

LANGUAGE ACCESS PLAN FOR LIMITED ENGLISH PROFICIENT INDIVIDUALS

State Agency: NYS Division of Tax Appeals/Tax Appeals Tribunal (Tax Appeals)

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This document is our agency’s **Language Access Plan**.

A **Language Access Plan** explains how we provide services to people who have limited English proficiency.

This **Language Access Plan** includes information about:






	<p>The Limited English Proficient (“LEP”) population in our service area.</p>
	<p>How we notify the public about language access services.</p>
	<p>Our resources and methods for providing language access services.</p>
	<p>How we train our staff to provide language access services to the public.</p>
	<p>How we monitor language access services and respond to complaints.</p>



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PART 1 – Our Agency’s Services

We prepared this Language Access Plan (“Plan”) to comply with New York State Executive Law Section 202-a, which establishes New York’s Statewide Language Access Policy. This Plan explains how we make sure that Limited English Proficient (“LEP”) individuals have meaningful access to agency services, programs, and activities.

In this Plan, LEP individuals are understood as people who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.

Our agency’s services to the public include:

The Division of Tax Appeals/Tax Appeals Tribunal (collectively Tax Appeals) is a separate and independent division of the Department of Taxation and Finance (Tax & Finance), which adjudicates disputes between taxpayers and Tax & Finance’s Division of Taxation. The agency is comprised of two levels of administrative adjudication: the Division of Tax Appeals (DTA), which conducts both formal and small claims hearings and renders written determinations, and the Tax Appeals Tribunal, which serves as an appellate level of review. Taxpayers may protest certain notices issued by Tax & Finance by filing a petition with DTA. Formal hearings are held before DTA’s Administrative Law Judges (ALJs), who issue formal written determinations setting forth the relevant findings of fact and conclusions of law to either sustain, modify or reverse Tax & Finance’s notice. If certain thresholds are met and the taxpayer so elects, DTA proceedings may be conducted by Presiding Officers in the Small Claims Unit. After the ALJ issues their determination, either party may appeal to the Tax Appeals Tribunal; small claims determinations are generally not appealable. On appeal, the Tribunal reviews the determination, the record before the ALJ, written appellate briefs and, in some circumstances, conducts appellate oral arguments. The Tribunal then issues formal written decisions, setting forth the relevant findings of fact and conclusions of law, and affirming, reversing, remanding or modifying the determination of the ALJ. The taxpayer and, in limited circumstances, the Division of Taxation, may appeal the Tribunal’s decision by filing an Article 78 petition with the Appellate Division, Third Department, of the NYS Supreme Court. Tax Appeals administrative staff assists taxpayers with each step of the hearing and appeals process, as necessary.



PART 2 – The Limited English Proficient Population in Our Service Area

The Statewide Language Access Policy requires state agencies to translate vital agency documents into the top 12 most commonly spoken non-English language among limited English proficient New Yorkers. Our agency uses U.S. Census data (including data from the American Community Survey) to determine the top 12 languages most commonly spoken by LEP individuals in New York State.

The top 12 languages spoken by LEP individuals in New York State are:

#	Language	Estimated Number of LEP Speakers
1	Spanish	1,667,777
2	Chinese	375,924
3	Russian	119,160
4	Yiddish	71,740
5	Bengali	66,980
6	Haitian Creole	53,335
7	Korean	51,285
8	Italian	44,128
9	Arabic	41,632
10	Polish	33,125
11	French	30,770
12	Urdu	28,827

New York’s language access law also provides agencies, in consultation with the Office of Language Access, the option to add up to four more languages of translation beyond the top 12. The assessment about whether to include additional languages must be based on factors that are identified in the language access law. Our agency, in consultation with the Office of Language Access, has made the following determination with regard to the addition of languages beyond the top 12:

As Tax Appeals has received no requests for translation beyond the top 12 languages, it has opted not to request translation for any additional languages beyond the top 12. Tax Appeals will assess the need for additional languages of translation on an ongoing basis.



Our agency tracks encounters with LEP individuals in the following ways:

Tax Appeals encounters LEP individuals in the following situations: 1. via incoming telephone calls to the office; 2. via outgoing calls by our administrative staff; 3. via scheduled pre-hearing conference calls conducted by our Administrative Law Judges (ALJs) with the parties; 4. at our Small Claims or ALJ hearings, held either virtually or in person, or 5. at Tribunal appellate oral arguments. Tax Appeals uses the approved vendor under the NYS Office of General Services (OGS) Statewide Administrative Services contract for oral interpreting services (Language Line) interpreters in all of these situations. As such, Tax Appeals tracks each encounter via the bill and invoices issued by such service. In addition, case files are noted when a taxpayer requires interpreter assistance.



