

CHRYSLER FINANCIAL CORP.
27777 Franklin Road
Southfield, Michigan 48034,

Petitioner,

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

DOCKET NO. MV. 98-365

FINAL ORDER

Chrysler Financial Corporation (APetitioner@) requested a revenue ruling from the Revenue Department pursuant to Code of Ala. 1975, § 40-2A-5. The Department refused to issue a ruling. The Petitioner appealed to the Administrative Law Division pursuant to Code of Ala. 1975, § 40-2A-8(a). Richard Sheeran represented the Petitioner. Assistant Counsel Keith Maddox represented the Department.

The issue in this case is whether the Department has the authority and discretion to refuse to issue a revenue ruling requested pursuant to § 40-2A-5.

The stipulated facts are as follows:

Chrysler Financial Corporation (CFC) wrote a letter to the Alabama Department of Revenue asking for an answer to a retitling question. The question was as follows: CFC has created a titling trust for the purpose of holding title to leased vehicles. CFC may transfer all or a portion of its beneficial interest in the titling trust to third-party investors. Upon this transfer, is it necessary for the vehicles to be retitled and reregistered? This question Chrysler Financial Corporation is posing has been answered by other states.

The Department informed CFC that the question must be presented as a request for a revenue ruling in accordance with Alabama Regulation § 810-14-1-.06. CFC complied on June 17, 1998, with the procedures as outlined by the Department. The Department stated that the issues raised in the request were beyond the Department's scope and on July 1, 1998, declined to issue a ruling.@

The Department argues that it has discretion to refuse to issue a revenue ruling. I must agree.

Section 40-2A-5(a) provides that the commissioner **Amay@** issue revenue rulings. The word **Amay@** is permissive or discretionary. Alabama State Bd. of Health, ex rel. Baxley v. Chambers County, Alabama, 357 So.2d 1066 (1976). See generally, **Amay@**, Words and Phrases, Vol. 26A. Consequently, the Department had discretion to refuse to issue a revenue ruling in this case. That finding is supported by ¹ 40-2A-5(e), which provides that the **A**commissioner shall either issue or refuse to issue@a ruling within 120 days. ¹

The Department apparently failed to cite the Petitioner a specific reason for refusing to issue a ruling. The purpose of the revenue ruling statute is to help taxpayers by giving them certainty as to their possible responsibilities and liabilities under Alabama law. Although not specifically required by the statute, the Department should, as a matter of courtesy and in the spirit of the statute, notify a petitioner as to why it refused to issue a ruling. This is especially true in this case because the Department advised the Petitioner to request a revenue ruling.

If the Petitioner=s request is vague or did not include sufficient facts for the Department to reach a definite conclusion, the Department should have so notified the Petitioner. The Department should also have specified any other reason it had for refusing to issue a ruling. The Petitioner could then have amended its request to satisfy the Department=s concerns. In any case, the Department was within its discretion in refusing

¹Before 1995, ¹ 40-2A-5 provided that the **A**commissioner shall have authority and discretion@to issue revenue rulings. That language was deleted by Act 95-607, effective July 31, 1995, and was replaced by the word **Amay@**. As indicated, however, in legal effect the terms **A**shall have discretion@and **Amay@** are identical.

to issue a ruling.

This Final Order may be appealed to circuit court within 30 days pursuant to Code of Ala. 1975, § 40-2A-9(g).

Entered November 23, 1998.

BILL THOMPSON
Chief Administrative Law Judge

BT:ks

cc: Keith Maddox, Esq.
Richard T. Sheeran, Esq.
Tara Keller
Terry Lane