



**Dora**  
Department of Regulatory Agencies

Office of Policy, Research and Regulatory Reform

**2010 Sunset Review:  
Issuance of Information Letters  
and Private Letter Rulings by the  
Executive Director of the  
Department of Revenue**

October 15, 2010





**Executive Director's Office**

Barbara J. Kelley  
Executive Director

Bill Ritter, Jr.  
Governor

October 15, 2010

Members of the Colorado General Assembly  
c/o the Office of Legislative Legal Services  
State Capitol Building  
Denver, Colorado 80203

Dear Members of the General Assembly:

The mission of the Department of Regulatory Agencies (DORA) is consumer protection. As a part of the Executive Director's Office within DORA, the Office of Policy, Research and Regulatory Reform seeks to fulfill its statutorily mandated responsibility to conduct sunset reviews with a focus on protecting the health, safety and welfare of all Coloradans.

DORA has completed the evaluation of the issuance of general information letters and private letter rulings by the Executive Director of the Department of Revenue (DOR). I am pleased to submit this written report, which will be the basis for my office's oral testimony before the 2011 legislative committee of reference. The report is submitted pursuant to section 24-34-104(8)(a), of the Colorado Revised Statutes (C.R.S.), which states in part:

The department of regulatory agencies shall conduct an analysis of the performance of each division, board or agency or each function scheduled for termination under this section...

The department of regulatory agencies shall submit a report and supporting materials to the office of legislative legal services no later than October 15 of the year preceding the date established for termination....

The report discusses the question of whether there is a need for the process provided under section 24-35-103.5, C.R.S. The report also discusses the effectiveness of the DOR staff in carrying out the intent of the statutes and makes recommendations for statutory changes in the event this program is continued by the General Assembly.

Sincerely,

Barbara J. Kelley  
Executive Director





Bill Ritter, Jr.  
Governor

Barbara J. Kelley  
Executive Director

**2010 Sunset Review:  
Issuance of Information Letters and Private Letter Rulings by the Executive  
Director of the Department of Revenue**

**Summary**

***What Are General Information Letters and Private Letter Rulings?***

A General Information Letter (GIL) is a nonbinding statement that provides general information regarding any tax administered by the Department of Revenue (DOR).

A Private Letter Ruling (PLR), is a binding determination provided to a taxpayer on the tax consequences of a proposed or completed transaction under any tax administered by the DOR. A PLR is binding only with respect to the specific taxpayer that requests the PLR and is limited to the specific factual setting presented.

***What Do GILs and PLRs Cost?***

DOR charges no fees for issuing a GIL. The fee for a PLR depends upon the complexity of the question presented, and may range from \$500 to over \$10,000.

***How Many GILs and PLRs Have Been Issued?***

For calendar years 2007 through 2009, DOR issued 100 GILs and 5 PLRs.

***Where Do I Get the Full Report?***

The full sunset review can be found on the internet at: [www.dora.state.co.us/opr/oprpublications.htm](http://www.dora.state.co.us/opr/oprpublications.htm).

## Key Recommendations

### **Continue the Executive Director's Authority for five years, until 2016.**

The General Assembly establishes tax policy and passes tax laws, and the Executive Director of the Department of Revenue (DOR) promulgates rules implementing those laws. Taxpayers interpret these laws and rules to determine what taxes they must pay (and how much) and from which taxes they are exempt. This is not always clear.

By publishing PLRs, other taxpayers gain insight as to how the DOR will treat certain matters. An individual taxpayer can then use that reasoning and apply it to the taxpayer's own circumstances. Certainty, while not guaranteed, is enhanced.

GILs, while not binding, provide greater insight and provide general guidance to taxpayers on more general matters. Certainty, while again not guaranteed, is enhanced.

## Major Contacts Made During This Review

Colorado Association of Commerce and Industry  
Colorado Broadcasters' Association  
Colorado Department of Revenue  
Colorado Press Association  
Colorado Society of Certified Public Accountants  
Public Accountants Society of Colorado

### **What is a Sunset Review?**

A sunset review is a periodic assessment of state boards, programs, and functions to determine whether or not they should be continued by the legislature. Sunset reviews focus on creating the least restrictive form of regulation consistent with protecting the public. In formulating recommendations, sunset reviews consider the public's right to consistent, high quality professional or occupational services and the ability of businesses to exist and thrive in a competitive market, free from unnecessary regulation.

