

Policy and Procedure Memorandum

PPM No. 50.2

Subject: Requests for Private Letter Rulings

Effective Date: November 8, 2018

This Policy and Procedure Memorandum supersedes any previously issued memoranda that conflict with these directives.

A. Purpose

The purpose of this policy is to establish the procedures to be followed in order to evaluate and process requests for private letter rulings that have been submitted to the Louisiana Uniform Local Sales Tax Board by taxpayers or dealers.

B. Statutory Authority

R.S. 47:337.102(C)(9) and (D)

C. The following definitions and the definitions provided in PPM 50.1 will apply to this PPM.

Designated Person—the person designated by the Executive Director to evaluate a Request for Private Letter Ruling or prepare the Local Private Letter Ruling resulting from such a request.

Postmark Date—the date of the postmark on the envelope or folder in which a Request for Private Letter Ruling was mailed to the Board. If this date is illegible or otherwise unavailable, the received date will be considered the postmark date.

Received Date—the date a Request for Private Letter Ruling sent by certified mail is delivered to the Board. If the letter is physically received on a weekend or holiday, the received date shall be the first business day after delivery into the mailbox.

Request for Private Letter Ruling—a written request sent by a taxpayer or dealer via certified mail to solicit policy guidance with respect to any local sales and use tax issue in the form of a Local Private Letter Ruling.

D. General Requirements and Procedures

1. A Request for Private Letter Ruling must contain the following information:
 - a. the legal name, business name (if available) and mailing address of the taxpayer or dealer for whom the request is submitted;
 - b. the name, mailing address, email address, and telephone number of the person who submitted the request;
 - c. a power of attorney for any third party who is representing the taxpayer or dealer for whom the request is submitted;
 - d. the specific questions to be answered or issues to be addressed;
 - e. a complete statement of all relevant facts;
 - f. all citations to or copies of relevant statutes, regulations, court decisions, advisory opinions, or other authority that would assist in identifying the proper interpretation of the laws as they relate to the facts;
 - g. copies of all relevant documents such as contracts, wills, deeds, account statements, work papers, reports, invoices, etc.;
 - h. the identity of all Local Tax Collectors for which the LPLR is requested; and
 - i. a statement attesting:
 - i. that a copy of the Request for Private Letter Ruling has been sent via certified mail to all Local Tax Collectors that will be affected by the ruling;
 - ii. if the taxpayer has the same issue under audit or appeal with a taxing or revenue authority;
 - iii. if the taxpayer has been notified that an examination or audit is pending by a taxing authority;
 - iv. if the taxpayer is litigating the issue;
 - v. if a taxing or revenue authority has previously disseminated an advisory opinion on the same issue (with copy attached);
 - vi. if the Office of the Attorney General has been requested to issue an opinion concerning the issue; and
 - vii. that if the taxpayer is notified of a pending examination or audit by a taxing or revenue authority prior to the issuance of the LPLR, they will notify the Board of the pending examination.
2. Receipt and recording of Requests for Private Letter Ruling
 - a. Requests for Private Letter Ruling shall be stamped with the received date and segregated from other correspondence.
 - b. The requests will be entered into the tracking system provided by the Board for such information. Information entered into the system should include:

- i. the postmark and received dates;
 - ii. the name, mailing address, email address, and telephone number of the person who submitted the request;
 - iii. the legal name, business name (if applicable) and mailing address of the taxpayer affected by the LPLR;
 - iv. the name(s) of the Local Tax Collector(s) affected by the LPLR; and
 - v. a short title that describes the issues involved in the LPLR.
 - c. The request and supporting documentation will be scanned for electronic storage.
 - d. A letter will be sent to the taxpayer and the Local Tax Collector(s) informing them that the request has been received. The letter will include a statement that a request for an LPLR may not be used to delay or interrupt an audit.
3. Preliminary Review and Evaluation of a Request for Private Letter Ruling
 - a. All documents will be assembled and delivered to the designated person for review and evaluation.
 - b. The designated person will review the documents and determine if the following conditions have been met.
 - i. All required documents are included with the Request for Private Letter Ruling.
 - ii. The Board is qualified to respond to the Request for Private Letter Ruling. In making such determination, it should be remembered that R.S. 47:337.102(D) is permissive and not mandatory. The Board will deny requests under the following conditions.
 - (a). The guidance would involve a matter not solely related to the imposition, collection, or administration of a local sales tax authorized under the constitution and laws of this state and governed by Chapters 2 and 2D of Title 47 of the Louisiana Revised Statutes of 1950, as amended, or a regulation, court case or policy involving these laws.
 - (b). The issue involves a “common sales tax law” defined in R.S. 47:337.2. The Louisiana Department of Revenue has jurisdiction over matters concerning common sales tax laws and requests for advice on these matters should be directed to that agency.
 - c. The designated person will also determine if there are reasons an LPLR should be issued or denied.
 - i. Reasons for issuing an LPLR include, but are not limited to, the following criteria.
 - (a). The LPLR has been properly requested by an identified taxpayer or dealer or the taxpayer’s representative who has a power of attorney.
 - (b). The statutes, regulations or applicable court cases are not clear.

