any overpayments tax**
- Refund applications must be made **on a form prescribed by the Commissioner**, which includes:
  - The Department issued "Application for Refund"
  - A tax return or an amended tax return


Ohio Department of Taxation

Application for Personal Income Tax Refund

File this application in **duplicate** with:
Ohio Department of Taxation
Attn: Income Tax Division – Form IT AR
P.O. Box 2476
Columbus, OH 43216-2476

- Please type or print in ink.
- Retain a copy for your records.
- See important information and law on page 2.

For year beginning _____, _____, 20_____

1. Name
2. Address
3. Social Security #
4. Amount of refund claimed:
   a. By payment of an illegal or erroneous asse
   Assessment date
   b. By other payment to Ohio Treasurer of St
   c. Total amount of refund claimed (prior to
5. State full and complete reasons for above
6. Here's a listing of my income tax paym

Type	
Tax withheld	
Estimated tax paid and overpayment carryforward from previous year	
Tax paid with original return	

Person responsible for the filing of th
that I am an authorized agent of t
refund application.

Signature
Contact person (if different from th
Name
Address
City, state, ZIP code
E-mail
For state use only

Ohio Department of Taxation

Do not use staples. Use only black ink and UPPERCASE letters.

2016 Ohio IT 1040
Individual Income Tax Return

Note: This form encompasses the IT 1040, IT 1040EZ and amended IT 1040X.

Is this an amended return? Yes No If yes, include Ohio IT RE (do not include a copy of the previously filed return)
Is this a Net Operating Loss (NOL) carryback? Yes No If yes, include Schedule IT NOL
Taxpayer's SSN (required) ▸▸ If deceased check box
Spouse's SSN (if filing jointly) ▸▸ If deceased check box
First name M.I. Last name
Spouse's first name (only if married filing jointly) M.I. Last name
Enter school district # for this return (see instructions) SD# ▸▸
Mailing address (for faster processing, use a street address)
City
Home address (if different from mailing address) – do NOT include city or state State ZIP code Ohio county (first four letters)
Foreign country (if the mailing address is outside the U.S.) ZIP code Ohio county (first four letters)
Foreign postal code

Ohio Residency Status – Check applicable box
Full-year resident Part-year resident Nonresident Indicate state ▸▸
Check applicable box for spouse (only if married filing jointly)
Full-year resident Part-year resident Nonresident Indicate state ▸▸

Filing Status – Check one (as reported on federal income tax return, with limited exceptions – see instructions)
Single, head of household or qualifying widow(er)
Married filing jointly Married filing separately
Did you file the federal extension 4868? Yes No
Is someone else claiming you or your spouse (if joint return) as a dependent? If yes, enter "0" on line 4 Yes No

Ohio Political Party Fund
Do you want $1 to go to this fund? Yes No
If joint return, does your spouse want $1 to go to this fund?
Note: Checking "Yes" will not increase your tax or decrease your refund.

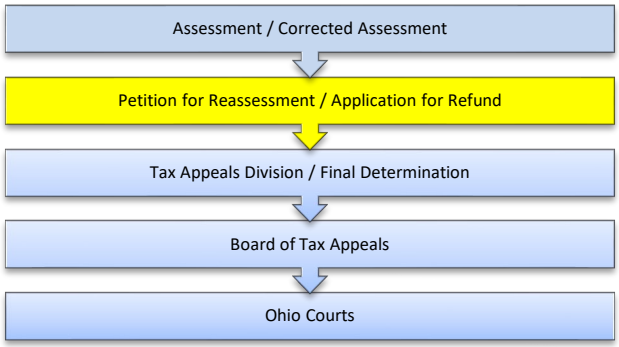
1. **Federal adjusted gross income** (from the federal 1040, line 37; 1040A, line 21; 1040EZ, line 4; 1040NR, line 36; or 1040NR-EZ, line 10). Place a negative sign ("-") in the box at the right if the amount is less than -0- ..... 1.
2a. Additions to federal adjusted gross income (include Ohio Schedule A, line 10) ..... 2a.
2b. Deductions from federal adjusted gross income (include Ohio Schedule A, line 35) ..... 2b.
3. Ohio adjusted gross income (line 1 plus line 2a minus line 2b). Place a negative sign ("-") in the box at the right if the amount is less than -0- ..... 3.
4. Personal and dependent exemption deduction (if claiming dependent(s), include Schedule J) ..... 4.
5. Ohio income tax base (line 3 minus line 4; if less than -0-, enter -0-) ..... 5.
6. Taxable business income (include Ohio Schedule IT BUS, line 13) ..... 6.
7. Line 5 minus line 6 (if less than -0-, enter -0-) ..... 7.