PART 3 – Public Outreach About the Availability of Language Access Services

Our agency informs LEP individuals about their right to free language assistance services in the following ways, using at least the top 12 languages shown in Part 2 of this Plan:

- LEP individuals are directly informed by our staff

In which ways? Any LEP individual who contacts our office is advised by our staff that we will immediately contact a free interpreter service so that we may best assist the individual.

- Signs posted about language assistance services
 - In areas operated by the agency and open to the public
 - Other (describe)

- Information is published on our agency’s website in at least the top 12 languages spoken by LEP individuals in New York State

- Outreach and presentations at schools, faith-based groups, and other community organizations
What are the LEP populations targeted?

- Local, non-English language media directed at LEP individuals in their languages
What are the LEP populations targeted?

- Social media posts directed at LEP individuals in their languages
What are the LEP populations targeted?

- Telephonic voice menu providing information in non-English languages
In which languages?



Other (describe)

Tax Appeals provides a link for translation services in the footer of every page of our agency website.



PART 4 – Provision of Language Access Services

A. Determining the Need for Services

During *in person* encounters, our agency uses the following tools to determine whether an individual is LEP, and what their primary language is:

“I Speak” posters or visual aids that provide information about free interpreting services in multiple languages

Reception staff make those determinations based on training and experience

Bilingual staff members, where available, assist in identifying LEP individual’s language

Other (describe) With the exception of the rare instances in which a taxpayer makes personal service of documents upon the agency, the in person encounters that our agency staff has with LEP individuals occurs in the context of hearings or Tribunal oral arguments. As part of our pre-hearing/pre-oral argument processes for in person hearings or oral arguments, DTA and Tribunal administrative staff, ALJs and Small Claims Presiding Officers seek to determine in advance if any party or intended witness is an LEP individual and what their primary language is, using the approved vendor under the NYS Office of General Services (OGS) Statewide Administrative Services contract for oral interpreting services (Language Line). Additionally, our hearing notices advise parties that interpreter services are available for hearings and request that the parties contact our office to advise us if interpreter services are required. As such, we make every effort to identify LEP individuals and their languages in advance of the in person encounter.

On *telephone calls*, our agency uses the following tools to find out if an individual is LEP, and what their primary language is:

Reception staff make those determinations based on training and experience

Bilingual staff members, where available, assist in identifying an LEP individual’s language

Telephonic interpreting service

Other (describe)



Our agency’s protocols for assessing whether an individual needs *oral interpreting* services in different service situations is as follows:

During office in-person encounters: Staff uses an “I Speak” card and contacts the approved vendor under the NYS Office of General Services (OGS) Statewide Administrative Services contract for oral interpreting services (Language Line) to determine if an individual who comes to the agency offices is LEP and what their primary language is.

At initial contact in the field:

When speaking on the telephone: Staff calls the approved vendor under the NYS Office of General Services (OGS) Statewide Administrative Services contract for oral interpreting services (Language Line) if an apparent LEP individual calls into the agency, to determine if they are LEP and what their primary language is.

For pre-planned appointments with LEP individuals: The only pre-planned appointments that Tax Appeals has with LEP individuals are pre-hearing conference calls, in person or virtual hearings (Small Claims or ALJ), and in person or telephonic appellate oral arguments. As part of our preparatory processes for these events, Tax Appeals staff (including DTA and Tribunal administrative staff, ALJs, and Small Claims Presiding officers) seeks to determine in advance if any party or intended witness is an LEP individual and take the appropriate steps to secure interpreter services from the approved vendor under the NYS Office of General Services (OGS) Statewide Administrative Services contract for oral interpreting services (Language Line) for such event. Additionally, our hearing notices advise parties that interpreter services are available for hearings and request that the parties contact our office to advise us if interpreter services are required.

