

The Comptroller of Public Accounts proposes amendments to §1.27, concerning proposal for decision. The amendment provides additional guidance for parties participating in the contested case process in a hearing before the State Office of Administrative Hearings (SOAH) by more closely tracking the language of the SOAH Rules of Procedure governing proposals for decision and exceptions, 1 TAC §155.507, and by providing a citation to that section. The name of the section has also been amended to Proposal for Decision and Exceptions.

The amendment explains that the administrative law judge will issue a proposal for decision after the administrative law judge closes the record.

The amendment restates the 15-day deadlines found in the SOAH Rules of Procedure for both submitting exceptions to the proposal for decision (1 TAC §155.507(b)(1)) and submitting a reply to the exceptions (1 TAC §155.507(b)(2)).

The amendment tracks the language of 1 TAC §155.507(c) by stating that the administrative law judge shall review all exceptions and replies and notify the comptroller and parties whether any changes to the proposal for decision are recommended.

Finally, the amendment refers to 1 TAC §155.507 for additional information concerning the proposal for decision and exceptions.

Public Benefit/Cost; Fiscal Implications for state or local government, small businesses, and individuals.

Comments on the proposal may be submitted to Gina Calviño, Legal Assistant, Office of Special Counsel for Tax Hearings, P.O. Box 13528, Austin, Texas 78711-3528, or SpecialCounsel.Filings@cpa.texas.gov. Comments must be received no later than 30 days from the date of publication of the proposal in the Texas Register.

The section is proposed under Government Code, §2001.004 (Requirement to Adopt Rules of Practice and Index Rules, Orders, and Decisions), which requires state agencies to adopt rules of practice, and Tax Code, §111.002 and §111.0022, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of Tax Code, Title 2, as well as taxes, fees, or other charges which the comptroller administers under other law.

The section implements Government Code, §2001.004 (Requirement to Adopt Rules of Practice and Index Rules, Orders, and Decisions), which requires state agencies to adopt rules of practice, and Tax Code, §111.009 (Redetermination) and §111.105 (Tax Refund: Hearing).

<rule>

§1.27. Proposal for Decision and Exceptions.

After the administrative law judge closes the record, the[The assigned] administrative law judge will issue a proposal for decision[in accordance with SOAH's Rules of Procedure]. Any party may file exceptions to the proposal for decision within 15 days after the date the proposal for decision

is issued. A reply to the exceptions may be filed no later than 15 days of the filing of the exceptions. The administrative law judge shall review all exceptions and replies and notify the comptroller and parties whether any changes to the proposal for decision are recommended. For additional information concerning the proposal for decision and exceptions, see 1 TAC §155.507[and responses in accordance with those rules].

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on

LITA GONZALEZ
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Comptroller of Public Accounts

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