

Property Tax Binding Arbitration for Property Owners

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Frequently Asked Questions

Binding arbitration creates a forum in which both parties to a dispute present their positions before an impartial third party.

Before Sept. 1, 2005, a property owner could only appeal an Appraisal Review Board (ARB) decision in district court. Tax Code Chapter 41A gives property owners meeting certain criteria the option of requesting binding arbitration as an alternative to filing an appeal of an ARB's decision to state district court. Below is a list of frequently asked questions regarding this program and what is required for property owners to qualify.

What is binding arbitration?

Generally, in binding arbitration, an independent, neutral arbitrator hears and examines the facts of an appeal and makes a decision that is binding on both parties. More specifically, binding arbitration, in the context of property value disputes, creates a forum in which both parties to a dispute present their positions before an impartial third party, who renders a specific award that is enforceable by law and may only be appealed as provided by Civil Practices and Remedies Code §171.088, for purposes of vacating an award.

Who qualifies for arbitration?

A property owner may request binding arbitration if:

- the property in dispute is real or personal property;
- the county appraisal review board (ARB) has issued a determination on the appraised or market value of the property, but not an unequal appraisal determination;

- the disputed property's value, as determined by the ARB, does not exceed \$1 million, except for residence homesteads for which there is no value limit;
- taxes have been timely paid; and
- a lawsuit has not been filed in district court on the same matter.

What appraisal disputes do not qualify for arbitration?

Binding arbitration is not available if:

- the ARB has not heard the protest and issued an order;
- the order of determination concerns a correction

to the appraisal roll under Tax Code §25.25;

- more than 45 days have passed since the property owner received the ARB order;
- the dispute concerns anything other than whether the correct value has been assigned to the property, such as failure to grant an exemption or productivity appraisal or the uniformity or equality of appraisals in a given area or region; or

- the property that is not a homestead is valued at more than \$1 million as determined by the ARB order.

What is an appraisal review board?

An ARB is a neutral, impartial group of individuals appointed by an appraisal district board



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of directors to resolve formal disputes between taxpayers and the appraisal district.

ARB hearings typically run from June to August. The ARB listens to both sides and rules on property owner protests. An ARB issues an “order” determining the outcome of a property owner’s protest. ARB decisions are binding only for the year under protest.

Are there restrictions on when I can file for binding arbitration?

A request for binding arbitration must be filed with the appraisal district within 45 days of the property owner receiving the ARB order determining the protest. **Please do not file the request with the Comptroller of Public Accounts — you will probably miss the 45-day deadline.**

Have property owners always been able to arbitrate a dispute with the appraisal district?

Since 1991, the law has allowed judges of state district courts to appoint arbitrators in certain cases. Binding arbitration has been allowed if the property owner and the appraisal district both agree to the process, and nonbinding arbitration has been permitted without the consent of the appraisal district. The 2005 Texas Legislature changed the law to expand the arbitration process. The law now allows certain property owners who are dissatisfied with the decision of an ARB to request binding arbitration without filing a lawsuit in district court.

How do I request binding arbitration?

The property owner must complete Comptroller form AP-219, *Request for Binding Arbitration*, and file the form and the required payment with the **County Appraisal District** within 45 days of receiving the ARB order. The form must be accompanied by a money order or a check issued and guaranteed by a banking institution, such as a cashier’s or teller’s check, in the amount of \$250 or \$500 made payable to the Comptroller

of Public Accounts. Personal checks, cash or any other form of payment not mentioned above cannot be accepted by the appraisal district.

Please do not file the request with the Comptroller of Public Accounts — you will probably miss your 45-day deadline. The Comptroller cannot process the request without the appraisal district’s certification, and the Comptroller cannot forward your request to the appraisal district. If you bypass the appraisal district and send the request to the Comptroller, the Comptroller must return the request and payment to you. The Comptroller is not responsible for misfiled or missent applications.

You should receive Comptroller form AP-219, *Request for Binding Arbitration*, and a notice of the property owner’s rights with the Order of Determination issued by the ARB. This form can also be found on the Comptroller’s Web site at www.window.state.tx.us/taxinfo/proptax/arbitration05. If you do not receive a *Request for Binding Arbitration* form, and you think you qualify for arbitration, contact your county appraisal district.

What is the difference between binding arbitration and expedited arbitration?

Both are forms of binding arbitration. Binding arbitration costs \$500 and has no restrictions concerning the amount of time spent on argument and testimony in an arbitration hearing. Expedited arbitration costs \$250 and is limited to up to one hour of argument and testimony by each party. When requesting arbitration a property owner should identify on the arbitration application whether he or she is requesting binding or expedited arbitration.

