

810-14-1-.06 Revenue Rulings.

(1) The Commissioner of Revenue may, at his or her discretion, issue Revenue Rulings as authorized by Section 40-2A-5, Code of Alabama 1975. Revenue Rulings apply only to the recipient of the request and have no precedential value to other taxpayers.

(2)(a) Any request for a revenue ruling must be written in letter form with a duplicate of the request and supporting documents attached.

(b) A ruling request shall be addressed to the Secretary, Department of Revenue, and must be signed by the taxpayer or the taxpayer's authorized representative. The term "authorized representative" has the meaning ascribed to it in Section 40-2A-3(2), Code of Alabama 1975.

(c) Each question or subpart of a question shall be considered a separate revenue ruling request and must be accompanied by a \$200.00 fee, in accordance with the provisions of §40-2A-5, Code of Alabama 1975.

(d) The ruling request and applicable fee should then be mailed to the following address:

Secretary of the Department
Alabama Department of Revenue
P. O. Box 327001
Montgomery, Alabama 36132-7001.

(3) A ruling request must include the following:

(a) A statement of all facts relevant to the determination. The statement of relevant facts must include the following:

1. names, addresses, telephone numbers, and social security numbers of all relevant parties;
2. a full and precise statement of the business reasons for the transaction; and
3. a complete, detailed description of the transaction.

(b) A statement of the taxpayer's views regarding the tax consequences of the transaction.

1. A taxpayer may seek a certain determination on the issues raised in the ruling request. In such instance, the taxpayer must furnish an explanation of the grounds for that determination.

2. Even if the taxpayer does not request a specific determination on the issues raised in the ruling request, the taxpayer still must submit an opinion on the tax consequences of the proposed transaction.

(c) The authority upon which the taxpayer's position regarding the proposed transaction is based.

1. The taxpayer should inform the Department in its ruling request of any statute, regulation or court decision that the taxpayer believes is contrary to the position taken by the Department on the issue and discuss the implications of these authorities.

2. If no contrary authority is found, the taxpayer should submit a statement to this effect to facilitate the ruling request.

(d) Copies of all documents relative to the transaction. The following list is illustrative, but not exhaustive, of the types of documents that should be attached: contracts, wills, deeds, agreements, and legal documents.

(e) A statement that to the best of the taxpayer's knowledge, the identical issue or a similar issue has not been ruled on by the Department with regard to the taxpayer or a predecessor. If such a ruling request has been made, the taxpayer must furnish the date and result of the revenue ruling. In addition, the taxpayer must include a statement as to whether an identical issue was submitted previously by that taxpayer and was later withdrawn prior to the issuance of a revenue ruling.

(f) A statement that the request is for a proposed transaction or event, and that no taxes have accrued or will accrue prior to the issuance of the ruling with respect to the transactions, events, or facts contained in the request. If the transaction or event subject to the ruling request is in the nature of a series of transactions or events whereby some of the transactions or events have occurred in the past and some of the transactions or events are prospective in nature, a ruling will not be issued.

(g) The following perjury declaration:

1. "Under penalties of perjury, I declare that I have examined this request, including the 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."

2. The perjury declaration must be signed by the taxpayer and the taxpayer's authorized representative. Changes in the ruling request or additional factual information sent at a later time must also include the perjury declaration.

(4) (a) All revenue rulings shall be maintained in the office of the Secretary of the Department, and shall be available for public inspection and copying, within 60 days following their issuance (except as provided in subparagraph (c) of this paragraph (4)), at a cost to be determined by the Secretary.

(b) "Issuance" of a revenue ruling occurs upon the mailing of the revenue ruling to the taxpayer to whom it pertains.

(c) Within thirty (30) days after the revenue ruling was issued, a taxpayer may submit a request for delay of public inspection. A request for delay shall contain the date on which it is expected that the underlying transaction will be completed. The request for delay shall contain a suggested issuance date and a statement from which the Commissioner may determine that good cause exists to warrant such delay.

(5)(a) Prior to making any such publication, the Department shall delete from the text of such revenue ruling all names, addresses, titles, figures, dates, and other information which may identify the particular taxpayer who requested the revenue ruling. If a revenue ruling contains trade secrets or other confidential information, the Department shall, upon written request of the taxpayer, delete such information prior to publication.

(b) If information other than names, addresses, and identifying information needs to be deleted, the taxpayer must include with the ruling request a separate statement of proposed deletions and the statutory basis for each deletion.

(c) The statement of proposed deletions must accompany the ruling request, but should not be included in or referred to in the request. The material to be deleted should be placed in brackets.

(d) The taxpayer may request additional deletions after the ruling request is submitted by submitting an additional statement of proposed deletions.

(6) (a) Either the taxpayer or the Department may request a conference regarding a ruling request.

(b) The Department may grant or deny the request by the taxpayer. Generally, the Department will grant the request only if holding a conference will help the Department make a determination with respect to the revenue ruling.

(7) It shall be the practice of the Department to process ruling requests in the order received. Requests for processing out of order, made in writing in a separate letter submitted with the request or subsequent thereto and showing clear need for such treatment, will be given consideration as the particular circumstances warrant.

(8) (a) Ruling requests that do not comply with the requirements set out in this rule will be returned to the taxpayer. The requirements that have not been met or additional information that is needed will be explained to the taxpayer so that the request may be modified to meet the requirements of this rule.

(b) The taxpayer shall have thirty (30) days from the date the ruling request was returned to modify the request or to provide the additional information requested. If the

taxpayer fails to do so in the specified time period, the Department may close the file and reopen it after the taxpayer modifies the request or the additional information has been received. If the ruling request is closed and reopened, the ruling request will be treated as a new request for purposes of determining when the ruling request was received.

(9) If the taxpayer withdraws a ruling request, all exhibits and correspondence submitted with the request or pertaining to the request may be retained by the Department. The Commissioner may furnish his or her views to the division which has or will have audit jurisdiction of the taxpayer's return.

(10) Revenue rulings may be revoked or modified by the commissioner at any time; but any revocation or modification shall not be effective retroactively unless one of the following has occurred:

(a) The person making the request misstated or omitted facts material to the ruling.

(b) The ruling was issued with respect to a matter involving the computation or payment of a tax that was due and payable at the time the ruling was requested.

(c) The law applied by the commissioner in the revenue ruling is changed in a manner to alter the commissioner's conclusions in the ruling and the change in the law is made effective as of the date of the ruling.

(11) Notice of the revocation or modification of a revenue ruling shall be mailed by either first-class U.S. mail, U.S. mail with delivery confirmation, or certified U.S. mail to the last known address of the taxpayer and the taxpayer's authorized representative, if any.

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Authority: Sections 40-2A-7(a)(5) and 40-2A-5(b), Code of Alabama 1975
History: Filed with LRS May 20, 1993. Certification filed with LRS July 16, 1993, effective August 19, 1993.
Amended: Filed June 19, 1995, effective July 24, 1995.
Amended: Filed August 2, 2002, effective September 6, 2002.
Amended: Filed December 15, 2004, effective January 19, 2005.
Amended: Filed June 5, 2015, effective July 10, 2015.