# The Commissioner's rulings

P. L. Reddy*

## I. INTRODUCTION

In this series, a special emphasis has been placed on tax reform. Following the lead given by the Task Force on Tax Reform (the McCaw Committee) and perhaps anticipating what will, or will not, be included in the August 1982 Budget, many contributors have chosen to consider ways in which different aspects of our present tax system should be reformed. My topic is also an aspect of tax reform, but it is one which could be achieved without any legislative intervention.

In the introduction to its report, the McCaw Committee expressed the view that the recommendations in the report provide "the basis for a more acceptable and equitable taxation system".[1] In my view, we cannot hope to achieve an equitable tax system without also ensuring that its application and administration is fair and workable. Yet, apart from a few passing references, this subject was not dealt with by the McCaw Committee at all. I am not suggesting that the present administration by the Inland Revenue Department is as grossly unfair and unsatisfactory as our present system of taxation. What I would suggest, is that in some respects, the administration of the tax system suffers from the same problems as the system itself. It is simply outdated.

In the past decade, high inflation can be seen as forcing many unintended and distortionary changes to the incidence of taxation. These stresses are also reflected in its administration. For each of us, taxation is, or will become, our most significant financial commitment. Today, the burden of tax is perceived throughout the community to be unfairly heavy. This concern is manifested in the ever increasing numbers of taxpayers who are seeking to challenge the administration of the tax system. This is done principally by objecting to assessments, but challenges are also now being made at pre-assessment stages. Examples are *Geothermal Energy New Zealand Ltd.* v. *C.I.R.*[2] and *Lemmington Holdings Ltd.* v. *C.I.R.*[3]

* Barrister and Solicitor, Wellington.

1 *Report of the Task Force on Tax Reform* (Government Printer, Wellington, 1982) 1.
2 (1979) 4 N.Z.T.C. 61, 478.
3 (1982) 5 N.Z.T.C. 61, 122.

In this paper I will look at one specific area of tax administration — advance rulings — and will demonstrate how and why a system which operated satisfactorily up to a decade ago is no longer workable or fair and should be reformed. It is my contention that we now need, as well as substantive tax reform, a formal advance rulings procedure. This would benefit both the Commissioner and taxpayers. I will suggest ways in which such a procedure should operate.

## II. THE PREVIOUS POSITION

A taxpayer who is considering entering into a commercial transaction will, or should, have regard to the tax consequences of that transaction. Almost inevitably, the issues will not be certain or straightforward. The legislative language of the Income Tax Act 1976 is, in many cases, open to more than one interpretation, when applied to a particular set of facts. Apart from this, many taxing provisions depend upon discretionary determinations by the Commissioner of Inland Revenue.

In the past, and up until quite recently, the taxpayer would consult a tax adviser, almost invariably an accountant, who, unless the answers were patent and certain, would probably call up someone at the local District Tax Office, probably the Senior Inspector or District Commissioner, for a so-called "ruling". Despite the authoritative title, this ruling would often have been a remarkably informal response. It may have even been given over the telephone. Officers of the Department were generally very co-operative and rarely refused to give their opinions in such circumstances, even at extremely short notice.

It is probably fair to say that this state of affairs suited the Inland Revenue Department quite well. In those days, taxpayers and their advisers were apparently generally content to take the advice of the Department. Rulings were often sought and complied with and assessments were rarely challenged. In fact, tax advisers seem to have relied too often on the Inland Revenue Department for advice regarding the interpretation of the Act and the tax consequences of transactions.

Even in those days, however, the Commissioner, if asked, would have emphatically asserted that any rulings given were not binding on him. He would have maintained that he could change his mind when assessing the taxpayer, even if the transaction had proceeded exactly according to plan and all of the material facts had been disclosed to the officer who had given the ruling. His basis for this assertion would have been the well recognised legal principle that estoppel can never be used to prevent performance of a statutory duty.