Other (describe):

Our agency records and maintains documentation of each LEP individual’s language assistance needs as follows:

Once they are made aware, Tax Appeals staff records language assistance needs in the appropriate case files for LEP individuals, so that all staff and ALJs are aware. Also, the approved vendor under the NYS Office of General Services (OGS) Statewide Administrative Services contract for oral interpreting services (Language Line) utilized by Tax Appeals also provides the agency with an ongoing summary of the frequency of use, type of interpreter services utilized and the costs for each service, so that the agency can correlate the invoices with specific interactions/taxpayers.



B. Oral Interpreting Services

Our agency has made the following resources available for oral interpreting requests:

- Bilingual staff members who work directly with LEP individuals

Number of staff and languages spoken:

- Bilingual staff members who provide oral interpreting services on a volunteer basis

Number of staff and languages spoken:

- Telephonic interpreting service

Number of staff and languages spoken: Tax Appeals uses the approved vendor under the NYS Office of General Services (OGS) Statewide Administrative Services contract for oral interpreting services (Language Line).

- Contracts or other arrangements with school and community organizations

Number of staff and languages spoken:

- Other (Describe)

Our agency protocols for informing LEP individuals that free interpreting services will be provided and that they do not need to provide their own interpreters is as follows:

During office in-person encounters: Material, including the “I Speak” card, and if necessary, use of the approved vendor under the NYS Office of General Services (OGS) Statewide Administrative Services contract for oral interpreting services (Language Line) are used to explain to LEP individuals that they do not need to provide their own interpreters and that free interpreting services will be provided for all interactions with the agency.

- At initial contact in the field:**

When speaking on the telephone: Using the approved vendor under the NYS Office of General Services (OGS) Statewide Administrative Services contract for oral interpreting services (Language Line), staff advises any LEP individuals who call the agency that free interpreting services will be provided.

For pre-planned appointments with LEP individuals: The only pre-planned appointments that Tax Appeals has with LEP individuals are pre-hearing conference calls, in person or virtual hearings (Small Claims or ALJ), and in person or telephonic appellate oral arguments. As part of our preparatory processes for these events, Tax Appeals staff (including DTA and Tribunal administrative staff, ALJs, and Small Claims Presiding officers) advises all parties that free interpreting services are available for themselves or any intended witness who is an LEP individual, using the approved vendor under the NYS Office of General Services (OGS)



Statewide Administrative Services contract for oral interpreting services (Language Line). Additionally, our hearing notices advise parties that interpreter services are available for hearings.

Other (describe):

Our agency’s protocols for obtaining interpreting services in a timely manner is as follows:

Tax Appeals staff calls the toll-free number of the approved vendor under the NYS Office of General Services (OGS) Statewide Administrative Services contract for oral interpreting services (Language Line) immediately upon learning that an individual is an LEP individual, or at the start of a scheduled pre-hearing conference call or in person hearing or oral argument, to secure immediate real-time interpreter services. Staff provides the agency account code, and requests the language needed (or assistance in identifying the language). When the interpreter is on the line with both the agency staff and the LEP individual, the staff explains the objective of the call to the interpreter and proceeds by speaking directly to the taxpayer. The only situation in which Language Line allows our agency to reserve/schedule interpreter services is for virtual hearings; in all other instances, staff must follow the above protocol.

If an LEP individual insists on using a family member, friend, or other person as an interpreter, our protocols for deciding whether to accept or decline such an arrangement is as follows:

Tax Appeals does not allow individuals interacting with the agency to use family members, friends or other people as interpreters; instead, Tax Appeals staff calls the approved vendor under the NYS Office of General Services (OGS) Statewide Administrative Services contract for oral interpreting services (Language Line) immediately upon learning that an individual is an LEP individual to secure real-time interpreter services.

Our agency provides information to all staff members who have contact with the public about how to obtain oral interpreting services. Our protocol in this regard is as follows:

All Tax Appeals staff is required to complete the SLMS Language Access training every year, which instructs the employees how to obtain oral interpreting services through the approved vendor under the NYS Office of General Services (OGS) Statewide Administrative Services contract for oral interpreting services (Language Line). The agency intranet has a link to Language Line so that staff can access all necessary information at any time. All public-facing staff is also provided with the materials from Language Line that set forth the services offered and the process for accessing interpreter services. When using such services, staff calls the toll-free number, provides the agency account code, and requests the language needed (or assistance in identifying the language). When the interpreter is on the line with both the agency staff and

the LEP individual, the staff explains the objective of the call to the interpreter and proceeds by speaking directly to the taxpayer.

