

TAX POLICY DIRECTIVE #9
DECEMBER 1995
(replaces Tax Policy Directive #9 dated July 1995)

Purpose: Tax Policy Directives are intended to provide the general public with information concerning the Department's official position in regard to a specific issue. These directives may be relied upon by taxpayers until superseded by another policy directive, a change in statute or regulation, or a court decision that would render the policy directive void.

Subject: Departmental Rulings

Reference: IC 6-8.1-3-1; 45 IAC 15-3-2

INTRODUCTION

As a matter of policy, the Department will provide advice to a taxpayer in the form of a ruling. However, a ruling will not be issued as a result of an oral request or a written request in which the taxpayer is anonymous. A ruling is issued to an identified taxpayer upon a specific factual situation presented by the taxpayer. A request for a ruling should contain all relevant facts and be directed to the Administrator of the Tax Policy Division.

RELIANCE

A departmental ruling is intended to benefit a taxpayer by giving the Department's position on a particular issue which the taxpayer may rely upon in planning future business transactions. However, due to the dynamic nature of tax laws and the business environment, rulings issued by the Department must be periodically reviewed for accuracy. Therefore, all rulings issued by the Department prior to January 1, 1990 are hereby declared null and void and of no effect for tax years beginning after December 31, 1995.

In the future, a departmental ruling will automatically become null and void and no longer of any effect for tax years beginning after December 31 of the sixth (6th) year after the year in which the ruling is issued. For example, rulings issued in calendar year 1990 will become null and void and no longer of any effect for tax years beginning after December 31, 1996.

The issue upon which a ruling was issued prior to its becoming null and void may be resubmitted to the Department as a request for a new ruling.

A ruling may become null and void prior to the end of the six (6) year period given above under the appropriate circumstances. For instance, a change in the Department's position, a change in the tax laws, a change due to a final court decision, or a change in a material fact on which the ruling was based may cause a revocation of a ruling. The revocation of the ruling will be effective on the following dates:

- (1) The date of the notice sent by the Department to the taxpayer to whom the ruling was issued that the Department's position has changed.
- (2) The effective date of a change in the statutory law or a change in the rules interpreting the statutory law.
- (3) The beginning date of the open tax years to which a final court decision applies.
- (4) The date on which the material fact changed.

A ruling may also become null and void prior to the end of the six (6) year period given above with the revocation being applied retroactively under extreme circumstances. The retroactive revocation of a rule will be decided on a case-by-case basis taking into account all relevant facts and circumstances. The retroactive revocation of a rule would be appropriate under the following circumstances, which are not all inclusive:

- (1) There was a misstatement or omission of a material fact by the taxpayer or its representative in the original request for a ruling.
- (2) The facts, as developed after the ruling, were materially different from the facts on which the Department based its ruling.
- (3) The taxpayer directly involved in the ruling did not act in good faith in obtaining the ruling.

Under the above examples, the ruling would be revoked retroactively and treated as if it had never been issued.

The Department will publicize summaries of its rulings but will not identify the actual taxpayer involved. If another taxpayer has a substantially identical factual situation, it may rely upon the publicized summary of a ruling in preparing its tax returns and making tax decisions. However, if the Department discovers, upon examination, that the factual situation of the taxpayer is different in any material respect from the situation on which the original ruling was issued, the ruling will not apply to that taxpayer.

SUMMARY

A departmental ruling will be designated as such and is binding upon the Department during its effective dates. A ruling is effective for six (6) calendar years after the year in which the ruling is issued. However, the issue on which the ruling was originally issued may be resubmitted to the department as a request for a new ruling. A taxpayer may rely upon the publicized summary of a ruling if its factual situation is substantially identical to that on which the original ruling was issued.

Kenneth L. Miller
Commissioner