In support, he would have been able to quote the New Zealand Court of Appeal in *Reckitt and Colman* v. *T.B.R.*[4] where it was stated that liability to tax is imposed by the Act alone. The Commissioner's function is simply to quantify that liability for each taxpayer. Thus, in refusing to follow a ruling which he considered was not in accordance with the law, he would simply be performing his statutory duty to assess tax as imposed by the Act. Rulings, although frequently sought, were not, in legal terms, worth the paper they were written on.

4 [1966] N.Z.L.R. 1032.

## III. RECENT DEVELOPMENTS

In the past few years, the reliance of taxpayers and their advisers on the Department's views has decreased. More taxpayers are challenging their assessments and thus the views expressed by the Department. This is reflected in the appointment, last year, of a second Taxation Review Authority to assist in clearing the back-log of objections waiting for hearings.

At the same time, tax planning has increased. Income tax law and business transactions have become more complex. And yet, despite that complexity and sophistication, especially in the area of financing and takeovers, the Income Tax Act has hardly altered; structurally it is basically the same as it was in 1916. Transactions for which rulings are sought are often very complicated and detailed. In many cases, these transactions have taken skilled advisers many hours, or weeks, to structure. And yet the rulings procedure has remained informal and uncertain.

In the first instance, all requests for rulings must, so the Department says, go to the relevant District Office. The District Commissioner or Senior Inspector will either give or refuse the ruling, or send it to the Regional Office for consideration. The Regional Office will then follow the same procedure, sending the request to Head Office if it thinks it necessary.

Apparently, there are no formalised rules for this process, apart from some general guidelines or particular areas where power to deal with the transaction has not been delegated to the District Offices. An example of this is the assessability of travelling allowances, which is always dealt with at Head Office level. In general terms the District Commissioner and the Senior Inspector are free to give rulings whenever they feel able.

The current Head Office view is to encourage this "decentralisation" of giving rulings, on the basis that this is not an appropriate function for Head Office personnel, except in new or particularly complex areas. It is apparently not seen as undesirable or unacceptable that rulings are given, routinely, by different people in twenty-seven different District Offices throughout the country. In fact, this is positively encouraged.

Until the Department issued the June 1982 Public Information Bulletin 117, no general guidelines had been given to taxpayers and advisers as to how a request for a ruling should be drafted and what information should be given. In some instances, contradictory rulings have been given in respect of identical transactions.

Because of the lack of national organisation or supervision of the rulings procedure, forum shopping occurs. Word soon gets around as to which District Office is giving favourable rulings in respect of particular transactions. For instance, a company incorporated in Auckland or Wellington may be given a name beginning with a particular letter to ensure that any ruling request will be handled by the District Office considered to give the "best" rulings since in those Districts the taxpayers are divided alphabetically between District Offices. This has apparently been particularly fruitful for companies seeking special balance dates.

Now that taxpayers and their advisers are not so reliant on the Inland Revenue Department for tax planning advice, it is not surprising that more frequently the rulings that are sought involve complex issues. Further, in many cases, rulings are now sought only when they are actually needed. For instance, where the transactions involve novel transactions or difficult statutory interpretation problems, perhaps brought about by inadequacies or contradictions in the Act itself. An example is the lack of any rules for tax accounting for businesses. Inevitably, the situations in which the Commissioner reverses a ruling or refuses to apply it when assessing the taxpayer in question, also appear to have increased. In addition, it is felt by some tax advisers that, in some cases, the Commissioner has reversed rulings which are correct in law, to impose his view of what the law should be.

A reversal of a ruling, or the receipt of an unfavourable ruling, can have a disastrous effect on the taxpayer who requested it and even for a much wider group of people who are also, directly or indirectly, affected. In legal terms, there is nothing to stop a taxpayer who receives an unfavourable ruling from proceeding with the transaction as contemplated and challenging the Commissioner's view by objecting to the eventual assessment. In practice, however, this is often not possible. By giving an unfavourable ruling, the Commissioner can effectively stop a proposed transaction, or even halt an industry. I shall give two recent, well publicised, examples.

