SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

TAX ANALYSTS, *et al.*, *Plaintiffs,* v. DISTRICT OF COLUMBIA, *et al.*, *Defendants.*	2020 CA 001999 B Judge Shana Frost Matini

SUPPLEMENTAL DECLARATION OF BAZIL FACCHINA

I, Bazil Facchina, declare that the following is true and correct to the best of my knowledge and belief:

1. I am over the age of 18 and competent to render testimony contained herein based upon my personal knowledge and upon documents of the District of Columbia Office of Tax and Revenue (OTR) that I have reviewed.

2. I am an Assistant General Counsel in the Office of the General Counsel of the Chief Financial Officer of the District of Columbia (OCFO). I work in the Office of Chief Counsel for OTR, which provides legal support to OTR. I have held that position since October 2007. Among my other duties, I am responsible for reviewing legal issues relating to requests received by OTR under the District's Freedom of Information Act (FOIA). As such, I provide legal advice on issues relating to the FOIA, particularly relating to the applicability of the FOIA exemptions.

3. As a part of my responsibilities in processing and reviewing FOIA requests for OTR, I am familiar with the types of records maintained by OTR and the places in which and the

persons by whom these records are maintained. I am knowledgeable about searching the variety of records that are kept by OTR in response to FOIA requests, familiar with FOIA and its requirements for, and exemptions from, disclosure, and experienced in judging whether documents are responsive and should be provided in full, redacted, or withheld in their entirety.

Background

4. On October 8, 2019, Plaintiffs, Tax Analysts, and Aaron Davis, submitted a FOIA request to the Office of the Chief Financial Officer (OCFO), of which OTR is a sub-agency, seeking copies of all private letter rulings (PLRs), general information letters, and technical advice memoranda prepared by OTR between January 1, 2016, and October 8, 2019.

5. On November 14, 2019, OCFO denied the request, citing FOIA exemptions 1 and 6, which, respectively, exempt from disclosure confidential business records and other records for which disclosure is specifically prohibited by statute.

6. Plaintiffs appealed that decision to the Mayor's Office of Legal Counsel (MOLC) on November 20, 2019. In response to the appeal, OCFO submitted a letter stating that it did not locate any general information letters or technical advice memoranda but had located 24 PLRs responsive to Plaintiffs' request. OCFO further indicated that FOIA exemption 2, which exempts disclosure of personal private information, also applied to portions of the PLRs.

7. On January 14, 2020, the MOLC denied Plaintiff's appeal, agreeing that the three FOIA exemptions OCFO cited were properly applied, and found that any non-exempt material was not reasonably segregable from the exempt portions of the letters.

8. I was involved in responding to the FOIA request made for the records at issue in this case, the preparation of OTR's response to Plaintiffs' appeal to the MOLC, and assisting the Office of the Attorney General in the subsequent litigation after Plaintiffs' appeal was denied.

Accordingly, the statements in this declaration are based on my personal knowledge, on information made known to me in my official capacity as Assistant General Counsel, and upon conclusions and determinations reached and made in accordance therewith.

Private Letter Rulings (PLRS)

9. In preparing this declaration, I reviewed the 24 private letter rulings (PLRs) issued by OTR between January 1, 2016, and October 8, 2019, that are at issue in this case.

10. The PLRs were issued in response to taxpayer requests for guidance on specific tax matters relating to the requesting taxpayer. A taxpayer may request a PLR by providing, under penalties of perjury, the taxpayer's name, business address and federal taxpayer identification number, a statement of the facts and circumstances concerning the specific tax matter for which the taxpayer is requesting guidance, a statement of statutory or judicial authority upon which the taxpayer is relying, and the ruling requested.

11. A PLR may be relied on by a taxpayer concerning such specific tax matter, since the ruling binds OTR as to such matter. However, no opinion is provided on the tax treatment of the matter except as expressly stated in the ruling. A PLR applies solely to the taxpayer requesting it and OTR does not consider PLRs as having precedential effect. A PLR may not be used or cited as precedent by any other taxpayer. A PLR may be withdrawn, revoked or modified if the taxpayer's facts and circumstances change, the law changes or the ruling was issued in error. A PLR expires ten years from the date of the ruling. The taxpayer may request that the ruling be extended after being reviewed by OTR. PLRs thus contrast with other types of tax guidance provided by OTR, such as tax notices or other types of generalized interpretative guidance, which are publicly available. PLRs are also distinguishable from the field service advice memoranda at issue in *Tax Analysts v. IRS* 117 F.3d 607 (D.C. Cir. 1997) in that they do not

constitute guidance to agency personnel or constitute a body of law which OTR uses in its dealings with taxpayers. They are not updated after issuance and are not widely circulated within OTR. District law does not incorporate a provision like section 6110 of the Internal Revenue Code (IRC), which governs the disclosure of written determinations, including private letter rulings and Chief Counsel advice, prepared or issued by the Internal Revenue Service (IRS). Accordingly, the disclosure rules of IRC sec. 6110 are inapplicable to the PLRs. Because of this important difference between Federal and District law, I concluded that the narrow definition of protected "data" adopted by the D.C. Circuit in the 1997 *Tax Analysts* decision would not necessarily be applicable to the PLRs, since the D.C. Circuit's conclusion that legal analysis of a taxpayer's facts was not protected "data" was apparently driven by IRC sec. 6110, *Landmark Legal Foundation v. IRS*, 267 F.3d 1132, 1138 (D.C. Cir. 2001). I further concluded that District law does not afford OTR's discussion of the information concerning the taxpayer seeking the ruling and the tax liability (or possible existence of liability) of the taxpayer any less protection than is afforded to other tax information concerning the taxpayer.

