LETTER RULING REQUESTS

Notice #11-12 July 2011

- *Effective August 1, 2011, the fee for requesting a letter or revenue ruling is $500.*
- *An expedited ruling may be requested for a fee of $10,000.*
- *Letter rulings are binding on the Department with respect to the named taxpayer while revenue rulings are not.*

INTRODUCTION

This notice is intended to provide taxpayers and the general public with information concerning the procedures and fees applicable to a request for a letter ruling or revenue ruling in accordance with Tenn. Code Ann. § 67-1-109.

The Commissioner of Revenue is authorized to issue letter rulings and revenue rulings at his discretion. The fee for issuance of a letter ruling or revenue ruling is $500. The taxpayer may also request an expedited ruling for a fee of $10,000.

DISCUSSION

Public Chapter 449 (2011) authorizes an increase in the standard fee for requesting a letter ruling or revenue ruling pursuant to Tenn. Code Ann. § 67-1-109. The fee is now $500.

Public Chapter 449 also enacts a process by which a taxpayer can request an expedited ruling. When exceptional circumstances require immediate consideration of an issue, a taxpayer can request an expedited letter ruling or revenue ruling by expressly making such request in writing and submitting an expedited ruling fee of $10,000 with the request. When an expedited ruling is requested, the Commissioner of Revenue will either issue a ruling within sixty (60) days from the date of the request or deny the request and return the fee to the requesting party within seven (7) days from the date of the request.

Letter Rulings and Revenue Rulings

A letter ruling is an interpretation and application of the tax law as it relates to a specific set of facts furnished to the Department by the taxpayer. Assuming the facts are correctly represented by the taxpayer requesting the letter ruling, the Department is bound to follow its decision with respect to that taxpayer. The taxpayer's identity must be disclosed to the Department in its letter ruling request.

Revenue rulings are statements regarding the substantive application of law and statements of procedure that affect the rights and duties of taxpayers and other members of the public. Revenue rulings are advisory in nature and are not legally binding on the Department. The taxpayer's identity is not required for a nonbinding revenue ruling.

How to request a ruling

To request a ruling, the taxpayer or its representative should send a letter and the applicable fee to the Commissioner of Revenue, 500 Deaderick Street, Nashville, TN 37242. The letter should include the taxpayer's question or questions, as well as a description of all relevant facts. The letter may also include the taxpayer's analysis of the law; however, this is not required. The Department will contact the taxpayer for more information if needed.

- *Redacted rulings can be found on the Department's website.*

Rulings on the Department of Revenue's Web site

It is the policy of the Department that letter rulings and revenue rulings that are instructive to other taxpayers, and that are not detrimental to the State's Economic Development efforts, will be made available to the general public on the Department's Web site. All rulings will be redacted to remove identifying taxpayer information before being made public. The Department will consider requests that rulings not be published based on a taxpayer's belief that confidentiality cannot be accomplished in a redacted version of the ruling. Any request for nonpublication, even in redacted form, should be made in the ruling request.

- *Rulings can be revoked or modified by the Commissioner at any time.*

Revocation of a ruling

Rulings may be revoked or modified by the Commissioner at any time. The revocation or modification of a letter ruling shall be effective retroactively unless the following conditions are met, in which case the revocation shall be prospective only:

1. The taxpayer must not have misstated or omitted material facts involved in the transaction;
2. Facts that develop later must not be materially different from the facts upon which the ruling was based;
3. The applicable law must not have been changed or amended;
4. The ruling must have been issued originally with respect to a prospective or proposed transaction; and
5. The taxpayer directly involved must have acted in good faith in relying upon the ruling and a retroactive revocation of the ruling must inure to the taxpayer's detriment.

- *Contact the Revenue Legal Office for more information.*

Questions

If you have questions regarding letter rulings or revenue rulings, you may contact the Department of Revenue's Legal Office.

Legal Office
Tennessee Department of Revenue
500 Deaderick Street
Andrew Jackson State Office Building
Nashville, TN 37242
Phone (615) 741-2348; FAX (615) 532-7346

References:

T.C.A. § 67-1-102
T.C.A. § 67-1-109
PC 449 (2011)

The information provided here is current as of the date of publication but may change as a result of new statutes, regulations, or court decisions. While this notice is intended to be comprehensive, events and situations unanticipated by this notice may occur. In such cases you should contact the department or your tax professional for further guidance.