### *A. The Film Industry*

New Zealand's film industry has enjoyed amazing growth over the past five years. Although the industry itself is small, its films have gained great success and popularity. Investment in films also gained popular fame, along with kiwifruit and deer farming, as it was rumoured to provide a great way to avoid tax. This was because, in order to attract sufficient investment for high risk and expensive film ventures, producers and their financiers arranged so-called "limited recourse" funding to protect the investors' money in the event that the film was not successful. This form of finance was used by investors to leverage their investment and so maximise their deductions.

Naturally, many investors were unsure of the tax consequences of this new and attractive form of investment and demanded that rulings approving the scheme be obtained from the Inland Revenue Department. This was done with respect to a number of film ventures and favourable rulings were received. As this proved to be a successful means of attracting investment, virtually all New Zealand feature films were financed using limited recourse funding to a greater or lesser extent.

In April 1982, a ruling was sought for a new film venture. As in the past, the ruling was considered necessary to give investors sufficient confidence to invest. There were, after all, some rumours that the Inland Revenue Department was unhappy about the tax aspects of film investment. This time, the Department gave an unfavourable ruling, although the structure and issues involved were the same as in previous cases where favourable rulings had been given.

The producer of the film was consequently unable to raise the finance needed, despite energetic efforts to persuade investors that the Department's view was wrong. Word soon got out and affected all other New Zealand film ventures which were being put together. Today, there is no new film activity in the New Zealand film industry. The Department's ruling effectively brought the industry to a halt.

I do not intend challenging or debating the merits of these various rulings. What I do say, is that a decision which can have such a devastating effect on a taxpayer or a whole industry, should not be made on an ad hoc basis while the Department investigates the issue to finalise its own views, and without the persons directly concerned being able to put their case.

It is extraordinary that rulings, which can have such a tremendous impact on taxpayers and their businesses, are in no way binding, are not given under any formalised procedures, and are seemingly unchallengeable by the taxpayers who receive them.

*B. The Lemmington Holdings Case*

This last point is demonstrated by a recent case, *Lemmington Holdings Ltd.* v. *C.I.R.*,[5] which is my second example. Again, I do not wish to explore the merits of the taxpayer's position, but rather to look at the procedural issues which this case highlights.

Very briefly, the taxpayer's business involved marketing the sale of injection moulding dies to partnerships or persons who wished to take advantage of various export incentives for tax purposes. Lemmington Holdings would arrange production of the plastic goods and act as agent for exporting them. Lemmington Holdings sought, and received, rulings from the Inland Revenue Department which were used as a basis for marketing these schemes and which were relied on by investors.

At the end of 1981, the Commissioner advised Lemmington Holdings that the rulings were being withdrawn and that he no longer recognised the schemes, for tax purposes. In the High Court Lemmington Holdings has claimed that the Commissioner acted unfairly in reversing his ruling, by not permitting the taxpayers a fair opportunity to have their case against the reversal heard and by not providing details of the alleged deficiencies.

Whether or not these claims are justified, the significant feature is that the taxpayers affected would have had no means of challenging the reversal, except that the Commissioner also planned to withdraw ancillary special tax code certificates, which authorised PAYE deductions from the salaries of the taxpayers who were participating in the schemes. Lemmington Holdings and a representative of the taxpayers sought, and obtained, an interim injunction restraining the Commissioner from withdrawing the special tax codes, since they involved the exercise of a statutory power and were accordingly prima facie reviewable pursuant to the Judicature Amendment Act 1972.

5 (1982) 5 N.Z.T.C. 61, 122.

Both counsel agreed that the Commissioner does not have, apart from some specific exceptions, a statutory duty or power to give rulings. Thus, the reversal of the rulings in itself could not have been challenged at that stage. And yet that reversal, in this case, as in the film industry example, would have had (and probably has had) a ruinous effect on Lemmington Holdings' business and a serious impact on the financial affairs of the taxpayers involved.

In considering the applicants' case for an interim injunction, Chilwell J. found that prima facie there had been full disclosure by Lemmington Holdings, when seeking the rulings, of not only the schemes themselves, but the very significant tax relief they achieved. If a formal advance rulings procedure had been available when Lemmington Holdings first sought those approvals, it may well have been possible either to resolve the problems which later occurred to the Commissioner, or for the Department to refuse to approve the schemes at that preliminary stage, before they commenced operation and before taxpayers invested in them.