12. PLRs are prepared by attorneys in the Office of Chief Counsel for OTR. To develop the ruling, the attorney applies governing law to the statement of facts describing the taxpayer's own, unique transactions or activities to reach a conclusion as to the tax treatment of the taxpayer's specific transactions or activities. A PLR does not provide guidance of general applicability on any matter. PLRs are not reviewed by OTR administration before issuance and do not constitute OTR policy or the "working law" of OTR.

13. PLRs typically are comprised of the following sections: (1) A statement of the issues for which the taxpayer seeks a ruling as to the tax treatment of the taxpayer's own, specific transactions or activities; (2) a statement of OTR's conclusions as to the tax treatment of the

taxpayer's own unique transactions or activities as described in the taxpayer's statement of facts; (3) a recitation of the taxpayer-specific facts on which the ruling is to be based; (4) a statement of the applicable law; (5) and an analysis of the application of the governing law to the facts specific to the taxpayer.

14. The PLR issued by OTR in response to the taxpayer's request will accordingly incorporate personally identifying information and a statement of the facts describing the taxpayer's transactions and activities on which the ruling is based, as well as OTR's legal analysis and conclusion as to the tax treatment of the taxpayer with respect to the matters ruled upon. PLRs also include language advising the taxpayer of the limitations on the scope of the PLR and circumstances in which reliance on the ruling by the taxpayer may be limited. Accordingly, each PLR is tailored to the specific taxpayer requesting it and applies only to the taxpayer requesting it.

15. As a result, PLRs contain data received or prepared by OTR with respect to a tax return or the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under the District's tax laws for any tax, penalty, interest or other imposition.

16. In my review and redaction of the 24 responsive PLRs to Plaintiffs' FOIA request, I reviewed the Court of Appeals decision in describing the nature of tax information that is protected from disclosure under D.C. Official Code § 47-4406 (protecting from disclosure, *inter alia*, "federal, state, or local tax information either submitted by the taxpayer or otherwise obtained") which is accordingly protected from disclosure under D.C. Official Code § 2-534(a)(6). *See Tax Analysts v. District of Columbia,* 298 A.3d 334, 340 (D.C. 2023). The

statutes protecting tax information are intended to guard taxpayers' privacy and to encourage candor in disclosing information to OTR for purposes of tax administration.

17. The Court of Appeals ruled that protected "tax information" generally consists of the same type of information protected by Section 6103(b)(2) of the Internal Revenue Code (26 U.S.C.), that is,

> (A) a taxpayer's identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, *or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense*, [and]
>
> (B) any part of any written determination or any background file document relating to such written determination (as such terms are defined in [26 U.S.C. § 6110(b)]) which is not open to public inspection under section 6110.

Id. (emphasis added). "Tax information" does not lose its protected status simply because information identifying the particular taxpayer has been removed. The Court of Appeals noted that such material is unique to a particular taxpayer, that is, it is "taxpayer specific." I also noted that other tax secrecy provisions contain disclosure prohibitions which are stated in a manner similar to those of section 47-4406. *See* D.C. Code §§ 47-1805.04, 47-2018(a)(2), 47-3719. Protected "tax information" is not limited to factual material concerning a particular taxpayer, it can also include information prepared by OTR concerning the taxpayer.

18. I was also mindful of the Court of Appeals ruling that "non-taxpayer specific legal analysis," that is, interpretations and conclusions respecting legal authorities that are not unique to a particular taxpayer, was not protected taxpayer information. *Id.* at 341.

19. Accordingly, my review sought to identify the portions of the PLRs that constituted protected taxpayer-specific tax information, that is, information as to the taxpayer's identity, tax items, finances, and tax liabilities, as well as any other data received by, recorded by, prepared by, or collected by OTR with respect to a return or the existence, or possible existence of liability (or the amount thereof) of any person for any District tax, penalty, interest or other imposition. I sought to distinguish this protected information from "non-taxpayer specific legal analysis" which was not unique to the taxpayer requesting the PLR.

20. Based on this, I concluded that any information in a PLR that concerned a specific taxpayer, including the taxpayer who requested the ruling, was protected from disclosure, including OTR's discussion of the tax treatment of the taxpayer's facts. Such discussion in a PLR constitutes data prepared by OTR concerning a tax return or the existence, or possible existence, of a tax liability (or the amount thereof) of the taxpayer requesting the PLR. The discussion is taxpayer-specific because it is based on and reflects the taxpayer's own unique factual circumstances, and it would not automatically apply to, and could not be relied upon by, another taxpayer, even if such other taxpayer's facts were similar. Accordingly, I concluded that disclosure of this discussion would directly or indirectly disclose protected tax information concerning the taxpayer. This protected tax information generally was contained in the sections of the PLRs containing the statement of issues to be ruled upon, OTR's conclusion as to the tax treatment of the specific and unique transactions or activities concerning which the taxpayer sought the ruling, the statement of the facts pertaining to the taxpayer's transactions, activities or other circumstances on which the ruling was based, and OTR's analysis and discussion of the application of the law to the taxpayer's situation as stated in the facts. To the extent that these

portions of the PLRs contained such protected information, I concluded that they were protected from disclosure and should be redacted from the PLRs.