Do not write in this area; for department use only.

Include your federal income tax return if line 1 of this return is -0- or negative.

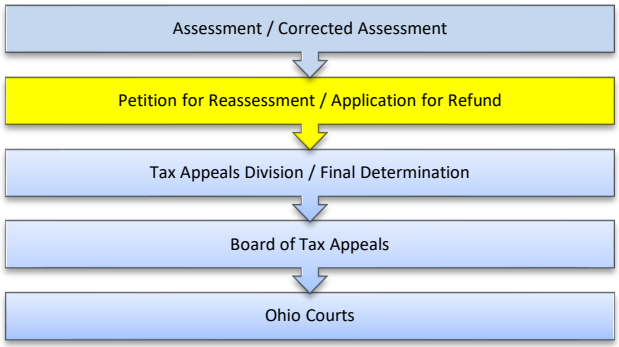
Postmark date Code

2016 Ohio IT 1040 – page 1 of 2



Applications for Refund

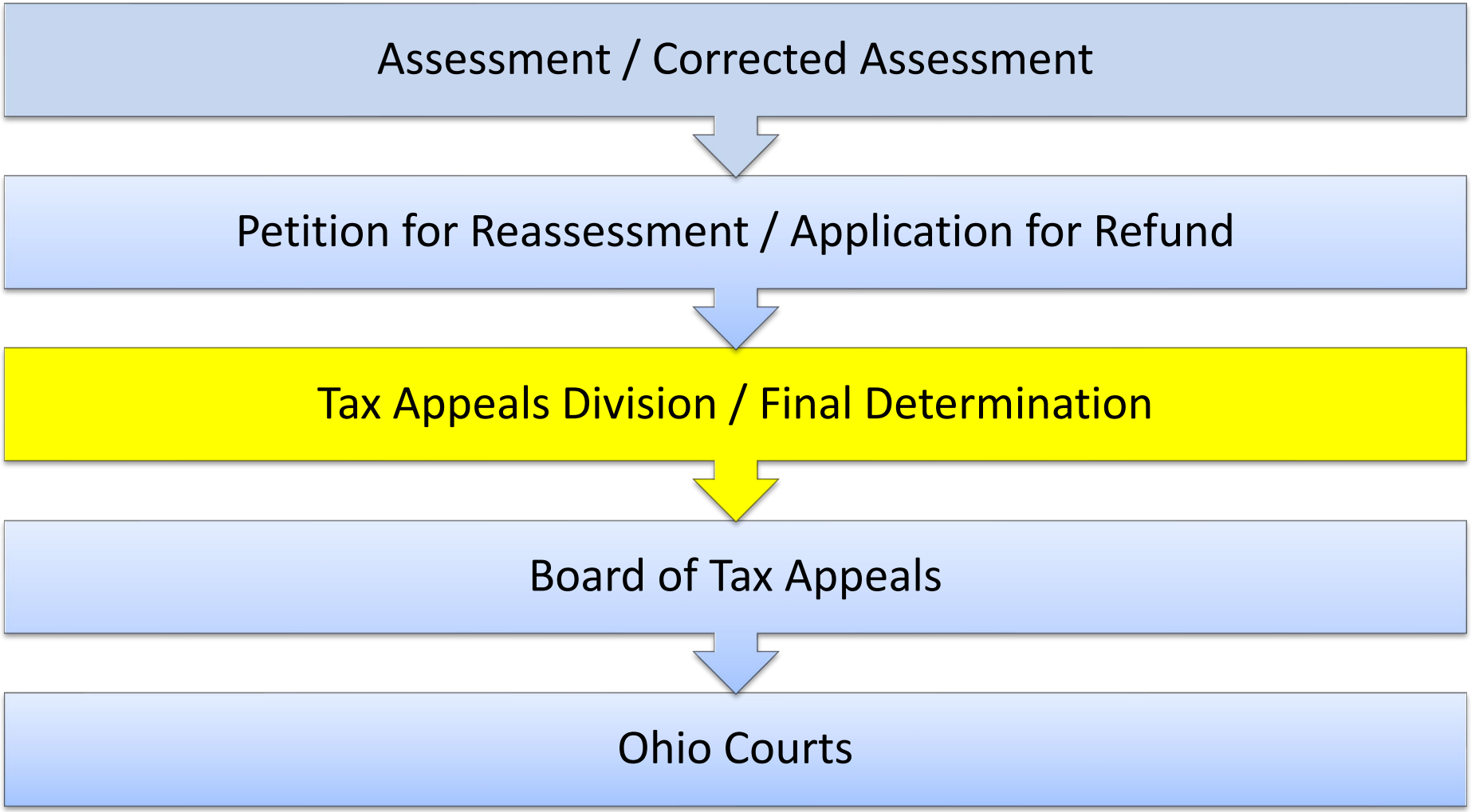
- Refund claims are subject to **Full Grant, Partial Grant or Full Denial**
  - Commissioner will give notice in any case
- If refunds are partially granted or denied in full:
  - Taxpayer has **60 days** to provide additional information supporting their claim for refund and/or
  - Taxpayer can also request a hearing
- When additional information is provided or a hearing is requested, it is reviewed by the Tax Appeals Division
  - Tax Appeals will issue a Final Determination