After I apply for arbitration, can I change my mind and move from binding arbitration or expedited arbitration to the other type of arbitration?

The decision on which type of arbitration the property owner is requesting must be made prior to applying for any binding arbitration.

Do not file the request with the Comptroller of Public Accounts — you will probably miss the 45 day deadline. Arbitration applications must be filed with the county appraisal district. The Comptroller is not responsible for misfiled or missent applications.

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What is binding arbitration for contiguous property?

Binding arbitration for contiguous properties is an appeal that allows a property owner who has two or more pieces of contiguous property to be heard in a single arbitration. To qualify, the properties must be contiguous to one another and must belong to the same property owner. A property owner may request binding or expedited arbitration for contiguous properties. When applying for arbitration for contiguous properties, the owner should identify on the arbitration application that he or she is requesting arbitration for contiguous properties and identify all contiguous properties to be considered for arbitration.

What happens after the property owner submits the request to the appraisal district?

The appraisal district must certify the application and forward the request and the money order/cashier's check, along with a copy of the ARB order, to the Comptroller within 10 calendar days. Some appraisal districts may contact you concerning your request.

Does it cost anything to arbitrate my dispute?

The property owner must make a cashier's check or money order deposit of \$250 or \$500 payable to the Comptroller to request binding arbitration. The deposit must be delivered with the application to the appraisal district, not to the Comptroller. Regardless of the outcome, including withdrawal of your request or denial of your request, the Comptroller's office retains 10% of the deposit for administrative costs. If the property owner "wins" the dispute (the arbitrator sets a value for the property nearer to the owner's opinion of value than the appraisal review board's determination as shown on the request form), the

property owner will be refunded \$225 or \$450 depending on the type of arbitration. The appraisal district would then be required to pay the arbitrator's fees. If the arbitrator's assigned value is not nearer to the owner's opinion of value than the appraisal district's value, the arbitrator is paid from the property owner's deposit. If the arbitrator charges less than the full deposit, any remainder will be refunded to the property owner.

How do I choose an arbitrator?

Once the property owner's request for binding arbitration has been processed, the Comptroller's office will mail the property owner a letter with instructions on how to access the arbitrator registry online (a hard copy of the registry is available on request) and form 50-706, *Appointment of Arbitrator*, that

allows the property owner and the appraisal district to agree on up to three arbitrator choices. The property owner and the appraisal district have 20 days to agree on an arbitrator and return the completed form to the Comptroller's office.

When the property owner gets the letter and the form, locate the arbitrator registry on the Comptroller's Web site at: www.window.state.tx.us/taxinfo/proptax/arbitration05/. Click on Arbitrator Registry Search and make your selection for qualified arbitrators willing to arbitrate in your area. Use the Help feature to assist in using the registry. Choose three arbitrators, fill in their names and taxpayer identification numbers on the form and deliver the form to the appraisal district. You may want to contact the appraisal district to find out how it processes the form when received. Practices among the appraisal districts vary. The appraisal district is responsible for returning the signed form to the Comptroller.



The property owner and the appraisal district have 20 days to agree on an arbitrator and return the completed form to the Comptroller's office.

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Comptroller staff are responsible for maintaining the arbitrator registry, processing the requests, remitting payment to the arbitrator when appropriate and/or refunding part of the property owner's deposit.

The appraisal district may decline to agree with all three choices you have made.

The Comptroller will contact the proposed arbitrator(s) to determine if the selected arbitrator agrees to hear the dispute. If all three arbitrators decline to hear the dispute, the Comptroller will randomly select an arbitrator to hear the dispute.

What should I do if I discover that information about an arbitrator on the arbitrator registry is incorrect?

You should immediately inform the Comptroller's office in writing or by e-mail about any discrepancies or outdated information concerning an individual on the arbitrator registry.

What if the appraisal district and I don't agree on an arbitrator?

If the property owner and the appraisal district cannot agree on an arbitrator within 20 days, the Comptroller will randomly select and appoint an arbitrator to hear the dispute.

Does the Comptroller have the authority to intervene in arbitrations?

The Comptroller's office is prohibited, by Rule, from giving advice or direction on a matter relating to a pending arbitration. Comptroller staff members are responsible for maintaining the arbitrator registry, processing the requests for binding arbitration, remitting payment to the arbitrator when appropriate and/or refunding part of the property owner's deposit, if applicable.

What if I change my mind and decide not to arbitrate? Can I get my money back?

