

**SECTION VII. APPEALING AGAINST THE ACTS OF TAX AUTHORITIES AND THE ACTIONS OR INACTION OF THEIR OFFICIALS**

**CHAPTER 19. PROCEDURE FOR APPEALING AGAINST THE ACTS OF TAX AUTHORITIES AND THE ACTIONS OR INACTION OF THEIR OFFICIALS**

**Article 137. Right of Appeal**

Every person shall have the right to appeal against acts of tax authorities of a non-normative nature and the actions or inaction of their officials if, in the opinion of that person, such acts, actions or inaction violate his rights. *[as amended by Federal Laws No. 154-FZ of 09.07.1999, No. 137-FZ of 27.07.2006, No. 248-FZ of 23.07.2013]*

Appeals against regulatory legal acts of tax authorities may be made in accordance with the procedure prescribed by federal legislation.

**Article 138. Appeal Procedure** *[article as reworded by Federal Law No. 153-FZ of 02.07.2013]*

1. Appeals against non-regulatory acts of tax authorities and actions or inaction of their officials may be filed with a higher tax authority and (or) with a court in accordance with the procedure laid down in this Code and relevant procedural legislation of the Russian Federation.

An appeal shall be understood to mean a representation made by a person to a tax authority with the object of contesting non-regulatory acts of a tax authority which have entered into force and actions or inaction of officials of a tax authority where, in the opinion of that person, the contested acts or the actions or inaction of officials of the tax authority violate his rights.

An appellate appeal shall be understood to mean a representation made by a person to a tax authority with the object of contesting a decision of a tax authority concerning the imposition of tax sanctions or a decision concerning the non-imposition of tax sanctions which was issued in accordance with Article 101 of this Code and has not entered into force where, in the opinion of that person, the contested decision violates his rights.

2. Non-regulatory acts of tax authorities and actions or inaction of their officials (with the exception of non-regulatory acts adopted following consideration of appeals and appellate appeals, non-regulatory acts of the federal executive body in charge of control and supervision in the area of taxes and levies and actions or inaction of officials of that body) may be contested through the courts only after they have been contested by appeal to a higher tax authority in accordance with the procedure prescribed by this Code.

In the event that a decision on an appeal (an appellate appeal) is not adopted by a higher tax authority within the time limits established by clause 6 of Article 140 of this Code, non-regulatory acts of tax authorities and actions or inaction of their officials may be contested through the courts.

Non-regulatory acts of tax authorities which are adopted following consideration of appeals (appellate appeals) may be contested by appeal to a higher tax authority and (or) through the courts.

Non-regulatory acts of the federal executive body in charge of control and supervision in the area of taxes and levies and actions or inaction of its officials shall be contested through the courts.

3. Where non-regulatory acts of tax authorities and actions or inaction of their officials (with the exception of non-regulatory acts adopted following consideration of appeals and appellate appeals, non-regulatory acts of the federal executive body in charge of control and supervision in the area of taxes and levies and actions or inaction of officials of that body) are contested through the courts, the time period allowed for filing an appeal with a court shall be calculated from the day on which the person concerned became aware of the decision adopted by a higher tax authority on the relevant appeal, or from the date of expiry of the time limit established by clause 6 of Article 140 of this Code for the adoption of a decision on an appeal (appellate appeal).

4. The contesting by organizations and physical persons through the courts of acts (including regulatory acts) of tax authorities and actions or inaction of their officials shall take place in accordance with the procedure laid down in relevant procedural legislation of the Russian Federation.

Where acts of tax authorities and actions of their officials are contested through the courts, the execution of the contested acts and the performance of the contested actions may be suspended by a court in accordance with the procedure laid down in relevant procedural legislation of the Russian Federation.

5. The filing of an appeal with a higher tax authority shall not suspend the execution of a contested act of a tax authority or the performance of a contested action by an official of a tax authority, except in the case provided for in this clause.

