

# **State of Rhode Island - Division of Taxation**

## **Regulation DR 94-01**

### **Declaratory Rulings**

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1. the name, address, registration/identification number of the taxpayer requesting the Declaratory Ruling. If the taxpayer is a corporation, the state of incorporation;
2. a carefully detailed statement of all relevant facts relating to the transaction;
3. a true copy of all relevant documents bearing on the issue or issues;
4. a statement of the Declaratory Ruling requested by the taxpayer and the taxpayer's argument in support of its request, including relevant authority for such request;

#### **A Declaratory Ruling will not be issued:**

1. if the same or a similar issue is before the Tax Division in connection with an audit examination of the same taxpayer for the same or any other prior tax period;
2. in response to inquiries concerning alternative plans of proposed transactions or concerning hypothetical situations;
3. on only part of an integrated transaction;

#### **Binding Effect of Declaratory Rulings:**

A Declaratory Ruling represents the position of, and is binding on, the Tax Division with respect to (1) a particular transaction (and subsequent like transactions) involving the persons identified as interested parties in the request for issuance of the Declaratory Ruling and (2) other transactions involving persons other than those identified as interested parties in the request for issuance of the Declaratory Ruling, but such other persons have the burden of establishing that the facts and circumstances involved in their transactions are substantially the same and are not materially different from the facts and circumstances involved in the transaction on which the Declaratory Ruling is based.

With respect to the taxpayer to which a Declaratory Ruling was originally issued or a person identified as an interested party in the request therefor, a Declaratory Ruling is not binding on the Tax Division if:

1. there has been a misstatement or omission of material facts;
2. the facts subsequently developed are materially different from the facts on which the Declaratory Ruling was based;

A Declaratory Ruling is not binding on the Tax Division (on a prospective basis) if:

1. there has been a change in the applicable law or regulations;

2. a decision on point is issued by the Rhode Island or Federal courts.

With respect to any other person, a Declaratory Ruling is not binding on the Tax Division if:

1. the facts and circumstances involved in such other person's transactions are not substantially the same or are materially different from the facts and circumstances involved in the transaction on which the Declaratory Ruling is based.

**Effect of Declaratory Rulings:**

Declaratory Rulings disposing of petitions have the same status as agency orders in contested cases.

**Withdrawal of Requests:**

A taxpayer may withdraw a request for issuance of a Declaratory Ruling at any time prior to the issuance thereof. The Tax Division will retain all correspondence and documents and may consider them in any subsequent audit examination of such taxpayer.

**Disclosure of Declaratory Rulings:**

Taxpayers requesting the issuance of Declaratory Rulings must do so on the basis that the text thereof will be open to public inspection, subject to the deletions set forth herein. Taxpayers requesting the issuance of Declaratory Rulings waive all copyrights, rights to privacy and similar rights to prevent disclosure of the text thereof, except such rights as are provided herein.

Before making any Declaratory Ruling available for public inspection, the Tax Division shall exercise care to ensure the deletion of the names, addresses, tax registration numbers or any other means of identifying the taxpayer to whom the Declaratory Ruling applies.

Requests must be directed to:

TAX ADMINISTRATOR  
One Capitol Hill  
Providence, RI 02908-5800

R. GARY CLARK  
TAX ADMINISTRATOR

DATE: January 1, 1994