You may ask for a withdrawal of your request for binding arbitration up to 14 days before the first scheduled hearing. If you request the withdrawal 14 or more days before the first scheduled hearing, the Comptroller will refund 90 percent of the property owner's deposit, retaining 10 percent of the deposit for administrative costs.

If you request a withdrawal 13 days or fewer before the first scheduled hearing, the arbitration will automatically default in favor of the appraisal district. The arbitrator will be paid from the property owner's deposit. If the arbitrator's fee is less than the deposit, the remainder of the funds will be refunded to the property owner.

You must request a withdrawal **in writing** to the Comptroller, the appraisal district and the arbitrator if one has been assigned. An oral request for withdrawal will not be accepted. Requests for withdrawal to the Comptroller can be mailed to: P.O. Box 13528; Austin, Texas 78711 or hand delivered to: 1711 San Jacinto; Austin, Texas 78701. The requests can also be faxed to the Comptroller at: (512) 463-8354 or e-mailed to ptad.arb@cpa.state.tx.us (must include a signature).

Why would an appraisal district reject my request for arbitration?

The appraisal district may reject the request for arbitration if the requisite cashier's check or money order is not provided by the property owner. This is the only reason the appraisal district may reject a request. All other determinations must be made by the Comptroller. Each request for arbitration must be accompanied by a separate \$250/\$500 deposit.

Why would the Comptroller reject my request?

There are a number of reasons why a request for arbitration could be rejected. Some reasons are:

- more than 45 days have passed since the ARB order was received and the appraisal district did not receive the request;
- the property owner's agent is not qualified to represent the property owner;
- the taxes on the subject property are (or have become) delinquent;
- the disputed real or personal property is appraised at more than \$1 million by the ARB order, unless the property is a residence homestead;

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- the issue in dispute is not about appraised or market value, but equality and uniformity, exemption qualification, or another matter;
- the order of determination was for a correction to the appraisal roll under Tax Code §25.25; or
- the property owner or agent does not provide additional information requested by the Comptroller within 10 days of the request.

What happens if my arbitration request is rejected?

The Comptroller's office will refund 90 percent of the deposit for a rejected request for binding arbitration and retain 10 percent for administrative costs.

Your request must be filed with your county appraisal district. If you file your request with the Comptroller's office without going through the county appraisal district, you may be able to file a second request with the appraisal district if 45 days have not elapsed since you received the ARB order.

After the arbitrator is chosen, what happens?

The arbitrator contacts both the property owner and the appraisal district by telephone and arranges a date, time and location for the arbitration. The arbitrator must manage the arbitration according to Comptroller Rule 9.804.

The arbitrator is required to provide a set of procedures that will be used in the arbitration proceedings. A copy of Comptroller Rule 9.804 is located on the Comptroller's Web site at www.window.state.tx.us/taxinfo/proptax/arbitration05. The arbitrator will also follow certain provisions of the Texas Tax Code and the Texas Civil Practices and Remedies Code.



After hearing both sides, the arbitrator must render a decision and complete Comptroller form 50-704, *Arbitration Determination and Award*. The arbitrator must mail the form to the Comptroller's office and may mail, fax or e-mail copies to the property owner and the appraisal district. In addition to the mailed original award, the arbitrator may fax or e-mail a copy to the Comptroller's office. After the Comptroller's office receives this form, the Comptroller's office will send either a payment to the arbitrator or a refund to the property owner, or in some instances, both.

Who may represent a property owner in a request for binding arbitration?

The parties to arbitration may represent themselves or be represented by an attorney, a licensed real estate broker or salesperson, a certified real estate appraiser, a property tax consultant or a certified public accountant. These "agents" must have written authorization signed by the property owner. *Note: a lawyer doesn't have to have this authorization.*

May I arbitrate and appeal the decision in district court?

The arbitration proceedings are binding. An arbitration award may be vacated under limited situations (Civil Practices and Remedies Code, Section 171.088). An appeal of the arbitrator's award in district court cannot be filed if you are simply dissatisfied with the value determination.

What if the arbitrator does not follow Comptroller Rule 9.804 or other law?

The integrity of the arbitrator registry is very important. Therefore, all parties should become familiar with Comptroller Rule 9.804 as well as applicable provisions of the Tax Code and Texas Civil Practices and Remedies Code. The

After hearing both sides, the arbitrator must render a decision and complete Comptroller form 50-704, Arbitration Determination and Award.

