

Optional administrative appeal for review prior to economic-administrative proceedings

Procedure that allows appealing actions dictated by ENAIRe that are open to economic-administrative appeals.

Purpose

The purpose of this procedure is to appeal actions dictated by ENAIRe that are open to administrative-economic appeals, as described in articles 226 and 227 of the General Tax Law.

Regulations

- Spanish General Tax Law 58/2003, of 17 December.
- Royal Decree 520/2005 of 13 May, approving the general regulation that implements Law 58/2003 of 17 December, the General Tax Law, regarding administrative review.
- Art. 82 of Law 4/1990 of 29 June, on General State Budgets for 1990.

Who can request it

Interested parties are entitled to lodge this appeal pursuant to Article 232 of Law 58/2003 of 17 December, the General Tax Law, which specifies:

- 1) Economic-administrative claims may be filed by:
 - a) Taxpayers and offenders.
 - b) Any other person whose legitimate interests are affected by the tax action.
- 2) Economic-administrative claims may not be filed by:
 - a) Public officials and employees, except in cases where a specific right that is accorded to them is immediately and directly infringed upon, or if their legitimate interests are violated.
 - b) Individuals, when acting by delegation of the Government or as its agents or proxies.
 - c) The complainants.
 - d) Those who assume tax obligations under an agreement or contract.

- e) The bodies or agencies that have issued the contested act, as well as any other entity, by mere virtue of being the recipient of the funds that are managed by said act.

When the appellant acts on behalf of a natural or legal person, the documentation certifying the appellant's representative status must be provided (Art. 5 of Law 39/2015).

Initiation method

At the request of the interested party.

If the interested party has lodged an appeal for reconsideration, it cannot file an economic-administrative claim until the appeal has been expressly resolved or until it is implicitly rejected (due to absence of a reply).

Body that decides the appeal

The General Secretariat by delegation of the ENAIRe Board of Directors.

Deadline for ruling and notifying

1 month.

Effects of failing to rule in time

Rejected.

Appeals

Economic-administrative claim, one month after the day on which the notification is issued containing the resolution of the appeal for reconsideration, or the day following the day on which it is deemed to be rejected.

Requirements for filing the appeal

The **period for filing** the appeal is **one month** from the notification of the liquidation of the seizure order, or of the act that is being appealed.

It is important that the document be properly completed, which must satisfy the requirements of Article 115 of Law 39/2015, namely:

- Appellant's identifying information.
- Identification of the act being appealed and the reason.
- Specification of the electronic method of contact or, failing that, of the physical location where notifications are to be sent.
- Place, date, signature of the appellant.
- The administrative body, centre or unit to which it is directed and its corresponding identification code.
- Any other information that is required, where applicable, by specific provisions.

When lodging the appeal, the interested party must state that he/she is not contesting the same act through economic-administrative processes.

The appeal document must include any comments on factual and legal issues that the interested party wishes to present.

The documents that form the basis of the claim shall be attached to the appeal letter.

The mere lodging of the replacement appeal shall not suspend the execution of the contested act. However, at the request of the interested party, the execution of the contested act shall be held in abeyance under the terms set out in the regulation governing this procedure.

Filing the request

Electronic filing (individuals and those who are required to interact electronically with the Government (art. 14 Law 39/2015)), through this e-Office:

- Access via cl@ve

In person (for individuals only)

By presenting the application and associated documentation at ENAIRe's Registration Department, located in Avda. de Aragón, 330 - Building B - 28022 Madrid

At any of the other offices specified in Law 39/2015 of 1 October, on the Common Administrative Procedure of Government Agencies:

- At the electronic registers and offices for assisting with records of any administrative body that is part of Spain's national government, the regional governments, the entities that comprise the local government or the public institutional sector.
- Post offices, as established in regulations.
- Spanish diplomatic or consular offices abroad.
- Any other place specified in the applicable laws

Data Protection

Controller: ENAIRe.

Purpose: To manage and process the optional administrative appeal for review prior to economic-administrative proceedings.

Legal basis: The data processing is based on the general tax law.

Recipients: The data will not be transferred to third parties, unless required by law.

Rights: To access, rectify and delete data, as well as other rights, before the ENAIRe Central Data Protection Unit (UCPD), Avda. de Aragón 330 Edificio B - 28022 MADRID (Madrid) or via the ENAIRe e-Office (sede.enaire.gob.es).

Additional information: For more information, please see Annex I - Additional Information - Data Protection.

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Controller

Identity: ENAIRE – ID number: Q2822001J

Postal address: Avda. de Aragón, 330 - Edificio B - 28022 Madrid

Telephone: 913 21 02 11

Email: informacion@enaire.es

Data Protection Officer (DPO): ucpd@enaire.es

Purpose of the processing

Purpose: The personal data collected by this form will be processed in order to handle and manage the enquiry, complaint or suggestion submitted involving ENAIRE.

Storage periods: As specified in the applicable law regarding liability limitation.

Legal basis

The data processing is based on Article 6.1.c of the GDPR: general tax law (Spanish General Tax Law 58/2003, of 17 December).

Recipients

The data will not be transferred to third parties, unless required by law. The data is not expected to be transferred to third countries or international organisations.

Rights

Data subjects have a right to:

- Obtain confirmation of whether ENAIRE is processing their personal data.
- Access their personal data, as well as request the rectification of inaccurate data or, where applicable to request the deletion when, among others reasons, the data is no longer needed for the purposes it was collected for.
- Request under certain circumstances:
 - To limit the processing of their data, in which case it will only be stored by ENAIRE for the exercise or defence of claims.
 - To object to the processing of their data (including the processing of their data for automated individual decision-making), in which case ENAIRE will stop processing the data, except for compelling legitimate grounds, or for the exercise or defence of potential claims.

Rights may be exercised by way of ENAIRE's Central Data Protection Unit (UCPD) - Avda. de Aragón 330, Edificio B, 28022 Madrid or via the e-Office (enaire.sede.gob.es).

If your rights have not been duly observed, you may lodge a complaint with the Spanish Data Protection Agency - Address: C/Jorge Juan, 6 - 28001 MADRID (Madrid) – e-Office: sedeagpd.gob.es.