The agency’s Language Access Coordinator (“LAC”) maintains a list of oral interpreting resources that are available to staff. This resource list includes:

- Names and contact information for all resources
- Names and locations of staff members who are available to act as interpreters or provide services directly in an LEP individual’s primary language
- Languages in which each interpreter or service is qualified
- Procedures for accessing each interpreter or service

Our agency records and maintains documentation of oral interpreting services provided to LEP individuals at each encounter. Our protocol in this regard is as follows:

Tax Appeals tracks each encounter with LEP individuals via the bills and invoices issued by the approved vendor under the NYS Office of General Services (OGS) Statewide Administrative Services contract for oral interpreting services (Language Line). Administrative staff reaches out to public facing staff to confirm and correlate each charge with a specific interaction with a taxpayer. In addition, case files are also noted when a taxpayer requires interpreter assistance.

Cultural Competence and Confidentiality

Our agency makes sure interpreters are culturally competent¹ in the following ways:

As Tax Appeals only uses the approved vendor under the NYS Office of General Services (OGS) Statewide Administrative Services contract for oral interpreting services (Language Line) for interpreter services, it defers to the state contract to ensure that the interpreters secured using the service are culturally competent. Specifically, the state language services contract solicitation requires that the contracted translator “shall translate documents in a culturally sensitive manner and at the same reading level as the source material. If requested by Authorized user, translation may be required to be written in a specific regional or class dialect.”

Our agency makes sure interpreters follow state and federal confidentiality protocols in the following ways:

Tax Appeals only uses the approved vendor under the NYS Office of General Services (OGS) Statewide Administrative Services contract for oral interpreting services (Language Line) for interpreter services. The state language services contract solicitation requires that each contractor

¹ Cultural Competence is defined as *a set of congruent behaviors, attitudes, and policies that come together in a system or agency or among professionals that enables effective interactions in a cross-cultural framework*. U.S. Department of Health and Human Services, Office of Minority Health. 2000. Assuring Cultural Competence in Health Care: Recommendations for National Standards and an Outcomes-Focused Research Agenda. Extracted from: https://minorityhealth.hhs.gov/Assets/pdf/checked/Assuring_Cultural_Competence_in_Health_Care-1999.pdf



“ensures that all interpreters abide by their agreement of confidentiality.” In addition, Tax Appeals has instituted a policy in which all participants to its proceedings, including interpreters, are advised on the record that they are prohibited from divulging any information obtained during the course of the proceeding, as such proceedings are subject to the tax secrecy provisions of the Tax Law and other confidentiality provisions of New York State Law.

C. Translations of Documents

At least every two years after the effective date of this Plan, our agency determines and reassesses vital documents² that must be translated. This process is accomplished in the following ways:

The Tribunal President, Commissioners and senior staff, in consultation with the NYS Office of General Services (OGS) Office of Language Access, have made an initial assessment regarding those vital documents that must be translated and is in the process of making the instructions to all of its vital documents (forms) available in the 12 most commonly spoken non-English languages on its website. However, as these forms are legal documents, Tax Appeals requires that such documents be completed in English. Tax Appeals has also determined that all decisions, determinations and orders issued by the agency will be issued in English, as such documents are legal in nature and set legal precedent, either for the specific taxpayer or generally. However, Tax Appeals will advise LEP parties that interpreter services are available to provide oral translation of such documents at no charge. Tax Appeals will meet every two years to determine and reassess vital documents that must be translated.

Our agency’s process for making sure documents are written in plain language³ before they are translated into other languages is as follows:

A committee comprised of Tax Appeals senior staff and public facing staff will be formed to review all documents that have been identified for translation to ensure that they are in plain language and easily translatable. Additionally, the agency is in the process of reviewing each page of its website to ensure that the content is also in plain language and easily translatable.

Our agency has the following resources available for translation of documents:

Contracts with vendors for translation services

Names of vendors: Tax Appeals uses the approved vendor under the NYS Office of General Services (OGS) Statewide Administrative Services contract (Language Line) for

² Vital Documents is defined as any paper or digital document that contains information that is critical for obtaining agency services or benefits or is otherwise required to be completed by law.

³ The [Plain Writing Act of 2010](https://www.govinfo.gov/app/details/PLAW-111publ274) defines plain language as writing that is clear, concise, well-organized, and follows other best practices appropriate to the subject or field and intended audience. Extracted from: <https://www.govinfo.gov/app/details/PLAW-111publ274>



the oral translation of written documents. The agency will advise all LEP parties that they may use this service for oral translation of all decisions, determinations and orders issued by the agency.

