

**TITLE 4: ECONOMIC RESOURCES**  
**DIVISION 1: REVENUE AND TAXATION**

**§ 1707. Private Letter Ruling Procedures.**

(a) A ruling is a written statement issued to a taxpayer or his authorized representative by the Secretary of Finance which interprets and applies the tax law to a specific set of facts.

(b) A request for a ruling by a taxpayer or his authorized representative should be submitted to the Chief of the Division of Revenue and Taxation, Department of Finance. Each request for a ruling shall include:

(1) A complete statement of all relevant facts relating to the transaction, including the names, addresses, and taxpayer identification numbers of all interested parties;

(2) A complete statement of all the relevant laws and regulations relating to the transaction including the section numbers and relevant text that the taxpayer seeks to have applied to the transaction;

(3) A full and precise statement of the business reasons for the transaction;

(4) A detailed description of the transaction including true copies of all relevant documents relating to the entire transaction must be submitted;

(5) The text of the proposed ruling to be issued to the taxpayer by the Secretary of Finance that interprets and applies the tax laws to a specific set of facts. The proposed text shall include:

(i) Taxpayer's views on the results of the transaction and its supporting authority, and

(ii) Information and discussion of any contrary authority to the position advanced. If no contrary authority exists, a statement that none exists is required;

(6) Signature of taxpayer or authorized representative of taxpayer; and

(7) A statement attesting to the accuracy of the request or accuracy of any additional statement or statements or documents subsequently submitted which declares: "Under the penalties of perjury, I declare that I have examined this request, including accompanying documents and to the best of my knowledge and belief, the facts presented in support of the requested ruling are true, correct and complete." This declaration must be signed by the taxpayer, not the taxpayer's representative.

(c) Separate requests for rulings are required for issues under the NMTIT and for issues other than the NMTIT.

(d) If a request does not comply with all the requirements set forth herein, the request will be acknowledged and requirements not met will be pointed out. The taxpayer will have 30 days in which to complete the request. Failure to complete the request closes the request. The late receipt after closing will reopen the request and the request shall be treated as a new request requiring payment of a fee.

(e) The Department of Finance shall not issue rulings in the following areas:

(1) Completed transactions after the return has been filed;

(2) The transaction is part of an integrated transaction;

(3) Where there is not a bona fide business purpose for the transaction;

(4) Where the matter involved hypothetical situations;

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- (5) Where the request involves tax consequences of proposed legislation;
- (6) Any matter where the determination requested is primarily one of fact (e.g. market value of property);
- (7) Tax effect of any transaction to be consummated at some indefinite future.

(f) A taxpayer may not rely on a ruling in connection with another transaction.

(g) The Secretary of Finance shall determine all ruling requests as expeditiously as possible. A final determination shall be the binding position of the Department of Finance with respect to the tax treatment of the proposed transaction.

(h) The nonrefundable application fee for a letter ruling shall be a minimum of \$500. The secretary may by regulation prescribe a fee schedule which bears relationship to the nature and complexity of the issues. Upon payment of the application fee, the fee shall be credited to a special fund that the secretary or his designee may expend without further appropriation solely for the purpose of effective administration and enforcement of tax laws applicable in the Commonwealth.

(i) Upon the deletion of the names of the taxpayers and any other personal facts that are not essential to an understanding of the ruling, the Department of Finance shall make public any private letter ruling that it issues. All rulings shall be filed with the Commonwealth Register within 60 days of the ruling's issuance.

(j) *Request for a Conference.* To request a conference on the issues involved, the taxpayer should indicate in writing at the time of filing the request or within 30 days of filing the request.

(k) *Revocation and Withdrawal of a Private Letter Ruling.*

(1) A letter ruling may be revoked or modified by:

- (i) A notice to the taxpayer to whom the letter ruling was issued;
- (ii) The enactment of legislation;
- (iii) A decision of the Commonwealth Superior Court; or
- (iv) The issuance of temporary or final regulations.

(2) Except in rare or unusual circumstances, the revocation or modification of a letter ruling will not be applied retroactively to the taxpayer for whom the letter ruling was issued or to a taxpayer whose tax liability was directly involved in the letter ruling provided that:

- (i) There has been no misstatement or omission of material facts;
- (ii) The facts at the time of the transaction are not materially different from the facts on which the letter ruling was based;
- (iii) There has been no change in the applicable law or regulations;
- (iv) The letter ruling was originally issued for a prospective transaction;

and

(v) The taxpayer directly involved in the letter ruling acted in good faith in relying on the letter ruling, and revoking the letter ruling retroactively would be to the taxpayer's detriment.

(3) *Withdrawal of Request by Taxpayer.* A taxpayer may withdraw a request for a letter ruling at any time before the letter of reply is signed by the secretary. Correspondence and exhibits relating to a request that is withdrawn

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will not be returned to the taxpayer. The application fee will not be returned to the taxpayer.

(1) The secretary may prescribe regulations to carry out the purpose and intent of this section.

**Source:** PL 9-22, § 1 (§ 1707).

**Commission Comment:** With respect to the references to the “Chief of the Division of Revenue and Taxation, Department of Finance,” the “Secretary of Finance,” and the “Department of Finance,” see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.