

§ 105-264.2. Publication of written determinations.

(a) **Written Determinations.** – A written determination applies the tax law to a specific set of existing facts furnished by a particular taxpayer. A written determination is applicable only to the individual taxpayer addressed and as such has no precedential value except to the taxpayer to whom the determination is issued.

(b) **Publication.** – The text of a written determination must be published on the Department's Web site within 90 days of the date the determination is provided to the taxpayer. The text of a written determination must be redacted as provided in subsection (c) of this section before it is published. The publication requirement of this section does not include disclosure of background file documents.

(c) **Redacted Written Determinations.** – The Secretary must redact all of the following from a written determination before it is published:

- (1) The names, addresses, and other identifying details of the taxpayer to whom the written determination pertains.
- (2) The names, addresses, and other identifying details of any other person referenced in the written determination.
- (3) Information specifically exempted from disclosure by State or federal law.
- (4) Trade secrets and commercial or financial information obtained from a person that is privileged or confidential.

(d) **Liability.** – The Secretary must determine the appropriate extent of the redactions. The Secretary is not liable for failure to make redactions unless the Secretary fails to make the redactions in intentional and willful disregard of this section, has agreed to redact the information, or has been ordered by a court to make the redaction.

(e) **Definitions.** – The following definitions apply in this section:

- (1) **Alternative apportionment ruling.** – Written advice issued by the Secretary to a taxpayer pursuant to a written request by the taxpayer for alternative apportionment under G.S. 105-130.4(t1) or under G.S. 105-122(c1).
- (2) **Background file document.** – Any one or more of the following:
 - a. The request for the written determination.
 - b. Any written materials submitted in support of the request.
 - c. Any communication between the Department and persons outside the Department in connection with the written determination.
 - d. Any information submitted by the taxpayer in response to a request from the Department for information that is required to provide the written determination.
- (3) **Private letter ruling.** – Written advice issued by the Secretary to a taxpayer pursuant to a written request by the taxpayer for specific advice under G.S. 105-264(b).
- (4) **Redetermination private letter ruling.** – Written advice issued by the Secretary to a corporation under G.S. 105-130.5A concerning one or more of the following:
 - a. Specific advice requested in writing by a corporation as to whether a redetermination of a corporation's State net income or a combined return is required by the Secretary, as provided under G.S. 105-130.5A(m).
 - b. A determination and agreement made jointly between the Secretary and a corporation to an alternative filing methodology that accurately reports State net income, as provided under G.S. 105-130.5A(c).
- (5) **Written determination.** – Any one or more of the following:
 - a. An alternative apportionment ruling.

- b. A private letter ruling.
- c. A redetermination private letter ruling. (2016-103, s. 5.)