

RULES
OF
DEPARTMENT OF REVENUE
ADMINISTRATIVE DIVISION

CHAPTER 560-1-1
ORGANIZATION

560-1-1-.10 Letter Rulings.

(1) Purpose. The purpose of this regulation is to prescribe the guidelines and procedures of the Department for the submission of letter ruling requests and the issuance, redaction, and public disclosure of letter rulings on specific issues interpreting and applying Georgia tax laws and regulations. Letter rulings issued pursuant to this rule constitute declaratory rulings pursuant to O.C.G.A. §§ 48-2-15.2 and 50-13-11.

(2) Definitions.

- (a) “Declaratory ruling” means the disposition of a petition filed pursuant O.C.G.A. § 50-13-11.
- (b) “Informal advice” includes, but is not limited to, any oral or written comments, assistance, or advice provided by the Department in response to questions submitted on an informal basis.
- (c) “Letter ruling” or “ruling” means a written determination that is issued to a taxpayer by the Commissioner in response to such taxpayer’s written inquiry about the taxpayer’s status for tax purposes or

tax effects of acts or transactions, and is based on applying the tax statutes, regulations, or other legal authority to such taxpayer's specific set of facts.

(3) Subject Matter of Letter Rulings. The Department issues letter rulings on the tax effects of specific acts or transactions. A letter ruling request must be based on a specific fact situation and specific parties.

(a) **Ineligible Requests.** The Department will not issue letter rulings in regard to:

1. Alternative tax treatments or hypothetical situations or questions;
2. Notices of proposed or official assessments or decisions thereon;
3. Decisions on refund claims, offers in compromise, installment payment agreement requests, voluntary disclosure or closing agreements, or applications to waive penalty or interest;
4. Matters scheduled for or currently under audit, currently under protest or appeal, or related to pending or ongoing litigation;
5. Questions involving nexus or residency of a taxpayer;
6. Questions clearly answered by the tax statutes, regulations, or other legal authority; or
7. Federal tax matters, unless the request concerns differences in treatment for federal and state purposes.

(b) **Department's Discretion.** The Department may decline to issue a letter ruling whenever warranted by the facts and circumstances of the particular request.

(c) **Notice.** The Department will notify the requesting taxpayer that the request is not eligible for a letter ruling.

(4) Procedure to Request a Letter Ruling.

- (a) **Written Requests.** Letter ruling requests must be made in writing and must be from a specific taxpayer or that taxpayer's representative. The Department will not issue letter rulings in response to oral requests.
- (b) **Address.** Letter ruling requests may be submitted via mail to the Georgia Department of Revenue, Legal Affairs & Tax Policy, 1800 Century Blvd NE, Suite 15000, Atlanta, Georgia 30345 or via email to tax.policy@dor.ga.gov.
- (c) **Contents.** A letter ruling request must contain all relevant facts and information, including the following information:
 - 1. **Taxpayer Identification:**
 - (i) Name,
 - (ii) Mailing address,
 - (iii) Telephone number,
 - (iv) E-mail address,
 - (v) Taxpayer identification number of the taxpayer making the request, and
 - 2. **Preferred Communication.** Taxpayer's preferred method of receiving notifications regarding the letter ruling (letter or email).
 - 3. **Power of Attorney.** If the taxpayer is represented by a third party, the third party must submit a signed Power of Attorney.
 - 4. **Facts.** The request must contain a complete statement of all relevant facts, including details of the entire transaction at issue, even if the request pertains to only a portion of that transaction. The statement of facts must outline facts contained in supporting documentation, and must not be merely incorporated by reference.
 - 5. **Evidentiary Documentation.** The request must include true copies of all relevant documents and an analysis of their bearing on the issue(s), specifying pertinent provisions. All documents submitted will

become part of the Department's file and will not be returned to the taxpayer.

6. **Taxpayer's Position on Issue Posed.** The request should indicate the taxpayer's position on the issue(s), including references to all relevant statutes, regulations, court decisions, or other written guidance, whether in support of or contrary to that position. Even if the taxpayer is not urging a particular outcome, the taxpayer should state the taxpayer's views on the issue and reference relevant authorities.
7. **Other Jurisdiction's Rulings.** If applicable, the request must include a statement that a ruling or determination has been, is being, or will be sought or has already been issued by another taxing authority or court on the same issue or transaction underlying the request. If another taxing authority or court has issued a ruling or determination, the request should include a copy of that ruling or determination.
8. **Expedition.** If requesting expedited treatment, the request must include a statement requesting an expedited ruling and the reasoning for such request. See paragraph (11) for reasons justifying an expedited request.
9. **Redaction.** If requesting redactions of the public letter ruling in addition to those outlined in subparagraph (9)(a), the request should include a second copy of the request with the proposed redactions indicated by use of brackets.
10. **Mandatory Representations.** Specific representations by the taxpayer making the request, certifying that:
 - (i) The taxpayer is not currently under audit by the Department;

- (ii) The taxpayer has not been notified by the Department of a pending audit;
 - (iii) The taxpayer has not submitted a claim for refund involving transactions or issues contained in the request; and
 - (iv) The issues contained in the request are not currently the subject of litigation.
- (d) **Acknowledgement of Request.** The Department will notify the requesting taxpayer of its receipt of the letter ruling request. If expedited treatment was requested, the notification will address whether this request is granted.
1. **Requests for Additional Information.** If the Department receives a request that is missing required information or documents or the Department requires additional information or documents to address the request, the Department will notify the taxpayer in writing of the missing or additional information or documents. The taxpayer must provide the requested information or documents in accordance with the instructions in the notification within 30 days or the Department will close the request. The taxpayer may resubmit the request along with the missing or additional information or documents at any time.
- (e) If, prior to the issuance of a letter ruling, a taxpayer is notified of a pending audit by the Department, the taxpayer shall inform the auditor of the outstanding letter ruling request.
- (5) **Withdrawal of Requests.** A taxpayer may withdraw a letter ruling request in whole or in part at any time prior to the Department's issuance of the ruling. The withdrawal must be submitted in writing to the address in subparagraph (4)(b). The Department will retain all documents and information submitted and may consider any such documents or

information in subsequent audits or examinations of the taxpayer's returns.