21. I further concluded that general statements as to the applicable law in the PLRs, which were usually found in the sections dealing with the applicable law and legal analysis, were "non-taxpayer specific legal analysis" that were not protected from disclosure. This information was not redacted from the PLRs.

22. I personally reviewed every page of the PLRs line by line to determine whether any reasonably segregable, non-exempt responsive information could meaningfully be segregated and disclosed. I did this in instances where I determined that it was possible and did not redact such information. This generally occurred in the portions of the PLRs stating the issues to be ruled upon and the analysis of the application of the law to the taxpayer's facts, and the conclusions based on such facts and analysis.

23. I further determined that any remaining non-exempt responsive information that might exist within the withheld portions of the PLRs was so inextricably intertwined with exempt information that it could not reasonably be segregated. Moreover, this review of the withheld information showed that attempts to segregate information would result only in the release of disjointed words or phrases with minimal or no informational content.

24. During my review, I also determined that personal identifying information of individuals in the PLRs (*e.g.*, names, telephone numbers, addresses, and email addresses) were protected from disclosure because disclosure would constitute a clearly unwarranted invasion of personal privacy in violation of D.C. Official Code § 2-534(a)(2). I did not believe these privacy interests outweighed any public interest in disclosure. The identifying information does not shed any light upon the operations of OTR, and so there is minimal, if any, public interest in the

disclosure of this information. Accordingly, all names, addresses, telephone numbers, and email addresses of individuals named in the PLRs have been redacted.

25. Based on the foregoing, with respect to the January 28, 2016, ruling, I redacted personally identifying information as well as all data or information regarding the taxpayer that applied for the ruling from the Issue, Conclusion, Facts and Analysis sections of the ruling. I did not redact material from the Law section, since this constituted a general discussion of the sales tax law. The redactions from the Conclusion and Analysis sections contain an OTR discussion of the taxpayer's facts and the tax treatment of those facts. The taxpayer information retains its protected character even though it is incorporated in OTR's discussion, and even though information identifying the taxpayer is removed or not included in the discussion. The OTR discussion of the taxpayer's information constitutes data prepared by OTR with respect to the taxpayer's liability, or potential liability for tax. This is protected from disclosure under the District's taxpayer confidentiality statutes, such as D.C. Code sec. 47-4406, to the same extent as other tax information concerning a particular taxpayer. This discussion was not a general analysis of the law, but applied only to the taxpayer seeking the ruling and was entirely based on the taxpayer's protected information. Disclosure of OTR's discussion of those facts would directly or indirectly disclose the taxpayer's protected information. I also determined that any nonexempt information contained in the redacted portions was so inextricably intertwined with exempt information that segregation was not reasonably possible or would not yield meaningful information.

26. With respect to the February 3, 2016 ruling, I followed the same approach to redactions as in the prior ruling, redacting personally identifying information as well as all data or information regarding the taxpayer that applied for the ruling from the Facts, Issue,

Conclusion, Legal Analysis and Summary sections. The redactions from the Issue, Conclusion, Legal Analysis and Summary sections contain an OTR discussion of the taxpayer's facts and the tax treatment of those facts. The taxpayer information retains its protected character even though it is incorporated in OTR's discussion and even though information identifying the taxpayer is removed or not included in the discussion. The OTR discussion of the taxpayer's information constitutes data prepared by OTR with respect to the taxpayer's liability, or potential liability for tax. This is protected from disclosure under the District's taxpayer confidentiality statutes, such as D.C. Code § 47-4406, to the same extent as other tax information concerning a particular taxpayer. This discussion was not a general analysis of the law, but applies only to the taxpayer seeking the ruling and was entirely based on the taxpayer's protected information. Disclosure of OTR's discussion of those facts would directly or indirectly disclose the taxpayer's protected information. I also determined that any nonexempt information contained in the redacted portions was so inextricably intertwined with exempt information that segregation was not reasonably possible or would not yield meaningful information.