Sunset Reviews are Prepared by:  
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## Background

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### *Introduction*

Enacted in 1976, Colorado's sunset law was the first of its kind in the United States. A sunset provision repeals all or part of a law after a specific date, unless the legislature affirmatively acts to extend it. During the sunset review process, the Department of Regulatory Agencies (DORA) conducts a thorough evaluation of such programs based upon specific statutory criteria<sup>1</sup> and solicits diverse input from a broad spectrum of stakeholders including consumers, government agencies, public advocacy groups, and professional associations.

Sunset reviews are based on the following statutory criteria:

- Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;
- If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;
- Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters;
- Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;
- The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;
- Whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;
- Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;
- Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

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<sup>1</sup> Criteria may be found at § 24-34-104, C.R.S.

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Not all of these criteria apply to sunset reviews of programs that do not regulate professions or occupations. However, DORA must still evaluate whether a program needs to exist to protect the public health safety and welfare; whether the level of regulation established for the program is the least restrictive consistent with the public interest; whether the state administers the program efficiently and effectively; and whether administrative and statutory changes are necessary to enhance the public interest

### ***Sunset Process***

Programs scheduled for sunset review receive a comprehensive analysis. The review includes a thorough dialogue with agency officials and other stakeholders. Anyone can submit input on any upcoming sunrise or sunset review via DORA's website at: [www.dora.state.co.us/pls/real/OPR\\_Review\\_Comments.Main](http://www.dora.state.co.us/pls/real/OPR_Review_Comments.Main).

The functions of the Executive Director of the Department of Revenue (Executive Director and DOR, respectively) relating to section 24-35-103.5, Colorado Revised Statutes (C.R.S.), shall terminate on July 1, 2011, unless continued by the General Assembly. During the year prior to this date, it is the duty of DORA to conduct an analysis and evaluation pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether the currently prescribed issuance of general information letters and private letter rulings should be continued for the protection of the public and to evaluate the performance of the Executive Director and staff of the DOR. During this review, the Executive Director and the DOR must demonstrate that the issuance of these letters serves to protect the public health, safety or welfare, and that the process is the least restrictive process consistent with protecting the public. DORA's findings and recommendations are submitted via this report to the legislative committee of reference of the Colorado General Assembly.

### ***Methodology***

As part of this review, DORA staff interviewed DOR staff, officials with state professional and industry associations, and tax practitioners; reviewed Colorado statutes and DOR rules; and reviewed the laws of other states.

### ***Private Letter Rulings and General Information Letters***

Tax codes, both state and federal, are notoriously complex. As a result, they are, or at least certain provisions of them are, subject to a great deal of interpretation.

However, when a taxpayer fails to comply with the tax code, as interpreted by the taxing authority, i.e., the DOR or the U.S. Internal Revenue Service (IRS), the taxpayer may be subject to substantial penalties and interest. Thus, certainty is invaluable.

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To address this need for certainty, many taxing authorities have implemented a process, known under different names in different jurisdictions, whereby taxpayers can ask questions of the taxing authority pertaining to a particular set of facts and obtain a decision by the taxing authority that is binding on the taxing authority with respect to the particular taxpayer and the particular set of facts. In Colorado, these rulings are known as private letter rulings.

A similar, though less formal, type of “ruling” is the general information letter. These are more general in nature and are not limited to a specific set of facts. These letters are not binding on the taxing authority, but provide taxpayers insight as to how the taxing authority is likely to treat matters of general interest.

Both private letter rulings and general information letters are, generally, made available to the public. Though neither is precedent setting, and the binding nature of private letter rulings is severely restricted, both provide taxpayers insight as to the reasoning of the taxing authority so that other taxpayers can structure their transactions accordingly, thereby providing all taxpayers a greater level of certainty.



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## Legal Framework

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### *History of Regulation*

Prior to the passage of House Bill 06-1312 (HB 1312), individuals or entities with questions regarding the taxes administered by the Colorado Department of Revenue (DOR) could obtain only non-binding answers to those questions from DOR staff. DOR lacked the statutory authority to issue binding opinions.

Many found this frustrating, since the viability of some business transactions can hinge on how the taxing authority will treat the transaction. Lacking certainty, a transaction may not move forward.

