

March 3, 1999

Circular Letter 99-01

Subject: **Procedure for the request and issuance of Rulings and Administrative Determination Letters.**

It is the practice of the Puerto Rico Department of the Treasury (Department) to answer inquiries of taxpayers and other interested parties, whenever appropriate in the interest of sound tax administration, as to the tax effects of their acts or transactions. This Circular Letter establishes the general procedure to be followed for the issuance of formal responses to those inquiries.

Section 1. Rulings and Administrative Determination Letters

Rulings and administrative determination letters are official interpretations by the Department as to the application of the Code, or any other tax law, to the acts or transactions represented by the taxpayer. The rulings and administrative determinations are issued by the Secretary or his authorized representative.

A ruling or written statement will be issued to a taxpayer or his authorized representative interpreting and applying the Puerto Rico Internal Revenue Code of 1994, as amended (Code), or any other tax law, to a specific set of facts. A letter ruling includes the written permission or denial of permission by the Puerto Rico Treasury Department to a request for a change in a taxpayer's accounting method or accounting period. Once issued, a letter ruling may be revoked or modified for any number of reasons, as explained in section 6 of this Circular Letter, unless it is accompanied by a closing agreement.

If the issue covered by the ruling is understood by the Department to be of general interest, the ruling will be also issued as an administrative letter for public release. Such release will take place not earlier than six months after the issuance of the opinion. The administrative determination letter will not set forth the name of the taxpayers mentioned in the opinion. The Department will determine at its discretion which opinions will be published.

Section 2. Matters Subject to Rulings

A. In general. The Puerto Rico Treasury Department issues letter rulings on matters arising under the Code and related statutes and regulations that involve:

1. the time, place, manner, and procedures for reporting and paying taxes;
2. the assessment and collection of taxes (including interest and penalties);
3. the abatement, credit, or refund of an overassessment or overpayment of tax; or
4. the filing of information returns.

Rulings will be issued only on prospective transactions and on completed transactions if the ruling request is submitted before the due date for filing the return on which the transaction is required to be reported, subject to the following limitations.

B. Circumstances under which a letter ruling is not ordinarily issued. (1) The Puerto Rico Treasury Department ordinarily will not issue a letter ruling if, at the time the letter ruling is requested, the identical issue is involved in the taxpayer's return for an earlier period and that issue:

- (i) is being examined by the Fiscal Audit Bureau;
- (ii) is being considered by the Assistant Secretary for Appeals;
- (iii) is pending in litigation in a case involving the taxpayer or a related taxpayer;
- (iv) has been examined by the Fiscal Audit Bureau or considered by the Assistant Secretary for Appeals and a closing agreement covering the issue or liability has not been entered into.

If a return involving an issue for a particular year is filed while a request for a letter ruling on that issue is pending, the Puerto Rico Treasury Department will issue the letter ruling unless it is notified by the taxpayer or otherwise learns that an examination of that issue or an examination of the identical issue on an earlier year's return has been started. But, even if an examination has begun, the Department ordinarily will issue the letter ruling if the Assistant Secretary for Internal Revenue Area agrees, by memorandum, to the issuance of the letter ruling.

The Department will not issue a ruling to business, trade or industrial associations or to similar groups concerning the application of tax laws to members of the group. The Department, however, may issue rulings to groups or associations on their own tax status or liability if the request meets the requirements of this Circular Letter.

The Puerto Rico Treasury Department will not issue letter rulings on a matter involving the Puerto Rico consequences of any proposed federal, Puerto Rico, state, local, municipal, or

foreign legislation. The Department, however, may provide general information in response to an inquiry.

A ruling will not be issued on questions involving the validity of the taxes imposed by the Code or any other tax law, questions on the authority or jurisdiction of the Department to enforce the Code or such laws, or to collect information or similar matters.