27. With respect to the February 11, 2016 ruling, I followed the same approach to redactions as in the prior rulings, redacting personally identifying information as well as all data or information regarding the taxpayer that applied for the ruling from the Issue, Facts, Law and Analysis and Conclusion sections. The redactions from the Law and Analysis and Conclusion sections contain an OTR discussion of the taxpayer's facts and the tax treatment of those facts. The taxpayer information retains its protected character even though it is incorporated in OTR's discussion and even though information identifying the taxpayer is removed or not included in the discussion. The OTR discussion of the taxpayer's information constitutes data prepared by OTR with respect to the taxpayer's liability, or potential liability for tax. This is protected from

disclosure under the District's taxpayer confidentiality statutes, such as D.C. Code § 47-4406, to the same extent as other tax information concerning a particular taxpayer. This discussion was not a general analysis of the law but rather applies only to the taxpayer seeking the ruling and was entirely based on the taxpayer's protected information. Disclosure of OTR's discussion of those facts would directly or indirectly disclose the taxpayer's protected information. I also determined that any nonexempt information contained in the redacted portions was so inextricably intertwined with exempt information that segregation was not reasonably possible or would not yield meaningful information. While reviewing this ruling, I identified some material on page three that constituted nontaxpayer-specific legal analysis and I have attached a revised page three of the ruling disclosing this information. I also identified a portion of the Conclusion section on page four of the ruling that should have been, but was inadvertently not, redacted from the ruling because it contains protected information. A corrected page four is attached to this declaration.

28. With respect to the February 19, 2016 ruling, I followed the same approach to redactions as in the prior rulings, redacting personally identifying information as well as all data or information regarding the taxpayer that applied for the ruling from the Issue, Facts, and Law and Analysis sections. The redactions from the Law and Analysis section contain an OTR discussion of the taxpayer's facts and the tax treatment of those facts. The taxpayer information retains its protected character even though it is incorporated in OTR's discussion and even though information identifying the taxpayer is removed or not included in the discussion. The OTR discussion of the taxpayer's information constitutes data prepared by OTR with respect to the taxpayer's liability, or potential liability for tax. This is protected from disclosure under the District's taxpayer confidentiality statutes, such as D.C. Code § 47-4406, to the same extent as

other tax information concerning a particular taxpayer. This discussion was not a general analysis of the law but rather applies only to the taxpayer seeking the ruling and was entirely based on the taxpayer's protected information. Disclosure of OTR's discussion of those facts would directly or indirectly disclose the taxpayer's protected information. I also determined that any nonexempt information contained in the redacted portions was so inextricably intertwined with exempt information that segregation was not reasonably possible or would not yield meaningful information.

29. With respect to the February 25, 2016 ruling, I followed the same approach to redactions as in the prior rulings, redacting personally identifying information as well as all data or information regarding the taxpayer that applied for the ruling from the Facts, Ruling Requested, Law and Analysis and Conclusion sections. The redactions from the Law and Analysis and Conclusion sections contain an OTR discussion of the taxpayer's facts and the tax treatment of those facts. The taxpayer information retains its protected character even though it is incorporated in OTR's discussion and even though information identifying the taxpayer is removed or not included in the discussion. The OTR discussion of the taxpayer's information constitutes data prepared by OTR with respect to the taxpayer's liability, or potential liability for tax. This is protected from disclosure under the District's taxpayer confidentiality statutes, such as D.C. Code § 47-4406, to the same extent as other tax information concerning a particular taxpayer. This discussion was not a general analysis of the law but rather applies only to the taxpayer seeking the ruling and was entirely based on the taxpayer's protected information. Disclosure of OTR's discussion of those facts would directly or indirectly disclose the taxpayer's protected information. I also determined that any nonexempt information contained in the

redacted portions was so inextricably intertwined with exempt information that segregation was not reasonably possible or would not yield meaningful information.

30. With respect to the November 3, 2016 ruling, I followed the same approach to redactions as in the prior rulings, redacting personally identifying information as well as all data or information regarding the taxpayer that applied for the ruling from the Issue, Conclusion, Facts, and Analysis sections. The redactions from the Analysis section contain an OTR discussion of the taxpayer's facts and the tax treatment of those facts. The taxpayer information retains its protected character even though it is incorporated in OTR's discussion and even though information identifying the taxpayer is removed or not included in the discussion. The OTR discussion of the taxpayer's information constitutes data prepared by OTR with respect to the taxpayer's liability, or potential liability for tax. This is protected from disclosure under the District's taxpayer confidentiality statutes, such as D.C. Code § 47-4406, to the same extent as other tax information concerning a particular taxpayer. This discussion was not a general analysis of the law but rather applies only to the taxpayer seeking the ruling and was entirely based on the taxpayer's protected information. Disclosure of OTR's discussion of those facts would directly or indirectly disclose the taxpayer's protected information. I also determined that any nonexempt information contained in the redacted portions was so inextricably intertwined with exempt information that segregation was not reasonably possible or would not yield meaningful information.

31. With respect to the January 26, 2017, ruling, I followed the same approach to redactions as in the prior rulings, redacting personally identifying information as well as all data or information regarding the taxpayer that applied for the ruling from the Issue, Facts, and Legal Analysis sections. The redactions from the Legal Analysis section contain an OTR discussion of

the taxpayer's facts and the tax treatment of those facts. The taxpayer information retains its protected character even though it is incorporated in OTR's discussion and even though information identifying the taxpayer is removed or not included in the discussion. The OTR discussion of the taxpayer's information constitutes data prepared by OTR with respect to the taxpayer's liability, or potential liability for tax. This is protected from disclosure under the District's taxpayer confidentiality statutes, such as D.C. Code § 47-4406, to the same extent as other tax information concerning a particular taxpayer. This discussion was not a general analysis of the law but rather applies only to the taxpayer seeking the ruling and was entirely based on the taxpayer's protected information. Disclosure of OTR's discussion of those facts would directly or indirectly disclose the taxpayer's protected information. I also determined that any nonexempt information contained in the redacted portions was so inextricably intertwined with exempt information that segregation was not reasonably possible or would not yield meaningful information.