A group of taxpayers sought to change this and worked with the DOR to have HB 1312 introduced. Colorado was, according to testimony provided at the time, one of only four states lacking a process similar to what became Colorado's private letter ruling (PLR) process.

House Bill 1312 was, on its merits, noncontroversial. Only two issues garnered much attention during the General Assembly's hearing process:

- The funding of the new process; and
- The extent to which information obtained by the DOR during the process should be subject to the Colorado Open Records Act (CORA).

Testimony made it clear that everyone involved desired the program to be cash funded and that, aside from covering start up costs, no General Fund money would be used. Those asking the questions of the DOR, proponents argued, ought to pay for those answers.

Although it provided no testimony to this effect, DOR opposed cash funding the bill.

Regardless, the bill was cash funded, and since no one knew how many PLR or General Information Letter (GIL) requests to expect, HB 1312 was drafted such that DOR had the authority to hire at least 0.5 full-time equivalent (FTE) employees, but no more than 1.0 FTE. The bill also gave the DOR flexibility in establishing the fees that would be necessary to cover the costs of the program.

With respect to CORA, concern was expressed as to keeping the PLRs themselves confidential. Primary among these concerns were fears that:

- The DOR would establish tax policy through the PLR process without proper public scrutiny;
- The DOR might treat different taxpayers differently; and
- Taxpayers may not request PLRs or GILs if their names and proprietary information became a matter of public record.

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As a result, the final version of the bill created the presumption that the PLRs and GILs would be public information, with the name of the requesting taxpayer, and any other identifying information redacted, and that the request and supporting documentation would remain confidential.

### *Colorado Statutes and Rules*

The Executive Director of the DOR (Executive Director) is required to issue GILs and PLRs upon written request of a taxpayer.<sup>2</sup>

A GIL is a nonbinding statement that provides general information regarding any tax administered by the DOR.<sup>3</sup> GILs are designed to provide general background information on topics of interest to a taxpayer and do not contain tax advice with respect to a specific factual setting.<sup>4</sup>

A request for a GIL should contain a reasonable description of the facts and identification of the issues.<sup>5</sup>

A PLR, on the other hand, is a binding determination provided to a taxpayer on the tax consequences of a proposed or completed transaction under any tax administered by the DOR.<sup>6</sup> A PLR is binding only with respect to the specific taxpayer that requests the PLR and is limited to the specific factual setting presented.<sup>7</sup>

A request for a PLR must include:<sup>8</sup>

- A complete and detailed statement of all relevant facts and a discussion of the relevant issues;
- A discussion of the business reasons for the transaction at issue;
- Copies of all relevant documents;
- For requests that pertain to only one step of a large, integrated transaction, documents relating to the entire transaction; and
- For requests that pertain to a corporate distribution, reorganization or other similar or related transaction, the corporate balance sheet nearest the date of the transaction.

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<sup>2</sup> § 24-35-103.5(2), C.R.S.

<sup>3</sup> § 24-35-103.5(1)(a), C.R.S.

<sup>4</sup> Regulation 24-35-103.5(2)(c).

<sup>5</sup> Regulation 24-35-103.5(4)(a).

<sup>6</sup> § 24-35-103.5(1)(b), C.R.S.

<sup>7</sup> Regulations 24-35-103.5(2)(e) and (10)(d).

<sup>8</sup> Regulation 24-35-103.5(4)(b).

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The taxpayer need not identify itself until it receives the draft PLR, at which time it must either withdraw the PLR request or provide to the DOR the taxpayer's name, contact information and Social Security Number, Colorado Tax Account Number or Federal Employment Identification Number, as applicable.<sup>9</sup>

The Executive Director must issue a PLR, if at all, within 90 days of receiving a written request, or decline to issue such a letter within 30 days.<sup>10</sup> The Executive Director may decline to issue a GIL or PLR if the request pertains to:<sup>11</sup>

- An issue if the same or a closely related issue is before the DOR or the U.S. Internal Revenue Service (IRS) in connection with an examination or audit by the DOR or IRS of the same taxpayer for the same or any other period;
- An issue if that issue or a closely related issue is pending appeal with the tax conferee, the Executive Director, or the courts;
- A matter involving the tax consequences of any proposed federal, state or local legislation;
- Whether a proposed transaction would subject the taxpayer to civil fraud or criminal penalty;
- Questions of fact, such as valuation;
- Factual scenarios that require documentation or facts so voluminous as to be onerous to resolve, including, but not limited to questions of "business purpose" and "economic substance;"
- Federal or state constitutional law;
- Only part of an integrated or step transaction, unless as part of a PLR regarding the entire transaction; or
- Issues brought forward by business, trade or industrial associations, or other similar groups, to the extent such request relates to their members' or constituencies' tax status or liability.