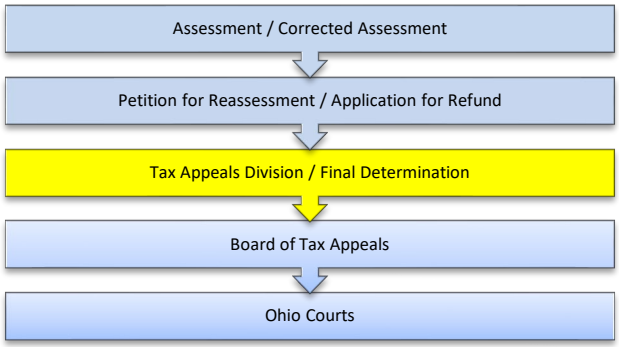


Tips to an Effective Petition or Refund Claim

- Clearly indicate your request for hearing
- Make specific objections:
  - Specifications of error must be **explicit and precise**
  - Should tie the facts of the case to the alleged error
- Submit evidence to support objections & claims:
  - The taxpayer needs to show that the assessment is incorrect and that the taxpayer is entitled to the relief requested
- Additional objections may be raised in writing:
  - Must be submitted before the Final Determination is issued

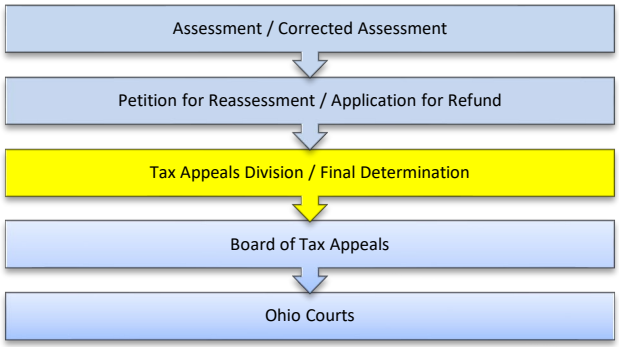
Hearing/ Final Determination Process





Duties of the Tax Appeals Division

- The Tax Appeals Division ("TAD")
  - Conducts most of the Department's administrative appeal hearings
  - Drafts and issues Final Determinations ("FDs"), which serve as the Department's final decision
- TAD does not prosecute or rubber stamp taxpayer assessments/ refund denials at the hearing
  - TAD's role is for an attorney to give the case a **fresh look**
- TAD attorneys are there to:
  - Understand why and how you believe the assessment is incorrect
  - Show how your documentation supports your position

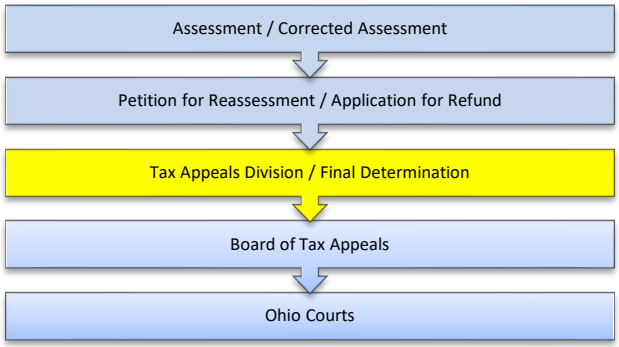


TAD Administrative Hearings

- Hearings provide taxpayers with an opportunity to discuss the merit of their appeal

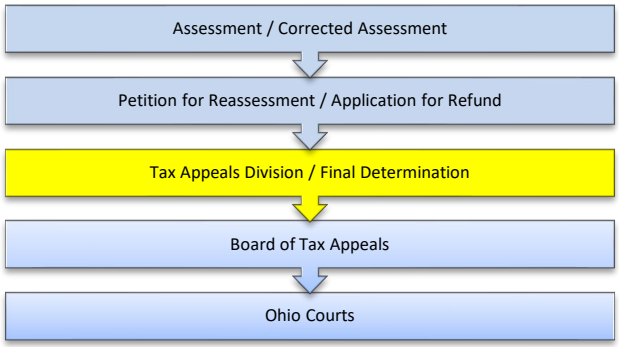
- Hearings with TAD are **informal**:
  - Simply a discussion between the attorney and the taxpayer
  - No briefing schedule or evidentiary requirements

- During the hearing, the attorney will:
  - Listen to your contentions and take notes
  - Receive documentation from you to support your position
  - Ask questions relating to the issues presented in your case



Tips to an Effective Administrative Review

- Submit new information, evidence, or documentation at least one week prior to the hearing
- Develop a narrative or roadmap describing your view of the case and supporting the outcome you're seeking
- Specifically state the outcome you're seeking (i.e. adjustment, abatement, cancellation, etc.)
- For hearings, be prepared to answer questions or bring in the people with subject matter expertise or the necessary knowledge of the situation



Final Determinations

- A Final Determination is the Commissioner's final administrative decision on a petition for reassessment or application for refund
- Final Determinations are public records
  - No sensitive taxpayer information is included

Ohio | Department of Taxation
30 E Broad Street
Columbus, OH 43215-3414
tax.ohio.gov

USPS CERTIFIED MAIL
9214 8900 0028 2907 0916 76

FINAL DETERMINATION

ABC, Inc.
123 Main St.
Columbus, OH 43215

RE: Ohio Tax Account #: 12345678
Tax Type: Employer Withholding
Assessment #: 100000987654
Reporting Period: 02/27/2013 - 03/01/2013

This is the final determination of the Tax Commission
filed pursuant to R.C. 5747.13.