32. With respect to the February 23, 2017 ruling, I followed the same approach to redactions as in the prior rulings, redacting personally identifying information as well as all data or information regarding the taxpayer that applied for the ruling from the Issue, Facts, Law and Analysis and Conclusion sections. The redactions from the Law and Analysis and Conclusion sections contain an OTR discussion of the taxpayer's facts and the tax treatment of those facts. The taxpayer information retains its protected character even though it is incorporated in OTR's discussion and even though information identifying the taxpayer is removed or not included in the discussion. The OTR discussion of the taxpayer's information constitutes data prepared by OTR with respect to the taxpayer's liability, or potential liability for tax. This is protected from disclosure under the District's taxpayer confidentiality statutes, such as D.C. Code § 47-4406, to

the same extent as other tax information concerning a particular taxpayer. This discussion was not a general analysis of the law but rather applies only to the taxpayer seeking the ruling and was entirely based on the taxpayer's protected information. Disclosure of OTR's discussion of those facts would directly or indirectly disclose the taxpayer's protected information. I also determined that any nonexempt information contained in the redacted portions was so inextricably intertwined with exempt information that segregation was not reasonably possible or would not yield meaningful information.

33. With respect to the May 9, 2017 ruling, I followed the same approach to redactions as in the prior rulings, redacting personally identifying information as well as all data or information regarding the taxpayer that applied for the ruling from the Issue, Facts, and Conclusion sections. The redactions from the Conclusion section contain an OTR discussion of the taxpayer's facts and the tax treatment of those facts. The taxpayer information retains its protected character even though it is incorporated in OTR's discussion and even though information identifying the taxpayer is removed or not included in the discussion. The OTR discussion of the taxpayer's information constitutes data prepared by OTR with respect to the taxpayer's liability, or potential liability for tax. This is protected from disclosure under the District's taxpayer confidentiality statutes, such as D.C. Code § 47-4406, to the same extent as other tax information concerning a particular taxpayer. This discussion was not a general analysis of the law but rather applies only to the taxpayer seeking the ruling and was entirely based on the taxpayer's protected information. Disclosure of OTR's discussion of those facts would directly or indirectly disclose the taxpayer's protected information. I also determined that any nonexempt information contained in the redacted portions was so inextricably intertwined

with exempt information that segregation was not reasonably possible or would not yield meaningful information.

34. With respect to the July 5, 2017 ruling, I followed the same approach to redactions as in the prior rulings, redacting personally identifying information as well as all data or information regarding the taxpayer that applied for the ruling from the Issue, Facts, Analysis and Conclusion sections. The redactions from the Analysis and Conclusion sections contain an OTR discussion of the taxpayer's facts and the tax treatment of those facts. The taxpayer information retains its protected character even though it is incorporated in OTR's discussion and even though information identifying the taxpayer is removed or not included in the discussion. The OTR discussion of the taxpayer's information constitutes data prepared by OTR with respect to the taxpayer's liability, or potential liability for tax. This is protected from disclosure under the District's taxpayer confidentiality statutes, such as D.C. Code § 47-4406, to the same extent as other tax information concerning a particular taxpayer. This discussion was not a general analysis of the law but rather applies only to the taxpayer seeking the ruling and was entirely based on the taxpayer's protected information. Disclosure of OTR's discussion of those facts would directly or indirectly disclose the taxpayer's protected information. I also determined that any nonexempt information contained in the redacted portions was so inextricably intertwined with exempt information that segregation was not reasonably possible or would not yield meaningful information.

35. With respect to the July 7, 2017 ruling, I followed the same approach to redactions as in the prior rulings, redacting personally identifying information as well as all data or information regarding the taxpayer that applied for the ruling from the Issue, Facts, and Law and Analysis sections. The redactions from the Law and Analysis section contain an OTR discussion

of the taxpayer's facts and the tax treatment of those facts. The taxpayer information retains its protected character even though it is incorporated in OTR's discussion and even though information identifying the taxpayer is removed or not included in the discussion. The OTR discussion of the taxpayer's information constitutes data prepared by OTR with respect to the taxpayer's liability, or potential liability for tax. This is protected from disclosure under the District's taxpayer confidentiality statutes, such as D.C. Code § 47-4406, to the same extent as other tax information concerning a particular taxpayer. This discussion was not a general analysis of the law but rather applies only to the taxpayer seeking the ruling and was entirely based on the taxpayer's protected information. Disclosure of OTR's discussion of those facts would directly or indirectly disclose the taxpayer's protected information. I also determined that any nonexempt information contained in the redacted portions was so inextricably intertwined with exempt information that segregation was not reasonably possible or would not yield meaningful information.

