

Advance Tax Rulings

Application

This bulletin replaces Information Bulletin Number 2-77R2 originally published September 14, 1981 and is updated for comments contained in Information Bulletin 2741.

*This bulletin sets out the policy of the Corporations Tax Branch (Branch). The bulletin is updated to incorporate the expanded role of the Branch in providing advance rulings under the **Electricity Act, 1998** (sections 88 to 90 and sections 93 to 96), the **Mining Tax Act (Ontario)** and for changes in the fee charged. This bulletin does not apply to advance rulings required for purposes of the Ontario Business-Research Institute tax credit (OBRI). For details regarding the OBRI, reference should be made to Tax Legislation Bulletin 00-2.*

Introduction

1. The issuance of formal advance rulings is a special service of the Corporations Tax Branch (Branch) and is not required by legislation. It is provided to taxpayers and their representatives to assist them in confirming the tax consequences of proposed transactions.
2. An advance ruling is a statement given by the Branch to a taxpayer stating how it will interpret provisions of Ontario's *Corporations Tax Act (CTA)*, the *Mining Tax Act (MTA)* and the *Electricity Act, 1998 (EA)* with respect to a specific transaction which the taxpayer is proposing. An advance ruling is provided for a fee and is binding on the Ministry.

Request for an Advance Ruling

3. The request for an advance ruling should contain:
 - a clear statement of the question(s) on which the ruling is required,
 - a complete and detailed statement of the relevant facts,
 - a frank disclosure of the purpose of the proposed transaction(s),
 - the relevant provisions of the legislation on which the ruling is requested, and,
 - the taxpayer's own interpretation of those provisions.

Advance Ruling Binding

4. An advance ruling, subject to any limitations or qualifications contained therein and to the comments in paragraphs 5 to 10 below, will be regarded as binding upon the Ministry.

Limitations on Advance Ruling

5. An advance ruling will be given only in respect of a **proposed** transaction, its purpose being to enable corporations and other persons to decide upon a planned course of action. In addition, it will apply only to the corporation or other person for which it is requested and others named in it, and to the transaction specified in the ruling. Where the federal legislation of relevance to the ruling is the same as Ontario's, limitations set in Canada Customs and Revenue Agency's (CCRA) Information Circular No. 70-6R4 will apply.

Conditions Respecting an Advance Ruling

6. If there is an omission or misrepresentation in the information supplied to this Ministry for an advance ruling, the advance ruling may be revoked retroactively and the Ministry will not be bound by it.
7. An advance ruling may also be revoked where it was based on an interpretation of the law that has subsequently changed as a result of a court decision. In this case, revocation would take effect only from the date of the relevant court decision.
8. Where the transactions in respect of which an advance ruling was given have not been substantially completed within the time limit specified in the advance ruling, the advance ruling will not be binding upon the Ministry unless, prior to the expiration of the time limit, the taxpayer requests confirmation that the advance ruling is still in effect. Such confirmations may be given for further specific periods.
9. Where the law upon which an advance ruling was based changes, the advance ruling ceases to be valid from the effective date of the change in the law.
10. Where an advance ruling is issued covering a continuing action or series of actions, and it is determined that the advance ruling is no longer in accord with the practice of the Ministry or that the advance ruling is in error, the advance ruling may be revoked. The revocation will not be made retroactively.

Ontario Provisions Paralleling Federal Act

11. Where provisions of the CTA parallel provisions of the *Income Tax Act* (Canada), a ruling must **first** be obtained from the CCRA before an advance ruling is issued by the Branch. A copy of the original CCRA advance ruling request and accompanying material, should be forwarded to the Branch with a request for an Ontario advance ruling. Where possible a diskette containing the relevant information should be provided. For the purposes of efficiency and timeliness, the Branch will consider a request for an Ontario advance ruling at the same time as the request for a CCRA advance ruling.
12. Where an advance ruling request to the Branch under the CTA, MTA or EA bears directly on another Ontario statute such as the *Employer Health Tax Act*, and an advance ruling is also required for the other statute, then the two requests may be submitted as a package. Each request will be referred to the appropriate Branch for a decision. The reply issued by the Ministry will constitute a binding advance ruling under both statutes.

Where to Submit a Request for an Advance Ruling

13. A request for an advance ruling under the CTA, MTA, or EA should be submitted with all relevant documents to:

Senior Manager, Tax Advisory
Corporations Tax Branch
Ministry of Finance
33 King Street West
Oshawa, Ontario
L1H 8H5

If the request is made by a representative of the taxpayer, the taxpayer must submit a letter to the Ministry authorizing the representative to act on the taxpayer's behalf. If paragraph 11 is applicable, the taxpayer(s) must also authorize CCRA to discuss the advance ruling with a representative of the Ministry of Finance.

Fee for Advance Rulings

14. A fee of \$65 for each hour spent in preparing the advance ruling is charged including those requests which are subsequently withdrawn. The fee is intended to recover salary and administration costs to the Branch to provide the advance ruling. Currently, there is no minimum fee that applies to the issuance of advance rulings and a minimum deposit is **not** required to accompany an advance ruling request.
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Consultation on an Advance Ruling

15. A taxpayer may, either directly or through a representative, make a request in writing to discuss the issues involved in person with staff members of the Branch. This request should be made at the same time or immediately after the request for an advance ruling is made.
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Reconsideration of an Advance Ruling

16. A request for reconsideration of an advance ruling will be allowed only if the taxpayer can provide new information or can show that there was a misunderstanding of information previously submitted.
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Processing Time

17. Every effort will be made to deal with requests for advance rulings as quickly as possible. Taxpayers will be notified where an extended delay is foreseen.
18. Taxpayers and their representatives are urged to forward their requests for advance rulings well ahead of the proposed transactions. The Branch cannot guarantee to provide an advance ruling on short notice prior to the transactions being entered into.
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For More Information

For further information, please contact Tax Advisory.

- Toronto (416) 920-9048 ext. 6513
- Oshawa (905) 433-6513
- Toll-free 1-800-262-0784 ext. 6513
- Fax (905) 433-6747

Hours of Service: 8:30 am to 5:00 pm or visit our Web site at: www.trd.fin.gov.on.ca

*Ce guide est disponible en français sous le nom « Décisions anticipées, n° 4005F ».
Vous pouvez en obtenir un exemplaire en appelant le 1 800 668-5821.*