Additionally, the Executive Director may decline to issue a GIL or PLR if the DOR lacks sufficient resources<sup>12</sup> or if issuing such a letter would not be in the best interests of the State.<sup>13</sup>

The issuance, modification or revocation of a GIL or PLR does not constitute a tax policy change for purposes of Section 20(4)(a) of Article X of the Colorado Constitution,<sup>14</sup> which is popularly known as the Taxpayer Bill of Rights.

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<sup>9</sup> Regulation 24-35-103.5(4)(b).

<sup>10</sup> § 24-35-103.5(3), C.R.S.

<sup>11</sup> Regulation 24-35-103.5(3)(b).

<sup>12</sup> Regulation 24-35-103.5(3)(c).

<sup>13</sup> Regulation 24-35-103.5(3)(d).

<sup>14</sup> § 24-35-103.5(4), C.R.S.

To ensure the confidentiality of the taxpayer or others involved, GILs and PLRs may be redacted prior to being made public.<sup>15</sup> However, if the Executive Director determines that the GIL or PLR cannot be redacted to ensure such confidentiality, the GIL or PLR may be withheld from the public, but such determination is subject to review by a court of competent jurisdiction.<sup>16</sup>

Although the DOR will issue a GIL free of charge,<sup>17</sup> the cost of a PLR depends on the level of complexity of the question involved. The DOR has established fee tiers based on the number of hours staff estimates it will take to complete the PLR, multiplied by \$60.<sup>18</sup> This estimate determines within which tier the PLR falls. Table 1 illustrates the various break points for the various tiers.

**Table 1  
Fee Tiers for PLRs<sup>19</sup>**

Tier	Fee
First, including initial fee and base evaluation	\$500
Second	\$1,000
Third	\$2,500
Fourth	\$5,000
Fifth	\$7,500
Sixth	At least \$10,000

For those PLRs expected to cost more than \$10,000, the fee is determined by the number of estimated hours multiplied by \$60.<sup>20</sup>

All fees are nonrefundable, unless:

- In performing a Sixth Tier PLR review, the DOR discovers facts that were not initially disclosed and which require substantial additional time to complete the PLR. In such a case, the taxpayer may withdraw the request and receive a refund, or agree to pay the higher fee.<sup>21</sup>
- The taxpayer withdraws the request, in which case, the DOR must determine if the number of hours already dedicated to the request is substantially less than the original estimate. If so, then the DOR must refund the difference between the amount of time actually spent on the review (number of hours multiplied by \$60) and the fee paid.<sup>22</sup>

Although a PLR request may be withdrawn at any time prior to issuance, all materials submitted as part of the request are retained by the DOR.<sup>23</sup>

<sup>15</sup> § 24-35-103.5(5)(a), C.R.S.

<sup>16</sup> § 24-35-103.5(5)(b), C.R.S.

<sup>17</sup> Regulation 24-35-103.5(4)(a).

<sup>18</sup> Regulations 24-35-103.5(5)(b)(ii)(1) and (2).

<sup>19</sup> Regulation 24-35-103.5(5)(a).

<sup>20</sup> Regulation 24-35-103.5(5)(b)(ii)(3).

<sup>21</sup> Regulation 24-35-103.5(5)(b)(v)(1).

<sup>22</sup> Regulation 24-35-103.5(5)(b)(v)(2).

<sup>23</sup> Regulation 24-35-103.5(8).

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A PLR must be revoked or modified if:<sup>24</sup>

- It is later found to be in error;
- Subsequent legislation contradicts the PLR;
- The Colorado Court of Appeals or the Colorado Supreme Court issue a decision that is contrary to the PLR; or
- The DOR subsequently enacts a regulation that is contrary to the PLR.

There is no right to appeal a PLR.<sup>25</sup>

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<sup>24</sup> Regulation 24-35-103.5(10).

<sup>25</sup> Regulation 24-35-103.5(11).

