

Internal Revenue Commission - Taxation Circulars

No. 2011/1

Subject: ADMINISTRATION: TAXATION CIRCULARS

Introduction

1. The Commissioner General of the Internal Revenue Commission (IRC) has responsibility for the administration of a range of laws which impose taxes, duties or levies.
2. With effect from 21 December 2011 information on the interpretation and administration of those laws will be published in the form of "Taxation Circulars".
3. Taxation Circulars will replace Practice Statements. No further Practice Statements will be issued by the IRC.

Advice

Role of Taxation Circulars

4. Taxation Circulars will provide advice to the public and to IRC staff on the following:
 - a) Interpretation of the various laws administered by the Commissioner General of the IRC;
 - b) Outline how the Commissioner General will exercise discretions in particular situations; and
 - c) Practical administration of those laws.
5. Whilst the onus will be on the IRC to identify what matters we deem most appropriate to be addressed by way of a Circular, in identifying the most important issues requiring law clarification, the IRC will, where appropriate, consult with taxpayers, and community and professional groups. This process ensures that the issues identified are of real concern to taxpayers and are seen as requiring clarification.
6. Although there is no specific statutory obligation to provide interpretations in the form of Taxation Circulars, the IRC considers it is in the best interests of sound administration to provide the public with the best quality information to assist taxpayers to voluntarily comply with their obligations.
7. It is important to recognise that Taxation Circulars do not have the force of law and that each decision affecting the taxation liability of a taxpayer can only be made in the light of the established facts of particular transactions. Moreover, no conduct on the part of the IRC can operate as an estoppel against the operation of taxation laws.
8. However, the basic administrative policy of the IRC is to stand by what is said in a Taxation Circular and to depart from a Taxation Circular only where there are good and substantial reasons. Any departure would be confined to situations where:
 - a) The taxpayer's circumstances are not the same as those set out in the Taxation Circular;
 - b) The taxpayer has not acted honestly and reasonably in reliance on the Taxation Circular; or
 - c) There has been an arrangement entered into to artificially exploit the Taxation Circular.

9. In cases where the law is changed and a Taxation Circular is withdrawn, then taxpayers can only rely on the Circular up to the date of effect of the new or amended legislation.
10. In circumstances where an applicable Tribunal or Court overturns or modifies an interpretation of the law on which a Taxation Circular is predicated, taxpayers can rely on the Circular to provide them with protection from interest and penalties in the manner explained below. This is consistent with the principle that Taxation Circulars cannot supplant the terms of the law.
11. If a Circular turns out to be incorrect, and taxpayers who have reasonably relied on this Circular in good faith underpay their tax as a result, then those taxpayers will not generally have to pay a penalty, nor interest on the underpayment. However, even where taxpayers do not have to pay a penalty or interest, they will have to pay the correct amount of tax provided under the law within the time limits prescribed for amending assessments.

Practice Statements and Technical Rulings.

12. Practice Statement number PS 01/2005 is withdrawn with effect from 1 January 2012. Guidance in relation to management fees will be issued in Taxation Circular TC 2011/2 regarding transfer pricing.
13. The IRC has not issued GST Technical Rulings, however as the GST law is in all significant respects the same as the VAT law, taxpayers may rely on the VAT Technical Rulings as the IRC view of the GST law until such time as these Rulings are superseded by the IRC's Taxation Circular System.
14. If the IRC releases a Taxation Circular that supersedes a VAT Ruling, the repealing and replacement of the VAT Ruling will be highlighted in the Taxation Circular.

When will we issue a Taxation Circular?

15. The IRC will issue a Taxation Circular on matters of administrative practice, procedural instruction and interpretation of tax laws as and when the need arises. The majority of Taxation Circulars will cover the interpretation of the income tax law and, where appropriate, detail guidelines, precedents, practices or procedures that affect the taxation rights or liabilities of the general public. Taxation Circulars will also be issued to clarify administrative issues that arise from time to time.
16. In most cases, Taxation Circulars will not have a commencement date as the Circular will be explaining how the law works from the date of its commencement. In some cases, however it may be necessary to commence from a specific time. In these cases, the Taxation Circular will clearly state the date of effect of the Taxation Circular as well as any transitional rules that may be necessary.

Changes and Withdrawal of Taxation Circulars.

17. Over time, Taxation Circulars may become redundant as a consequence of legislative changes or decisions of the Courts which affect the law on which a Taxation Circular is based.
18. Taxation Circulars may also become redundant as a consequence of changes in commercial practice, or in administrative practice or procedure, thus altering the interpretation or administration of a taxation law.
19. Circumstances that would require substantive changes to the Taxation Circular would result in the Circular being withdrawn. When the IRC withdraws a Taxation Circular, the withdrawal will operate from a specific date. The IRC will provide details of the date from which the Circular can no longer be relied upon as well as provide details of any transitional arrangements that apply.
20. It may also be necessary in some cases to correct errors that may be identified after the Circular is published.
21. Minor changes to Taxation Circulars will be done by making amendments to the issued Taxation Circular wherever possible. Amendments to Taxation Circulars will be issued in the same way as other

Taxation Circulars. If the change is minor, (such as an obvious typing error etc) the change will generally be made with effect from the commencement of the Taxation Circular.

Authorised version of Taxation Circulars

The IRC authorised version of Taxation Circulars can be found on the IRC website (www.irc.gov.pg).

Date of Effect

This Circular has effect from 21 December 2011.

Authorised by

Commissioner General of Internal Revenue Commission

Issued 21 December 2011

References

Related Taxation Circulars

Nil

Subject References:

Taxation Circulars Administration

Legislative References:

Nil