



2015-2016 General Assembly

SENATE BILL 481: Fund Small Businesses/Department of Revenue Rulings/City Rights of Way, Part II: Public Disclosure of Written Determinations Made by the Department of Revenue

Committee:		Date:	September 9, 2016
Introduced by:		Prepared by:	Greg Roney Staff Attorney
Analysis of:	Part II of S.L. 2016-103		

OVERVIEW: Part II of S.L. 2016-103 requires the Department of Revenue publish on its Web site redacted versions of written determinations responding to taxpayer questions within 90 days after the determination was issued.

This Part II became effective July 22, 2016, and the Department of Revenue must publish redacted versions of determinations issued on or after January 1, 2010, within 120 days of that date.

CURRENT LAW: The Department of Revenue ("Department") issues general guidance to taxpayers through administrative rules, interpretations, bulletins, and notices. All of these written documents are published on its website. The Department also issues specific guidance to taxpayers upon request. This advice is applicable only to the individual taxpayer based on the specific facts contained in the written request. The advice does not have precedential value, except to the taxpayer to whom the advice is given.

Chapter 105 of the General Statutes contains 3 statutes where a taxpayer may request specific written advice:

- Private letter rulings ("PLR") are generally available under G.S. 105-264(b).
- A ruling addressing alternative apportionment is available under G.S. 105-130.4(t1) or under G.S. 105-122(c1).
- Advice concerning an alternative filing methodology that accurately reports State net income and concerning whether a combine return is available under G.S. 105-130.5A.

BILL ANALYSIS: Part II of S.L. 2016-103 requires the Department to publish the specific guidance given to individual taxpayers on its website. Part II defines all of the specific advice issued by the Department (which is listed in the Current Law section of this summary) to a taxpayer as a "written determination" and provides that the Department must publish the determination on its website within 90 days after the determination is provided to the taxpayer.

Before publication, the Department must remove all of the following:

- The names, addresses, and other identifying details of the taxpayer to whom it is issued.
- The names, addresses, and other identifying details of any other person referenced in the determination.
- Information specifically exempted from disclosure by State or federal law.

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- Trade secrets and commercial or financial information obtained from a person that is privileged or confidential.

Part II also requires the Department to publish written determinations issued since January 1, 2010, within 120 days of July 22, 2016.

BACKGROUND: The IRS publishes its private letter rulings. There appear to be 45 states that offer private letter rulings and at least 35 of these states publish their rulings.

EFFECTIVE DATE: Part II of S.L. 2016-103 was effective July 22, 2016.

Cindy Avrette with the Legislative Analysis Division substantially contributed to this summary.