- (c). There is disagreement among Local Tax Collectors regarding the proper interpretation of the law.
- ii. Reasons for not issuing an LPLR include, but are not limited to, the following criteria.
 - (a). The LPLR involves a single Local Tax Collector and the collector elects to decline to participate in the Local Private Letter Ruling process with respect to that request by notifying the Board and the requesting party within ten days of receipt of the request.
 - (b). The statutes, regulations or applicable court cases are clear.
 - (c). A regulation would be more appropriate.
 - (d). The inquiry concerns alternative treatments for clearly established policies or purely hypothetical situations.
 - (e). The inquiry concerns matters scheduled for audit or are currently in an audit, appeal, or protest.
 - (f). The inquiry concerns an issue that is being litigated or may be litigated in the near future.
 - (g). The request can best be handled by other means.
 - (h). The taxpayer and the Local Tax Collector are in disagreement on the facts.
 - (i). The taxpayer for whom the request was submitted withdraws the request at any point prior to issuance of the LPLR.
 - (j). The Board, in its sole discretion, declines the request.
- d. The designated person will prepare a summary of the issues in the request, an analysis of the Board's authority to issue advice on the matter, and if there are reasons for or against issuing an LPLR. The Executive Director will submit the report, redacted to remove all taxpayer identifying information to protect taxpayer confidentiality, to the Board during a Board meeting. The Board will determine if the Request for Private Letter Ruling qualifies for consideration. All discussion of the Request for Private Letter Ruling in a Board meeting will proceed in a manner so as not to reveal taxpayer identifying information and protect taxpayer confidentiality.
- e. Determination of the Board
 - i. If the Board denies the request, the designated person will send a letter to the taxpayer and the collectors notifying them that an LPLR will not be issued and the reasons for the denial. The file will be closed.
 - ii. If the Board approves the request, the designated person will research the matter and, if appropriate, prepare a preliminary ruling.

4. Researching and Preparing the Local Private Letter Ruling

- a. The designated person may solicit additional information from the taxpayer or the affected Local Tax Collector(s), or any other resource provided that confidential information may not be released to anyone other than the taxpayer and affected Local Tax Collector(s). The designated person will consult with the Executive Director and determine if an LPLR is still appropriate. The Executive Director will notify the Board if at any time it is determined that an LPLR is not appropriate. The Board will consider the matter in a Board meeting in a manner so as not to reveal taxpayer identifying information and protect taxpayer confidentiality and advise the Executive Director.
- b. The designated person will prepare a preliminary “draft” Local Private Letter Ruling and submit it to the Executive Director. The Executive Director may order changes to the draft or approve it without changes. Once approved by the Executive Director, the draft shall be sent to the Board’s legal counsel for review and recommendation. Upon completion of such review and recommendation, the designated person will revise the draft in accordance with any suggestions from legal counsel and send a copy of the draft by email to the taxpayer and the affected Local Tax Collector(s).
 - i. The taxpayer may do one of the following within fifteen (15) calendar days of mailing:
 - (a). accept the draft as prepared;
 - (b). submit additional information for consideration; or
 - (c). withdraw the request.
 - ii. The Local Tax Collector(s) may do one of the following within fifteen (15) calendar days of mailing:
 - (a). accept the draft as prepared; or
 - (b). submit additional information for consideration.
 - iii. The failure to respond by the taxpayer or the Local Tax Collector(s) as provided above shall be deemed as their approval of the draft.
- c. The designated person will consult with the Executive Director and determine if any additional information submitted is relevant to the issues. Relevant information will be incorporated into a final draft. If the draft is materially amended by supplemental information provided by the taxpayer or Local Tax Collector(s), the final draft shall be referred to the Board’s legal counsel for review and recommendation. Upon completion of such review and recommendation, the designated person will revise the draft, as necessary, and deliver it to the Executive Director for approval. Once approved by the Executive Director, it will be sent to the taxpayer for acceptance. The taxpayer may:
 - i. accept the final draft as prepared; or
 - ii. withdraw the request.

- d. If the taxpayer accepts the final draft as prepared, the LPLR will be placed in proper form and sent by certified mail and email to the taxpayer or the taxpayer's authorized representative and each of the affected Local Tax Collector(s). The accepted final draft shall include the following disclaimer:

A Local Private Letter Ruling (LPLR) is issued under the authority of R.S. 47:337.102(C)(9) and (D). It provides guidance to a specific taxpayer or dealer. It is a written statement that applies principles of law to a specific set of facts or a particular tax situation and is limited to the matters specifically addressed. An LPLR does not have the force and effect of law and may not be used or cited as precedent. An LPLR is binding on the board and the local collectors served with notice of the request only as to the taxpayer making the request and only if the facts provided with the request were truthful and complete and the transaction was carried out as proposed. R.S. 47:337.102(D)(3) provides that any party to the dispute may seek a review of the ruling within twenty days of the date of its certified mailing by filing a petition to the Local Tax Division of the Louisiana Board of Tax Appeals. Any private letter ruling that is appealed shall be stayed until the appeal is resolved by final judgment or by settlement. The board's position concerning the particular tax situation addressed in the LPLR remains in effect for the requesting taxpayer until a subsequent LPLR, rule, legal decision or statute supersedes it.

- e. A Redacted Local Private Letter Ruling will be prepared from the final draft and placed on the Board's website within 10 days of the mail date of the LPLR to the taxpayer and affected Local Tax Collector(s).
- f. If the taxpayer withdraws their request for a private letter ruling at any time, the Board may incorporate language from the draft of the private letter ruling into any other policy statement or regulation.

The Board, in its sole discretion, may authorize exceptions to this policy by unanimous approval of its members.

Revision History: Adopted by the Board, November 8, 2018 (new document).

Signatures:

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