The Department assessed the petitioner for failing to
tax withheld for the period in question. The petitioner re
review, the evidence now available to the Tax Commi
remitted income tax withheld for the period at issue and fil
manner. Since the remission and filing were timely, no int
R.C. 5747.08(G) and the penalty assessed is fully ab
5747.15(C).

Therefore, the assessment(s) shall be adjusted as follows:

ABC, Inc. 100000987654 02/27/2013 - 03/01/2013	Assessment / Corrected Assessment
Tax Due	$28,781.87
Interest	$184.58
Late Pay Penalty	$1,659.90
Totals	$30,626.15
Less Payment(s)/Credit Carry Forward(s)	$28,828.14
Balance Due	**$1,798.01**

Current records indicate that payment of $24,248.16 has been made in full satisfac
assessment(s).

CCAT0001

August 17, 2017
Contact ID: 12-

Ohio | Department of Taxation
Office of the Tax Commissioner
30 E. Broad St., 22nd Floor • Columbus, OH 43215

FINAL DETERMINATION

Date:

Joseph W. Taxpayer
123 Main St.
Anytown, OH 45678

Re: Assessment No. 0220179876543 21
Individual Income Tax – 2015

This is the final determination of the Tax Commissioner with regard to petition for reassessment pursuant to R.C. 5747.13 concerning the following individual income tax assessment:

Tax	Interest	Penalty	Total
$5,000.00	$100.00	$500.00	$5,600.00

The Department assessed the petitioner for failing to file a 2015 individual income tax return. The petitioner requests a reassessment and submits and untimely 2015 income tax return with his petition for reassessment. Based on the evidence now available to the Tax Commissioner, the petitioner's request is well taken. Furthermore, records reflect that the petitioner's untimely return reporting a $0.00 liability is accurate.

The petitioner further requests an abatement of the penalty amount assessed. The Tax Commissioner may abate a penalty when the taxpayer demonstrates that the failure to comply was due to reasonable cause rather than willful neglect. R.C. 5747.15(C). The petitioner asserts that his failure to comply was due to reasonable cause and the evidence and circumstances support a reduction of the penalty.

Accordingly, the assessment is adjusted as follows:

Tax	Interest	Penalty	Total
$0.00	$0.00	$50.00	$50.00

Current records indicate that a payment of $50.00 has been applied to this assessment, resulting in no additional balance due. However, due to payment processing and posting time lags, payments may have been made that are not reflected in this final determination.

THIS IS THE TAX COMMISSIONER'S FINAL DETERMINATION WITH REGARD TO THIS MATTER. UPON EXPIRATION OF THE SIXTY-DAY APPEAL PERIOD PRESCRIBED BY R.C. 5717.02, THIS MATTER WILL BE CONCLUDED AND THE FILE APPROPRIATELY CLOSED.