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## Program Description and Administration

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The Executive Director of the Colorado Department of Revenue (Executive Director and DOR, respectively) is legally authorized to employ 1.0 full-time equivalent (FTE) employees, or so much thereof as is necessary to respond to the requests for general information letters (GILs) and private letter rulings (PLRs) he or she receives.

Since the inception of this process, the DOR has never utilized the entire 1.0 FTE. Rather, it has staffed the position on a somewhat *ad hoc* basis. A single individual, working part-time, is responsible for responding to requests and issuing the letters, but this individual has other duties when there are no letter requests to which to respond. Throughout the program's history, the FTE allocated to the program have been less than 0.1 FTE, the lowest increment recognized by the State.

Similarly, expenditure information for the PLR and GIL process is limited. The program's fund did not accrue any revenues until fiscal year 08-09, and no funds were expended until fiscal year 09-10, when expenditures amounted to \$3,000.

Although precise records are not retained, DOR staff estimates that most GILs can be researched and completed within a day. Between 2007 and early 2009, staff responded to GIL requests in a more comprehensive manner. However, after early 2009, DOR staff began requiring taxpayers with requests pertaining to specific facts to utilize the PLR process, thus rendering the GIL process more of the generalized process it was originally intended to be.

Based on figures provided by DOR staff, PLRs require an average of 13.8 hours to be researched and completed. With the exception of one PLR, discussed below, all PLRs were issued within the statutorily mandated 90 days.

**Table 2**  
**Number of Letters Issued, by Calendar Year**

Type of Letter	2007	2008	2009	Total
GIL	34	36	30	100
PLR	0	2	3	5
Total	34	38	33	105

There were no PLRs issued in 2007 because the regulations implementing the statute that authorizes the Executive Director to issue PLRs, did not become effective until August 2008.

Additionally, three PLRs were issued in early 2010. A substantial portion of the work for these three PLRs was completed in 2009.

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With the exception of one of the PLRs issued in 2008, the fee paid for each PLR was \$500. One PLR issued in 2008 was completed free of charge because DOR staff believed it took too long to respond to the request.<sup>26</sup>

Further, the Executive Director ceased issuing both types of letter in September 2009 due to budget constraints. As a result, nine PLR requests had been received but no work had been performed on them. Since then, the Executive Director has resumed issuing PLRs, but not GILs.

Table 2 also demonstrates that the demand for GILs has remained consistent and has significantly outpaced that of PLRs. There are several possible explanations for this. First, the taxpayer pays no fee to the DOR associated with a GIL, whereas there are fees associated with requesting a PLR.

Second, there is considerable demand for written guidance where the taxpayer is willing to forego a binding commitment from the DOR, so long as the taxpayer can at least receive some guidance as to how the DOR is likely to view an issue.

Table 3 illustrates the number of GIL and PLR requests that the DOR declined.

**Table 3**  
**Number of Letters Declined, by Calendar Year**

Type of Letter	2007	2008	2009	Total
GIL	0	0	58	58
PLR	0	0	6	6
Total	0	0	64	64

Because the DOR ceased issuing GILs and PLRs in September 2009, a large number of requests were declined in 2009 – either the request was received after September, or work on the request had not yet been completed.

Similarly, the PLR requests declined in 2009 were due to DOR resource issues. However, two of these taxpayers subsequently worked with the DOR to have the PLRs issued in 2010.

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<sup>26</sup> The information was actually requested by the taxpayer in 2005, before the PLR process was in place. The taxpayer communicated with DOR in 2006, and then again in June 2008. The final PLR was issued in December 2008.

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The DOR may modify GILs and PLRs when appropriate. Table 4 illustrates, for the years indicated, the number of times either type of letter has been modified.

**Table 4**  
**Number of Letters Modified, by Calendar Year**

Type of Letter	2007	2008	2009	Total
GIL	0	0	2	2
PLR	0	0	0	0
Total	0	0	2	2

The two GILs that were modified in 2009 had originally been issued in 2008. DOR staff attributes these modifications to the fact that the original interpretations, as set forth in the GILs, were incorrect.

Finally, five PLR requests have been withdrawn by the taxpayer requesting the PLR. The taxpayers involved in each paid the required fees, but opted to not finalize the draft PLR for a variety of reasons:

- Two taxpayers disagreed with DOR's conclusions;
- One taxpayer was not sure of the facts it presented to the DOR;<sup>27</sup>
- One taxpayer moved out of state and no longer wanted to pursue the PLR;<sup>28</sup> and
- One taxpayer did not respond to DOR inquiries as to whether to finalize the PLR.