- Contracts or other arrangements with schools and community organizations

Names of schools/organizations:

- Translation of documents by bilingual staff members

- Other (describe)

The agency’s Language Access Coordinator (“LAC”) maintains a list of translation resources that are available to staff. This resource list includes:

- Names and contact information for all resources
- Names and locations of staff members who are available to provide translations of documents
- Languages in which each translation service is qualified
- Procedures for accessing each translation service

Our agency translates documents that LEP individuals submit in their primary languages in a timely manner. Our protocol in this regard is as follows:

Tax Appeals uses the approved vendor under the NYS Office of General Services (OGS) Statewide Administrative Services contract for the translation of written documents filed with the agency in languages other than English. Tax Appeals employees submit documents to the Language Access Coordinator for translation services, as needed. The Language Access Coordinator works with the contracted vendor to obtain translation services requested.

The following non-exhaustive list of documents are currently translated or in the process of translation by our agency in the languages indicated. Documents with an asterisk (*) are determined by the agency to be vital documents.

- *AR: Arabic*
- *BE: Bengali*
- *CH: Chinese*
- *FR: French*
- *HA: Haitian-Creole*
- *IT: Italian*
- *KO: Korean*
- *PO: Polish*
- *RU: Russian*
- *SP: Spanish*
- *UR: Urdu*
- *YI: Yiddish*



Form #	Name	Top 12 Languages											Additional Languages	
		AR	BE	CH	FR	HA	IT	KO	PO	RU	SP	UR		YI
TA-100	Petition Instructions	X	X	X	X	X	X	X	X	X	X	X	X	
TA-105	Power of Attorney Instructions	X	X	X	X	X	X	X	X	X	X	X	X	
TA-200	Notice of Exception Instructions	X	X	X	X	X	X	X	X	X	X	X	X	

The process for ensuring that translations are accurate and incorporate commonly used words is as follows:

Tax Appeals, through its contracted vendor, will ensure that proofing and editing for correctness and cultural sensitivity are components of the translation service provided as part of the publication process. The agency will also ensure that plain language is used in materials produced before translation to ensure information is accessible to a range of literacy levels.



PART 5 – Staff Training

The person in the agency who is responsible for training staff in language access services is:
Tara Nadareski, SLMS Coordinator

The staff training includes the following components:

- The agency’s legal obligations to provide language access services
- The agency’s resources for providing language access services
- How to access and work with interpreters
- Cultural competence and cultural sensitivity
- How to obtain translation services
- Maintaining records of language access services provided to LEP individuals

The methods and frequency of training are as follows:

All Tax Appeals Employees are required to complete SLMS Language Access training every year.



PART 6 – Monitoring the Plan and Responding to Complaints

A. Monitoring

Our agency’s Language Access Coordinator (“LAC”) will monitor implementation of the Plan to make sure we are in compliance. Our protocols in this regard are as follows:

Compliance with, and status reports regarding, the Language Access Plan are agenda items at each monthly senior staff meeting. This ensures a regular, open line of communication between the LAC and all senior staff/agency administration and allows the LAC to effectively monitor implementation of and compliance with the Plan.

B. Complaints

We provide information to the public in at least the top 12 most commonly spoken non-English languages in the state, advising members of the public of their right to file a complaint if they feel that they have not been provided adequate language access services or have been denied access to services because of their limited English proficiency. We do not retaliate or take other adverse action because an individual has filed a language access complaint.

We display information on the right to file a complaint, and the procedures for filing a complaint, in the following manner:

Tax Appeals is in the process of amending its website to advise the members of the public of their right to file a complaint if they believe that they have not been provided adequate language access services, as well as a link to be used for the filing of language access complaints.

We handle complaints made to the agency regarding the provision of language assistance services in the following manner:

To date, Tax Appeals has not received any language access complaints. However, any complaints filed with agency will be referred by the Language Access Coordinator to the supervisor of the unit providing the service in question for review and response. If there is disagreement on the appropriate response, the Language Access Coordinator may refer the complaint to agency senior staff or the Tribunal President. All complaints will be timely forwarded to the Office of Language Access.



PART 7 – Signatures

Head of Agency **Title** **Date**

Agency LAC **Title** **Date**

Executive Director, NYS Office of Language Access **Date**