

The Minnesota Supreme Court's decision in *Ashland Inc. v. Comm'r of Revenue*, No. A16-1257 (Minn. Aug. 2, 2017), revoked Revenue Notice 98-08, which was effective for tax periods beginning after December 31, 1996, and before January 1, 2013.

Department of Revenue

Revenue Notice # 13-08: Income and Corporate Franchise Tax – Federal Entity "Check the Box" Classifications – Revocation and Replacement of Revenue Notice # 98-08 and Revenue Notice # 97-03

Introduction

Revenue Notice #98-08, which superseded Revenue Notice #97-03, sets forth the Department's position regarding federal check-the-box classifications, including when the Department could recognize a check-the-box election by a foreign eligible entity pursuant to *Minnesota Statutes*, section 290.17, subdivision 4(f). That statute was amended by 2013 *Minnesota Laws*, chapter 143, article 6, section 28. The amendment made the policy statement regarding foreign eligible entities in Revenue Notice #98-08 obsolete.

Department Position

Pursuant to *Treasury Regulations* §§ 301.7701-1 through 301.7701-3, the Internal Revenue Service provides an elective system of entity classification commonly known as check-the-box. For Minnesota individual income and corporate franchise tax purposes, the Department will follow elections made by eligible domestic and foreign entities pursuant to these federal regulations.

Revenue Notice #98-08 and Revenue Notice #97-03 are revoked. This revenue notice is effective for taxable years beginning after December 31, 2012, which is the effective date of the law change discussed above.

Publication Date: _____

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SUSAN VONMOSCH, Assistant Commissioner
for Tax Policy