- (2) In determining the issues upon which a ruling will be issued, the following criteria will apply:
- (i) A ruling will not be issued on alternative plans of proposed transactions or on hypothetical situations.
 - (ii) If the ruling request presents an issue for which the answer seems clear by applying the statute to the facts or for which the answer seems reasonably certain but not entirely free from doubt, a letter ruling will be issued.
 - (iii) The Department ordinarily will not issue a letter ruling on only part of an integrated transaction. If, however, a part of a transaction falls under a no-rule area, a letter ruling on other parts of the transaction may be issued. Before preparing the ruling request, a taxpayer should call the Internal Revenue Area to discuss whether the Department will issue a ruling on part of the transaction.
 - (iv) If the ruling request presents an issue the response to which does not seem reasonably certain prior to the issuance of regulations, a ruling will not be issued unless it is established that a business emergency requires a ruling or that unusual hardship will result from failure to obtain a ruling, and the Department determines that the issuance of the ruling is in the best interest of tax administration.

In any case in which the taxpayer believes that a business emergency exists or that an unusual hardship will result from failure to obtain a ruling, he should submit a separate letter with the request for ruling setting forth the facts necessary for the Department to make a determination in this regard.

The Department will not deem a "business emergency" to exist if it results from circumstances within the control of the taxpayer, such as scheduling within an inordinately short period of time the closing date for a transaction or a meeting of the board of directors or the shareholders of a corporation.

Notwithstanding the foregoing, there may be certain areas where, due to the inherently factual nature of the problems involved or for other reasons, this Department will not issue advance rulings or administrative letters. The Department may advise taxpayers from time to time the areas within the scope of this exception.

Section 3. Filing a Request for a Ruling

A. Filing Fees

Pursuant to the provisions of Act No. 15 of July 20, 1990, (Act No. 15), each request for ruling must be accompanied with the corresponding payment of the fees imposed under said Act and Article 6 of the regulations thereunder, as amended. The ruling request will not be considered filed until the filing fees are received in the Department.

Each ruling request must be submitted to the Internal Revenue Area. Those requests that do not contain all the required information for the issuance of the opinion shall be subject to an additional fee, which must be satisfied at the time of filing the additional information.

According to the regulations under Act No. 15, a separate fee will be applied with respect to each non-related transaction when a request covers several non-related transactions or when there is a change in the original request to add a non-related transaction not appearing in the original request. Nevertheless, the addition of a new aspect related to the same transaction shall not carry the imposition of additional fees, except if this new aspect makes the transaction to be classified in a category or subcategory that imposes a higher fee.

Any request for amendment, clarification or new aspect with respect to a request under consideration having the effect of changing or modifying the substance or structure of the requested ruling shall be subject to an additional fee. Once the Secretary has issued his ruling, any request for reconsideration, supplementary ruling or amendment shall be subject to a similar fee to the one paid with the original request.

The above mentioned fees must be paid by check or money order payable to the Secretary of the Treasury.

For specific information and details regarding the applicable fees, please refer to our Circular Letters 94-01 and 95-02 and any other circular letter or regulation which in the future substitutes or amends said circular letters.

B. Form and Content

The request for a ruling must be submitted in duplicate. If submitted in English, the Department may require a Spanish translation of the ruling request. The Department will not receive nor consider drafts of a ruling request.

- (1) Each request for a ruling must contain a complete statement of all relevant facts relating to the transaction. Such facts must include:
 - (i) the names, addresses and taxpayer identifying numbers of all interested parties (The term "interested parties" does not mean all shareholders of a wide held corporation relating to a reorganization or all employees where a large number may be involved.);
 - (ii) the annual accounting period, and the overall accounting method for maintaining the accounting books and filing income tax returns of all interested parties;

- (iii) in the case of corporations and partnerships, place of incorporation or organization, and whether they are engaged in trade or business in Puerto Rico;
- (iv) a description of the taxpayer's business operation;
- (v) a full and precise statement of the business reasons for the transaction; and
- (vi) a carefully detailed description of the transaction.

In addition, true and complete copies of all contracts, wills, deeds, agreements, instruments and other documents pertinent to the transaction must be submitted. All relevant facts reflected in the documents submitted must be included in the taxpayer's statements and not merely incorporated by reference, and must be supported by an analysis of their bearing on the issue or issues covered by the ruling request.