(6) Disposition of Letter Rulings. Letter ruling requests will be completed in the order received, unless a request is granted expedited treatment. The Department will respond to all requests promptly, but timing will vary based on the volume of pending requests and the scope and complexity of the request. Rulings will be sent to the taxpayer.

(a) **Letter Ruling Contents.** Letter rulings will contain a statement of facts, an explanation of the law, and the application of the law to the facts.

(7) Effect of Rulings.

(a) **No Precedent.** A letter ruling has no precedential value except to the taxpayer to whom the ruling was issued and only for the specific fact situation or transaction addressed in the ruling. A taxpayer may not rely on a ruling issued to another taxpayer.

(b) **Taxpayer's Reliance.** A taxpayer may rely on a ruling issued to that taxpayer unless and until the ruling is invalidated.

(8) Publication and Public Inspection of Rulings. Letter rulings will be posted, in a redacted format, on the Department's website and made available in hard copy format for public inspection at the Department's headquarters. Any person wanting to inspect letter rulings should contact the Department to arrange a mutually convenient time during regular business hours to inspect the letter rulings. Any copies of letter rulings provided will be subject to a per page copying charge not to exceed ten cents per letter-sized page.

(a) **Exception.** If the Department determines redaction of a letter ruling cannot sufficiently protect the identity of the requesting taxpayer or related parties, the letter

ruling will not be published or made available for inspection.

(9) Redaction of Letter Rulings.

- (a) **Redacted Information.** Prior to making a letter ruling public, the Department will redact:
1. Names, mailing addresses, telephone numbers, email addresses, taxpayer identification numbers, and other identifying details of the taxpayer making the request and all other identified parties;
 2. Tax return information;
 3. Information required by federal or state statute or regulation to be kept confidential; and
 4. Other information as the Department deems appropriate.
- (b) **Taxpayer's Proposed Redactions.** If a taxpayer wishes to have additional information not listed in section (a) of this paragraph redacted, the taxpayer should include a copy of the proposed redactions along with the original request.
- (c) **Taxpayer's Review.** Prior to making a letter ruling public, the Department will provide the taxpayer to whom the ruling is issued the proposed redacted version of the ruling. The taxpayer must respond to the proposed redacted ruling with any additional redactions and an explanation for such redactions within 30 days of receipt of the proposed redacted version. The Department will take into consideration the taxpayer's proposed redactions but will make the final determination as to the contents of the public version of the ruling. If the Department receives no response from the taxpayer within the 30-day period, the Department's proposed redacted version of the ruling will be made public.

(10) Invalidation of Letter Rulings.

- (a) **Causes.** A letter ruling may become invalid because of a change in law or policy.
 - (b) **Automatic Invalidation.** A letter ruling may become invalid by operation of law through either a change in statute or regulation or an order of a court or tribunal with jurisdiction over the Department.
 - (c) **Invalidation through Administrative Discretion.** A letter ruling may become invalid due to an opinion of the Attorney General or an administrative change to the Department's policies.
 - (d) **Good Faith Reliance.** A taxpayer who acts in reliance on a ruling that is later invalidated will be deemed to have acted in good faith.
 - (e) **Material Deviation from Facts Presented.** A letter ruling request that reflects facts that vary materially from those detailed in the request or a transaction is not carried out substantially as proposed in the request is invalid. If the Department learns of such deviation, it will issue a revocation or modification of the original letter ruling. This revoked or modified letter ruling will serve as notice that the taxpayer may not rely on the original letter ruling.
- (11) **Expedited Letter Ruling.** Expedited letter rulings are rare and will only be granted in unusual cases.
- (a) **Treatment.** If a letter ruling is expedited, it means that a request is processed ahead of requests received before it. If expedited treatment is granted, the Department cannot guarantee that the letter ruling will be processed by the date requested.
 - (b) **Qualification.** Expedited treatment is granted only if the requesting taxpayer needs to obtain a letter ruling before a certain date to avoid serious consequences, the taxpayer submitted the request as promptly as possible, and the taxpayer could not have anticipated the need for such letter ruling earlier.

- (c) **Procedure.** A statement requesting expedited handling should be submitted with the letter ruling request and include an explanation of the need for the expedited treatment, a representation that the taxpayer filed the request as promptly as possible, and the requested date for the letter ruling's issuance.
 - (d) **Denial.** If the Department does not grant a request for expedited letter ruling, it will notify the taxpayer.
- (12) **Inapplicability.**
- (a) **Informal Advice to Taxpayers.** Informal advice is not binding on the Department.
 - (b) **Other Rulings and Guidance.** This rule shall not apply to declaratory judgments sought pursuant to O.C.G.A. § 50-13-10.

Authority: O.C.G.A. §§ 48-2-12, 48-2-15.2, and 50-13-11.