



STATE OF CONNECTICUT
DEPARTMENT OF REVENUE SERVICES

PS 2008(2)

25 Sigourney Street
Hartford CT 06106-5032

POLICY STATEMENT

Requests for the Issuance of a Ruling

Purpose: This Policy Statement describes the procedures a taxpayer or authorized representative must use to request the issuance of a ruling and the current procedures that the Department of Revenue Services (DRS) follows in issuing rulings.

Effective Date: Effective upon issuance.

Statutory Authority: Conn. Gen. Stat. §12-2.

What Documents Are Rulings: Although rulings, declaratory rulings, technical advice memoranda, and general informational letters are all referred to colloquially as rulings, DRS considers only rulings and declaratory rulings to be rulings.

The Director of the Legal Division is responsible for handling requests for issuance of rulings, declaratory rulings, and technical advice memoranda.

Rulings: Based on a taxpayer's request, a ruling interprets Connecticut tax laws and regulations and applies them to a specific set of facts. It has precedential value and may be relied on generally by all persons for subsequent like transactions.

Declaratory Rulings: Based on a taxpayer's petition, a declaratory ruling is issued under the Uniform Administrative Procedure Act (Conn. Gen. Stat. §4-176). The issuance of declaratory rulings is the subject of Conn. Agencies Regs. §12-2-4a.

Technical Advice Memoranda: Based on a taxpayer's request, a technical advice memorandum provides guidance to the taxpayer where a dispute arises during a field audit examination over the interpretation and application of certain Connecticut tax statutes, and the regulations under these statutes, that are administered by DRS. See **Policy Statement 2000(8)**, *Procedures in Handling Requests for Issuance of Technical Advice Memoranda*.

General Informational Letters: A general informational letter calls attention to an interpretation or well-established principle of tax law without applying it to a specific set of facts. A general informational letter may be issued where it appears that the taxpayer has requested only general information or where the request does not meet all the requirements for issuance of a ruling and DRS believes that general information will be helpful.

When DRS Issues a Ruling: Generally, a ruling is issued only for a prospective transaction. If a transaction has been consummated, DRS generally issues a ruling only if the taxpayer's tax return for the taxable period in which the transaction was consummated has not been filed and the taxpayer agrees to send a copy of the tax return, with the ruling attached, to the Director of the Audit Division.

When DRS Does Not Issue a Ruling: DRS does not issue a ruling:

- If the same or a similar issue is before DRS in connection with an audit examination of the same taxpayer for the same or any other prior taxable period. However, the taxpayer may request the issuance of a technical advice memorandum as provided in Policy Statement 2000(8);
- In response to inquiries about alternative plans of proposed transactions or about hypothetical situations;
- Where the taxpayer or taxpayers involved are not identified;
- Where the problem involved is inherently factual in nature;
- On only part of an integrated transaction;
- Where reasonably thorough research would reveal that the issue is clearly and adequately addressed by a statute, regulation, decision of the Connecticut or federal courts, declaratory ruling, ruling, Special

Notice, Policy Statement, Informational Publication, Announcement, or tax return instructions issued by DRS;

- Where a business makes a ruling request or where a tax practitioner (such as a certified public accountant, public accountant, enrolled agent, or attorney) makes the ruling request on behalf of a client (irrespective of whether the client is a business) and no analysis and conclusion is provided as required. See *What a Ruling Request Must Contain* below;
- Where other forms of written determination are deemed more appropriate; **or**
- Wherever DRS, in its discretion, deems it inadvisable.

If a taxpayer is notified of a pending audit examination by DRS before a ruling is issued, the taxpayer must agree to give prompt notification to the Legal Division about the pending audit examination and to the revenue examiner about the pending ruling request.

What a Ruling Request Must Contain: A ruling request must be submitted in the form prescribed below. A properly completed ruling request contains: (1) a **Statement of Facts**, (2) an **Issue Statement**, (3) an **Analysis** (in the case of requests by businesses or tax professionals), (4) a **Document List**, (5) a **Document Appendix**, and (6) a properly completed **Form LGL-006, Request for Issuance of a Ruling** (Rev. 9/97 or later).

