



DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
BUREAU OF REVENUE SERVICES

Rule No. 110 (18-125 CMR 110)

REQUESTS FOR ADVISORY RULINGS

18 DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
125 BUREAU OF REVENUE SERVICES
Chapter 110: REQUESTS FOR ADVISORY RULINGS

SUMMARY: This rule explains the procedures for requesting an Advisory Ruling from Maine Revenue Services (MRS) and includes guidelines on the circumstances under which MRS will issue Advisory Rulings. MRS has adopted this Rule as required by 5 M.R.S.A. § 9001.

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SECTION 1. DEFINITIONS

As used in this Rule, the following terms have the following meanings:

- A. “Advisory Ruling” means a written letter issued pursuant to 5 M.R.S.A. § 9001 by the Assessor or a Division Director of MRS about the applicability of any tax law or rule administered by MRS to a particular Taxpayer.

SECTION 2. WRITTEN REQUEST AND RULING ONLY

A request for Advisory Ruling shall be in writing, either in hardcopy letter form or by email document attachment. MRS issues written Advisory Rulings only.

SECTION 3. WHEN AN ADVISORY RULING WILL NOT BE ISSUED

MRS will not ordinarily issue an Advisory Ruling if:

- A. the Taxpayer and the issue raised by the Taxpayer's request for an Advisory Ruling are currently under MRS examination, audit, administrative reconsideration or judicial review;
- B. an MRS assessment or denial of a claim for refund involving the same or a substantially similar issue is under administrative reconsideration or judicial review;
- C. the requirements of this rule are not met.

SECTION 4. INSTRUCTIONS FOR REQUESTING AN ADVISORY RULING

A request for an Advisory Ruling must be in writing and include the following information.

A. Statement of Material Facts

A Taxpayer must provide a complete statement of all material facts relating to the issue. These facts should include the following:

1. Full names, addresses and taxpayer identification numbers (FID or SSN) of all interested parties;
2. A statement whether the requested advisory is for a transaction or event that has already occurred, or if the request is for a future transaction or event a statement of the expected time frame for completing the transaction or event;
3. A detailed description of the transaction or event and a complete statement of the reasons for entering into it or for the occurrence of such event.

B. Supporting Documents

A Taxpayer must submit copies of documents pertinent to the Advisory Ruling request. Original documents should not be submitted because they become part of MRS's file and will not be returned.

C. Statement of Ruling Advocated

A Taxpayer must include a statement of the specific ruling requested.

D. List of Authorities

A Taxpayer must cite the statutory provisions, agency rules and bulletins, and case law relevant to the subject of the requested ruling. The Taxpayer shall note any contrary authority under Maine law, the Internal Revenue Code, or Maine and federal rules, regulations, rulings or guidance documents. If the Taxpayer determines that there is no such contrary authority, the Taxpayer shall include such a statement in the request.

E. Analysis

A Taxpayer must explain why the relevant authorities support the requested ruling,

F. Statement Whether Issue is or was Subject of MRS Examination or Determination

A Taxpayer must state whether, to the best of the knowledge of both the Taxpayer and the Taxpayer's representative, the issue that is the subject of the Advisory Ruling request is or was under MRS examination, assessment, allowance or denial of claim for refund, reconsideration, appeal or subject to an advisory ruling.

G. Declaration and Signature

The Advisory Ruling request must be signed and dated by the Taxpayer or the Taxpayer's authorized representative, accompanied by a declaration in the following form:

“I declare that I have examined this petition, including accompanying documents, and to the best of my knowledge and belief, the information presented in support of the requested ruling is true and complete.”

SECTION 5. SUBMITTING A REQUEST

Requests for Advisory Rulings should be sent to the following address:

Maine Revenue Services
Advisory Ruling Request
ATT: *[insert name of MRS Division]*
24 State House Station
Augusta, ME 04333-0024

SECTION 6. EFFECT OF AN ADVISORY RULING

All Advisory Rulings issued pursuant to this Rule are subject to 5 M.R.S.A. § 9001(3), which provides that an Advisory Ruling “shall not be binding upon an agency, provided that in any subsequent enforcement action initiated by the agency which made the ruling, any person's justifiable reliance upon the ruling shall be considered in mitigation of any penalty sought to be assessed.”

STATUTORY AUTHORITY: 5 M.R.S.A. § 9001; 36 M.R.S.A. § 112(1).

EFFECTIVE DATE: January 1, 2009

