

DRAFT

R861. Tax Commission, Administration.

R861-1A. Administrative Procedures.

R861-1A-34. Private Letter Rulings Pursuant to Utah Code Ann. Section 59-1-210.

~~[A-](1)~~ [P]A private letter ruling~~[s-are]~~ is a written, informational statement~~[s]~~ of the commission's interpretation of statutes or administrative rules, or an informational statement~~[s]~~ concerning the application of statutes and rules to specific facts and circumstances.

~~[1-](a)~~ [P]A private letter ruling[s] address~~es~~ questions that have not otherwise been addressed in statutes, rules, or decisions issued by the commission.

~~[2-](b)~~ The commission ~~[shall]~~may not knowingly issue a private letter ruling on a matter pending before the commission in an audit assessment, refund request, or other agency action, or regarding matters that are pending before the court on judicial review of a commission decision. Any private letter ruling inadvertently issued on a matter pending agency or judicial action shall be set aside until the conclusion of that action.

~~[3-](c)~~ [R]A request[s] for a private letter ruling~~[s-must]~~shall be addressed to the commission in writing. ~~[If the requesting party is dissatisfied with the ruling, that party may resubmit the request along with new facts or information for commission review.]~~

~~[B-](2)~~ The weight afforded a private letter ruling in a subsequent audit or administrative appeal depends upon the degree to which the underlying facts addressed in the ruling were adequate to allow thorough consideration of the issues and interests involved.

~~[C- A private letter ruling is not a final agency action. Petitioner must use the designated appeal process to address judiciable controversies arising from the issuance of a private letter ruling.~~

~~1. If the private letter ruling leads to a denial of a claim, an audit assessment, or some other agency action at a divisional level, the taxpayer must use the appeals procedures to challenge that action within 30 days of the final division decision.~~

~~2. If the only matter at issue in the private letter ruling is a challenge to the commission's interpretation of statutory language or a challenge to the commission's authority under a statute, the matter may come before the commission as a petition for declaratory order submitted within 30 days of the date of the ruling challenged.]~~

(3) A person shall use the appeals process to address a justiciable controversy arising from the issuance of a private letter ruling.

(4) If a person seeks to challenge a private letter ruling other than a private letter ruling described in Subsection (3), the person may submit a petition for a declaratory order to the commission, outside of the appeals process, as follows:

(a) the person shall submit a petition within 30 days after the day on which the commission issued the private letter ruling;

(b) the commission shall assign at least one commissioner to hear the petition; and

(c) during the hearing on the petition, each applicable division shall appear as an interested party.

(5) A private letter ruling does not constitute a final agency action.