Joseph W. Testa
Tax Commissioner

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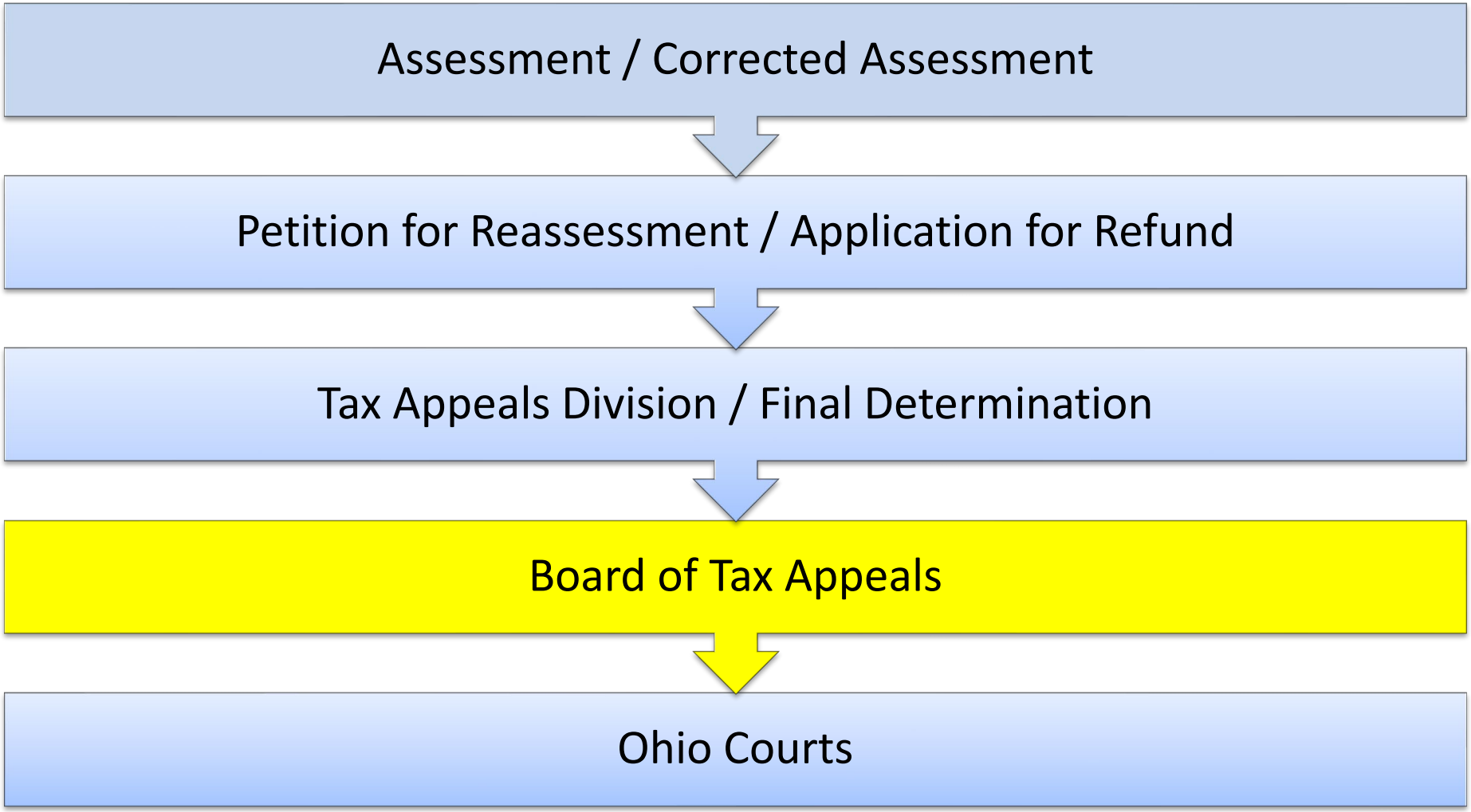
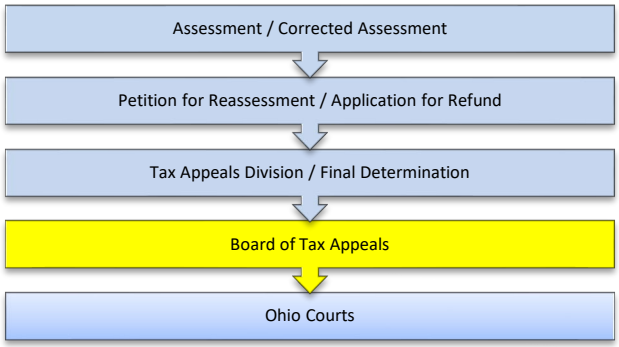
Board of Tax Appeals

