Fast-Track Regulation
Agency Background Document

Agency name	Department of Taxation
Virginia Administrative Code (VAC) Chapter citation(s)	23 VAC 10-20
VAC Chapter title(s)	General Provisions Applicable to All Taxes Administered By the Department of Taxation
Action title	Fast Track Action to amend 23VAC10-20-165 (Administrative Appeals) to reflect current communications practices
Date this document prepared	October 29, 2025

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

This action will amend 23VAC10-20-165 (Administrative Appeals) to reflect current communications methods, including the use of audio-video conferencing. The action also provides additional cross references to statutory law and other regulation sections in order to clarify the section. The action also makes numerous stylistic changes to the section to make it easier to read.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

Not Applicable.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) that the agency has "adopted final amendments" to the regulation; 3) the name of the agency taking the action; and 4) the title of the regulation. A suggested statement is, "On [insert date] the Board/Department of [insert name] adopted final amendments to the [title of regulation(s)]."

On October 29, 2025, the Department of Taxation approved this action to amend 23 Virginia Administrative Code 10-20-165 Administrative Appeals.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

Consistent with Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process.

There is no mandate associated with this action. As this action will simply revise the section to make it clearer, briefer, and to reflect modern communications practices, it is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Code of Va. § 58.1-203 authorizes the Tax Commissioner to issue regulations relating to the interpretation and enforcement of the laws governing taxes administered by the Department of Taxation. The authority for the current regulatory action is discretionary.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

This action is necessary to update the Department's regulation section on administrative appeals to clarify the section, reflect modern communications practices, and make the section easier to read. While this action is not essential to protect the health, safety and welfare of citizens, it will help taxpayers, tax practitioners, and Department staff to better understand and navigate the administrative appeals process.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

This action will update the section to make virtual meetings the default method for holding administrative appeal conferences between agency staff, taxpayers, and their representatives. Currently, in-person meetings are the default method. The action will also provide cross references to statutory law and other regulation sections and make stylistic changes to the section to make it easier to read.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The primary advantages to taxpayers and the agency will be that the section will be clearer and easier to read. Consistent with Executive Order 51 (2025) (EO 51), the Department utilized a third-party, artificial intelligence tool provided to it by the Office of Regulatory Management to assist in making the section shorter and more readable.

Also, the section will reflect that audio-video conferencing rather than in-person meetings are now the default option for administrative appeals conferences. Taxpayers will still be able to request an in-person meeting in Richmond or another location. There are no disadvantages to the public or the Commonwealth.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

No other state agency will be particularly affected by this change.

Localities Particularly Affected

No localities or local agencies will be particularly affected by this change.

Other Entities Particularly Affected

No other entities will be particularly affected by this change.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Impact on State Agencies

For your agency: projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources	As the Department adopted virtual meetings for administrative appeals during the COIVD-19 pandemic and continues to use virtual meetings in most cases, the Department will not experience any changes in costs due to this change. This action will also provide cross references to statutory law and other regulation sections and simplify the language used in the section, which will make it easier for Department staff to understand the section. The Department is unable to identify any changes in costs from these changes.
For other state agencies: projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	This action will not affect other state agencies.
For all agencies: Benefits the regulatory change is designed to produce.	This action will make the regulation section clearer and easier to understand.

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

Projected costs, savings, fees or revenues resulting from the regulatory change.	See ORM Economic Impact form table 2.
Benefits the regulatory change is designed to produce.	See ORM Economic Impact form table 2.

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	Individual and business taxpayers should be positively affected by this regulatory change because it will make the section clearer and easier to understand.
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million.	The Department receives approximately 500 administrative appeals from taxpayers annually. The Department does not keep records regarding the number of these appeals that are received from small businesses.
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	The Department does not anticipate that anyone will experience any costs from these changes.
Benefits the regulatory change is designed to produce.	This action will be beneficial to taxpayers and their representatives as it will make the regulation section clearer and easier to understand. As the Department of Taxation adopted virtual meetings for administrative appeals during the COVID-19 pandemic and continues to use virtual meetings in most cases, this action will not provide cost savings taxpayers and their representatives, but it will conform the regulation section to current practices.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

See ORM Economic Impact form tables 1b and 1c

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

As the Department has already made the transition to virtual meetings, no alternative to this change has been identified. Regarding the simplification of the regulation language, the Department has been unable to identify an alternative.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

Consistent with § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

The Department of Taxation is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: https://townhall.virginia.gov. Comments may also be submitted by mail, email or fax to:

Joseph E. Mayer
Office of Tax Legislation and Economic Analysis,
Virginia Department of Taxation