Pursuant to section 2(B)(2)(iii) of this Circular Letter, the Department will not ordinarily issue a letter ruling of only part of an integrated transaction. If, however, under such section the Department may issue a ruling of only part of a larger integrated transaction, the facts, circumstances and all the pertinent information must be submitted with respect to the complete transaction. If the ruling request covers corporate or partnership distributions, reorganizations, liquidations of corporations or partnerships, or a similar transaction, the request must be accompanied with the most recent audited financial statements of the parties to the transaction.

(2) The ruling request shall also set forth:

- (i) the names and taxpayer identifying numbers of all members of a controlled group of which the taxpayer is also a member within the meaning of section 1028 of the Code;
- (ii) whether such members are engaged in trade or business in Puerto Rico or there is a reasonable expectation that they will be; and whether such members receive income from sources within Puerto Rico or there is a reasonable expectation that they will receive it; and
- (iii) any and all ruling, closing agreement, request, recommendation, approval, endorsement letter or similar determination currently pending with the Department in connection with the taxpayer or members of a controlled group of which the taxpayer is also a member within the meaning of section 1028 of the Code.

The foregoing information shall be submitted regardless of whether members of a controlled group of which the taxpayer is also a member are interested parties in the transaction with respect to which the ruling is requested.

The ruling request must contain a concise statement of the ruling requested by the taxpayer.

The taxpayer should also submit, in hard copy and diskette, a draft of the response letter containing the ruling requested.

The omission of facts, information or documents required by this section shall be considered an omission of material facts for purposes of section 6 of this Circular Letter. Accordingly, a letter ruling or administrative determination issued under such conditions may be revoked retroactively.

C. Assertions

If the taxpayer advocates a particular conclusion, an explanation of the grounds for the assertion must be furnished, together with a statement of relevant authorities in support of the taxpayer's conclusions.

Even if not advocating a particular tax treatment of a proposed transaction, the taxpayer must still furnish views on the tax results of the proposed transaction and a statement of relevant authorities to support those views.

In all events, the request must include a statement of whether the law in connection with the request is uncertain and whether the issue is adequately addressed by relevant authorities.

In addition, the taxpayer must inform the Department and discuss the implication of any legislation, tax treaties, court decisions, regulations, revenue rulings and administrative letters that the taxpayer determines to be contrary to the position advanced. If the taxpayer determines, after a diligent search, that there are no contrary authorities, a statement to this effect must be included in the ruling request. Identification and discussion of contrary authorities will generally enable this Department to expedite a full understanding of the issues and the relevant authorities. On the other hand, failure to disclose and distinguish significant contrary authorities may result in requests for additional memoranda that will delay action in the ruling request.

D. Same issue in an earlier return

The request must state whether, to the best knowledge of both the taxpayer and taxpayer's representative, the same issue is in an earlier return of the taxpayer (or in a return for any year of a related taxpayer within the meaning of section 1024 of the Code or of a member of a controlled group of which the taxpayer is also a member within the meaning of section 1028 of the Code).

If the statement is affirmative, it must specify whether the issue:

1. is being examined;
2. has been examined, but the statutory period of limitations has not expired for either assessing tax or filing a claim for refund or credit of tax;

3. has been examined, but a closing agreement covering the issue or liability has not been entered into by the Department;
4. is being considered by the Assistant Secretary for Appeals in connection with a return for an earlier period;
5. has been considered by the appeal office in connection with a return from an earlier period, but the statutory period of limitations has not expired for either assessing tax or filing a claim for refund or credit of tax;
6. has been considered by the appeal office in connection with a return from an earlier period, but a closing agreement covering the issue or liability has not been entered into by the Department;
7. is pending in litigation in a case involving the taxpayer or a related taxpayer.