Where an appeal is filed against a decision concerning the imposition of sanctions for the commission of a tax offence or concerning the non-imposition of sanctions for the commission of a tax offence which has entered into force, the execution of the contested decision may be suspended pending the adoption of a decision on the appeal on the basis of an application from the person who filed the appeal, provided that that person provides a bank guarantee under which the bank undertakes to pay a sum of money equal to the amount of the tax, levy, insurance contributions, penalties and fine not paid in accordance with the contested decision. *[as amended by Federal Law No. 401-FZ of 30.11.2016]*

An application for the suspension of the execution of a contested decision shall be submitted at the same time as the appeal against the decision concerning the imposition of sanctions for the commission of a tax offence or concerning the non-imposition of sanctions for the commission of a tax offence which has entered into force. An application for the suspension of the execution of the contested decision shall be accompanied by a bank guarantee.

A bank guarantee such as is referred to in this clause shall be subject to the requirements established by clause 5 of Article 74.1 of this Code, with account taken of the following special considerations:

- the term of the bank guarantee must expire no earlier than six months from the day on which the person concerned submits the application for the suspension of the execution of the contested decision;
- the amount for which the bank guarantee was issued must provide for the guarantor bank to fulfil the obligation to pay a sum of money equal to the amount of the tax, levy, insurance contributions, penalties and fine not paid in accordance with the contested decision. *[as amended by Federal Law No. 401-FZ of 30.11.2016]*

The higher tax authority considering an appeal shall, within five days of receiving an application for the suspension of the execution of the contested decision, adopt one of the following decisions:

- to suspend the execution of the decision concerning the imposition of sanctions for the commission of a tax offence or the decision concerning the non-imposition of sanctions for the commission of a tax offence;
- to refuse to suspend the execution of the decision concerning the imposition of sanctions for the commission of a tax offence or the decision concerning the non-imposition of sanctions for the commission of a tax offence.

A decision to refuse to suspend the execution of the decision concerning the imposition of sanctions for the commission of a tax offence or the decision concerning the non-imposition of sanctions for the commission of a tax offence may be adopted on the grounds that the bank guarantee presented by the person who filed the appeal does not meet the requirements established by this Article and (or) clause 5 of Article 74.1 of this Code.

The person who filed the appeal shall be notified in writing of the adopted decision within three days of the adoption thereof.

A decision to suspend the execution of a decision shall have effect until the day on which the higher tax authority adopts a decision on the appeal.

In the event that a tax, a levy, insurance contributions, penalties and a fine are not paid or are not paid in full within the time limit established in the tax authority's demand by a person who filed an appeal and whose obligation to pay the tax, levy, insurance contributions, penalties and fine is secured by a bank guarantee, the tax authority shall, not later than five days from the date of expiry of the time limit for the fulfilment of that demand and not earlier than the day on which the higher tax authority adopts a decision on the appeal, send the guarantor bank a demand for the payment of a sum of money under the bank guarantee equal to the outstanding balance of the tax, levy, insurance contributions, penalties and fine which is payable after the adoption by the higher tax authority of the decision on the appeal. *[as amended by Federal Law No. 401-FZ of 30.11.2016]*

The tax authority shall notify a bank which issued a bank guarantee of its release from obligations under that guarantee not later than five days from the day on which a person who filed an appeal fulfils the obligation to pay the amount of a tax, a levy, insurance contributions, penalties and a fine which was secured by the bank guarantee or not later than five days from the date of adoption of a decision on the appeal in accordance with which the person who filed the appeal does not have the obligation to pay the amount of a tax, a levy, insurance contributions, penalties and a fine which was secured by the bank guarantee. *[as amended by Federal Law No. 401-FZ of 30.11.2016]*  
*[clause 5 as reworded by Federal Law No. 130-FZ of 01.05.2016]*

6. The filing of a repeat appeal (appellate appeal) shall take place within the time limits which are established by this Chapter for the filing of the relevant appeal.

7. A person who has filed an appeal (appellate appeal) may, before a decision is adopted on the appeal (appellate appeal), withdraw it in whole or in part by means of sending a written application to the tax authority which is considering the relevant appeal.

