

Monetary Offices, Treasury

§ 103.83

§ 103.81 Submitting requests.

(a) Each request for an administrative ruling must be in writing and contain the following information:

(1) A complete description of the situation for which the ruling is requested,

(2) A complete statement of all material facts related to the subject transaction,

(3) A concise and unambiguous question to be answered,

(4) A statement certifying, to the best of the requestor's knowledge and belief, that the question to be answered is not applicable to any ongoing state or federal investigation, litigation, grand jury proceeding, or proceeding before any other governmental body involving either the requestor, any other party to the subject transaction, or any other party with whom the requestor has an agency relationship,

(5) A statement identifying any information in the request that the requestor considers to be exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552, and the reason therefor,

(6) If the subject situation is hypothetical, a statement justifying why the particular situation described warrants the issuance of a ruling,

(7) The signature of the person making the request, or

(8) If an agent makes the request, the signature of the agent and a statement certifying the authority under which the request is made.

(b) A request filed by a corporation shall be signed by a corporate officer and a request filed by a partnership shall be signed by a partner.

(c) A request may advocate a particular proposed interpretation and may set forth the legal and factual basis for that interpretation.

(d) Requests shall be addressed to: Director, Office of Financial Enforcement, Office of the Assistant Secretary (Enforcement), U.S. Department of the Treasury, 1500 Pennsylvania Avenue N.W., Room 4320, Washington, DC 20220.

(e) The requester shall advise the Director, Office of Financial Enforcement, immediately in writing of any subsequent change in any material fact or statement submitted with a ruling

request in conformity with paragraph (a) of this section.

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§ 103.82 Nonconforming requests.

The Director, Office of Financial Enforcement, shall notify the requester if the ruling request does not conform with the requirements of § 103.81. The notice shall be in writing and shall describe the requirements that have not been met. A request that is not brought into conformity with such requirements within 30 days from the date of such notice, unless extended for good cause by the Office of Financial Enforcement, shall be treated as though it were withdrawn.

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[52 FR 23979, June 26, 1987. Redesignated and amended at 64 FR 45451, 45453, Aug. 20, 1999]

§ 103.83 Oral communications.

(a) The Office of the Assistant Secretary (Enforcement) will not issue administrative rulings in response to oral requests. Oral opinions or advice by Treasury, the Customs Service, the Internal Revenue Service, the Office of the Comptroller of the Currency, or any other bank supervisory agency personnel, regarding the interpretation and application of this part, do not bind the Treasury Department and carry no precedential value.

(b) A person who has made a ruling request in conformity with § 103.81 may request an opportunity for oral discussion of the issues presented in the request. The request should be made to the Director, Office of Financial Enforcement, and any decision to grant such a conference is wholly within the discretion of the Director. Personal conferences or telephone conferences may be scheduled only for the purpose of affording the requester an opportunity to discuss freely and openly the matters set forth in the administrative ruling request. Accordingly, the conferees will not be bound by any argument or position advocated or agreed to, expressly or impliedly, during the conference. Any new arguments or facts put forth by the requester at the meeting must be reduced to writing by

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the requester and submitted in conformity with §103.81 before they may be considered in connection with the request.

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§ 103.84 **Withdrawing requests.**

A person may withdraw a request for an administrative ruling at any time before the ruling has been issued.

§ 103.85 **Issuing rulings.**

The Assistant Secretary (Enforcement), or his designee may issue a written ruling interpreting the relationship between part 103 and each situation for which such a ruling has been requested in conformity with §103.81. A ruling issued under this section shall bind the Treasury Department only in the event that the request describes a specifically identified actual situation. A ruling issued under this section shall have precedential value, and hence may be relied upon by others similarly situated, only if it is published or will be published by the Office of Financial Enforcement in the FEDERAL REGISTER. Rulings with precedential value will be published periodically in the FEDERAL REGISTER and yearly in the Appendix to this part. All rulings with precedential value will be available by mail to any person upon written request specifically identifying the ruling sought. Treasury will make every effort to respond to each requestor within 90 days of receiving a request.

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§ 103.86 **Modifying or rescinding rulings.**

(a) The Assistant Secretary (Enforcement), or his designee may modify or rescind any ruling made pursuant to §103.85:

(1) When, in light of changes in the statute or regulations, the ruling no longer sets forth the interpretation of the Assistant Secretary (Enforcement) with respect to the described situation,

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(2) When any fact or statement submitted in the original ruling request is found to be materially inaccurate or incomplete, or

(3) For other good cause.

(b) Any person may submit to the Assistant Secretary (Enforcement) a written request that an administrative ruling be modified or rescinded. The request should conform to the requirements of §103.81, explain why rescission or modification is warranted, and refer to any reasons in paragraph (a) of this section that are relevant. The request may advocate an alternative interpretation and may set forth the legal and factual basis for that interpretation.

(c) Treasury shall modify an existing administrative ruling by issuing a new ruling that rescinds the relevant prior ruling. Once rescinded, an administrative ruling shall no longer have any precedential value.

(d) An administrative ruling may be modified or rescinded retroactively with respect to one or more parties to the original ruling request if the Assistant Secretary determines that:

(1) A fact or statement in the original ruling request was materially inaccurate or incomplete,

(2) The requestor failed to notify in writing the Office of Enforcement of a material change to any fact or statement in the original request, or

(3) A party to the original request acted in bad faith when relying upon the ruling.

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[52 FR 23979, June 26, 1987. Redesignated and amended at 64 FR 45451, 45453, Aug. 20, 1999]

§ 103.87 **Disclosing information.**

(a) Any part of any administrative ruling, including names, addresses, or information related to the business transactions of private parties, may be disclosed pursuant to a request under the Freedom of Information Act, 5 U.S.C. 552. If the request for an administrative ruling contains information which the requestor wishes to be considered for exemption from disclosure under the Freedom of Information Act, the requestor should clearly identify such portions of the request and the reasons why such information should be exempt from disclosure.