BILL HASLAM
Governor

STATE OF TENNESSEE
DEPARTMENT OF REVENUE
ANDREW JACKSON STATE OFFICE BUILDING
NASHVILLE, TENNESSEE 37242

RICHARD H. ROBERTS
Commissioner

January 24, 2012

Senator Randy McNally, Chair
Senate Finance, Ways and Means Committee
301 6th Avenue North
Suite 307 War Memorial Building
Nashville, TN 37243

Representative Charles Sargent, Chair
House Finance, Ways and Means Committee
301 6th Avenue North
Suite 206 War Memorial Building
Nashville, TN 37243

Re: Letter and Revenue Rulings
2011 Report and Statistics

Gentlemen:

On behalf of the Tennessee Department of Revenue (the "Department"), I am pleased to provide the following information and statistics regarding the issuance of letter and revenue rulings in 2011.

Background. As you will recall, at the start of the session last year, the Department faced several requests for improvement in its rulings publication process. Your committees listened patiently to citizen and practitioner concerns surrounding the Department's policies and procedures with respect to tax rulings. In those discussions, I heard those concerns and asked your committees to withhold action on various legislative proposals while I investigated the status of our procedures. As a result of your giving us the opportunity to undertake this review, I am pleased to report that I believe the Department has made substantial progress with respect to our internal review and publication processes.

Statutory Authority. TENN. CODE ANN. § 67-1-109(a) (2011) grants the Commissioner of Revenue the power to issue letter and revenue rulings, at the Commissioner's discretion. The

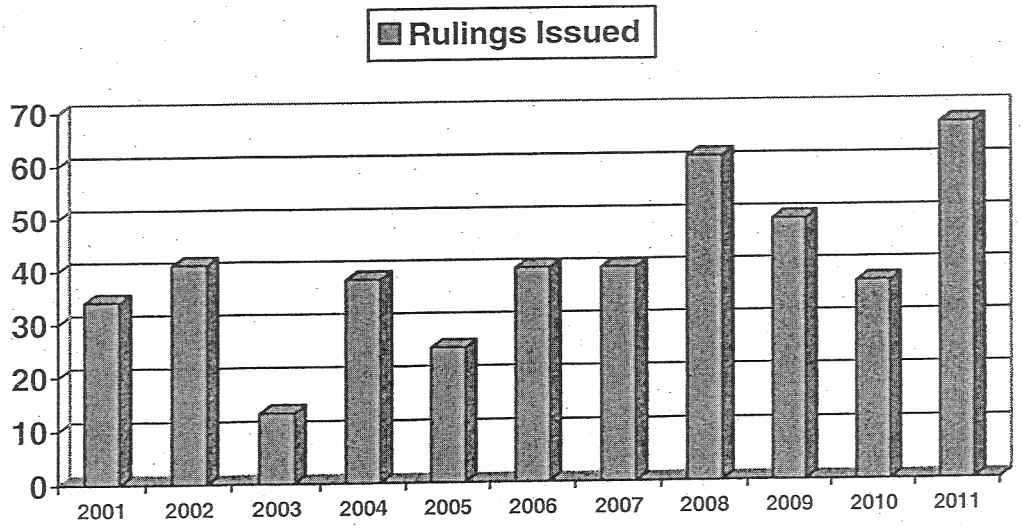
Department has issued rulings since 1988. A letter ruling, which is binding on the Department with respect to the taxpayer to whom the ruling is issued, is an interpretation and application of the tax law as it relates to a specific set of existing facts furnished to the Department by the taxpayer. In the case of a letter ruling, the taxpayer's identity must be disclosed. A revenue ruling is not binding, and is a statement regarding the substantive application of law and statements of procedure that affect the rights and duties of taxpayers and other members of the public. In the case of a revenue ruling, the taxpayer's identity is not disclosed.

Completion of Requests. From 1988 to 2010, the Department issued between 8 and 65 rulings a year; the median number of rulings issued per year during that period was 38.

In 2011, the Department achieved the following:

- 67 rulings were issued. This is the highest number of rulings ever issued by the Department.
- 9 informal responses were provided in lieu of a ruling, with fees refunded.
- 9 files were closed due to the withdrawal of the request or a lack of response to the Department's request for additional necessary information.
- In total, the Department completed 85 requests in 2011.

The following chart illustrates the number of rulings issued between 2001 and 2011, by year.



Publication of Issued Rulings. The Department began publishing rulings in redacted form in 1994. Since 1994, the Department has published an average of 60.8% of the rulings issued in a given year. The Department has published 53% of all issued rulings since 1988.

In 2011, the Department achieved the following:

- 57 rulings issued in 2011 have been published in redacted form. This is the highest number of rulings ever published by the Department in a given year. See Exhibit A for specific publication information relating to rulings issued in 2011.

- The Department is in the final stages of redacting 2 additional 2011 rulings for publication, which should become available online in the next 30 days. This will bring the total number of published rulings to 59, which equals 88% of the rulings issued in 2011.

- 8 rulings issued in previous years were also published in 2011.