The withdrawal of an appeal (appellate appeal) shall deprive the person who filed that appeal of the right to file a repeat appeal (appellate appeal) on the same grounds and in accordance with the same procedure. *[as amended by Federal Law No. 6-FZ of 17.02.2021]*

**Article 139. Procedure and Time Limits for the Filing of an Appeal** *[article as reworded by Federal Law No. 153-FZ of 02.07.2013]*

1. An appeal shall be filed with a higher tax authority through the tax authority whose non-regulatory acts or the actions or inaction of whose officials are contested. A tax authority whose non-regulatory acts or the actions or inaction of whose officials are contested shall be obliged, within three days of receiving such an appeal, to transmit it together with all materials to a higher tax authority.

1.1. Upon receiving an appeal, a tax authority against whose non-normative act or against the actions or inaction of whose officials the appeal is filed shall be obliged to take measures to remedy the violation of the rights of the person who filed the appeal. Where the violation of the rights of a person who filed an appeal is remedied, the tax authority shall present notice of this to the higher tax authority within three days from the day of that remediation, accompanied by supporting documents (if available).  
*[clause 1.1 inserted by Federal Law No. 130-FZ of 01.05.2016]*

2. Except as otherwise established by this Code, an appeal to a higher tax authority may be filed within one year from the day on which the person concerned became aware or should have become aware of the violation of his rights.

An appeal against a decision concerning the imposition of sanctions for the commission of a tax offence or a decision concerning the non-imposition of sanctions for the commission of a tax offence which has entered into force and was not the subject of an appellate appeal may be filed within one year from the date of issue of the contested decision.

An appeal to the federal executive body in charge of control and supervision in the area of taxes and levies may be filed within three months from the day on which a higher tax authority adopted a decision on an appeal (appellate appeal).

In the event that the time limit for the filing of an appeal is missed for a valid reason, that time limit may be restored by a higher tax authority at the petition of the person who files the appeal.

3. A decision of a tax authority which was issued following consideration of materials relating to a tax audit of a consolidated group of taxpayers which has entered into force and has not been the subject of an appellate appeal may be contested by the responsible member of that group or independently by another member of that group insofar as it concerns the imposition on that member of sanctions for the commission of a tax offence. Such an appeal may be filed within one year from the date of issue of the relevant decision.

**Article 139.1. Procedure and Time Limits for the Filing of an Appellate Appeal** *[inserted by Federal Law No. 153-FZ of 02.07.2013]*

1. An appellate appeal against a decision concerning the imposition of sanctions for the commission of a tax offence or a decision concerning the non-imposition of sanctions for the commission of a tax offence shall be filed through the tax authority which issued the relevant decision. A tax authority whose decision is contested shall be obliged, within three days of receiving such an appeal, to send it together with all materials to a higher tax authority.

2. An appellate appeal to a higher tax authority against a decision concerning the imposition of sanctions for the commission of a tax offence or a decision concerning the non-imposition of sanctions for the commission of a tax offence may be filed before the date on which the contested decision enters into force.

3. An appellate appeal against a decision of a tax authority which was issued following the examination of materials relating to a tax audit of a consolidated group of taxpayers may be filed before the date of entry into force of the contested decision by the responsible member of that group or independently by another member of that group insofar as it concerns the imposition on that member of sanctions for the commission of a tax offence.

4. A decision concerning the imposition of sanctions for the commission of a tax offence and a decision concerning the non-imposition of sanctions for the commission of a tax offence which were issued by the federal executive body in charge of control and supervision in the area of taxes and levies may not be the subject of an appellate appeal.

**Article 139.2. Form and Content of an Appeal (Appellate Appeal)** *[inserted by Federal Law No. 153-FZ of 02.07.2013]*

1. An appeal shall be filed in writing. An appeal shall be signed by the person who filed it or by his representative.

An appeal may be sent in electronic form via telecommunications channels or via an online tax account. *[paragraph inserted by Federal Law No. 130-FZ of 01.05.2016]*

The formats and procedure for the submission of an appeal in electronic form shall be approved by the federal executive body in charge of control and supervision in the area of taxes and levies. *[paragraph inserted by Federal Law No. 130-FZ of 01.05.2016]*

2. The following shall be stated in an appeal:

1) the surname, first name and patronymic and the place of residence of the physical person filing the appeal, or the name and address of the organization filing the appeal;

2) the non-normative act of the tax authority or the actions or inaction of its officials which are contested;

3) the name of the tax authority whose non-normative act or the actions or inaction of whose officials are contested;

4) the grounds on which the person filing the appeal considers that his rights have been violated;

5) the demands of the person filing the appeal;

6) the method of receipt of the decision on the appeal: on paper, in electronic form via telecommunications channels or via an online tax account.