36. With respect to the September 1, 2017 ruling, I followed the same approach to redactions as in the prior rulings, redacting personally identifying information as well as all data or information regarding the taxpayer that applied for the ruling from the Issue, Facts, and Conclusion sections. The redactions from the Conclusion section contain an OTR discussion of the taxpayer's facts and the tax treatment of those facts. The taxpayer information retains its protected character even though it is incorporated in OTR's discussion and even though information identifying the taxpayer is removed or not included in the discussion. The OTR discussion of the taxpayer's information constitutes data prepared by OTR with respect to the taxpayer's liability, or potential liability for tax. This is protected from disclosure under the District's taxpayer confidentiality statutes, such as D.C. Code § 47-4406, to the same extent as

other tax information concerning a particular taxpayer. This discussion was not a general analysis of the law but rather applies only to the taxpayer seeking the ruling and was entirely based on the taxpayer's protected information. Disclosure of OTR's discussion of those facts would directly or indirectly disclose the taxpayer's protected information. I also determined that any nonexempt information contained in the redacted portions was so inextricably intertwined with exempt information that segregation was not reasonably possible or would not yield meaningful information.

37. With respect to the March 20, 2018 ruling, I followed the same approach to redactions as in the prior rulings, redacting personally identifying information as well as all data or information regarding the taxpayer that applied for the ruling from the Issue, Facts, and Law and Analysis sections. The redactions from the Law and Analysis section contain an OTR discussion of the taxpayer's facts and the tax treatment of those facts. The taxpayer information retains its protected character even though it is incorporated in OTR's discussion and even though information identifying the taxpayer is removed or not included in the discussion. The OTR discussion of the taxpayer's information constitutes data prepared by OTR with respect to the taxpayer's liability, or potential liability for tax. This is protected from disclosure under the District's taxpayer confidentiality statutes, such as D.C. Code § 47-4406, to the same extent as other tax information concerning a particular taxpayer. This discussion was not a general analysis of the law but rather applies only to the taxpayer seeking the ruling and was entirely based on the taxpayer's protected information. Disclosure of OTR's discussion of those facts would directly or indirectly disclose the taxpayer's protected information. I also determined that any nonexempt information contained in the redacted portions was so inextricably intertwined

with exempt information that segregation was not reasonably possible or would not yield meaningful information.

38. With respect to the May 10, 2018 ruling, I followed the same approach to redactions as in the prior rulings, redacting personally identifying information as well as all data or information regarding the taxpayer that applied for the ruling from the Issue, Facts, Law and Conclusion sections. The redactions from the Law and Conclusion sections contain an OTR discussion of the taxpayer's facts and the tax treatment of those facts. The taxpayer information retains its protected character even though it is incorporated in OTR's discussion and even though information identifying the taxpayer is removed or not included in the discussion. The OTR discussion of the taxpayer's information constitutes data prepared by OTR with respect to the taxpayer's liability, or potential liability for tax. This is protected from disclosure under the District's taxpayer confidentiality statutes, such as D.C. Code § 47-4406, to the same extent as other tax information concerning a particular taxpayer. This discussion was not a general analysis of the law but rather applies only to the taxpayer seeking the ruling and was entirely based on the taxpayer's protected information. Disclosure of OTR's discussion of those facts would directly or indirectly disclose the taxpayer's protected information. I also determined that any nonexempt information contained in the redacted portions was so inextricably intertwined with exempt information that segregation was not reasonably possible or would not yield meaningful information. A copy of the missing page two, with redactions, and an unredacted copy of the page are attached to this declaration.

39. With respect to the June 28, 2018 ruling, I followed the same approach to redactions as in the prior rulings, redacting personally identifying information as well as all data or information regarding the taxpayer that applied for the ruling from the Issue, Facts, Analysis and

Conclusion sections. The redactions from the Analysis and Conclusion sections contain an OTR discussion of the taxpayer's facts and the tax treatment of those facts. The taxpayer information retains its protected character even though it is incorporated in OTR's discussion and even though information identifying the taxpayer is removed or not included in the discussion. The OTR discussion of the taxpayer's information constitutes data prepared by OTR with respect to the taxpayer's liability, or potential liability for tax. This is protected from disclosure under the District's taxpayer confidentiality statutes, such as D.C. Code § 47-4406, to the same extent as other tax information concerning a particular taxpayer. This discussion was not a general analysis of the law but rather applies only to the taxpayer seeking the ruling and was entirely based on the taxpayer's protected information. Disclosure of OTR's discussion of those facts would directly or indirectly disclose the taxpayer's protected information. I also determined that any nonexempt information contained in the redacted portions was so inextricably intertwined with exempt information that segregation was not reasonably possible or would not yield meaningful information.

40. With respect to the August 2, 2018 ruling, I followed the same approach to redactions as in the prior rulings, redacting personally identifying information as well as all data or information regarding the taxpayer that applied for the ruling from the Issue, Conclusion, Facts, Law and Argument sections. The redactions from the Law and Argument section contain an OTR discussion of the taxpayer's facts and the tax treatment of those facts. The taxpayer information retains its protected character even though it is incorporated in OTR's discussion and even though information identifying the taxpayer is removed or not included in the discussion. The OTR discussion of the taxpayer's information constitutes data prepared by OTR with respect to the taxpayer's liability, or potential liability for tax. This is protected from disclosure under

the District's taxpayer confidentiality statutes, such as D.C. Code § 47-4406, to the same extent as other tax information concerning a particular taxpayer. This discussion was not a general analysis of the law but rather applies only to the taxpayer seeking the ruling and was entirely based on the taxpayer's protected information. Disclosure of OTR's discussion of those facts would directly or indirectly disclose the taxpayer's protected information. I also determined that any nonexempt information contained in the redacted portions was so inextricably intertwined with exempt information that segregation was not reasonably possible or would not yield meaningful information.

