



THE CHALLENGES OF PLRS

FTA Annual Meeting – Indianapolis
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KRS 131.130(8) and KY-RP-17-01

- **2017 HB 245 Modified KRS 131.130 to allow DOR to issue guidance and states:**
 - (8) **Notwithstanding KRS Chapter 13A, the department may research the fields of taxation, finance, and local government administration, publish its findings, respond to the public's and taxpayers' questions, and publish its responses, as the commissioner may deem wise. To assist taxpayers and the public in understanding and interpreting the tax laws, the department may include examples as part of any response or publication. The examples may include demonstrative, nonexclusive lists of items, if the department determines that the list would be helpful to taxpayers in understanding the application of the tax laws.**
- **On November 22, 2017, DOR issued Revenue Procedure KY-RP-17-01 to outline the types of guidance it will issue; modeled from South Carolina**
 - TAM – Technical Advice Memorandum
 - RP – Revenue Procedure
 - PLR – Private Letter Ruling
 - GIL – General Information Letter
- **DOR continues to update regulations due to recent statute changes and the Red Tape Reduction initiative**



TAM and RP

- **TAM – Technical Advice Memorandum**
 - **Technical and legal guidance for the public and DOR staff**
 - **Applies principles of law to a set of facts or a general category of taxpayers**
 - **May be requested by taxpayers or DOR staff**
 - **8 TAMs currently issued**
- **RP – Revenue Procedure**
 - **Procedural guidance for taxpayers and DOR staff**
 - **Sets forth procedures to help taxpayers comply with legal requirements**
 - **May be requested by the public or DOR staff**
 - **3 RPs currently issued**



PLR and GIL

- **PLR – Private Letter Ruling**
 - **Technical and legal guidance for a specific known taxpayer**
 - **Applies principles of law to a set of facts for a specific known taxpayer**
 - **May be requested by taxpayers or authorized representative**
 - **≈ 20 PLRs currently issued**
- **GIL – General Information Letter**
 - **Technical and legal guidance for an unknown taxpayer**
 - **Applies principles of law to a set of facts for an unknown taxpayer**
 - **May be requested by an authorized representative**
 - **1 GIL currently issued**



Publication of Guidance

- **TAMs, RPs, and GILs have always been published on DOR's website**
- **PLRs will be reformatted for public release in the near future; format will follow IRS redaction standards**
- **Taxpayers will be required to acknowledge PLR facts and redaction before release**
- **Documents *requesting* PLRs are not published; all relevant facts and analysis are presented in the guidance documents issued so that they stand alone**
- **Documents provided to DOR by taxpayers are taxpayer documents and are protected by non-disclosure statute (KRS 131.190)**



DOR Staff Penalties

- **KRS 131.190**
 - Prohibits unauthorized *inspection* of taxpayer information
 - Prohibits unauthorized *disclosure* of taxpayer information
- **KRS 131.990**
 - \$500 penalty for unauthorized *inspection* of taxpayer information and/or
 - Up to 6 months imprisonment
 - \$1,000 penalty for unauthorized *disclosure* of taxpayer information and/or
 - Up to 12 months imprisonment



Department of Revenue v. Mark F. Sommer

- **Case involved un-appealed final rulings of protested cases**
- **Appealed final rulings of protested cases were already made public as part of the court record**
- **DOR argued final rulings were confidential until the taxpayer acted to make them public through appeal**
- **Courts disagreed with DOR**
- **DOR is now working to redact un-appealed final rulings**
- **DOR is also working to determine objective redaction rules for final rulings**



The Challenges of PLRs

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Information in this presentation is believed to be accurate as of the date of publication. In the event that any information in this presentation is later determined to be in error, this presentation cannot be used by taxpayers in supporting a specific position or issue before the Department of Revenue, as it does not have the statutory or regulatory authority.

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