



CPA Juan Zaragoza Gómez
Secretary

September 30, 2016

CIRCULAR LETTER OF TAX POLICY NO. 16-06 ("CL TP 16-06")

ATTENTION: ALL TAXPAYERS

SUBJECT: PROCEDURE TO PUBLISH RULINGS AND ADMINISTRATIVE DETERMINATION LETTERS ON A NO-NAME-BASIS

I. Background

It is the practice of the Puerto Rico Treasury Department ("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. Accordingly, the Department issued Circular Letter 99-01 (hereinafter, "CC 99-01") to establish the general procedure to be followed for the issuance of formal responses to those inquiries, in the form of rulings and administrative determination letters. These rulings and administrative determination letters are official interpretations by the Department as to the application of the tax laws in effect, to the facts or transactions represented by the taxpayer.

Section 1 of CC 99-01 establishes that if the issue covered by the ruling is understood by the Department to be of general interest to the public, the ruling will be issued as an administrative letter for public release; also that the administrative determination letter to be published will not set forth the name of the taxpayers mentioned in the ruling, and that the Department will determine at its discretion which rulings will be published.

The reason for the Department to publicly release rulings on a no-name basis through an Administrative Determination Letter, is to provide taxpayers a general disclosure of the official interpretation of the Department as to the application of the Internal Revenue Code of Puerto Rico of 2011, as amended (the "Code") or any other tax law, to specific facts or transactions represented by a particular taxpayer. With the public release, taxpayers with identical issues will have access and knowledge of the tax policy of the Department, bringing certainty and awareness to the general public of such policy.

The purpose of this Circular Letter is to amend CC 99-01 to establish that public interest rulings and administrative determination letters issued privately to the taxpayers pursuant to CC 99-01 will be published to the public on a no name basis and to establish the procedure that must be followed by the Department to release the ruling letter to the public.

II. Discussion

A. Procedure for the publication of rulings

The Department understands that the issues covered in certain rulings issued privately to taxpayers ("Private Ruling") are of general interest, therefore, to promote public policy these rulings issued privately by the Department shall also be issued as an administrative determination letter for public release.

Based on the above, the Department establishes the following procedure for the publication of a Private Ruling in a form of an administrative determination letter for public release ("Public Ruling").

Each and every time a Private Ruling is issued; such ruling will be issued as a Public Ruling. This issuance will occur within a period of six (6) months after the issuance of the Private Ruling. The Public Ruling will not set forth the name of the taxpayers' mentioned in the ruling or details which may lead to identify the taxpayer, including addresses and identification numbers. Therefore, at the effective date of this Circular Letter, all ruling replies to be issued by the Department shall include a proposed Public Ruling covering the issues of the Private Ruling granted. The Department will follow this publication process, unless a taxpayer files an objection to the publication of the ruling in accordance to the procedures established in this Circular Letter.

Notwithstanding the above, once a Public Ruling is published, subsequent rulings issued by the Department that consider facts that are similar or identical to the Public Ruling already published, may be released to the public at the sole discretion of the Department.

In the event of a rejected ruling, the Department may issue a Public Ruling stating the facts and the reasons for such denial.

Public Rulings issued by the Department will be published in our website, www.hacienda.pr.gov, under the links named "Publications" and "Internal Revenue Area / Tax Policy Area".

B. Other important matters concerning the publication of the Public Rulings

In connection to the procedure for publication of Public Rulings, the Department establishes the following:

1. Requirement of draft of proposed Public Ruling

Within thirty (30) days after the effective date of this Circular Letter, taxpayers who file a ruling request pursuant to CC 99-01 shall also include, with the filing of the request, a draft of their proposed Public Ruling that will be used by the Department for public release. The draft shall also be made available to the Department in digital format (e.g. CD, DVD, USB or any other external device of digital memory). Failure to include a proposed draft of the Public Ruling

with the ruling request pursuant to CC 99-01, shall be considered by the Department as an incomplete ruling request.

2. Form and content of the Public Ruling

The draft of the Public Ruling shall be drafted in such manner that the taxpayer's identity will be substituted by a generic name (e.g. Corporation XYZ) but the facts of the business transactions subject to the ruling shall be set forth as they were represented in the ruling request, unless the Department determines, upon taxpayer's request, that some facts must be concealed in order to avoid providing hints as to the identity of the taxpayer or the revelation of a pending confidential business transaction.

