

SENATE BILL 477

Q7

(2lr0769)

ENROLLED BILL

— Budget and Taxation / Ways and Means —

Introduced by **Senators Hester and Rosapepe**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Office of the Comptroller – Legal Division and Private Letter Ruling Procedures**

3 FOR the purpose of establishing a Legal Division in the Office of the Comptroller to provide
4 certain guidance to taxpayers and perform other duties relating to private letter
5 rulings as assigned by the Comptroller; requiring the Comptroller to issue certain
6 private letter rulings on the request of a person, except under certain circumstances;
7 authorizing the Comptroller to deny a private letter ruling request under certain
8 circumstances and establishing procedures for the denial; authorizing a person to
9 withdraw a private letter ruling request under certain circumstances; establishing,
10 subject to certain exceptions, the circumstances under which a private letter ruling
11 binds the Comptroller or may be relied on by a person; requiring the Comptroller to
12 publish certain private letter rulings on the Comptroller’s website in a certain
13 manner under certain circumstances; and generally relating to the Office of the
14 Comptroller and private letter rulings.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



1 BY adding to
2 Article – Tax – General
3 Section 2–102.1; and 13–1A–01 through 13–1A–05 to be under the new subtitle
4 “Subtitle 1A. Private Letter Rulings”
5 Annotated Code of Maryland
6 (2016 Replacement Volume and 2021 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
8 That the Laws of Maryland read as follows:

9 **Article – Tax – General**

10 **2–102.1.**

11 (A) **THERE IS A LEGAL DIVISION IN THE OFFICE OF THE COMPTROLLER.**

12 (B) (1) **THE HEAD OF THE LEGAL DIVISION IS THE DIRECTOR.**

13 (2) **SUBJECT TO THE SUPERVISION OF THE COMPTROLLER, THE**
14 **DIRECTOR HAS ADMINISTRATIVE CONTROL OF THE LEGAL DIVISION.**

15 (C) (1) **THE DIRECTOR SHALL APPOINT OTHER OFFICERS AND**
16 **EMPLOYEES OF THE LEGAL DIVISION IN ACCORDANCE WITH THE PROVISIONS OF**
17 **THE STATE PERSONNEL AND PENSIONS ARTICLE, INCLUDING A MINIMUM OF SIX**
18 **ATTORNEYS.**

19 (2) **OFFICERS AND EMPLOYEES OF THE LEGAL DIVISION ARE**
20 **ENTITLED TO A SALARY AS PROVIDED IN THE STATE BUDGET.**

21 (D) **THE LEGAL DIVISION SHALL:**

22 (1) **PROVIDE EXPANDED AND DETAILED TAX GUIDANCE TO**
23 **TAXPAYERS, INCLUDING PRIVATE LETTER RULINGS; AND**

24 (2) **PERFORM OTHER RELATED DUTIES AS ASSIGNED BY THE**
25 **COMPTROLLER IN ACCORDANCE WITH TITLE 13, SUBTITLE 1A OF THIS ARTICLE.**

26 **SUBTITLE 1A. PRIVATE LETTER RULINGS.**

27 **13–1A–01.**

28 **IN THIS SUBTITLE, “PRIVATE LETTER RULING” MEANS A WRITTEN**
29 **DETERMINATION ISSUED BY THE COMPTROLLER ON THE APPLICATION OF TAX LAWS**
30 **AND REGULATIONS UNDER THIS ARTICLE TO A SPECIFIC SET OF FACTS THAT IS**
31 **INTENDED TO APPLY ONLY TO THAT SPECIFIC SET OF FACTS.**

1 13-1A-02.

2 (A) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE
3 COMPTROLLER SHALL ISSUE A PRIVATE LETTER RULING ON THE WRITTEN REQUEST
4 OF A PERSON AS SOON AS PRACTICABLE AFTER THE DATE ON WHICH THE
5 COMPTROLLER RECEIVED THE WRITTEN REQUEST.