*[subsection 6 inserted by Federal Law No. 130-FZ of 01.05.2016]*

3. Telephone and fax numbers, electronic mail addresses and other details needed for the timely consideration of an appeal may be stated in the appeal.

4. Where an appeal is filed by an authorized representative of a person who is contesting a non-normative act of a tax authority or actions or inaction of its officials, the appeal shall be accompanied by documents confirming that representative's authority.

5. An appeal may be accompanied by documents supporting the arguments of the person filing the appeal.

6. The provisions of this Article shall also apply to an appellate appeal.

**Article 139.3. Dismissal of an Appeal (Appellate Appeal)** *[inserted by Federal Law No. 153-FZ of 02.07.2013]*

1. A higher tax authority shall dismiss an appeal in whole or in part if it finds that:

1) the appeal has been filed not in compliance with the procedure established by clause 1 of Article 139.2 of this Code, or the appeal does not specify the non-regulatory acts of a tax authority or the actions or inaction of officials of a tax authority which resulted in the violation of the rights of the person who has filed the appeal;

*[subsection 1 as reworded by Federal Law No. 130-FZ of 01.05.2016]*

2) the appeal was filed after the expiry of the time limit established by this Code for the filing of an appeal, and it does not contain a petition for the restoration of the time limit or the restoration of the missed time limit for the filing of the appeal has been refused;

3) before a decision has been adopted on the appeal an application for the withdrawal of the appeal in whole or in part has been received from the person who filed it;

4) an appeal was previously filed on the same grounds, except where, after the appeal was considered, a dispute concerning the same subject matter and on the same grounds was settled in accordance with the procedure prescribed by Chapter 20.3 of this Code; *[as amended by Federal Law No. 6-FZ of 17.02.2021]*

5) prior to the adoption of a decision on the appeal the tax authority presented notice of the remediation of the violation of the rights of the person who filed the appeal in accordance with the procedure established by clause 1.1 of Article 139 of this Code.

*[subsection 5 inserted by Federal Law No. 130-FZ of 01.05.2016]*

6) prior to the adoption of a decision on the appeal a tax dispute concerning the same subject matter and on the same grounds was settled by a court;

*[subsection 6 inserted by Federal Law No. 6-FZ of 17.02.2021]*

7) the appeal was not signed by the person filing the appeal or its representative or duly executed documents confirming the authority of the person's representative to sign the appeal were not submitted;

*[subsection 7 inserted by Federal Law No. 6-FZ of 17.02.2021]*

8) prior to the adoption of a decision on the appeal, the organization that filed the appeal was excluded from the Unified State Register of Legal Entities by decision of the registering body or was liquidated or information has been received to the effect that the physical person who filed the appeal has died or been declared deceased and the legal relationship at issue does not allow for legal succession.

*[subsection 8 inserted by Federal Law No. 6-FZ of 17.02.2021]*

2. A tax authority which is considering an appeal shall adopt a decision to dismiss the appeal in whole or in part within five days of receiving the appeal or an application for the withdrawal of the appeal in whole or in part, except in the cases provided for in subsections 5, 6 and 8 of clause 1 of this Article. *[as amended by Federal Law No. 6-FZ of 17.02.2021]*

In the case provided for in subsection 5 of clause 1 of this Article, a tax authority which is considering an appeal shall adopt a decision to dismiss the appeal in whole or in part within five days of receiving information or documents concerning the remediation of the violation of the rights of the person who filed the appeal.

In the cases provided for in subsections 6 and 8 of clause 1 of this Article, the tax authority considering the appeal shall make a decision to dismiss the appeal in whole or in part within five days of receiving information on the existence of the circumstances referred to in those subsections.

*[paragraph inserted by Federal Law No. 6-FZ of 17.02.2021]*

A decision to dismiss an appeal shall be handed over or sent to the person who filed the appeal within three days of the adoption of that decision.