- Of the rulings issued in 2011, the Department will not publish 8, for the following reasons:

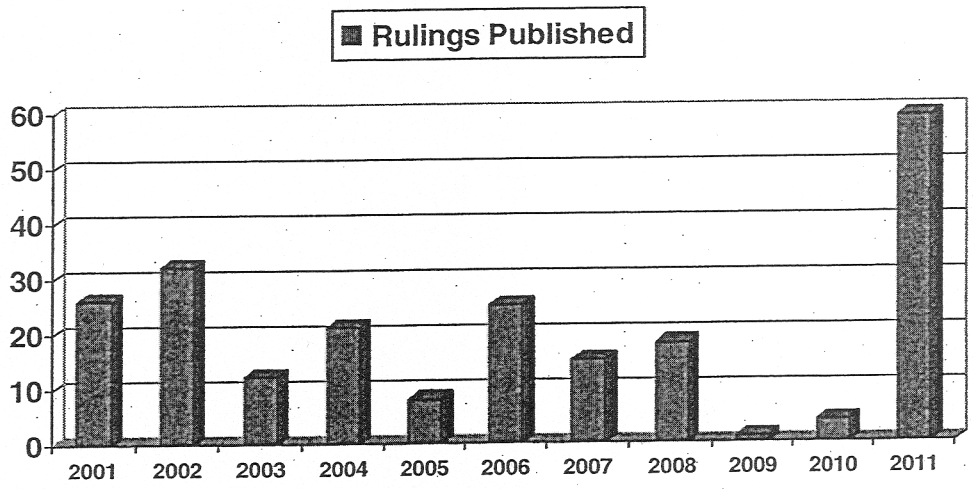
    - Sufficient redaction is not possible, due to unique facts that would identify the taxpayer (3)

    - The ruling is a duplicate of a ruling that was published subsequent to the receipt of the request (3)

    - The relevant law has changed (1)

    - The ruling was rescinded and replaced with a revised ruling, which was published (1)

The following chart indicates the number of rulings published between 2001 and 2011, by year.



Issued Rulings vs. Published Rulings. As the charts above show, the rate of issuance has been more consistent than the rate of publication. Many of the concerns expressed at last year's hearing focused on publication. As illustrated in the chart immediately above, I believe that we have made substantial progress in bridging this gap and improving the service to taxpayers and tax practitioners.

I believe that the progress made in 2011 is clear evidence of our Department's commitment to improving the ruling process. In 2012, the Department will continue to place a very high priority on the completion of requests for letter and revenue rulings. I appreciate your patience and welcome your suggestions.

Sincerely,

Richard H. Roberts
Commissioner

RHR:KEH

Attachment

cc: Senate Standing Committee, Finance Ways and Means
House Standing Committee, Finance Ways and Means
Justin P. Wilson, Comptroller

Exhibit A
Publication of Rulings Issued in 2011

RULING NUMBER	DATE PUBLISHED	REASON FOR NOT PUBLISHING RULING
11-01		Sufficient redaction is not possible, due to unique facts that would identify the taxpayer
11-02	12/19/2011	
11-03	07/15/2011	
11-04		Duplicate of a published ruling (#11-05)
11-05	05/05/2011	
11-06	12/06/2011	
11-07	12/06/2011	
11-08	12/06/2011	
11-09		Rescinded and replaced by #11-10, which was published
11-10	12/06/2011	
11-11	08/12/2011	
11-12		Duplicate of a published ruling (#11-19)
11-13	04/12/2011	
11-14		Sufficient redaction is not possible, due to unique facts that would identify the taxpayer
11-15	08/12/2011	
11-16	*February 2012*	
11-17	*February 2012*	
11-18	08/12/2011	
11-19	08/15/2011	
11-20		Duplicate of a published ruling (#11-19)
11-21	12/19/2011	
11-22	08/12/2011	
11-23		The relevant law has changed
11-24	08/12/2011	
11-25		Sufficient redaction is not possible, due to unique facts that would identify the taxpayer
11-26	08/12/2011	
11-27	08/16/2011	
11-28	08/12/2011	
11-29	09/23/2011	
11-30	08/12/2011	
11-31	08/12/2011	
11-32	08/17/2011	
11-33	09/26/2011	
11-34	09/26/2011	
11-35	09/23/2011	
11-36	09/23/2011	

RULING NUMBER	DATE PUBLISHED	REASON FOR NOT PUBLISHING RULING
11-37	09/23/2011	
11-38	10/17/2011	
11-39	09/23/2011	
11-40	09/23/2011	
11-41	10/06/2011	
11-42	11/01/2011	
11-43	10/17/2011	
11-44	10/06/2011	
11-45	10/17/2011	
11-46	10/11/2011	
11-47	11/01/2011	
11-48	11/01/2011	
11-49	11/01/2011	
11-50	11/01/2011	
11-51	12/06/2011	
11-52	11/01/2011	
11-53	11/01/2011	
11-54	11/01/2011	
11-55	11/16/2011	
11-56	11/16/2011	
11-57	11/16/2011	
11-58	11/16/2011	
11-59	12/06/2011	
11-60	12/06/2011	
11-61	12/06/2011	
11-62	12/19/2011	
11-63	12/19/2011	
11-64	01/04/2012	
11-65	01/04/2012	
11-66	01/04/2012	
11-67	01/04/2012	