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Comptroller's office is not the licensing or certifying authority for the arbitrators on the registry. The Comptroller's role is to place an arbitrator's name on the registry after receipt of an application with accompanying qualifying documentation to be on the registry. Only complaints concerning whether the arbitrator meets the statutory requirements to be on the registry should be directed to the Comptroller. All other complaints should be directed to the appropriate licensing or certification authority.

Am I required to follow Comptroller Rule 9.804?

Failure to follow Comptroller Rules, relevant provisions of the Tax Code and Texas Civil Practices and Remedies Code, or the arbitrator's procedures could have negative consequences, including but not limited to the following:

- rejection of the request for binding arbitration;
- loss of deposit; and
- dismissal of the arbitration.

Do I have to physically attend a formal hearing?

The property owner may request to have the arbitration in person, by teleconference or by submitting written documentation to the arbitrator. However, unless the property owner and the appraisal district both agree to arbitration by submission of written documents the arbitration will be conducted in person or by teleconference. An arbitrator may require that the arbitration be conducted in person.

May I request that the Comptroller put my arbitration on hold while I conduct other business?

The Comptroller does not have the authority to delay your arbitration. You must contact the arbitrator directly to make this request. Any such arrangement involves the property owner and the arbitrator. The Comptroller is not a party to this decision. Comptroller Rules encourage arbitrators to conclude all arbitrations within 120 days of being assigned to be the arbitrator.

Who decides where and when a hearing will occur?

The arbitrator is responsible for arranging the location and time of the arbitration, and will presumably work with the parties involved in that decision. In-person hearings are to take place in the county where the appraisal district office is

located and from which the ARB's determination was issued; however, the arbitration can be conducted elsewhere, if the parties agree.

As a result of arbitration, may your property's value on the appraisal roll be increased above the amount of the appraisal review board order?

The chief appraiser may only correct the appraisal roll if the arbitration award is below the appraisal review board order.

What if I disagree with the outcome of the arbitration?

The decision of the arbitrator is final and binding on both parties. By arbitrating the dispute you agreed to abide by the arbitrator's decision.



For more information, visit our Web site www.window.state.tx.us. Receive tax help via e-mail at ptad.arb@cpa.state.tx.us.



What if I have questions?

The following is contact information for the Arbitration Section:

Mailing address:

Comptroller of Public Accounts
Property Tax Assistance Division
Attn: Arbitration
P. O. Box 13528
Austin, Texas 78711

E-mail address:

ptad.arb@cpa.state.tx.us

Phone: (800) 252-9121

Fax: (512) 463-8354

For more information,
visit our Web site
www.window.state.tx.us.
Receive tax help
via e-mail at
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We're Here To Help! *Call Toll-Free!*

If you have questions or need information on a specific tax, please call our toll-free numbers:

(800) 252-5555

911 Emergency Service/Equalization Surcharge
Automotive Oil Fee
Battery Fee
Boat and Boat Motor Sales Tax
Customs Broker
Fireworks Tax
Mixed Beverage Tax
Off-Road, Heavy-Duty Diesel Equipment Surcharge
Oyster Fee
Sales and Use Taxes
Telecommunications Infrastructure Fund

(800) 531-5441

Cement Tax
Inheritance Tax
Local Revenue
Miscellaneous Gross Receipts Taxes
Oil Well Servicing Tax
Sulphur Tax

(800) 531-5441, ext. 3-3630

WebFile Help

(800) 252-1381

Bank Franchise
Franchise Tax

(800) 252-7875

Spanish

(800) 531-1441

Fax on Demand (Most frequently requested Sales and Franchise tax forms)

(800) 252-1382

Clean Vehicle Incentive Program
Manufactured Housing Tax
Motor Vehicle Sales Surcharge,
Rental and Seller Financed Sales Tax
Motor Vehicle Registration Surcharge

(800) 252-1383

Fuels Tax
IFTA
LG Decals
Petroleum Products Delivery Fee
School Fund Benefit Fee

(800) 252-1384

Coastal Protection
Crude Oil Production Tax
Natural Gas Production Tax

(800) 252-1387

Insurance Tax

(800) 252-1385

Coin Operated Machine Tax
Hotel Occupancy Tax

(800) 252-1386

Certificates of Account Status/Good Standing
Officer and Director Information

(800) 862-2260

Cigarette and Tobacco

(888) 4-FILING (888-434-5464)

TELEFILE: To File by Phone

(800) 252-1389

GETPUB: To Order Forms and Publications

(800) 654-FIND (800-654-3463)

Treasury Find

(800) 321-2274

Unclaimed Property Claimants
Unclaimed Property Holders
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(512) 463-3120 in Austin

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