



Ohio Revised Code

Section 5703.53 Opinions on prospective tax liability.

Effective: January 1, 1990

Legislation: Senate Bill 147 - 118th General Assembly

(A) An "opinion of the tax commissioner" means an opinion issued under this section with respect to prospective tax liability. It does not include ordinary correspondence of the commissioner or a final determination of the commissioner arising from a request for administrative review of an assessment, a claim for refund, or an application for a pollution control or other certificate.

(B) If a taxpayer requests in writing an opinion from the tax commissioner as to whether or how certain property, income, source of income, or a certain activity or transaction will be taxed, the commissioner's written response shall be an "opinion of the tax commissioner" and shall bind the commissioner, in accordance with divisions (C), (G), and (H) of this section, provided all of the following conditions are satisfied:

(1) The taxpayer's request fully describes the specific facts or circumstances relevant to a determination of the taxability of the property, income, source of income, activity, or transaction, and, if an activity or transaction, all parties involved in the activity or transaction are clearly identified by name, location, or other pertinent facts.

(2) The request relates to a "tax" as defined in section 5703.50 of the Revised Code.

(3) The commissioner's response is signed by the commissioner and designated as an "opinion of the tax commissioner."

(C) An opinion of the tax commissioner shall remain in effect and shall protect the taxpayer for whom the opinion was prepared and who reasonably relies on it from liability for any taxes, penalty, or interest otherwise chargeable on the activity or transaction specifically held by the commissioner's opinion to be taxable in a particular manner or not to be subject to taxation for any tax year that may be specified in the opinion, or until the earliest of the following dates:

(1) The effective date of a written revocation by the commissioner sent to the taxpayer by certified



mail, return receipt requested. The effective date of the revocation shall be the taxpayer's date of receipt or one year after the issuance of the opinion, whichever is later;

(2) The effective date of any rule adopted by the commissioner under Chapter 119. of the Revised Code that is inconsistent with the opinion;

(3) The effective date of any amendment or enactment of a relevant section of the Revised Code or uncodified law;

(4) The date on which a court issues an opinion establishing or changing relevant case law with respect to the Revised Code, uncodified law, or rules of the tax commissioner;

(5) If the opinion of the commissioner was based on the interpretation of federal law, the effective date of any change in the relevant federal statutes or regulations, or the date on which a court issues an opinion establishing or changing relevant case law with respect to federal statutes or regulations;

(6) The effective date of any change in the taxpayer's material facts or circumstances;

(7) The effective date of the expiration of the opinion, if specified, in the opinion.

(D) A taxpayer is not relieved of liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.

(E) If the commissioner provides written advice under this section, the opinion shall include a statement that:

(1) The tax consequences stated in the opinion may be subject to change for any of the reasons stated in division (C) of this section;

(2) It is the duty of the taxpayer to be aware of such changes.

(F) The commissioner may refuse to offer an opinion on any request received under this section.



(G) This section binds the commissioner only with respect to opinions of the commissioner issued on or after January 1, 1990.

(H) An opinion of the commissioner binds the commissioner only with respect to the taxpayer for whom the opinion was prepared.

(I) The commissioner shall make available the text of all opinions issued under this section, except those opinions prepared for a taxpayer who has requested that the text of the opinion remain confidential. In no event shall the text of an opinion be made available until the commissioner has removed all information that identifies the taxpayer and any other parties involved in the activity or transaction.

(J) An opinion of the commissioner issued under this section is not a final determination of the commissioner and may not be appealed to the board of tax appeals.