6 (2) (I) A PERSON REQUESTING A PRIVATE LETTER RULING SHALL
7 INCLUDE IN THE WRITTEN REQUEST A STATEMENT AS TO WHETHER THE PERSON IS
8 THE SUBJECT OF AN ONGOING TAXATION MATTER, INCLUDING AN AUDIT, A CLAIM
9 FOR REFUND, A TAX PROTEST, OR AN APPEAL TO THE TAX COURT OR ANY OTHER
10 COURT WITH JURISDICTION OVER THE MATTER.

11 (II) IF THE PERSON IS THE SUBJECT OF AN ONGOING TAXATION
12 MATTER, THE STATEMENT REQUIRED UNDER THIS PARAGRAPH SHALL INCLUDE ANY
13 RELEVANT CASE NUMBERS OR OTHER IDENTIFYING INFORMATION.

14 (B) (1) THE COMPTROLLER, AS APPROPRIATE, MAY REQUEST
15 ADDITIONAL INFORMATION FROM THE PERSON REQUESTING THE PRIVATE LETTER
16 RULING.

17 (2) THE PERSON SHALL SUBMIT THE INFORMATION TO THE
18 COMPTROLLER WITHIN 30 DAYS AFTER THE DATE ON WHICH THE PERSON RECEIVES
19 THE COMPTROLLER'S REQUEST UNDER THIS SUBSECTION.

20 (C) (1) THE COMPTROLLER MAY DENY A REQUEST FOR A PRIVATE
21 LETTER RULING FOR GOOD CAUSE, INCLUDING:

22 (I) THE ISSUE IS THE SUBJECT OF EXISTING GUIDANCE TO
23 TAXPAYERS PUBLISHED BY THE COMPTROLLER;

24 (II) THE PERSON DID NOT TIMELY SUBMIT THE ADDITIONAL
25 INFORMATION REQUESTED BY THE COMPTROLLER IN ACCORDANCE WITH
26 SUBSECTION (B) OF THIS SECTION;

27 (III) THE ISSUE IDENTIFIED IN THE REQUEST:

28 1. IS UNDER EXTENSIVE STUDY OR REVIEW; OR

29 2. IS CURRENTLY BEING CONSIDERED IN A RULEMAKING
30 PROCEDURE, CONTESTED CASE, OR ANY OTHER AGENCY OR JUDICIAL PROCEEDING
31 THAT MAY RESOLVE THE ISSUE;

1 (IV) THE REQUEST INVOLVES A HYPOTHETICAL SITUATION OR
2 ALTERNATIVE PLANS;

3 (V) THE TRANSACTION FOR WHICH THE PRIVATE LETTER
4 RULING IS REQUESTED IS DESIGNED TO AVOID TAXATION;

5 (VI) THE FACTS OR ISSUES IDENTIFIED IN THE REQUEST ARE
6 UNCLEAR, OVERBROAD, INSUFFICIENT, OR OTHERWISE INAPPROPRIATE AS A BASIS
7 ON WHICH TO ISSUE A PRIVATE LETTER RULING; ~~OR~~

8 (VII) THE REQUEST IS TO DETERMINE WHETHER A STATUTE IS
9 CONSTITUTIONAL UNDER THE MARYLAND CONSTITUTION OR THE UNITED STATES
10 CONSTITUTION;

11 (VIII) THE ISSUE IS CLEARLY AND ADEQUATELY ADDRESSED BY
12 STATUTE, REGULATION, OR COURT DECISION; OR

13 (IX) THE ISSUE INVOLVES THE TAX CONSEQUENCE OF ANY
14 PROPOSED BUT NOT YET ENACTED FEDERAL, STATE, OR LOCAL LEGISLATION.

15 (2) IF THE COMPTROLLER DENIES A REQUEST FOR A PRIVATE
16 LETTER RULING UNDER THIS SECTION, THE COMPTROLLER SHALL NOTIFY THE
17 PERSON IN WRITING:

18 (I) OF THE REASONS FOR THE DENIAL AND WHY THOSE
19 REASONS CONSTITUTE GOOD CAUSE; AND

20 (II) WITHIN 60 DAYS AFTER THE DATE ON WHICH THE REQUEST
21 WAS SUBMITTED TO THE COMPTROLLER.