41. With respect to the October 12, 2018 ruling, I followed the same approach to redactions as in the prior rulings, redacting personally identifying information as well as all data or information regarding the taxpayer that applied for the ruling from the Facts and Conclusion sections. The redactions from the Conclusion section contain an OTR discussion of the taxpayer's facts and the tax treatment of those facts. The taxpayer information retains its protected character even though it is incorporated in OTR's discussion and even though information identifying the taxpayer is removed or not included in the discussion. The OTR discussion of the taxpayer's information constitutes data prepared by OTR with respect to the taxpayer's liability, or potential liability for tax. This is protected from disclosure under the District's taxpayer confidentiality statutes, such as D.C. Code § 47-4406, to the same extent as other tax information concerning a particular taxpayer. This discussion was not a general analysis of the law but rather applies only to the taxpayer seeking the ruling and was entirely based on the taxpayer's protected information. Disclosure of OTR's discussion of those facts would directly or indirectly disclose the taxpayer's protected information. I also determined that any nonexempt information contained in the redacted portions was so inextricably intertwined

with exempt information that segregation was not reasonably possible or would not yield meaningful information.

42. With respect to the December 7, 2018 ruling, I followed the same approach to redactions as in the prior rulings, redacting personally identifying information as well as all data or information regarding the taxpayer that applied for the ruling from the Facts, Law and Analysis and Conclusion sections. The redactions from the Law and Analysis and Conclusion sections contain an OTR discussion of the taxpayer's facts and the tax treatment of those facts. The taxpayer information retains its protected character even though it is incorporated in OTR's discussion and even though information identifying the taxpayer is removed or not included in the discussion. The OTR discussion of the taxpayer's information constitutes data prepared by OTR with respect to the taxpayer's liability, or potential liability for tax. This is protected from disclosure under the District's taxpayer confidentiality statutes, such as D.C. Code § 47-4406, to the same extent as other tax information concerning a particular taxpayer. This discussion was not a general analysis of the law but rather applies only to the taxpayer seeking the ruling and was entirely based on the taxpayer's protected information. Disclosure of OTR's discussion of those facts would directly or indirectly disclose the taxpayer's protected information. I also determined that any nonexempt information contained in the redacted portions was so inextricably intertwined with exempt information that segregation was not reasonably possible or would not yield meaningful information. While reviewing this ruling, I identified some material on pages two and four that constituted nontaxpayer-specific legal analysis, and I have attached revised pages two and four of the ruling disclosing this information.

43. With respect to the February 14, 2019 ruling, I followed the same approach to redactions as in the prior rulings, redacting personally identifying information as well as all data

or information regarding the taxpayer that applied for the ruling from the Issue, Facts, Law and Analysis and Conclusion sections. The redactions from the Law and Analysis and Conclusion sections contain an OTR discussion of the taxpayer's facts and the tax treatment of those facts. The taxpayer information retains its protected character even though it is incorporated in OTR's discussion and even though information identifying the taxpayer is removed or not included in the discussion. The OTR discussion of the taxpayer's information constitutes data prepared by OTR with respect to the taxpayer's liability, or potential liability for tax. This is protected from disclosure under the District's taxpayer confidentiality statutes, such as D.C. Code § 47-4406, to the same extent as other tax information concerning a particular taxpayer. This discussion was not a general analysis of the law but rather applies only to the taxpayer seeking the ruling and was entirely based on the taxpayer's protected information. Disclosure of OTR's discussion of those facts would directly or indirectly disclose the taxpayer's protected information. I also determined that any nonexempt information contained in the redacted portions was so inextricably intertwined with exempt information that segregation was not reasonably possible or would not yield meaningful information.

44. With respect to the February 21, 2019 ruling, I followed the same approach to redactions as in the prior rulings, redacting personally identifying information as well as all data or information regarding the taxpayer that applied for the ruling from the Issue, Conclusion, Facts, and Law and Analysis sections. The redactions from the Law and Analysis and Conclusion sections contain an OTR discussion of the taxpayer's facts and the tax treatment of those facts. The taxpayer information retains its protected character even though it is incorporated in OTR's discussion and even though information identifying the taxpayer is removed or not included in the discussion. The OTR discussion of the taxpayer's information

constitutes data prepared by OTR with respect to the taxpayer's liability, or potential liability for tax. This is protected from disclosure under the District's taxpayer confidentiality statutes, such as D.C. Code § 47-4406, to the same extent as other tax information concerning a particular taxpayer. This discussion was not a general analysis of the law but rather applies only to the taxpayer seeking the ruling and was entirely based on the taxpayer's protected information. Disclosure of OTR's discussion of those facts would directly or indirectly disclose the taxpayer's protected information. I also determined that any nonexempt information contained in the redacted portions was so inextricably intertwined with exempt information that segregation was not reasonably possible or would not yield meaningful information.