E. Statement regarding whether same or similar issue was previously ruled on or requested, or is currently pending.

The request must also state whether, to the best knowledge of both the taxpayer and the taxpayer's representative:

1. the Department previously ruled on the same or a similar issue for the taxpayer (or a related taxpayer within the meaning of section 1024 of the Code or a member of a controlled group of which the taxpayer is also a member within the meaning of section 1028 of the Code);
2. the taxpayer, a related taxpayer, a predecessor, or any representative previously submitted a request (including an application for change in accounting method) involving the same or a similar issue to the Department but withdrew the request before a letter ruling or administrative determination was issued;
3. the taxpayer, a related taxpayer, or a predecessor previously submitted a request (including an application for change in accounting method) involving the same or a similar issue that is currently pending with the Department; or
4. at the same time as this request, the taxpayer or a related taxpayer is presently submitting another request (including an application for change in accounting method) or closing agreement involving the same or a similar issue to the Department.

If the statement is affirmative for 1, 2, 3, or 4, the statement must give the date the request was submitted, the date the request was withdrawn or ruled on, if applicable, and other details of the Department's consideration of the issue.

F. Statement identifying pending legislation.

At the time of filing the request, the taxpayer must identify any pending legislation that may affect the proposed transaction. In addition, if legislation is introduced after the request is filed but before a letter ruling or administrative determination is issued, the taxpayer must notify the Department.

G. Signature on the request.

The request for a ruling must be signed and dated by the taxpayer or the taxpayer's authorized representative. A stamped signature is not permitted. If the request is signed by a representative of the taxpayer, the ruling request must be accompanied by a duly executed power of attorney. The requirement to submit a duly executed power of attorney is not applicable either to an individual representing his full-time employer or to a bona fide officer, administrator, trustee, etc., representing a corporation, trust, estate, association, or other organized group. In this case, such individual must set forth the capacity in which he signed the oath.

H. Penalties of perjury statement.

The following oath must be presented by the taxpayer or his authorized representative at the close of the ruling request:

"Under penalties of perjury, I declare that I have examined this request, including the accompanying documents, if any, and to the best of my knowledge and belief, this request contains all relevant facts relating to such request, the facts presented in support of the requested ruling are true, correct and complete, and the issue(s) contained therein (a) are not being considered by the Puerto Rico Treasury Department in connection with an active examination or audit of a tax return of the interested parties or by the Assistant Secretary for Appeals; and (b) are not pending litigation in a case involving the undersigned or a related taxpayer".

The oath must be signed and dated by the taxpayer, not the taxpayer's representative. A stamped signature is not permitted.

The person who signs for a corporate taxpayer must be an officer of the corporate taxpayer who has personal knowledge of the facts and whose duties are not limited to obtaining a letter ruling or administrative determination from the Department. If the corporate taxpayer is a member of an affiliated group filing consolidated returns (for federal tax purposes), a penalty of perjury statement must also be signed and submitted by an officer of the common parent of the group.

The person signing for a trust, a Puerto Rico or state law partnership, or a limited liability company must be, respectively, a trustee, general partner, or member-manager who has personal knowledge of the facts.

I. Sample format for a letter ruling request.

To assist a taxpayer or the taxpayer's representative in preparing a letter ruling request, a sample format for a letter ruling request is provided in Appendix A. This format is not required to be used by the taxpayer or the taxpayer's representative. If the letter ruling request is not identical or similar to the format in Appendix A, the different format will not defer consideration of the letter ruling request.

J. Checklist for letter ruling requests.

The Department will be able to respond more quickly to a taxpayer's letter ruling request if the request is carefully prepared and complete. The checklist in Appendix B of this Circular Letter is designed to assist taxpayers in preparing a request by reminding them of the essential information and documents to be furnished with the request. The checklist in Appendix B must be completed to the extent required by the instructions in the checklist, signed and dated by the taxpayer or the taxpayer's representative, and placed on top of the letter ruling request. If the checklist in Appendix B is not received, a representative of the Department will ask the taxpayer or the taxpayer's representative to submit the checklist, and the ruling request will not be deemed filed until the checklist is received.

For letter ruling requests on certain matters, the Department may adopt specific checklists to supplement the checklist in Appendix B. Those checklists must also be completed and placed on top of the letter ruling request along with the checklist in Appendix B.