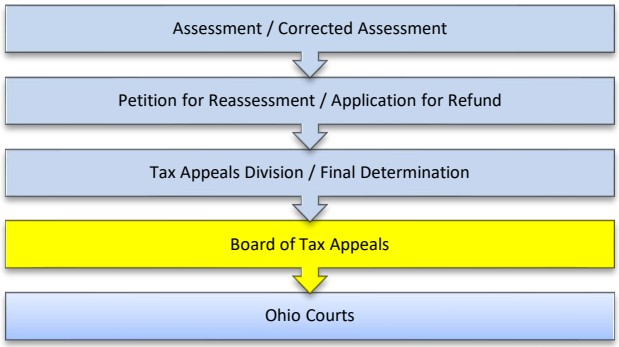




Ohio
Board of Tax Appeals

- A Final Determination of the Tax Commissioner can be appealed to the Board of Tax Appeals (BTA)
  - The Ohio Board of Tax Appeals (BTA) is a quasi-judicial, administrative agency
  - The BTA acts as an **independent, impartial forum** where parties can resolve state and local tax disputes

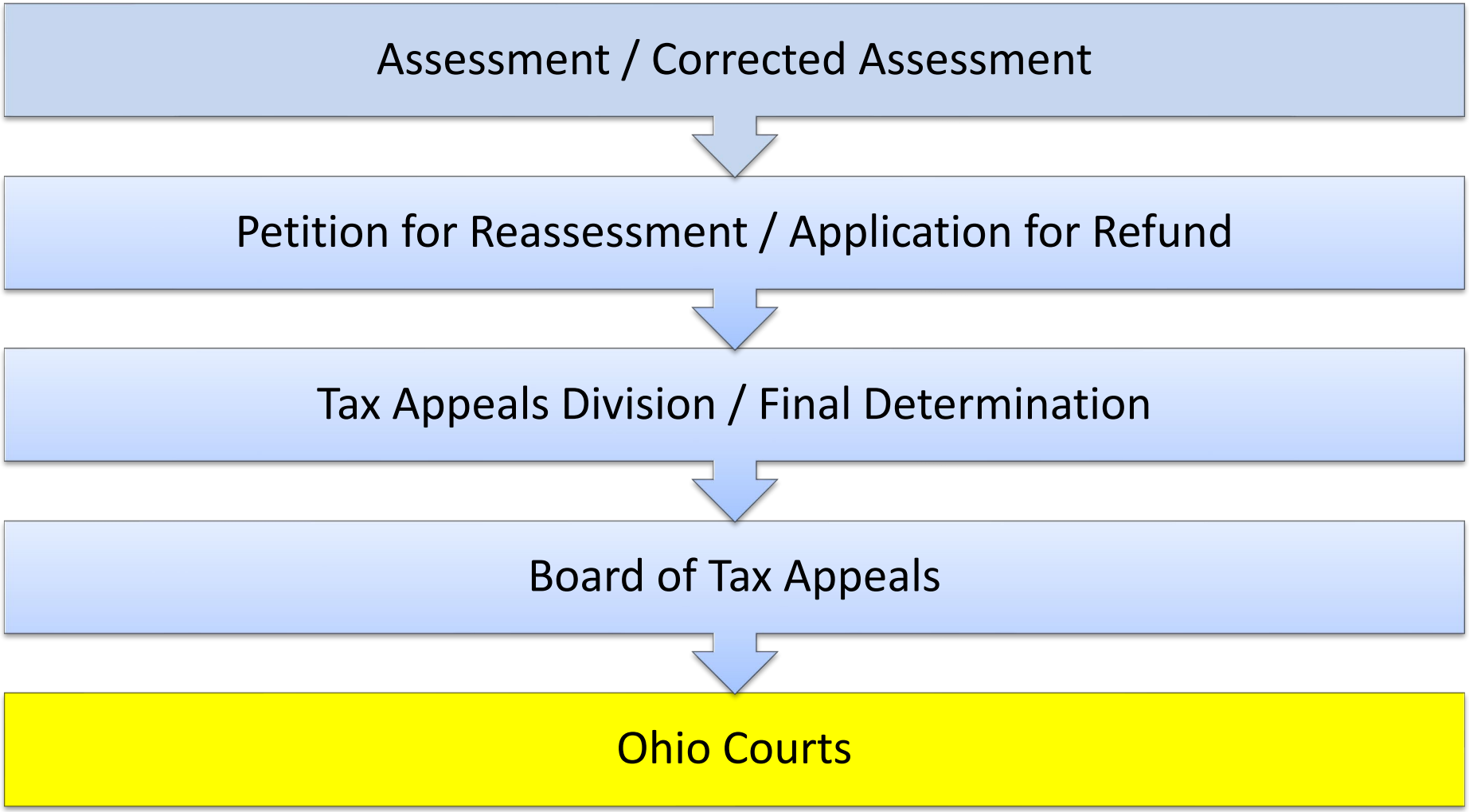
- Taxpayers have **sixty (60) days** from the date they receive a final determination to appeal to the BTA
  - A notice of the appeal **must** be in writing and filed with both the BTA and the Tax Commissioner