3. Taxpayers with pending ruling request

Taxpayers who filed a ruling request prior to the effective date of this Circular Letter will receive, along with the ruling reply, a proposed draft of a Public Ruling based on the ruling requested. The draft shall be prepared by the Department or the Department may request the taxpayer to prepare the Public Ruling. Therefore, taxpayers with pending ruling requests will be allowed to file a proposed Public Ruling using the methods described in this Circular Letter. If the ruling request is approved by the Department and no draft of the Public Ruling is submitted by the taxpayer before the date of the issuance of the Private Ruling, the Department will issue the ruling reply with a draft of the Public Ruling for the review of the taxpayer. Once the Department issues the Private Ruling along with the proposed Public Ruling, the taxpayer will be able to object the wording of the Public Ruling through the procedures established in this Circular Letter.

4. Taxpayer's revision period and right to object the proposed Public Ruling

Once the Department issues a Private Ruling along with the proposed Public Ruling, the taxpayer will have thirty (30) days after the issuance of the ruling reply to formally object the wording of the proposed Public Ruling that was attached to the ruling reply. If the taxpayer does not formally object within the time period prescribed in this paragraph, the Public Ruling will be released by the Department without further consideration. No written approval from the taxpayer will be required to publish the Public Ruling.

5. Filing an objection to a Public Ruling

In order to formally object the draft of the Public Ruling, the taxpayer shall submit an Objection Letter to the Assistant Secretary of Tax Policy. This letter shall include the reasons for objection and a statement explaining how the wording of the proposed Public Ruling affects the taxpayer's privacy. Attached to the Objection Letter, the taxpayer shall include a substitute draft of the Public Ruling (hereinafter to as "Substitute Draft") with the wording proposed by the taxpayer and the corresponding filing fee of \$50, pursuant to Regulation No. 8693 of January 26, 2016. The Substitute Draft shall also be made available to the Department in digital format (e.g. CD, DVD, USB or any other external device of digital memory).



The taxpayer shall submit the Objection Letter together with the Substitute Draft in person or by mail at:

Hand Delivered:

Assistant Secretary of Tax Policy
Treasury Department
Sixth Floor Office 624
Intendente Alejandro Ramírez Building
Stop 1 Paseo Covadonga
San Juan, Puerto Rico

By mail:

Assistant Secretary of Tax Policy
Treasury Department
P.O. Box 9024140
San Juan, PR 00902

Once the Department receives the Objection Letter, the Department can accept the Substitute Draft without further changes. In that case, the Department will issue a written communication to the taxpayer informing the formal acceptance of the Substitute Draft. Once the notification of the acceptance of the Substitute Draft is mailed, the Department may release the Substitute Draft as the Public Ruling without any further approval from the taxpayer.

If the Department does not agree with the wording of the Substitute Draft, the Department shall contact the taxpayer or its representative and offer an appointment either by person or by telephone to discuss the wording of the proposed Public Ruling (initial contact). This initial contact shall be in writing or by email. The meeting must be held no later than thirty (30) days after the initial contact with the taxpayer. Upon request of the taxpayer, the Department may grant an extension of additional time to coordinate the meeting with the taxpayer. However, said extension cannot exceed more than sixty (60) days after the date of the initial contact.

If the taxpayer or its representative fails to appear to the meeting with the representative of the Department without just cause, the Department shall publish the Public Ruling as initially drafted without further consideration. If a taxpayer requests to reschedule the meeting, the Department shall allow the reschedule to take place only once except for reasonable cause. If the taxpayer or its representative fails to appear to the rescheduled meeting, the Department shall not have discretion to propose a second meeting and may issue the Public Ruling without any further notice to the taxpayer.

6. Final notice of publication

Once the review period of the Public Ruling has elapsed and no objection has been made or if an objection was made, once the Substitute Draft is accepted, the Department shall produce a final draft of the Public Ruling and notify the taxpayer by writing that the final draft will be published. This Final Notice of Publication shall be mailed to the taxpayer at least thirty (30) days before the date of public release.

If an objection was made by the taxpayer and the Department rejects the Substitute Draft, and the meeting to discuss the draft of the Public Ruling was held in conformity to the provisions set forth in this Circular Letter, the Department will issue the Final Notice of Publication in accordance with the terms provided in the above paragraph.

7. Right to Appeal

Within a period of thirty (30) days after the issuance of the Final Notice of Publication, the taxpayer can further object to the publication of the Public Ruling by filing a complaint with the Assistant Secretary for Adjudicative Proceedings of the Department, in accordance with the "Regulation to Establish a Uniform Adjudicative Procedure for Matters Under the Jurisdiction of the Department of the Treasury that Shall be Subject to Formal Adjudication of July 13, 2007", approved by the Department by virtue of Act No. 170 of August 12, 1988, as amended, known as "Uniform Administrative Procedure Act".

III. Effectiveness

The provisions of this Circular Letter are effective immediately.

For additional information related to the specifics aspects of this Circular Letter please contact the Specialized Consults Division of Tax Policy Area at (787) 721-2020 extension 3614.

Cordially,



Juan C. Zaragoza Gómez