Copies of the checklist in Appendix B can be obtained by calling (787) 721-2020 extensions 2610 and 2611 (not a toll-free call). A photocopy of this checklist may be used.

K. To request separate letter rulings for multiple issues in a single situation.

If more than one issue is presented in a request for a letter ruling, the Department generally will issue a single letter ruling covering all the issues. However, if the taxpayer requests separate letter rulings on any of the issues (because, for example, one letter ruling is needed sooner than another), the Department will usually comply with the request unless it is not feasible or not in the best interests of the Department to do so. A taxpayer who wants separate letter rulings on multiple issues should make this clear in the request and submit two copies of the request.

In issuing each letter ruling, the Department will state that it has issued separate letter rulings or that requests for other letter rulings are pending.

L. To designate recipient of original or copy of letter ruling or determination letter.

Unless the power of attorney provides otherwise, the Department will send the original of the letter ruling or administrative determination letter to the taxpayer's representative. In this case, the letter ruling or administrative determination is addressed to the taxpayer's representative. If the taxpayer wants to receive a copy of the letter ruling or administrative determination from the Department, the ruling must indicate so. It will be preferred that the form the Department

may adopt as a power of attorney and declaration of representative be used to provide the taxpayer's authorization.

M. To have original and copies sent to multiple representatives.

When a taxpayer has more than one representative, the Department will send the original of the letter ruling or administrative determination to the first representative named on the most recent power of attorney. If the taxpayer wants an additional copy of the letter ruling or administrative determination sent to the second representative listed in the power of attorney, the taxpayer must state so in the power of attorney. Copies of the letter ruling or administrative determination, however, will be sent to no more than two representatives.

If the taxpayer wants to receive the original of the letter ruling or administrative determination, the taxpayer must state in the power of attorney that the original of the letter ruling or administrative determination should not be sent to the taxpayer's representative.

N. To receive a letter ruling by fax.

A letter ruling ordinarily is not sent by fax. However, at the taxpayer's request, a copy of a letter ruling may be faxed to the taxpayer or the taxpayer's authorized representative. A letter ruling, however, is not issued until the ruling is mailed, or delivered by hand and the taxpayer or taxpayer's authorized representative acknowledges receipt of it.

A request to fax a copy of the letter ruling to the taxpayer or the taxpayer's authorized representative must be made in writing, either as part of the original letter ruling request or prior to the approval of the letter ruling. The request must contain the fax number of the taxpayer or the taxpayer's authorized representative to whom the letter ruling is to be faxed.

In addition, because of the nature of a fax transmission, a statement containing a waiver of any disclosure violations resulting from the fax transmission must accompany the request. Nevertheless, the Department will take certain precautions to protect confidential information. For example, the Department will use a cover sheet that identifies the intended recipient of the fax, the number of pages transmitted and a statement prohibiting unauthorized disclosure of the letter ruling if a recipient of the faxed letter ruling is not the intended recipient of the fax.

O. Circumstances under which the taxpayer must notify the Internal Revenue Area.

The taxpayer must notify the Internal Revenue Area if, after the letter ruling request is filed but before a letter ruling is issued, the taxpayer knows that:

1. an examination of the issue or the identical issue on an earlier year's return has been started by the Fiscal Audit Bureau;
2. legislation that may affect the transaction has been introduced (See section 3.F. of this Circular Letter); or

3. another letter ruling request (including an application for change in accounting method) has been submitted by the taxpayer (or a related party within the meaning of section 1024 of the Code or a member of a controlled group of which the taxpayer is also a member within the meaning of section 1028 of the Code) involving the same or similar issue that is currently pending with the Department.

P. Taxpayer must notify Department if return is filed before receiving the ruling.

If the taxpayer files a return before a letter ruling is received from the Department concerning the issue, the taxpayer must notify the Internal Revenue Area that the return has been filed.

This section also applies to pending requests for a closing agreement on a transaction for which a letter ruling is not requested or issued.

