



## DECLARATORY RULING OVERVIEW

An interested person may petition the Comptroller for a declaratory ruling with respect to the application of laws or regulations, administered by the Comptroller, to a particular set of facts. A petition for a declaratory ruling must be submitted in writing and adhere to the requirements identified in Regulation 03.01.01.03 of the Code of Maryland Regulation. Specifically, the request must indicate that it is filed in accordance with COMAR 03.01.01.03, contain a detailed statement of the facts, set forth fully the statutes, regulations, or judicial decisions relevant to the issue, pose the question of whether, or in what manner, the statutes, regulations, or judicial decisions apply to the petitioner under the presented facts, and contain a statement describing the interest of the petitioner in making the request. Please review **COMAR 03.01.01.03** for additional requirements regarding your petition for declaratory ruling.

A declaratory ruling is binding upon the Comptroller only for the taxpayer that requested the declaratory ruling. Moreover, a ruling is only binding over transactions entered into before the date of the declaratory ruling and those made in reliance upon the ruling, unless a change in the legal basis of the declaratory ruling is made by statute, regulation, or judicial decision after the issuance of the ruling and before any affected transaction.

The Comptroller may publish declaratory rulings of general interest, subject to the protection of the identity of the petitioner and confidential information contained in the petition.

## INSTRUCTIONS

All petitions must be mailed to the following address:

**Office of the Maryland Comptroller  
Revenue Administration Division – Legal Section  
110 Carroll Street  
Annapolis, MD 21411**

Please review the requirements listed below to ensure that your petition is submitted in accordance with Maryland regulations. If after reviewing **COMAR 03.01.01.03** and the instructions below you still have questions regarding filing a petition for declaratory ruling, please contact 410-260-7583. Any petition that does not conform to the requirements listed in **COMAR 03.01.01.03** will not be considered for a declaratory ruling by the Comptroller.

All petitions for declaratory ruling must include the following:

**1. A written request**

- a. The request must be clearly marked to indicate that it is being filed in accordance with COMAR 03.01.01.03.

**2. Facts**

- a. A detailed statement of the facts on which the petition is based. This includes a complete statement of all facts relating to the transaction, including, but not limited to, names, addresses, and telephone numbers of all interested persons, description of the taxpayer's business operations, complete statement of business reasons for the transaction, and description of the transaction.
- b. It is advisable to submit nonreturnable copies of all contracts, wills, deeds, agreements, instruments, or other documents pertinent to the transaction.

**3. Statutes, Regulations, and/or Judicial Decisions**

- a. The petitioner must set forth all relevant statutes, regulations, and/or judicial decisions applicable to the facts outlined in the petition.

**4. Identification of the Question**

- a. The petitioner must present the question of whether, and in what manner, statutes, regulations, or judicial decisions apply to the taxpayer's set of facts.
- b. The petition must contain the taxpayer's analysis of the relevant statutes, regulations, and/or judicial decisions to the facts. If the taxpayer advocates a particular conclusion, the taxpayer must include an explanation of the grounds for that conclusion and the relevant authorities to support it. Even if the taxpayer is not advocating a particular tax treatment of a proposed transaction, the taxpayer must furnish views on the tax results of the proposed transaction and a statement of relevant authorities to support those views.
- c. In all events, the request must include a statement of whether the law in connection with the request is uncertain and whether the issue is adequately addressed by relevant authorities.
- d. To avoid a delay in the ruling process, contrary authorities should be brought to the attention of the Comptroller at the earliest possible opportunity. The taxpayer is strongly encouraged to inform the Comptroller about, and discuss the implications of, any authority believed to be contrary to the position advanced, such as legislation, tax treaties, court decisions, regulations, notices, revenue rulings, revenue procedures, or announcements. If the taxpayer determines that there are no contrary authorities, a statement in the request to this effect should be included.

**5. Statement of Interest**

- a. The petition must include a statement describing the interest of the petitioner in making the request for the declaratory ruling.

b. IF THE PETITIONER HAS KNOWLEDGE OF AN INQUIRY, INSPECTION, INVESTIGATION, AUDIT, REFUND, ASSESSMENT PROCEEDING, OR OTHER PROCEEDING RELATED TO THE PETITION:

- i. The description must include a statement as to whether the declaratory ruling sought is intended to affect the tax consequences of any transaction entered into or contemplated by the petitioner, its vendors, customers, clients, or any other person whose request or upon whose behalf the declaratory ruling is sought.
- ii. The description must include a statement as to whether the ruling is sought to affect the status of the petitioner or any other persons under any of the licensing or regulatory provisions administered by the Comptroller.
- iii. The description must contain an explanation of the circumstances surrounding the inquiry, inspection, investigation, audit, refund, assessment, or other proceeding.