BILL HASLAM
Governor

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

RICHARD H. ROBERTS
Commissioner

January 24, 2013

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

Representative Charles M. 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
2012 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 2012.

Background. As you will recall, at the start of the 2011 session, the Department faced several requests for improvement in its rulings review and 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 improve the process and undertake this review, I am pleased to report that we have again this year reduced the number of pending requests. I believe these improvements are a clear indication of the priority the Department has put on making good on our commitment to resolve this challenge. Although we still have opportunity for improvement, the Department will continue to make 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 as described by the taxpayer and furnished to the Department. 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.

Satisfaction of Requests. During 2012, the Department completed a total of 61 requests. As of January 1, 2012, the Department had 80 requests for rulings pending, and received an additional 18 new requests during the year. As of January 1, 2013, only 37 requests were pending, which represents a 54% reduction in the number of requests awaiting a response.

In 2012, the Department achieved the following:

- 33 rulings were issued.
- Of the 33 rulings issued, 2 were expedited requests. Both expedited rulings were issued within the required 60-day statutory time frame.
- Additionally, 22 informal responses were provided in lieu of a ruling, with fees refunded (see below for details).
- 6 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 61 requests in 2012.

Additional discussion of informal responses may be helpful. In certain circumstances, a ruling may not be the most suitable vehicle for assisting a particular taxpayer. In such cases, the Department will provide the taxpayer with an informal response and a refund of the ruling fee.

As set forth above, the Department provided 22 informal responses in lieu of a ruling in 2012, with fees refunded.

- 4 responses involved items for which the taxpayer was required to submit a standard application form instead of a ruling request. The Department provided the taxpayer with an explanation of the requirements and a copy of the application.

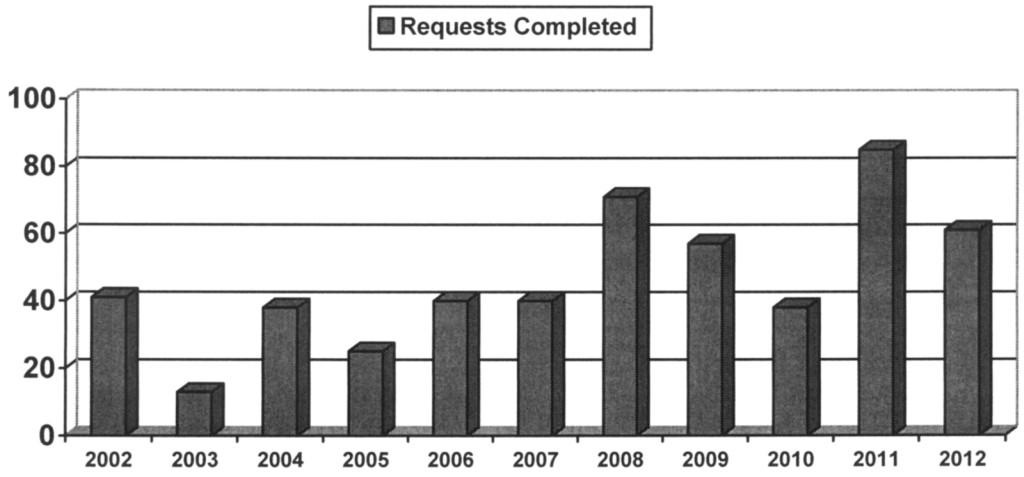
- 5 responses involved requests for confirmation of existing law, with no application of the law as it relates to a specific set of facts.

- 6 responses involved issues for which detailed published guidance is already available. The Department provided the taxpayer with a copy of the published guidance and an explanation of the applicable law.

- 5 responses were to simple questions that did not require an in-depth analysis of the law. The Department routinely responds to questions of this sort informally, without charge.

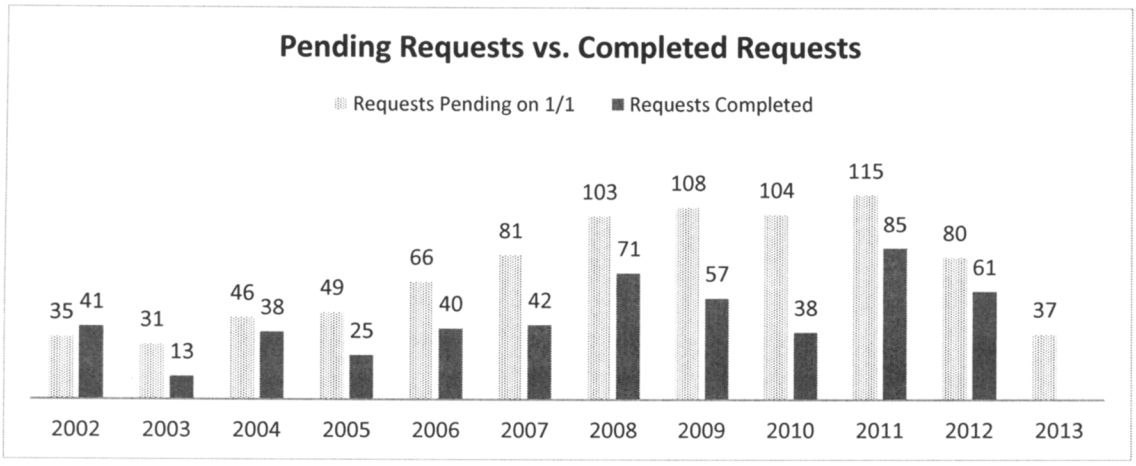
- 2 responses were to requests involving a repealed statutory provision. The Department provided information regarding the repeal of the provision.

The following chart illustrates the total number of completed requests each year between 2002 and 2012. This number includes both issued rulings and informal responses. During 2011-2012, the Department responded to a total of 146 requests.