45. With respect to the February 28, 2019 ruling, I followed the same approach to redactions as in the prior rulings, redacting personally identifying information as well as all data or information regarding the taxpayer that applied for the ruling from the Issue, Facts, and Law and Argument sections. The redactions from the Law and Argument section contain an OTR discussion of the taxpayer's facts and the tax treatment of those facts. The taxpayer information retains its protected character even though it is incorporated in OTR's discussion and even though information identifying the taxpayer is removed or not included in the discussion. The OTR discussion of the taxpayer's information constitutes data prepared by OTR with respect to the taxpayer's liability, or potential liability for tax. This is protected from disclosure under the District's taxpayer confidentiality statutes, such as D.C. Code § 47-4406, to the same extent as other tax information concerning a particular taxpayer. This discussion was not a general analysis of the law but rather applies only to the taxpayer seeking the ruling and was entirely based on the taxpayer's protected information. Disclosure of OTR's discussion of those facts would directly or indirectly disclose the taxpayer's protected information. I also determined that

any nonexempt information contained in the redacted portions was so inextricably intertwined with exempt information that segregation was not reasonably possible or would not yield meaningful information.

46. With respect to the April 12, 2019 ruling, I followed the same approach to redactions as in the prior rulings, redacting personally identifying information as well as all data or information regarding the taxpayer that applied for the ruling from the Issue, Conclusion, Facts, and Analysis sections. The redactions from the Analysis and Conclusion sections contain an OTR discussion of the taxpayer's facts and the tax treatment of those facts. The taxpayer information retains its protected character even though it is incorporated in OTR's discussion and even though information identifying the taxpayer is removed or not included in the discussion. The OTR discussion of the taxpayer's information constitutes data prepared by OTR with respect to the taxpayer's liability, or potential liability for tax. This is protected from disclosure under the District's taxpayer confidentiality statutes, such as D.C. Code § 47-4406, to the same extent as other tax information concerning a particular taxpayer. This discussion was not a general analysis of the law but rather applies only to the taxpayer seeking the ruling and was entirely based on the taxpayer's protected information. Disclosure of OTR's discussion of those facts would directly or indirectly disclose the taxpayer's protected information. I also determined that any nonexempt information contained in the redacted portions was so inextricably intertwined with exempt information that segregation was not reasonably possible or would not yield meaningful information. In the course of reviewing this ruling, I identified some material on pages four and 6–12 that constituted nontaxpayer-specific legal analysis and I have attached revised pages four and 6–12 of the ruling disclosing this information.

47. With respect to the July 11, 2019 ruling, I followed the same approach to redactions as in the prior rulings, redacting personally identifying information as well as all data or information regarding the taxpayer that applied for the ruling from the Facts, Issues and Application and Conclusions sections. The redactions from the Application and Conclusion section contain an OTR discussion of the taxpayer's facts and the tax treatment of those facts. The taxpayer information retains its protected character even though it is incorporated in OTR's discussion and even though information identifying the taxpayer is removed or not included in the discussion. The OTR discussion of the taxpayer's information constitutes data prepared by OTR with respect to the taxpayer's liability, or potential liability for tax. This is protected from disclosure under the District's taxpayer confidentiality statutes, such as D.C. Code § 47-4406, to the same extent as other tax information concerning a particular taxpayer. This discussion was not a general analysis of the law but rather applies only to the taxpayer seeking the ruling and was entirely based on the taxpayer's protected information. Disclosure of OTR's discussion of those facts would directly or indirectly disclose the taxpayer's protected information. I also determined that any nonexempt information contained in the redacted portions was so inextricably intertwined with exempt information that segregation was not reasonably possible or would not yield meaningful information. In the course of reviewing this ruling, I identified some material on page thre that constituted nontaxpayer-specific legal analysis and I have attached a revised page three of the ruling disclosing this information.

48. With respect to the July 15, 2019 ruling, I followed the same approach to redactions as in the prior rulings, redacting personally identifying information as well as all data or information regarding the taxpayer that applied for the ruling from the Facts, Issue, Conclusion and Application sections. The redactions from the Application and Conclusion sections contain

an OTR discussion of the taxpayer's facts and the tax treatment of those facts. The taxpayer information retains its protected character even though it is incorporated in OTR's discussion and even though information identifying the taxpayer is removed or not included in the discussion. The OTR discussion of the taxpayer's information constitutes data prepared by OTR with respect to the taxpayer's liability, or potential liability for tax. This is protected from disclosure under the District's taxpayer confidentiality statutes, such as D.C. Code § 47-4406, to the same extent as other tax information concerning a particular taxpayer. This discussion was not a general analysis of the law but rather applies only to the taxpayer seeking the ruling and was entirely based on the taxpayer's protected information. Disclosure of OTR's discussion of those facts would directly or indirectly disclose the taxpayer's protected information. I also determined that any nonexempt information contained in the redacted portions was so inextricably intertwined with exempt information that segregation was not reasonably possible or would not yield meaningful information.

I solemnly affirm under penalty of perjury that the contents of the foregoing are true to the best of my knowledge, information, and belief.

July 1, 2024
Date

Bazil Facchina
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