

Legislative Analysis



RELYING ON TREASURY BULLETINS AND LETTER RULINGS

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House Bill 4891

Sponsor: Rep. Tim Melton

Committee: Tax Policy

Complete to 6-25-07

A SUMMARY OF HOUSE BILL 4891 AS INTRODUCED 6-8-07

The Revenue Act (1941 PA 22) provides that a taxpayer may rely on a revenue administrative bulletin or letter ruling issued by the Department of Treasury after September 30, 2006 and shall not be penalized for relying on that bulletin or letter ruling. (The taxpayer must still be mindful of subsequent legislation or court decisions that modify or overrule the law addressed in the letter ruling or bulletin.) This provision was added by Public Act 12 of 2006 (House Bill 5362).

House Bill 4891 clarifies that a taxpayer would not be subject to a tax, penalty, or interest when relying on a bulletin or letter ruling.

MCL 205.6a

FISCAL IMPACT:

To the extent the bill codifies existing policy and practice of the Department of Treasury, the bill would have no fiscal impact.

BACKGROUND INFORMATION:

Revenue Administrative Bulletins

Section 3 of the Revenue Act provides that the Department of Treasury may periodically issues bulletins that index and explain current department interpretations of current state tax laws. A revenue administrative bulletin (RAB) is a directive issued by the department that is intended to promote uniform application of state tax laws by Treasury officials and to provide information and guidance to taxpayers. Revenue Administrative Bulletin 1989-34 provides that "a [RAB] states the official position of the Department, has the status of precedent in the disposition of cases unless and until revoked or modified, and may be relied on by taxpayers in situations where the facts, circumstances, and issues presented are substantially similar to those set forth in the Bulletin." The bulletin further cautions that a taxpayer must also consider the effects of subsequent legislation, regulations, court decisions, and bulletins when relying on a RAB. It should be further noted that state courts have held that RAB's are only the department's stated interpretations of state tax statutes, and do not carry the force of law. Moreover, the

department may not, through the issuance of an RAB, create a new law or adopt rules conflicting with applicable statutes or binding court decisions.

Copies of RAB's dating back to 1987 are available through the department's website at www.michigan.gov/treasury under the heading "Reference Library."

Letter Rulings

Periodically, the Department of Treasury may also issue a letter ruling, which states the department's position on a specific tax matter, and is issued to a taxpayer in response to a particular tax issue. Revenue Administrative Bulletin 1989-34 states, "Letter Rulings help to promote uniform application of tax laws throughout the State by [treasury officials] and to provide guidance to taxpayers. A Letter Ruling is prospective in nature. It provides a taxpayer with assurance regarding the tax ramifications of a future transaction. The Department is bound by a Letter Ruling only for the specific transaction and only for the tax period indicated."

Obsolescence of Letter Rulings and Administrative Bulletins

Revenue Administrative Bulletin 1989-34 provides that a letter ruling or RAB may become or be declared obsolete or revoked under the following conditions:

- The statutory provision supporting the ruling or RAB is amended or repealed or authoritatively construed by an appellate court decision having precedential effect.
- The substance of the letter ruling or RAB is incorporated in state or treasury department administrative rules.
- A court decision having precedential value renders the letter ruling or RAB invalid.

The bulletin further notes that subject to statutory authority, the state treasurer "is empowered to determine the retrospective application of rules, and the effective date for applying changes, modification, of nullification of Letter Rulings."

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