

TAX TRIBUNAL ACT (EXCERPT)
Act 186 of 1973

205.747 Mediator; certification; application; rules; requirements; list; conflict of interest; conditions; appointment; report; use of statements at mediation conference; confidentiality; exceptions; meeting not subject to open meetings act; fee.

Sec. 47. (1) A person may apply to the tribunal to be certified as a mediator. Certification is for a period of 1 year. The application shall be in a form prescribed by the tribunal. A tribunal member or hearing officer may not be certified as a mediator.

(2) The tribunal shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that establish requirements for an applicant to be certified as a mediator. Whether an applicant meets the established requirements to be certified as a mediator shall be solely determined by the tribunal. The requirements for certification as a mediator shall include, but are not limited to, 5 years of state and local tax experience that occurred within 7 years immediately preceding submission of the application. If an applicant satisfies the requirements established by the tribunal, the tribunal shall certify that applicant as a mediator. The tribunal may charge each mediator certified by the tribunal an annual certification fee, as determined by the tribunal.

(3) The tribunal shall maintain a list of certified mediators available to conduct a mediation described in section 32. The list shall be published and shall indicate all of the following:

- (a) The hourly rate charged by the mediator for his or her mediation services.
- (b) The type of tax the mediator is certified to mediate.
- (c) A summary of the mediator's experience and training.
- (d) The forum in which the mediator is certified to practice.

(4) A mediator shall disclose to all parties any conflict of interest that may exist before agreeing to mediate a dispute.

(5) The tribunal shall mediate a proceeding in which it has exclusive and original jurisdiction under section 31 if all of the following conditions are satisfied:

- (a) The parties have filed with the tribunal a stipulation that they agree to participate in mediation.
- (b) The parties agree to a mediator.
- (c) The tribunal issues an order designating the proceeding for mediation.

(6) The tribunal shall appoint the mediator agreed to by the parties. A mediator has no authoritative decision-making power to resolve a dispute in mediation. The mediator shall report the results of the mediation to the tribunal. If an agreement is reached in a proceeding before the tribunal, the tribunal shall accept the agreement if it meets the tribunal's requirements.

(7) Statements made during a mediation conference, including statements made in written submissions, shall not be used and are not admissible in any other proceedings, including trial. Any statements, written submissions or materials, or communications between the parties or counsel of the parties and the mediator relating to the mediation are confidential and shall not be disclosed without the written consent of all parties and are not subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, except for the following:

- (a) The report of the mediator. The report shall be in a form prescribed by the tribunal.
- (b) Information reasonably required by tribunal personnel to administer and evaluate the mediation program under this section.
- (c) Information necessary for the tribunal to resolve disputes regarding the mediator's fee.
- (d) Consent judgments.

(8) A mediation conference is not a meeting of a public body for purposes of the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(9) The tribunal may charge a fee for mediation.

History: Add. 2008, Act 125, Imd. Eff. May 9, 2008.