

Private Letter Rulings

I. Purpose

This Technical Bulletin provides guidance and procedures for submitting a petition for private letter ruling (“petition”).

II. Scope

This Technical Bulletin deals only with private letter rulings (“PLRs”) requested and issued under Tax-General Article §13-1A-02 Maryland Code Annotated. PLRs are a formal type of guidance issued by the Comptroller to a specific taxpayer, and they are intended to address complex or novel questions applying to a specific prospective transaction. A petition must comply with the requirements described in this Technical Bulletin.

General questions may be answered in other guidance published by the Comptroller, such as Technical Bulletins, Tax Alerts, and the instructions for specific tax forms. A person may also request a declaratory ruling. More information about the guidance offered by the Comptroller’s Office can be found on the Comptroller’s website.

III. Definitions

In this technical bulletin, the following terms have the meanings indicated.

A. Person:

An individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind; any partnership, firm, association, corporation, or other entity; or a governmental entity or a unit or instrumentality of a governmental entity.

B. Petition:

A written request for a PLR that is submitted to the Legal Division of the Comptroller’s Office by first-class mail with postage prepaid, electronically, or delivered in person.

C. Petitioner:

A person who is requesting a PLR. “Petitioner” does not include a class or group of persons who are not related parties in a specific and actual prospective transaction.

D. Private Letter Ruling:

A final, written, non-appealable determination issued by the Comptroller of Maryland on: the application of tax law administered by the Comptroller under the Tax-General Article; the application of regulations under Code of Maryland Regulations (COMAR) Title 3; or other matters over which the Comptroller has administrative authority applicable to a specific set of facts submitted to the Comptroller in a written petition.

E. Tax:

State and local taxes and fees administered by the Comptroller.

IV. Private Letter Rulings, Generally

A person seeking formal, binding guidance may submit a petition for a PLR to the

Comptroller's Office.

A private letter ruling is a final, written, non-appealable determination that is applicable to a specific set of facts regarding the application of state tax laws and regulations and other matters over which the Comptroller has administrative responsibility. Topics on which a private letter ruling may be requested include: income tax (individual, corporation, pass-through entity, employer withholding, and fiduciary), sales and use tax, motor fuel tax, motor carrier tax, alcoholic beverage tax, tobacco tax, admissions and amusement tax, digital advertising gross revenues tax, estate tax, and boxing and wrestling tax.

Prior to submitting a petition, a person should first consult existing guidance published by the Comptroller at marylandtaxes.gov, including other Technical Bulletins, Tax Alerts, and instructions for tax forms. The Comptroller may deny a petition if the issue presented is the subject of existing guidance.

A. Submitting a Petition

A petition should contain all the information and documentation listed in the Petition Submission Checklist, which can be found on the last page of this Technical Bulletin. Each petition must include a completed Petition Submission Checklist.

A petition must be made in writing and sent to the Legal Division of the Comptroller's Office. Petitions can be submitted in the following ways:

- By email to:
CompMdLegal@marylandtaxes.gov.
To submit by secure upload, email a request for a secure link to CompMdLegal@marylandtaxes.gov.
- By mail to:
Comptroller of Maryland
Legal Division - PLR
P.O. Box 2983
Annapolis, Maryland 21404
- In person to:
Comptroller of Maryland
Legal Division
110 Carroll Street
Annapolis, Maryland 21401

A petition may be submitted only by or on behalf of a person who is a party to the transaction that is the subject of the petition. A petition **may not** be submitted by or on behalf of:

- A group of persons that are not related parties in the subject transaction;
- A person that is not a party to the subject transaction; or
- An anonymous or hypothetical party.

If the petition is submitted by an authorized representative, it must include a [Maryland Form 548 Power of Attorney](#). Information about the Power of Attorney, including links to Form 548 and instructions are available on the Comptroller's [website](#). Follow the instructions to complete the form. In Part III, under "Acts Authorized," include a statement that the representative is authorized to act as representative for the purposes of the submitted petition.

B. Denial and Withdrawal

Upon receiving a petition, the Comptroller will confirm receipt by letter within 10 business days.

Before considering and addressing the merits of the petition, the Comptroller will first make a preliminary determination as to whether a denial for good cause is appropriate.

The Comptroller will issue a denial for good cause within 60 days after receiving the petition. Good cause includes the reasons listed below.

- The issue is the subject of existing guidance to taxpayers published by the Comptroller;
- The petitioner did not timely submit additional information requested by the Comptroller;
- The issue identified in the petition is: (a) under extensive study or review; or (b) currently being considered in a rule-making procedure, contested case, or any other agency or judicial proceeding that may resolve the issue;
- The Comptroller has reason to believe the issue is the subject of an examination, audit, or pending refund request of the petitioner for the same or a prior tax period;
- The petition does not identify the taxpayer or taxpayers;
- The petition involves a hypothetical situation or alternative plans;
- The transaction for which the petition is submitted is designed to avoid taxation;
- The facts or issues identified in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis on which to issue a PLR;
- The petition seeks to determine whether a statute is constitutional under the Maryland Constitution or the United States Constitution;
- The issue is addressed by statute, regulation, or Court decision; or
- The issue involves the tax consequence of any proposed but not yet enacted federal, state, or local legislation.