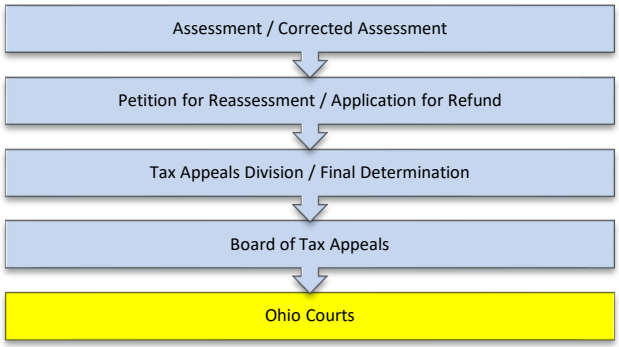


BTA Hearings

- The BTA may conduct hearings on properly appealed FDs
  - According to the BTA, the purpose of hearings is to allow for the presentation of new evidence
  - Hearings are conducted similar to a civil court case
  - If a party does not request a hearing, the appeal is decided upon the record developed with the Department of Taxation's review
- The BTA will redecide the facts and law of the case
  - Thus, the BTA again takes a "fresh look"
  - However, the findings of the Commissioner are "presumptively valid" if they are "reasonable and lawful"
- At the end of a case, the BTA issues a "decision and order"
  - A BTA decision can be appealed to either the Ohio Courts of Appeals or the Supreme Court of Ohio

The Supreme Court of Ohio

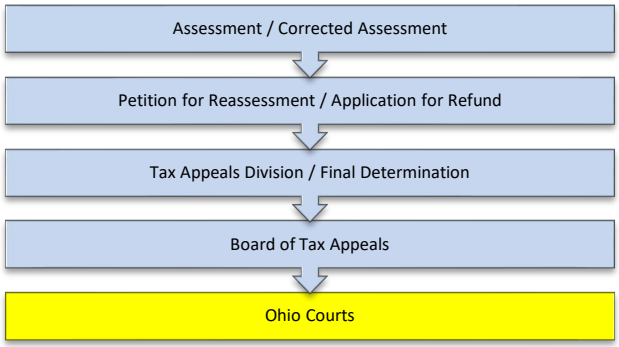




Ohio Courts

- The Ohio Courts of Appeals:
  - Consist of at least one county, and the number of judges in each district varies from 4 to 12
  - Have their own set of "local rules" in addition to Ohio's general rules of evidence and procedure

- The Supreme Court of Ohio is Ohio's court of last resort
  - The Court has seven justices - a Chief Justice and six Associate Justices



The Supreme Court of Ohio

- Most tax cases that are appealed go to the Supreme Court of Ohio
  - Appeals must be filed within 45 days of the prior decision
  - The Court reviews and considers documents relating to a case only if they have been properly filed
  - The Court's hearing is in the form of oral arguments

- After the Supreme Court of Ohio, the only other option is the US Supreme Court
  - Court has authority to review certain decisions by state courts, such as constitutional items
  - State tax cases rarely reach the US Supreme Court