22 (D) A PERSON MAY WITHDRAW, IN WRITING, THE REQUEST FOR A PRIVATE
23 LETTER RULING AT ANY TIME BEFORE THE ISSUANCE OF THE PRIVATE LETTER
24 RULING UNDER THIS SECTION.

25 13-1A-03.

26 (A) A PRIVATE LETTER RULING ISSUED UNDER THIS SUBTITLE MAY BE
27 RELIED ON SOLELY AND PROSPECTIVELY BY THE PERSON FOR WHOM THE PRIVATE
28 LETTER RULING IS REQUESTED UNLESS THERE IS AN INTERVENING STATUTORY OR
29 REGULATORY CHANGE OR THE PRIVATE LETTER RULING IS REVOKED BY THE
30 COMPTROLLER.

31 (B) A PRIVATE LETTER RULING IS BINDING ON THE COMPTROLLER FOR A
32 PERIOD OF ~~3~~ 7 YEARS UNLESS:

1 (1) THERE HAS BEEN A MISSTATEMENT OR OMISSION OF MATERIAL
2 FACTS IN THE REQUEST;

3 (2) THE ACTUAL FACTS ARE DETERMINED TO BE MATERIALLY
4 DIFFERENT FROM THE FACTS ON WHICH THE PRIVATE LETTER RULING WAS BASED;

5 (3) THERE HAS BEEN A CHANGE IN LAW OR A FINAL DECISION IN A
6 CONTESTED CASE THAT THE COMPTROLLER DETERMINES AFFECTS THE VALIDITY
7 OF THE PRIVATE LETTER RULING; OR

8 (4) THE COMPTROLLER HAS MODIFIED OR REVOKED THE PRIVATE
9 LETTER RULING.

10 (C) AN UNFAVORABLE PRIVATE LETTER RULING DOES NOT BIND THE
11 PERSON FOR WHOM THE PRIVATE LETTER RULING WAS REQUESTED.

12 (D) THE MODIFICATION OR REVOCATION OF A PRIVATE LETTER RULING BY
13 THE COMPTROLLER MAY NOT BE APPLIED RETROACTIVELY TO TAXABLE PERIODS
14 OR TAXABLE YEARS BEFORE THE EFFECTIVE DATE OF THE MODIFICATION OR
15 REVOCATION.

16 13-1A-04.

17 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE COMPTROLLER
18 SHALL PUBLISH PERIODICALLY ON THE COMPTROLLER'S WEBSITE COPIES OF
19 PRIVATE LETTER RULINGS THAT THE COMPTROLLER DETERMINES TO BE OF
20 INTEREST TO THE GENERAL PUBLIC.

21 (B) THE COMPTROLLER SHALL REDACT PERSONALLY IDENTIFIABLE
22 INFORMATION IN A PUBLISHED PRIVATE LETTER RULING IN ORDER TO ENSURE THE
23 CONFIDENTIALITY OF ANY PERSON THAT IS THE SUBJECT OF THE PRIVATE LETTER
24 RULING.

25 13-1A-05.

26 THE COMPTROLLER SHALL ADOPT REGULATIONS NECESSARY TO CARRY OUT
27 THE PROVISIONS OF THIS SUBTITLE, INCLUDING REGULATIONS THAT ESTABLISH:

28 (1) THE PROCEDURE, FORM, AND TIME PERIODS FOR SUBMITTING A
29 REQUEST FOR A PRIVATE LETTER RULING;

30 (2) THE TERMS AND CONDITIONS UNDER WHICH A PRIVATE LETTER
31 RULING MAY BE REVOKED OR MODIFIED;

1 **(3) THE LIMITATIONS ON THE APPLICABILITY OF A PRIVATE LETTER**
2 **RULING TO SPECIFIC PERSONS, TRANSACTIONS, FACTUAL CIRCUMSTANCES, AND**
3 **TIME PERIODS;**

4 **(4) THE CIRCUMSTANCES UNDER WHICH A REQUEST FOR A PRIVATE**
5 **LETTER RULING MAY BE DENIED BY THE COMPTROLLER FOR GOOD CAUSE; AND**

6 **(5) GUIDELINES FOR THE PUBLICATION OF PRIVATE LETTER**
7 **RULINGS.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
9 1, 2022.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.