If the Comptroller denies a petition for good cause, the Comptroller may nevertheless issue informal, nonbinding guidance in the denial letter.

At any time before a PLR is issued, the petitioner may withdraw a petition, and a PLR will not be issued. A PLR will be mailed to the petitioner on the date of issuance. A petition may not be withdrawn after the Comptroller issues a PLR. A PLR will not be shared with the petitioner prior to issuance.

C. Request for Additional Information

Upon reviewing a petition, the Comptroller may determine that additional information is required. A petitioner must submit the additional information within 30 days of the Comptroller's request, or the Comptroller may deny the petition.

If a petition is denied for failing to provide additional information, the Comptroller may reopen a petition if, within 12 months after the denial of the petition, the petitioner:

- Submits the additional information requested by the Comptroller; and
- Affirms that there have been no material changes to the information submitted in the petition.

D. Issuing a Private Letter Ruling

Once the Comptroller issues a PLR, it becomes binding on the Comptroller. The PLR is binding on the Comptroller for 7 years from the date it is issued, unless void, revoked, or modified. The petitioner may rely on the private letter ruling, and such reliance may be used as a defense to a tax assessment, interest, or penalty sought to be imposed by the Comptroller.

A PLR is not appealable, nor is it binding on the petitioner. The petitioner may choose to take a tax position that is contrary to the determination of the Comptroller in the PLR. A petitioner may be assessed for any tax that results from the contrary position, and the petitioner may appeal the assessment. The PLR may be used as evidence of the petitioner's knowledge or intent in a subsequent proceeding.

A PLR is not binding on the Comptroller as to any person other than the petitioner. However, members of the public may treat a published PLR as non-binding, informal guidance.

E. Void Private Letter Rulings

A PLR is void and of no effect from the date it is issued if the petition misstates or omits material facts, or the facts are otherwise determined to be materially different from the representations made in the petition. A petitioner may not rely on a PLR that is void.

Because a void PLR is of no effect from its date of issuance, it is not binding on the Comptroller. A petitioner's reliance on a void PLR is not a defense to a tax assessment, interest, or penalty. Furthermore, the Comptroller may consider a misstatement, omission, or misrepresentation of material facts an indication of fraud.

F. Modification or Revocation

At any time during the 7-year period in which a PLR is in effect, the Comptroller may modify or revoke the PLR.

Modification or revocation is warranted when the Comptroller determines that a material change in facts or a change in law, regulations, rules, or a final decision in a contested case affects the validity of the PLR. When the Comptroller modifies or revokes a PLR, the Comptroller will determine the date on which the modification or revocation will be effective—typically the date the change in facts or change in law occurred.

The Comptroller will promptly send notice to the petitioner when the Comptroller modifies or revokes a PLR.

Additionally, a petitioner may request a modification or revocation of a PLR. The request should be submitted in the same manner and general format as the original petition, and should include a detailed description of the basis for modification or revocation.

Petitioner should notify the Comptroller of any material change in facts submitted in a petition, even if the change in facts may have a disadvantageous result for the petitioner. Notification of a change of facts should be submitted to the Legal Division of the Comptroller of Maryland.

G. Renewal

No earlier than 6 months before the expiration date, a petitioner may request a renewal of the PLR. A renewal request must be submitted in writing to the Legal Division of the Comptroller of Maryland, and include a detailed description of the basis for renewal, including:

- A statement that no material facts have been changed; and
- A statement that no law, regulation, rule, or decision in a contested case affects the validity of the private letter ruling.

The Comptroller may deny a request for renewal if there has been a change to the facts or law, or if one of the reasons listed in Section IV.B of this Technical Bulletin applies.

H. Publication

The Comptroller will publish a redacted or anonymized version of a PLR the Comptroller determines may be of interest to the public on the Comptroller's website. Although these

published copies are not binding on the Comptroller as to any person other than the petitioner, members of the public may regard them as informal, non-binding guidance.

If the Comptroller intends to publish a PLR, the Comptroller will provide, at least 15 business days prior to publication, the redacted or anonymized version for publication of the PLR to the petitioner and the petitioner's authorized representative. Items that will be redacted or anonymized include identifying details, trade secrets, commercial or financial information considered privileged, and any information, including tax information, that would constitute an unnecessary or unlawful disclosure of personal information.

Upon receiving the proposed version for publication, a petitioner must submit any requested revisions within 15 days. Failure of the petitioner to respond with any proposed revisions to the version for publication within 15 business days shall be deemed a waiver of any claim that the version for publication contains confidential information. The Comptroller will consider the petitioner's proposed revisions; however, the Comptroller will determine the contents of the published version.