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<sup>27</sup> In 2010, this taxpayer indicated to the DOR that it wished to proceed with the PLR.

<sup>28</sup> In 2010, this taxpayer indicated to the DOR that it wished to proceed with the PLR.



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## Analysis and Recommendations

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*Recommendation 1 – Continue the authority of the Executive Director of the Department of Revenue to issue general information letters and private letter rulings for five years, until 2016.*

The first sunset criterion asks whether regulation is necessary to protect the public health, safety or welfare. With respect to the general information letter (GIL) and private letter ruling (PLR) process, the question clearly becomes one of whether this process serves to protect the public welfare. In this context, it is reasonable to question from what does the public need protection. Ironically, the answer is the State of Colorado itself, or, more directly, the tax laws of the State.

The General Assembly establishes tax policy and passes tax laws, and the Executive Director of the Department of Revenue (Executive Director and DOR, respectively) promulgates rules implementing those laws. Taxpayers interpret these laws and rules to determine what taxes they must pay (and how much) and from which taxes they are exempt. This is not always clear.

Prior to enactment of the GIL/PLR process, taxpayers with questions could attempt to solicit informal answers from DOR staff. Unfortunately, these answers were non-binding, so they provided limited comfort to taxpayers seeking certainty.

Additionally, this informal process created an unequal playing field in that individuals who cultivated relationships with DOR staff were perceived as having an inside track to getting answers. There is no evidence to suggest that the answers were in any way swayed by those relationships. It was simply easier to get an answer if a taxpayer, or its accountant or lawyer, had a contact inside the DOR.

In other words, taxpayers had to do their best, and often employ expensive accountants and lawyers, to interpret the State's tax laws and rules. There was little, if any, certainty.

Certainty, with respect to tax questions, cannot be understated, particularly with respect to publicly traded companies. If there is uncertainty on an income tax issue, for example, such a company must disclose that fact in its financial statements. This could, among other things, impact an investor's decision on whether to invest in that company.

Certainty on tax issues can also play an important role in many business transactions. The tax implications could make or break a deal. Certainty is needed.

Certainty is what the GIL/PLR process was intended to provide. PLRs are binding on the DOR with respect to the taxpayer requesting the PLR. Certainty is guaranteed.

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By publishing PLRs, other taxpayers gain insight as to how the DOR is likely to treat certain matters. An individual taxpayer can then use that reasoning and apply it to the taxpayer's own circumstances. Certainty, while not guaranteed, is enhanced.

GILs, while not binding, provide greater insight and provide general guidance to taxpayers on more general matters. Certainty, while again not guaranteed, is enhanced.

Before the GIL/PLR process, taxpayers interpreted the State's tax laws and rules and continued to operate without certainty until audited. If a tax issue were contested, due process allowed the taxpayer to present why its interpretation was reasonable. However, this process created certainty after the fact, and did so in an adversarial manner.

The GIL/PLR process, however, allows taxpayers to seek guidance from the DOR in a proactive, non-adversarial manner.

Furthermore, at least 40 other states plus the U.S. Internal Revenue Service (IRS) have a process similar to Colorado's GIL/PLR process, and of those, at least 24 plus the IRS publish, or otherwise make public, the rulings.<sup>29</sup>

For all of these reasons, it is clear that so long as the State's tax laws remain complex and subject to interpretation, the GIL/PLR process is necessary to protect taxpayers from the uncertainty those laws and rules create. Continuation of the process, therefore, is justified.

Despite the fact that the GIL/PLR process was created in 2006, four years later, it remains in its infancy. The DOR took a considerable amount of time in actually launching the process, then suspended it for budgetary reasons, and then restarted it on a limited basis.

As a result, very little data is available to analyze the process. Additionally, very few tax practitioners have utilized the process, so there is little that can be identified in terms of process reform. The program simply has not been in place long enough.

Therefore, the General Assembly should continue the GIL/PLR process for five years, until 2016. This should allow sufficient time to gather data and garner enough experience to identify ways in which to improve the program, if any exist.

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<sup>29</sup> John Healy and Michael Schadewald, *2010 Multistate Corporate Tax Guide*, CCH, Inc., vol. 2, pages 843-856.