Q. Withdrawals and Declination to issue a ruling.

A taxpayer may withdraw a request for a letter ruling or administrative determination at any time before the letter ruling or administrative determination is signed by the Department. Correspondence and exhibits related to a request that is withdrawn or related to a letter ruling request for which the Internal Revenue Area declines to issue a letter ruling will not be returned to the taxpayer. In appropriate cases, the Department may publish its conclusions in an administrative determination.

R. Notification to Fiscal Audit Bureau.

1. Request to change an accounting method. If a taxpayer withdraws or the Internal Revenue Area declines to grant (for any reason) a request to change from or to adopt an improper method of accounting, the Department may consider such withdrawal or declination in any later examination of the return.
2. All other letter ruling requests. If a taxpayer withdraws a letter ruling request (other than a request to change from or to adopt an improper method of accounting) or if the Department declines to issue a letter ruling (other than a letter ruling pertaining to a request to change from or to adopt an improper method of accounting), the Department may consider such withdrawal or declination in any later examination of the return. This section 3.R. generally does not apply if the taxpayer withdraws the letter ruling request and submits a written statement that the transaction has been, or is being, abandoned and if the Internal Revenue Area has not formed an adverse opinion.

S. Refunds of filing fee.

The filing fee will not be returned for a letter ruling request that is withdrawn or denied. If the Internal Revenue Area declines to issue a letter ruling on all of the issues in the request, the fees will be returned. If the Internal Revenue Area, however, issues a letter ruling on some, but not all, of the issues, the filing fee will not be returned.

T. Conferences

A taxpayer or an authorized representative who wishes to have a conference on the issues involved must indicate so in the ruling request. The conference will be granted if the Department, at its discretion, deems that it is necessary for considering the ruling. The discussion of the ruling request at a conference does not imply nor warrants that the Department will issue a favorable opinion or a commitment to do so. No conference will be granted to discuss the possible tax treatments of a transaction, how to structure a transaction or what is the policy of the Department regarding a transaction prior to submitting a ruling request.

Material facts furnished to the Department by telephone or orally at a conference must be promptly confirmed by letter to the Department, since the purpose of this procedure is to speed up the ruling and determination letter process. This confirmation and any additional information requested by the Department must be furnished within 14 calendar days to be considered part of the request. Additional information submitted to the Department must be accompanied by the oath mentioned on section 3.H. herein. If the Department is not notified of problems in meeting the 14-day period, the request will be processed under the assumption that no further information will be received or, if appropriate, no ruling will be issued.

Section 4. Processing a Ruling Request

It is the practice of this Department to process requests for rulings in the order received and as expeditiously as possible. Compliance with petitions for consideration of a particular matter ahead of its regular order, or by a specified time, tends to delay the disposition of other matters under consideration by this Department. Petitions for processing a ruling request ahead of the regular order, made in writing in a separate letter submitted either with the request or subsequent thereto and showing clear need for such treatment, will be given consideration as the particular circumstances warrant. However, no assurance shall be given that any ruling will be processed by the time requested.

If a less than fully favorable letter ruling is indicated, the Department representative may tell the taxpayer whether minor changes in the transaction or adherence to certain positions published in administrative determinations or circular letters would bring about a favorable ruling. The Department representative may also tell the taxpayer the facts that must be furnished in a document to comply with Department requirements. However, the Department representative will not suggest precise changes that would materially alter the form of the proposed transaction or materially alter a taxpayer's proposed accounting method or accounting period.

The Department will not be bound by the informal opinion expressed by the Department's representative.

Section 5. Oral Advice to Taxpayers

It is not the practice of this Department to issue rulings upon oral requests. Furthermore, officials of this Department ordinarily will not discuss a substantive tax issue with a taxpayer or his authorized representative prior to the receipt of a written request for a ruling. However, a taxpayer or his authorized representative may inquire as to whether the issue involved in a transaction is one in which a ruling will be issued.

Nevertheless, a taxpayer may seek oral technical assistance from an official of this Department in the preparation of his return, pursuant to other established procedures. Such oral advice is advisory only and the Department is not bound to recognize it in the examination of the taxpayer's return.

