

Advance Rulings

Corporation Capital Tax

This bulletin sets out the guidelines under which advance corporation capital tax rulings are issued.

The information in this bulletin is provided for your convenience and guidance and is not a replacement for the legislation. The *Corporation Capital Tax Act* and Regulations can be found on the web at www.gov.bc.ca/sbr

In this issue...

- ***Provision of advance rulings***
- ***Definition and purpose of advance rulings***
- ***Coverage of advance rulings***
- ***Invalid advance rulings***
- ***Exclusions***
- ***Procedure for requesting advance rulings***
- ***Fee charged for advance rulings***
- ***Opinions***

PROVISION OF ADVANCE RULINGS

As an administrative service to taxpayers, the Income Taxation Branch of the Ministry of Small Business and Revenue provides advance rulings on the application of the [Corporation Capital Tax Act](#). All requests for advance rulings, other than those described below under "Exclusions" will be considered.

DEFINITION AND PURPOSE OF ADVANCE RULINGS

An advance ruling is a written statement given by the Income Taxation Branch to a taxpayer stating how it will interpret a specific provision of the Act. Consequently, an advance ruling may be either favourable or unfavourable to the interpretation desired by the taxpayer. An advance ruling is regarded as binding upon the

branch, subject to any stated qualifications contained in the ruling.

The purpose of the advance ruling service is to encourage voluntary compliance, uniformity and self-assessment by providing certainty with respect to the implications of the Act to proposed business transactions.

COVERAGE OF ADVANCE RULINGS

Advance rulings are intended to enable taxpayers to decide on a particular course of action. Accordingly, advance rulings are only given on proposed transactions which are seriously contemplated and are not of a hypothetical nature.

Advance rulings are also issued on questions of fact but only if it is possible to determine all the material facts and those facts can reasonably be expected to prevail.

An advance ruling applies only to the taxpayer who requests it or on whose behalf it is requested.

INVALID ADVANCE RULINGS

If there is a material omission or misrepresentation in the statement of facts or proposed transactions submitted by the corporation or its representative in requesting an advance ruling, the advance ruling is considered invalid and the branch will not be bound by it.

An advance ruling ceases to be valid if it was based on an interpretation of the law which is

subsequently changed as a result of a court decision. The ruling will be considered binding upon the branch only for the period prior to the date of the court decision. Also, if the legislation upon which an advance ruling was based is amended, the advance ruling ceases to be valid from the effective date of the amendment.

EXCLUSIONS

Under the following circumstances, requests for advance rulings will not be considered:

- if the transaction is the same in character as a completed transaction entered into in a prior taxation year and the tax effect of the completed transaction is under audit or discussion with the taxpayer;
- if the central issue involves a matter that
 - (i) is before the courts or
 - (ii) reflects a judgment on which an appeal to a higher court is being considered;
- if the transaction is to be completed at some indefinite future time or where satisfactory evidence is lacking that a proposed transaction is being seriously considered;
- if the request for an advance ruling contains alternative courses of action on the part of the taxpayer;
- if the advance ruling would require the branch to express an opinion as to generally accepted accounting principles or commercial practices;
- if a matter on which a determination is requested is primarily one of fact and the circumstances are such that all pertinent facts cannot be established at the time of the request for the advance ruling;
- if the advance ruling request does not comply with the requirements of this bulletin.

The issuance of an advance ruling may be delayed if it would require an interpretation of legislation on which the branch has not yet adopted a position or if the branch is currently in the process of reconsidering its existing position.

PROCEDURE FOR REQUESTING ADVANCE RULINGS

Advance ruling requests must include copies of all relevant documents and must contain the

following:

- a. the taxpayer's name and address and the Corporation Capital Tax account number (if applicable);
- b. if the request is made by a representative of the taxpayer, written evidence that the representative is authorized to act for the taxpayer in requesting the advance ruling as well as the taxpayer's name and address (Schedule H to the return may be used for this purpose);
- c. a complete description of the facts and a complete description of each proposed transaction;
- d. with regard to each proposed transaction covered by the advance ruling request:
 - (i) a statement of its purpose,
 - (ii) the corporation's understanding of the application of the provisions of the Act or Regulations to the Act that are relevant, and
 - (iii) a description of the issue that is the reason for the request.
- e. if the ruling requested concerns the application of the general anti-avoidance rule to a proposed transaction, the request must include submissions to establish that the transaction would not result directly or indirectly in a misuse of the provisions of the Act or an abuse having regard to the provisions of the Act read as a whole.
- f. a deposit in accordance with the fee guidelines outlined below.

In order that consideration of the advance ruling request can be commenced and be dealt with in the order received, taxpayers are asked to include all applicable elements in (a) to (f) above when submitting their ruling request. This responsibility for providing an advance ruling request and adequate information is that of the taxpayer or the taxpayer's representative.

A request for an advance ruling should be mailed to:

The Administrator
Income Taxation Branch
Revenue Programs Division
Ministry of Small Business and Revenue
PO Box 9444 Stn Prov Govt
Victoria BC V8W 9W8

A request for an advance ruling may be submitted by facsimile if the taxpayer is prepared

to accept the risk of loss of confidentiality involved due to the insecure nature of facsimile transmission. The branch's fax number is (250) 356-0434.

FEE CHARGED FOR ADVANCE RULINGS

The cost of providing the advance ruling service is borne by those taxpayers who request the service. For advance ruling requests received on and after September 1, 1997, a fee will be charged by the branch. The fee will be \$90 per hour (plus goods and services tax) covering the cost of research and preparation of the ruling.

The fee is set by a directive issued under the *Financial Administration Act* and a revised bulletin will be published when changed. A deposit equal to \$540.00 plus goods and services tax is required with the initial ruling request. The branch will bill any additional amount payable after the advance ruling is completed or the advance ruling request is withdrawn. If the time billed is less than six hours, the branch will refund the difference.

If requested, the branch will provide the taxpayer with a revised estimate of the fee subsequent to reviewing the advance ruling request.

OPINIONS

The branch also provides written opinions on the interpretation of specific provisions of the *Corporation Capital Tax Act* and will provide over-the-counter advice and assistance on routine matters. Such opinions and advice are not advance rulings and are not binding on the branch.

NEED MORE INFO?

This bulletin is provided for convenience and guidance.

For further information, please contact:

**Ministry of Small Business and Revenue
Income Tax Branch
PO Box 9444 Stn Prov Govt
Victoria BC V8W 9W8**

**Telephone: 250 953-3082
Fax: 250 356-0434**

**E-mail questions to:
ITBTaxQuestions@gov.bc.ca**

**Information is also on the web at
www.gov.bc.ca/sbr While there, you can
subscribe to our free electronic update
service.**