The Comptroller retains the discretion to decline to publish a PLR. For example, if a PLR involves a taxpayer whose identity cannot reasonably be protected through redaction or anonymization, the Comptroller will protect the taxpayer's confidential information by declining to publish the ruling.

V. Questions and Answers

A. Is there a fee to submit a petition for a PLR?

No. There is no fee associated with submitting a petition for a PLR.

B. Who can submit a petition for a PLR?

The petition must be submitted by either a person who is a party to the subject transaction, or an authorized representative on behalf of a party to the subject transaction. A petition may not be submitted by or on behalf of a class or group of persons who are not related parties to the subject transaction.

If the petition is submitted by an authorized representative, the petition must include a completed [Maryland Form 548 Power of Attorney](#).

C. Can a trade association submit a petition for a PLR regarding a set of facts that is common among some or all of its members?

No. A trade association cannot request a PLR on behalf of its members because the trade association is not a party to the transaction and does not represent any party to the transaction in the transaction.

D. How do I submit a petition for a PLR?

- By email to:
CompMdLegal@marylandtaxes.gov.
To submit by secure upload, email a request for secure link to CompMdLegal@marylandtaxes.gov.
- By mail to:
Comptroller of Maryland
Legal Division - PLR
P.O. Box 2983
Annapolis, Maryland 21404
- In person to:

Comptroller of Maryland
Legal Division
110 Carroll Street
Annapolis, Maryland 21401

E. How can I track the status of my petition for a PLR?

You will receive a letter confirming receipt of the petition. You may check the status of your petition by contacting the assigned attorney.

F. What if I disagree with the ruling?

A PLR is binding only on the Comptroller; a PLR is not binding on the petitioner. A PLR is not appealable to the Comptroller's Hearings and Appeals Division, the Maryland Tax Court, any other administrative agency or tribunal, or any State or federal court. A PLR serves to put the petitioner on notice as to the Comptroller's treatment of the transaction. If the petitioner proceeds with the transaction, taking a position contrary to the Comptroller's treatment, and disagrees with a subsequent assessment or refund denial, the assessment or refund denial may be appealed pursuant to Tax-General Article §§ 13-508 or 13-510.

Legal Division
P. O. Box 2983, Annapolis, Maryland 21404-1829
Telephone: **410-260-7326**
www.marylandtaxes.gov

For the deaf or hard of hearing: call via Maryland Relay at 711 in Maryland
or 1-800-735-2258

If you need reasonable accommodation for a disability, please contact us before you visit.
If you need the information in this publication in an alternate format, contact the Comptroller's Office.

PETITION SUBMISSION CHECKLIST – Include with Petition

All items on this list must be included in the petition.

- The petition identifies the petitioner and all parties involved in the transaction or question, including name, tax identification number, mailing address and any other address pertinent to the petition (for example, location address for a sales and use tax question).
- The petition contains a short statement of the question or issue on which the petition is based.
- The petition contains a detailed statement of the facts on which the petition is based.
- The petition contains a redacted or anonymized version of the statement of facts upon which the petition is based, which may be published.
- The petition identifies all statutes, regulations, judicial decisions, or other published federal or state guidance relevant to the petition, including authority adverse to the petitioner's position.
- The petition includes a discussion of whether, and in what manner, the statutes, regulations, judicial decisions, and other published federal or state guidance apply to the petitioner under the facts outlined in the petition.
- The petition contains a description of the petitioner's interest in the private letter ruling, which includes:
 - (a) A statement as to whether the PLR sought is intended to affect the tax consequences of any transaction or transactions entered into or contemplated by the petitioner, its vendors, customers, clients, or any other person who is a party to the transaction described in the petition, which are known by the petitioner to be the subject of a Comptroller inquiry, audit, refund, or assessment proceeding or any inquiry, audit, refund, or assessment proceeding conducted on behalf of and with the approval of the Comptroller;
 - (b) A statement as to whether the PLR sought is intended to affect the petitioner's status under any of the licensing, regulatory, or statutory provisions administered by the Comptroller, which is known by the petitioner to be the subject of an inquiry, inspection, investigation, audit, refund request, voluntary disclosure, or other proceeding in the Comptroller's Office; and
 - (c) An explanation of the circumstances surrounding the inquiry, audit, refund, assessment, inspection, investigation, or other proceedings, if any.
- The petition contains a statement as to whether the petitioner has sought or is seeking a private letter ruling or other guidance from the IRS, another state, or another taxing authority on the transaction or question that is the subject of its petition for a PLR to the Comptroller of Maryland and, if so, from whom the ruling or guidance is being sought.
- The petition contains a concise proposed draft ruling, OR a statement that the petitioner is not asserting a position or alternative positions.
- The petition contains the signature of the petitioner or authorized representative.
- The petition includes a completed [Maryland Form 548 Power of Attorney](#) OR a statement that petitioner does not have an authorized representative in this matter.