Section 6. Effect of Rulings

A ruling issued by this Department will generally be binding on the Department as long as the representations upon which the ruling was based reflect an accurate statement of the material facts with respect thereto, and the transaction was carried out as proposed, and there has been no change in the law and regulations that apply to the period during which the transaction or continuing series of transactions were consummated.

A taxpayer may not rely on nor cite as precedent a ruling issued to another taxpayer.

A ruling or administrative determination found to be in error or not in accord with the current views or policies of the Department may be modified or revoked. Modification or revocation may be effected by a notice to the taxpayer to which the ruling was issued or by publication of an administrative determination, circular letter or other public form. Except in rare or unusual circumstances, the revocation or modification of a ruling or administrative determination will not be applied retroactively with respect to the taxpayer to whom the ruling was originally issued or to an interested party whose tax liability was directly involved in that ruling, if:

1. the ruling or administrative determination was originally issued with respect to the transaction undertaken;
2. there has been no misstatement or omission of material facts;
3. the facts at the time of the transaction are not materially different from the facts on which the ruling or administrative determination was based;
4. there has been no change in the applicable law or regulations; and
5. the taxpayer directly involved in the ruling acted in good faith in relying on the ruling or administrative determination and the retroactive revocation or modification would be to the taxpayer's detriment. For example, the tax liability of each shareholder is directly involved in a letter ruling on the reorganization of a corporation. However, the tax liability of a member of an industry is not directly involved in a letter ruling issued to another member and, therefore, the holding in a revocation or modification of a letter ruling to one member of an industry may be retroactively applied to other members of

the industry. By the same reasoning, a tax practitioner may not extend to one client the non-retroactive application of a revocation or modification of a letter ruling previously issued to another client.

A taxpayer is not protected against retroactive revocation or modification of a letter ruling involving a transaction completed before the issuance of the letter ruling or involving a continuing action or series of actions occurring before the issuance of the letter ruling because the taxpayer did not enter into the transaction relying on a letter ruling.

If a ruling or administrative determination is revoked or modified retroactively, the revocation or modification applies to all years open under the statute of limitations. In the event of a change in the applicable law or regulations, if the above other four conditions are met, the revocation will be applicable from the date that the change takes place.

If a letter is revoked or modified by letter with retroactive effect, the letter will, except in fraud cases, state the grounds on which the letter ruling is being revoked or modified and explain the reasons why it is being revoked or modified retroactively.

The Department, without condition or requirement, may also modify or revoke retroactively a ruling or administrative determination if the proposed transaction or a continuing action or series of actions that originated the ruling or administrative determination has not been undertaken as of the date of the modification or revocation.

Section 7. Requisite of attaching copy of the Ruling

If before filing a return, a taxpayer receives a ruling about any transaction that has been consummated and that is relevant to the return being filed, a copy of the ruling or administrative determination must be attached to the return.

Section 8. Noncompliance with Provisions of Circular Letter

If a request for a ruling or administrative determination does not comply with all the provisions of this Circular Letter, the same will be acknowledged and the requirements that have not been met will be pointed out. If a request for a ruling lacks essential information, which may include additional information needed to satisfy the procedural requirement of this Circular Letter, as well as substantive changes to the transaction or documents needed from the taxpayer, the taxpayer will be notified that if the information is not received within 30 calendar days, the request will be closed. No extension of the 30-day period will be granted, except if justified in writing and approved by the Department. A request for extension must be submitted before the end of the 30-day period. If the extension is denied, there is no right to appeal. If the information is received after the request is closed, it will be reopened and treated as a new request as of the date essential information is received. Therefore, this new request will be subject to the same payment of the original fees imposed to ruling requests under Act No. 15 of July 20, 1990.

Section 9. Specific Guidelines

Specific guidelines for requesting rulings under certain provisions of the various tax acts may be issued by this Department. Taxpayers or their authorized representatives must also follow these guidelines when requesting rulings under such tax acts.

Section 10. Effectiveness

This Circular Letter will be effective for ruling requests filed on or after March ____, 1999, and substitutes the Circular Letter 86-3 issued by this Department on April 21, 1986.

Remember, Hacienda is at your service.

Cordially,

Xenia Vélez Silva