- The **Statement of Facts** must contain all relevant facts about the transaction. These facts include names, addresses, taxpayer registration numbers, and employer identification or social security numbers of all interested parties; a full and precise statement of the business reasons for the transaction; and a carefully detailed description of the transaction. Relevant facts reflected in the documents submitted must be included in the description of the transaction and not merely incorporated by reference.
- The **Issue Statement** must contain a precise statement of the issue or issues to be resolved.
- The **Analysis** made by businesses or by tax practitioners on behalf of a client must contain a Statement of Law and an Analysis of Law as applied to the issue.
 - The **Statement of Law** must contain a detailed and complete statement of relevant law. It should discuss the implications of any relevant legislation, court decisions, regulations, rulings, declaratory rulings, administrative

pronouncements, or tax return instructions the taxpayer finds either in accord with or contrary to the position advanced. If the taxpayer determines there are no contrary authorities, the taxpayer must make a statement to that effect.

- The **Analysis of Law** must contain a detailed and complete discussion of the bearing of the relevant facts and legal authorities upon the issue or issues to be resolved. The analysis must also contain a conclusion about the taxpayer's views of the proper tax results of the transaction including any relevant authority for these views.
- The **Document List** must contain a list of all documents submitted with the ruling request.
- **Document Appendix:** The taxpayer must attach a true copy of all relevant documents, such as contracts, wills, deeds, agreements, or instruments, to the ruling request. Original documents should not be submitted because they become a part of the DRS file and are not returned.
- **Form LGL-006:** A properly completed Form LGL-006 must accompany the ruling request. It must be signed by an individual, but not by a tax practitioner, if any, who has personal knowledge of the facts and who must declare, under penalty of false statement and to the best of the individual's knowledge or belief, whether:
 - The request involves a prospective (as opposed to consummated) transaction;
 - The request involves an issue that is the same or similar to an issue being considered by DRS in an audit examination of the taxpayer; being protested to the DRS Appellate Division by the taxpayer; being litigated in the Connecticut courts by the taxpayer; or being considered by DRS in a claim for refund made by the taxpayer;
 - The taxpayer is undergoing an audit examination by DRS on any issue or tax;
 - The taxpayer has been notified by DRS about a pending audit examination;
 - The request involves an issue that is clearly and adequately addressed by a statute, regulation or decision of the Connecticut or federal courts or by a declaratory ruling, ruling, Special Notice, Policy Statement, Informational Publication, Announcement, or tax return instructions issued by DRS;
 - The taxpayer has previously been issued a ruling on the same or a similar issue by DRS; **and**
 - The facts presented in the ruling request are true, correct, and complete.

Form LGL-006 must be signed by the following individuals. If the taxpayer is a:

- **Corporation:** A corporate officer who has legal authority to bind the taxpayer; a person designated by the board of directors or other governing body of the corporation; an officer or employee of the corporation upon written request signed by a principal officer of the corporation and attested by the secretary or other officer of the corporation; or a person who is authorized to receive or inspect the corporation's return or return information under I.R.C. §6103(e)(1)(D);
- **Partnership or limited liability company:** A member of the partnership or limited liability company during any part of the taxable period or periods to which the Statement of Facts pertains; **or**
- **Trust or estate:** A fiduciary of the trust or estate.

Where to Send a Ruling Request: Ruling requests, including a copy of all required documents, should be mailed to the Department of Revenue Services, 25 Sigourney Street, Hartford CT 06106-5032; Attention: Legal Division. Alternatively, ruling requests, including an electronic image of all required documents, may be emailed to: legal.division@po.state.ct.us.

Processing Ruling Requests: DRS will acknowledge receipt of a ruling request. If a request does not fully comply with the requirements set out in this policy statement, DRS will indicate by letter the requirements that have not been complied with. The person making the ruling request has 30 days from the date of the letter to complete the ruling request.

Rulings will generally be issued no later than 120 days following the receipt of a properly completed ruling request. Any modification of the ruling request restarts the 120-day period during which the ruling will be issued. The Legal Division may extend the 120-day period.

Binding Effect of Rulings: Except as discussed in this document and until a ruling is changed, a ruling represents the position of and is binding on DRS for: (1) a particular transaction, and subsequent like transactions, involving the persons identified as interested parties in the request for the ruling; and (2) other transactions involving persons other than those identified as interested parties in the request for the ruling. The other persons have the burden of establishing that the facts and circumstances involved

in their transactions are substantially the same and are not materially different from the facts and circumstances involved in the transaction on which the ruling is based.

