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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 2826

01/31/2022 Authored by Davids
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; establishing a private letter ruling program; requiring reports;
1.3 proposing coding for new law in Minnesota Statutes, chapter 270C.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. 270C.075] PRIVATE LETTER RULINGS.

1.6 Subdivision 1. Program established. By January 1, 2022, the commissioner shall, by
1.7 administrative rule adopted under chapter 14, establish and implement a program for issuing
1.8 private letter rulings to taxpayers to provide guidance as to how the commissioner will apply
1.9 Minnesota tax law to a specific transaction or proposed transaction, arrangement, or other
1.10 fact situation of the applying taxpayer. The commissioner must include in each ruling an
1.11 explanation of the reasoning for the determination. In establishing the terms of the program,
1.12 the commissioner may provide that rulings will not be issued in specified subject areas, for
1.13 categories of transactions, or under specified provisions of law, if the commissioner
1.14 determines doing so is in the best interests of the state and sound tax administration. The
1.15 program must include a process for the representative of a taxpayer to apply for a private
1.16 letter ruling and to communicate with the commissioner regarding the requested ruling.

1.17 Subd. 2. Application procedure; fees. (a) The commissioner shall establish an
1.18 application procedure and forms for a taxpayer or the taxpayer's appointed representative
1.19 to request a private letter ruling. The commissioner may require the taxpayer to provide any
1.20 supporting factual information and certifications that the commissioner determines necessary
1.21 or appropriate to issue a private letter ruling. The requirements may vary based on the type
1.22 of ruling requested.

2.1 (b) The commissioner may, in the administrative rule, establish a fee schedule to recover
2.2 the department's actual cost of preparing private letter rulings. The maximum fee per private
2.3 letter ruling is \$..... The commissioner may require the applicant to pay the required fee
2.4 for a private letter ruling before the application is considered. If the administrative rule
2.5 provides for payment of a fee as a condition for providing a private letter ruling, the rule
2.6 must provide a fee structure that varies the amount of the fee by the complexity of the request
2.7 or the number and type of issues or both.

2.8 (c) If the commissioner fails to issue a ruling to the taxpayer within 90 days after the
2.9 taxpayer's filing of a completed application, the commissioner must refund the application
2.10 fee to the taxpayer; however, the commissioner must issue a private letter ruling unless the
2.11 taxpayer withdraws the request.

2.12 (d) Any fees collected under this section must be deposited in the Revenue Department
2.13 service and recovery special revenue fund established under section 270C.15, and are
2.14 appropriated to the commissioner to offset the cost of issuing private letter rulings and
2.15 related administrative costs.

2.16 Subd. 3. **Effect.** (a) A private letter ruling is binding on the commissioner with respect
2.17 to the taxpayer to whom the ruling is issued if:

2.18 (1) there was no misstatement or omission of material facts in the application or other
2.19 information provided to the commissioner;

2.20 (2) the facts that subsequently developed were not materially different from the facts
2.21 upon which the ruling was based;

2.22 (3) the applicable statute, administrative rule, federal law referenced by state law, or
2.23 other relevant law has not changed; and

2.24 (4) the taxpayer acted in good faith in applying for and relying on the ruling.

2.25 (b) Private letter rulings have no precedential effect and may not be relied upon by a
2.26 taxpayer other than as provided in paragraph (a).

2.27 Subd. 4. **Public access.** The commissioner shall make private letter rulings issued under
2.28 this section available to the public on the department's website. The commissioner must
2.29 organize the private letter rulings by tax type and must make them available in a searchable
2.30 format. The published rulings must redact any information that would permit identification
2.31 of the requesting taxpayer.

3.1 Subd. 5. Legislative report. (a) By January 31 of each odd-numbered year, the
3.2 commissioner shall report in writing to the legislature the following information for the
3.3 immediately preceding two calendar years:

3.4 (1) the number of applications for private letter rulings;

3.5 (2) the number of private letter rulings issued, including the number issued within the
3.6 90-day time period under subdivision 2, paragraph (c);

3.7 (3) the amount of application fees refunded by tax type;

3.8 (4) the tax types for which rulings were requested;

3.9 (5) the types and characteristics of taxpayers applying for rulings; and

3.10 (6) any other information that the commissioner considers relevant to legislative oversight
3.11 of the private letter ruling program.

3.12 (b) The report must be filed as provided in section 3.195, and copies must be provided
3.13 to the chairs and ranking minority members of the committees of the house of representatives
3.14 and the senate with jurisdiction over taxes and appropriations to the Department of Revenue.

3.15 **EFFECTIVE DATE.** This section is effective the day following final enactment, except
3.16 that the first legislative report under subdivision 5, is due January 31, 2024.