*[clause 2 as reworded by Federal Law No. 130-FZ of 01.05.2016]*

3. The dismissal of an appeal shall not prevent a person from filing a repeat appeal within the time limits which are established by this Code for the filing of the relevant appeal, except where an appeal is dismissed on the grounds specified in subsections 3, 4, 6 and 8 of clause 1 of this Article. *[as amended by Federal Law No. 6-FZ of 17.02.2021]*

4. The provisions of this Article, with the exception of the provisions of subsections 2 and 5 of clause 1, shall also apply to an appellate appeal. *[as amended by Federal Law No. 130-FZ of 01.05.2016]*

## **CHAPTER 20. CONSIDERATION OF AN APPEAL AND ADOPTION OF A DECISION ON AN APPEAL**

**Article 140. Consideration of an Appeal (Appellate Appeal)** *[article as reworded by Federal Law No. 153-FZ of 02.07.2013]*

1. In the course of the consideration of an appeal (appellate appeal), the person who filed that appeal may, at any time before a decision is adopted thereon, present additional documents supporting his arguments.

A person who has filed an appeal (appellate appeal) may, before a decision is made on it, file a petition for the suspension of the consideration of the appeal (appellate appeal) in whole or in part for the purposes of the submission of additional documents (information), but not for more than six months.

*[paragraph inserted by Federal Law No. 6-FZ of 17.02.2021]*

Within five days of that petition being received, the higher tax authority considering the appeal (appellate appeal) shall make one of the following decisions:

*[paragraph inserted by Federal Law No. 6-FZ of 17.02.2021]*

- to suspend the consideration of the appeal (appellate appeal) in whole or in part;

*[paragraph inserted by Federal Law No. 6-FZ of 17.02.2021]*

- to refuse to suspend the consideration of the appeal (appellate appeal).

*[paragraph inserted by Federal Law No. 6-FZ of 17.02.2021]*

The person who filed the appeal (appellate appeal) shall be notified of the decision made within three days from the day on which it was made.

*[paragraph inserted by Federal Law No. 6-FZ of 17.02.2021]*

2. A higher tax authority shall consider an appeal (appellate appeal), documents supporting the arguments of the person who filed the appeal (appellate appeal), additional documents presented in the course of the consideration of the appeal (appellate appeal) and materials presented by the lower tax authority without the participation of the person who filed the appeal (appellate appeal), except in cases provided for in this clause.

Where, in the course of the consideration of an appeal (appellate appeal) against a decision concerning the imposition of sanctions for the commission of a tax offence or against a decision concerning the non-imposition of sanctions for the commission of a tax offence, discrepancies are found in information contained in materials presented by the lower tax authority or information presented by the taxpayer is found to conflict with information contained in materials of the lower tax authority, the higher tax authority shall consider the appeal (appellate appeal), documents supporting the arguments of the person who filed the appeal (appellate appeal), additional documents presented in the course of the consideration of the appeal (appellate appeal) and materials presented by the lower tax authority with the participation of the person who filed the appeal (appellate appeal).

The director (deputy director) of the higher tax authority shall notify the person who filed the appeal (appellate appeal) of the time and place of the consideration of the appeal (appellate appeal).

The consideration of an appeal (appellate appeal) may take place using video-conferencing in accordance with a procedure to be approved by the federal executive body in charge of control and supervision in the area of taxes and levies.

*[paragraph inserted by Federal Law No. 6-FZ of 17.02.2021]*

The consideration of an appeal (appellate appeal) may be suspended by decision of the higher tax authority considering the appeal (appellate appeal):

*[paragraph inserted by Federal Law No. 6-FZ of 17.02.2021]*

- pending the adjudication of a case concerning the same subject matter and on the same grounds by an arbitration court or a court of general jurisdiction;

*[paragraph inserted by Federal Law No. 6-FZ of 17.02.2021]*

- where it is impossible to consider the appeal (appellate appeal) prior to the adjudication of another case by a court in a constitutional, civil, arbitration, administrative or criminal proceeding;

*[paragraph inserted by Federal Law No. 6-FZ of 17.02.2021]*

- pending consideration of an application for the conduct of a mutual agreement procedure in accordance with the procedure prescribed by Chapter 20.3 of this Code.