For the taxpayer to which a ruling was originally issued or a person identified as an interested party in the request, a ruling is not binding on DRS if:

- There has been a misstatement or omission of material facts;
- The facts later developed are materially different from the facts on which the ruling was based;
- The applicable law or regulations have changed;
- A Connecticut or federal court has issued a decision on point;
- DRS has issued a declaratory ruling, ruling, administrative pronouncement, or return instruction on point; **or**
- The ruling originally was issued for a consummated transaction occurring in a taxable period for which a tax return had been filed.

For any other person, a ruling is not binding on DRS if the facts and circumstances involved in the other person's transactions are not substantially the same or are materially different from the facts and circumstances involved in the transaction on which a ruling is based.

Effect of a Newly-Issued Ruling, Declaratory Ruling, or Administrative Pronouncement on Previously-Issued Rulings: A ruling or declaratory ruling found to be partially or wholly erroneous, incomplete, unclear, obsolete, or otherwise not in accord with current DRS policy may be amplified, clarified, distinguished, modified, obsoleted, revoked, superseded, supplemented, or suspended. When a newly-issued ruling, declaratory ruling or administrative pronouncement expressly affects a previously-issued ruling or declaratory ruling, it is DRS policy to give effect **prospectively only** to the newly-issued ruling or declaratory ruling, whether or not the newly-issued ruling, declaratory ruling, or administrative pronouncement has an adverse tax consequence for taxpayers, to ensure similar treatment of all similarly situated taxpayers. A previously-issued ruling or declaratory ruling affected by a newly-issued ruling, declaratory ruling, or administrative pronouncement affords no protection for like transactions occurring after the date a newly-issued ruling, declaratory ruling, or administrative pronouncement is issued.

A previously-issued ruling or declaratory ruling may be:

- **Amplified:** Where no change is being made in a position taken by a previously-issued ruling, but the position is being extended to apply to a variation of the fact situation set forth by a newly-issued ruling or administrative pronouncement, the previously-issued ruling has been amplified. Thus, if a previously-issued ruling held that a principle applied to A and the newly-issued ruling holds that the same principle also applies to B, the previously-issued ruling is amplified. Compare with *Modified* below.
- **Clarified:** Where language in a previously-issued ruling is being made clear by a newly-issued ruling or administrative pronouncement because the language has caused, or may cause, some confusion, the previously-issued ruling has been clarified. The term clarified is not used where a position in a previously-issued ruling is being changed.
- **Distinguished:** Where a newly-issued ruling or administrative pronouncement mentions a previously-issued ruling to point out an essential difference between them, the previously-issued ruling has been distinguished.
- **Modified:** Where the substance of a previously-issued ruling is being changed in part and is continued without change in part by a newly-issued ruling or administrative pronouncement, the previously-issued ruling has been modified. Thus, if a previously-issued ruling held that a principle applied to A but not to B and the newly-issued ruling or administrative pronouncement holds that the principle applies to both A and B, the previously-issued ruling is being modified by the newly-issued ruling because the newly-issued ruling or administrative pronouncement changes in part, and continues without change in part, the substance of a previously-issued ruling. Compare with *Amplified*, *Clarified*, and *Revoked*.
- **Obsoleted:** Where a previously-issued ruling is not considered determinative for future transactions, frequently because of changes in the underlying law or because a position taken in the ruling has been incorporated in a subsequently promulgated regulation or administrative pronouncement, the previously-issued ruling has been obsoleted. DRS generally indicates whether and to what extent the conclusion reached in the obsoleted ruling is still valid.
- **Revoked:** Where the substance of a previously-issued ruling is wholly changed and no part of the ruling is continued without change in a newly-issued ruling or administrative pronouncement, the previously-issued ruling has been revoked.
- **Superseded:** Where the newly-issued ruling or administrative pronouncement does nothing more than restate the substance of a previously-issued ruling, the previously-issued ruling has been superseded. If the newly-issued ruling or administrative pronouncement does more than restate the substance of a previously-issued ruling, a combination of terms is used. For example, where the substance of a previously-issued ruling is being changed in part and is continued without change in part but the valid portion is being restated in a newly-issued ruling or administrative pronouncement that is self-contained, the previously-issued ruling has been modified and superseded.
- **Supplemented:** Where a previously-issued ruling publishes a list, such as a list of the names of countries, and that list is expanded by adding more names in a newly-issued ruling or administrative pronouncement, the previously-issued ruling has been supplemented. Ultimately, a newly-issued ruling or administrative pronouncement may supersede the previously-issued ruling and those that supplement it.
- **Suspended:** Where the position taken in a previously-issued ruling will not be applied pending some further action, such as the issuance of new or amended regulations or the outcome of cases in litigation, the previously-issued ruling has been suspended.

