

**Illinois Department of Revenue  
Regulations**

**Title 86 Part 200 Section 200.125 Discovery**

**TITLE 86: REVENUE**

**PART 200  
PRACTICE AND PROCEDURE FOR HEARINGS BEFORE  
THE ILLINOIS DEPARTMENT OF REVENUE**

**Section 200.125 Discovery**

Discovery in matters pending before the Office of Administrative Hearings of the Illinois Department of Revenue shall be limited to the following, unless otherwise provided by law:

- a) No discovery may be initiated by any party until such time as the case upon which the protest is based has been docketed by the Office of Administrative Hearings, given an identifying docket number and a notice of automatic status conference issued. Each different type of discovery sought shall be by a separate document, labeled accordingly. All discovery requests shall be served exclusively upon the litigator assigned to the case. Copies of discovery requests or demands shall not be communicated to the presiding Administrative Law Judge except in instances where he or she may be acting in the absence of an assigned litigator or where compliance with discovery is being sought under appropriate motion.
- b) Hearings shall not be delayed to permit discovery unless due diligence is shown by the party seeking the discovery.
- c) Production of Documents. Any party may, by written request, direct any other party to produce for inspection, copying, reproduction or photographing any specified documents, or to disclose information calculated to lead to the discovery of the whereabouts of any of these items, whenever the nature, contents, or condition of such documents is relevant to the subject matter and is not privileged. The request shall specify a reasonable time, which shall not be less than 28 days, within which the related actions are to be performed and the place and manner of making the inspection and performing the related acts. The production, inspection, copying or photographing of any departmental records shall be limited to that done on Department premises, unless other arrangements can be made with the consent of both parties. A person served with a written request for production of documents shall:
  - 1) Comply with the request within the time specified, or
  - 2) Serve upon the person so requesting, written objections on the grounds that the request is improper in whole or in part and state the reasons therefor. Any objection to the request or refusal to respond shall be heard by the Administrative Law Judge upon prompt notice and motion of the party submitting the request in accordance with Section 10-40 of the Illinois Administrative Procedure Act [5 ILCS 100/10-40].

- 3) Upon request, furnish an affidavit stating whether the production is complete in accordance with the request.

d) Request For Admissions

- 1) A party may serve on any other party a written request for the admission by the latter of the truth of any specified relevant fact set forth in the request, and/or for the admission of the genuineness of any relevant documents described in the request. Copies of the documents shall be served with the request unless copies have already been furnished.

Each of the matters concerning admission of fact, or the genuineness of each document for which admission of fact is requested, shall be admitted, unless, within 28 days after service of the request or such additional time as may be granted by the Administrative Law Judge, the person to whom the request is directed serves upon the requesting party either:

- A) A sworn statement denying specifically the matter on which admission of fact is requested, or setting forth, in detail, the reason why he cannot truthfully admit or deny those matters. A denial shall fairly meet the substance of the requested admission. If good faith requires that a party qualify his answer or deny only a part of an admission of fact, he shall specify so much of it as is true and deny or qualify the remainder. An answering person may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiries and that the information known or regularly obtainable by him is insufficient to enable him to admit or deny said fact; or

- B) A written objection on the grounds that some or all of the requested admissions of fact are privileged or irrelevant. An objection on the grounds of relevance may be noted by any party but it is not to be regarded as just cause for refusal to admit or deny. If written objections to a request are made, the remainder of the request shall be answered within the period designated in the request. A requesting party, upon receipt of any objection, may have such objection(s) heard and determined by the Administrative Law Judge upon prompt notice and motion directed thereto.

- 2) Any admission made by a party to a request under this rule is for the purpose of the pending action only. It does not constitute an admission by him for any other civil proceeding and may not be used against him in any other proceeding.

- e) Interrogatories. Any party may serve interrogatories in the same manner and with the same limitations as imposed by Supreme Court Rule. The number of written interrogatories served shall not exceed 40, inclusive of all subsections, except by leave of the presiding Administrative Law Judge upon motion therefor made. Supplemental interrogatories are permissible.

- f) Depositions. Any party may serve notice and take the deposition(s) of another person as may be permitted by Supreme Court Rule.
- g) Expert or Opinion Witnesses. When requested by interrogatories served, all parties are under a duty to disclose the identity of "opinion" witnesses as that term may be defined by Supreme Court Rule, and to further disclose the subject matter of any intended testimony of such witness.

(Source: Amended at 20 Ill. Reg. 888, effective January 1, 1996)