*[paragraph inserted by Federal Law No. 6-FZ of 17.02.2021]*

The person who filed the appeal (appellate appeal) shall be notified of the decision to suspend the consideration of the appeal (appellate appeal) within three days from the day on which it was made.

*[paragraph inserted by Federal Law No. 6-FZ of 17.02.2021]*

*[clause 2 as reworded by Federal Law No. 130-FZ of 01.05.2016]*

3. Following consideration of an appeal (appellate appeal), a higher tax authority:

1) shall dismiss the appeal (appellate appeal);

2) shall rescind the non-normative act of the tax authority;

3) shall rescind the decision of the tax authority in whole or in part;

- 4) shall rescind the decision of the tax authority in full and adopt a new decision on the case;
- 5) shall declare the actions or inaction of the officials of the tax authorities unlawful and issue a substantive decision.

*[4. Lost force – Federal Law No. 6-FZ of 17.02.2021]*

5. Where, following consideration of an appeal (appellate appeal) against a decision issued in accordance with the procedure prescribed by Article 101 of this Code, a higher tax authority has established the occurrence of a violation of essential conditions of the procedure for the examination of tax audit materials, it shall have the right to rescind the decision in question, to examine the above-mentioned materials, documents supporting the arguments of the person who filed the appeal (appellate appeal), additional documents presented in the course of the consideration of the appeal (appellate appeal) and materials presented by the lower tax authority in accordance with the procedure prescribed by Article 101 of this Code and to issue a decision which is provided for in clause 3 of this Article.

Where, following consideration of an appeal against a decision issued in accordance with the procedure prescribed by Article 101.4 of this Code, a higher tax authority has established the occurrence of a violation of essential conditions of the procedure for the examination of materials relating to other tax control measures, it shall have the right to rescind the decision in question, to examine the above-mentioned materials, documents supporting the arguments of the person who filed the appeal, additional documents presented in the course of the consideration of the appeal and materials presented by the lower tax authority in accordance with the procedure prescribed by Article 101.4 of this Code and to issue a decision which is provided for in clause 3 of this Article.

6. A decision on an appeal (appellate appeal) against a decision concerning the imposition of sanctions for the commission of a tax offence or a decision concerning the non-imposition of sanctions for the commission of a tax offence which was issued in accordance with the procedure prescribed by Article 101 of this Code shall be adopted by a higher tax authority within one month of the receipt of the appeal (appellate appeal). That time limit may be extended by the director (deputy director) of the tax authority in order to enable documents (information) needed for the consideration of the appeal (appellate appeal) to be obtained from lower tax authorities, or in the event that the person who filed the appeal (appellate appeal) presents additional documents, but not by more than one month.

A decision on an appeal not referred to in paragraph 1 of this clause shall be adopted by a tax authority within 15 days of the receipt of the appeal. That time limit may be extended by the director (deputy director) of the tax authority in order to enable documents (information) needed for the consideration of the appeal to be obtained from lower tax authorities, or in the event that the person who filed the appeal presents additional documents, but not by more than 15 days.

A decision of a director (deputy director) of a tax authority to extend the time limit for the consideration of an appeal (appellate appeal) shall be delivered or sent to the person who filed the appeal (appellate appeal) within three days of its adoption.

A decision adopted by a tax authority following consideration of an appeal (appellate appeal) shall be delivered or sent to the person who filed the appeal (appellate appeal) within three days of its adoption.

Where a person who has filed an appeal (appellate appeal) submits additional documents, the time limits established by paragraphs 1 and 2 of this clause shall be calculated from the moment when those documents are received by the higher tax authority considering the appeal (appellate appeal).

*[paragraph inserted by Federal Law No. 6-FZ of 17.02.2021]*

*[Article 141. Lost force – Federal Law No. 153-FZ of 02.07.2013]*

### **Article 142. Consideration of Appeals Lodged with a Court**

Appeals (statements of claim) against acts of tax authorities and the actions or inaction of officials of those authorities which are lodged with a court shall be considered and determined in accordance with the procedure which is established by civil procedural and arbitration procedural legislation, administrative judicial proceedings legislation and other federal laws. *[as amended by Federal Law No. 23-FZ of 08.03.2015]*