Consequence of an Adverse Ruling: A taxpayer to which an adverse ruling is issued is not considered to be aggrieved as the term is used in pertinent sections of the Connecticut General Statutes. In contrast, a taxpayer to which an adverse declaratory ruling is issued may begin an action for declaratory judgment in the Superior Court as provided in the Uniform Administrative Procedure Act.

Withdrawal of a Ruling Request: A taxpayer may withdraw a ruling request at any time before the ruling is issued. DRS will keep all correspondence and documents and may consider them in any subsequent audit examination of the taxpayer.

Disclosure of Rulings and Ruling Requests: DRS will treat a ruling request, including a copy of all required documents, as return information as defined in Conn. Gen. Stat. §12-15(h)(2). Disclosure of return information is prohibited by Conn. Gen. Stat. § 12-15(a). However, DRS will publish the

ruling, and a taxpayer that makes a ruling request must do so on the basis that the ruling itself will be published, subject to the deletions described below. A taxpayer that makes a ruling request waives all copyrights, rights to privacy, and similar rights to prevent disclosure of the text of the ruling except those rights to the deletions described below.

Before publishing any ruling, DRS will exercise care to ensure the deletion of: (1) the names, addresses, and tax registration numbers of the taxpayer to whom the ruling pertains; and (2) information for which an adequate statutory or other basis for exemption from disclosure is established. In fact, DRS will generally provide to the taxpayer making the ruling request an opportunity to review the proposed statement of facts and the proposed statement of the issue.

In contrast, a petition for a declaratory ruling, including all documents submitted with the petition for declaratory ruling, will be open to public inspection. DRS will publish the declaratory ruling.

Effective Date of Rulings: Except as otherwise provided in this Policy Statement, and unless otherwise stated in the ruling, a ruling generally has retroactive effect because it interprets existing law.

Effect on Other Documents: Policy Statement 2000(7), *Procedures in Handling Requests for Issuance of Rulings*, is modified and superseded and may not be relied upon on or after the date of issuance of this document.

Effect of This Document: A Policy Statement explains in depth a current Department of Revenue Services (DRS) position, policy, or practice affecting the tax liability of taxpayers.

For Further Information: Call DRS during business hours, Monday through Friday:

- **1-800-382-9463** (Connecticut calls outside the Greater Hartford calling area only); **or**

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- **860-297-5962** (from anywhere).

TTY, TDD, and Text Telephone users only may transmit inquiries anytime by calling 860-297-4911.

Forms and Publications: Forms and publications are available anytime by:

- **Internet:** Visit the DRS website at www.ct.gov/DRS to download and print Connecticut tax forms; **or**
- **Telephone:** Call **1-800-382-9463** (Connecticut calls outside the Greater Hartford calling area only) and select **Option 2** from a touch-tone phone, or call **860-297-4753** (from anywhere).

Paperless Filing/Payment Methods (fast, easy, free, and confidential):

- **For business returns, tax payments, and electronic bill payments:** Use the *Taxpayer Service Center (TSC)* to file a variety of tax returns and extensions, as well as to pay taxes or bills over the Internet. Visit the DRS website at www.ct.gov/DRS and click on the *TSC* logo or on *File/Register OnLine* for a complete list of taxes that can be electronically filed and paid.
- **For income tax returns, extensions, estimated payments, and electronic bill payments:** Use the *Taxpayer Service Center (TSC)* to file personal income tax returns and extensions, or to make estimated payments and electronic bill payments over the Internet. Visit the DRS website at www.ct.gov/DRS and click on the *TSC* logo or on *File/Register OnLine*.

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