Post Office Box 27185,
Richmond, Virginia 23261-7185

Telephone: 804.371.2299
Fax: 804.774.3168
Email: joseph.mayer@tax.virginia.gov

In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
23VAC10-210-165	N/A	Subsection A provides definitions.	The only changes are stylistic changes to improve readability or to conform to the Virginia Register *Style Manual* regarding citations.
		Subdivision B1b provides that the Department strictly enforces the 90 day time limit to timely file an administrative appeal.	Provides a citation to the statute that sets forth the 90-day time limit to file an administrative appeal. The rationale is to make the regulation section more transparent.
		Subdivision B1c provides that a taxpayer is not required to pay an assessment under appeal until the Commissioner rules unfavorably on the administrative appeal.	Provides a cross-reference to subdivision B3 which explains that interest will continue on the assessment while the assessment is under appeal. The interest requirement is a statutory requirement under *Va. Code* § 58.1-15.The rationale for this change is to make the regulation section clearer.
		Subdivision B1e provides that the Tax Commissioner will determine the manner best suited to resolve the appeal.	Clarifies that in situations where the Tax Commissioner determines that the best way to resolve the appeal is to close it and send it back to the auditor, the taxpayer will have the right to file another appeal within 90 days of the Department's written notification of the

			results of the audit or revised notice of assessment. The rationale for this change is to make the section clearer and to make the Department's longstanding policy on this issue explicit in the regulation section.
		Subdivision B2 provides that the Department will cease collection action on an appeal once a complete administrative appeal has been timely filed.	Clarifies that in situations where the Department has inadvertently made a collection action on an assessment that has been appealed before the account has been placed on stop for the appeal, the taxpayer will receive a refund of the amount collected, upon request. The rationale for this change is to make the regulation section clearer.
		Subdivision B4 provides that the Department will notify a taxpayer that it has received the taxpayer's administrative appeal and inform the taxpayer of the name and telephone number of the analyst assigned to the appeal.	In addition to minor stylistic changes, the term "phone number" is replaced with the term "contact information" to allow the Department the authority to provide taxpayers with the analyst's email address or other methods of communication that may become accepted methods of business communications in the future.
		Subdivision B5 discusses the ability of tax practitioners, family members, and other third parties to represent a taxpayer in an appeal by providing a power of attorney signed by the taxpayer. The requirement is a statutory requirement set forth in *Va. Code* § 58.1-1834.	The changes are stylistic and intended to enhance readability.
		Subdivision D2 discusses the Department's administrative appeal form that taxpayers may use when filing their appeal. The use of the form is currently optional.	Other than a minor stylistic change, the changes would allow the Department to make the use of the appeals form mandatory at some point in the future. The Department is currently working to improve the form and its instructions with the goal of providing taxpayers with a user-friendly method of filing appeals and providing the Department with the necessary information it needs to resolve the appeals.
		Subdivision D3c discusses the ability of taxpayers to provide samples of documents supporting their appeal.	The only change is a stylistic change to aid readability.
		Subdivision E3 provides that an appeals conference must be related to the audit assessment being appealed.	The only change is a stylistic change to aid readability.

		Subdivision E5 provides that the Department will confirm the date of the appeals conference with a confirmation letter.	In order to conform the provision to modern business communications practices, the method of confirmation is changed to “in writing,” to allow for confirmation by email and other communications methods which may become accepted in the future.
		Subdivision E6 discusses	The changes to the subdivision make an audio-video conference the standard with the taxpayer being able to request an in-person conference, which would be at the Department’s discretion.
		Subdivision E7 discusses who may attend the appeals conference.	The only change is a stylistic change to a citation to conform to the Style Manual.
		Subdivision F1 sets forth different reasons for the Tax Commissioner to grant a request for reconsideration of a ruling on an appeal that is unfavorable to the taxpayer.	The term “criteria” is inserted to describe these reasons. This change is nonsubstantive and conforms the regulation section to language used in the Department’s rulings regarding this issue. A sentence is inserted to clarify that when a taxpayer is seeking a reconsideration of the original determination in their appeal based on an allegation that the Department misapplied existing policy, the taxpayer must demonstrate that the Department applied the wrong policy. A disagreement as to the interpretation of the policy is insufficient to satisfy F 1 c. This change makes the regulation consistent with the Department’s longstanding policy on this issue. The changes also include stylistic changes to aid readability.
		Subdivision F3 discusses conferences regarding a taxpayer’s request for reconsideration of an unfavorable ruling on their appeal.	The change deletes Subdivision F3b, which states that the conference may be held via telephone. The rationale is that with the changes to Subdivision D6 making an audio-video conference the default, Subdivision F3b is no longer necessary. The changes also include stylistic changes to aid readability.
		Subdivision F4 and F5 further discuss requests for reconsideration.	The changes are stylistic changes to aid readability.
		Subsection G provides information about contacting the Department regarding the section.	The changes are stylistic changes to aid readability.

		Subsection H provides cross references to another section.	The changes are stylistic changes to aid readability.