In 2011 and 2012, the Department significantly reduced the number of pending ruling requests. The Department receives an average of 46 new requests per year. Between 2003 and 2010, the backlog of unanswered requests increased nearly every year. Over 100 requests were awaiting completion on January 1 of 2008, 2009, 2010, and 2011.

In 2011, the Department reduced the number of pending requests by 30%. In 2012, the Department continued this effort, reducing the number of pending requests by an additional 54%. As of January 1, 2013, only 37 requests were pending; this is the lowest number since 2004. The Department expects that each of these requests will be completed during 2013.



Publication of Issued Rulings. The Department began publishing rulings in redacted form in 1994. Since 1994, the Department has published an average of 62% of the rulings issued in a given year. Published rulings assist taxpayers by providing guidance on issues they may have that are similar to ones addressed in the rulings. The Department agrees that the benefits to taxpayers of publication more than justify the time and effort required to prepare a ruling for publication.

In keeping with Tennessee's taxpayer confidentiality laws, the Department redacts all information covered by these statutes before a ruling is published. The Department places a high priority on protecting a taxpayer's information, and therefore works closely with the taxpayer to whom a ruling is issued to ensure that all confidential or identifying information is redacted prior to publication of the ruling.

In 2012, the Department's publishing efforts resulted in the following:

- 29 rulings issued in 2012 have been published in redacted form. See Exhibit A for specific publication information relating to rulings issued in 2012.

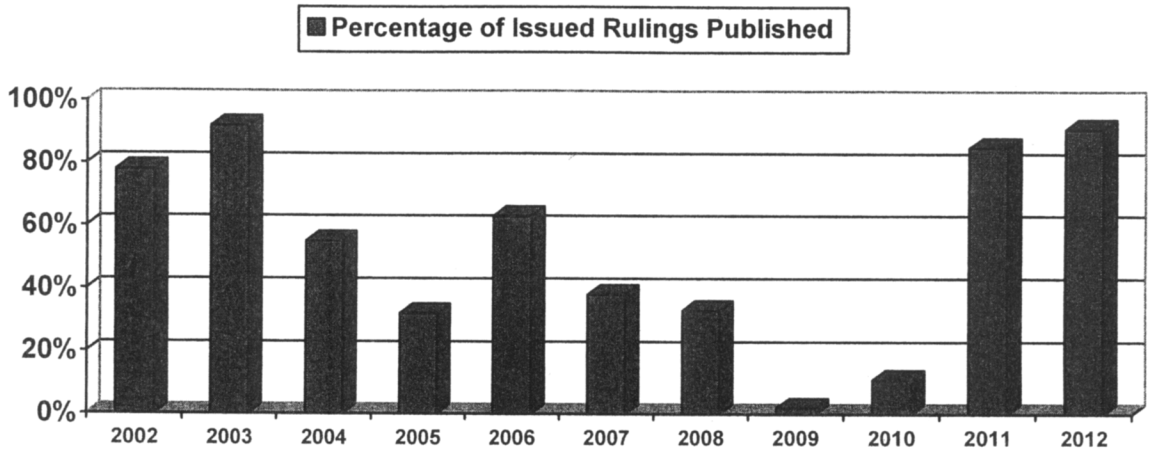
- The Department is in the final stages of redacting 1 additional 2012 ruling, which should become available online in the next 30 days. This will bring the total number of published rulings to 30, which equals 91% of the rulings issued in 2012. This is the highest percentage of rulings published since 2003.

- Of the rulings issued in 2012, the Department will not publish 3, for the following reasons:

    - Sufficient redaction is not possible, due to unique facts that would identify the taxpayer (1).

- The ruling is generally no longer applicable, due to subsequent changes in the law (2).

The following chart indicates the percentage of rulings issued in a given year that were published between 2002 and 2012.



Issued Rulings vs. Published Rulings. As the charts above show, the rate of responses to requests has been more consistent than the rate of publication. The 2011 hearings clearly impressed the legislature's desire to publish rulings. As illustrated in the chart immediately above, we have made substantial progress in bridging this gap and improving the service to taxpayers and tax practitioners.

The progress made in 2012 is clear evidence of our Department's commitment to improving the ruling process. In 2013, 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

cc: Governor Bill Haslam
Senate Standing Committee, Finance Ways and Means
House Standing Committee, Finance Ways and Means
Secretary of State Tre Hargett
Justin P. Wilson, Comptroller
Herbert Slatery, Counsel to Governor

Exhibit A
Publication of Rulings Issued in 2012

NUMBER	DATE PUBLISHED ON WEBSITE	REASON FOR NOT PUBLISHING RULING
12-01	04/30/2012	
12-02	01/09/2013	
12-03	06/26/2012	
12-04	06/26/2012	
12-05	07/03/2012	
12-06	09/14/2012	
12-07	N/A	Operations are unique and ruling applies to a single taxpayer.
12-08	07/27/2012	
12-09	08/14/2012	
12-10	N/A	Ruling involves a subsequently repealed statute.
12-11	09/14/2012	
12-12	01/09/2013	
12-13	N/A	Ruling involves a subsequently repealed statute.
12-14	09/14/2012	
12-15	09/14/2012	
12-16	10/04/2012	
12-17	11/19/2012	
12-18	pending	
12-19	11/19/2012	
12-20	10/24/2012	
12-21	11/19/2012	
12-22	11/19/2012	
12-23	11/19/2012	
12-24	01/09/2013	
12-25	01/09/2013	
12-26	01/09/2013	
12-27	01/09/2013	
12-28	12/08/2012	
12-29	01/09/2013	
12-30	01/09/2013	
12-31	01/22/2013	
12-32	01/09/2013	
12-33	01/22/2013	