Perhaps partly in response to the developments I have mentioned, the Commissioner issued in June 1982 a statement on advance rulings in Public Information Bulletin 117. This statement does not alter the way in which rulings should be sought or will be given. It reaffirms that the Department will not be bound by any rulings, even where full disclosure of the proposed scheme or transaction is made. The Department does, however, for the first time, set out specific areas in which rulings will not be given. They are:

— Proposals which involve or could involve tax avoidance;

— Hypothetical situations;

— A series of alternatives to the same transaction;

— Proposals where the names of the taxpayers are not disclosed.

Not surprisingly, the Department has felt unfairly pressured in recent times to give rulings with great urgency and in some cases without being fully conversant with all implications of the transactions. It is anticipated that this announcement will reduce the number of rulings asked for and will enable District Officers to refuse to rule in circumstances where they may have felt pressured to do so in the past, such as where a purpose of tax avoidance is suspected.

In my view, the Public Information Bulletin statement serves to highlight some of the severe problems with our ruling procedures at present. I very much doubt that it will cure any of them.

## IV. ARE RULINGS NECESSARY?

At this stage, one might well ask whether rulings should be available at all. Would it not be easier and fairer for all if no advance rulings were given? Taxpayers would be obliged to rely upon their tax advisers, and tax advisers would learn to do their own research.

Unfortunately, in practice, tax is both too uncertain and too important. Commerce flourishes in an atmosphere of certainty. It is undesirable that business transactions should be delayed or abandoned because of doubt as to their tax

consequences. Court procedures are not an appropriate or efficient means of dealing with this uncertainty in tax planning. There are situations in which it is simply not sufficient for taxpayers to rely on the views of their tax advisers. Even if they are proved correct in the end, the prospect that the Inland Revenue Department may challenge those views when assessing the taxpayers may be enough to cause the proposed transaction to be abandoned.

For example, a proposed corporate reorganisation may be dependent upon particular tax consequences to make it economically viable. A leveraged lease may not be able to attract equity participants without a ruling from the Commissioner as to how he will treat various aspects for tax purposes. It may well involve novel or controversial features such as project financing, about which the Commissioner's, or the Court's views, are not yet known. It may be as simple as requiring approval for a special balance date.

There would be significant disadvantages for the Department as well, if rulings were not available. Probably the major disadvantage would be that the Department would lose an important means of keeping up to date with the kinds of transactions being entered into by taxpayers. Without ruling requests, the Inland Revenue Department would be left to piece together transactions and their tax implications long after the event and with much less assistance from the taxpayers concerned.

The desirability of rulings is well recognised in other countries. In 1966, the *Report of the Royal Commission on Taxation* in Canada,[6] known as the Carter Report, had this to say:[7]

> We are of the opinion that advance rulings are an excellent device for fostering and encouraging the self-assessment system, and would contribute to good relations between the income tax administration and the tax-paying public. From a taxpayer's point of view, rulings are most desirable because they give more assurance of certainty prior to entering into a transaction, and guarantee more uniformity in the application of the tax legislation. They also appear desirable for the administration, for they minimize controversy and litigation, reduce the time spent in answering questions from taxpayers, and help to achieve a fair and co-ordinated tax administration.

At that time, the system of granting rulings in Canada was very similar to our present one. In 1970, a formal rulings programme was introduced.

The United States has had a formal rulings procedure since 1953. In the mid 1970's around 40,000 private letter rulings were being given each year. In Sweden, advance rulings are given by an independent Tax Rulings Board. The Board is independent of the Revenue Department and is made up of experts from both public and private sectors. The Board's rulings are binding upon the Revenue, at the option of the taxpayers who seek them.

## V. THE CANADIAN RULINGS PROGRAMME

The Canadian rulings programme is, in my view, the best model for New Zealand. It was introduced comparatively recently, replacing procedures much like

6 Queen's Printer, Ottawa, 1966.
7 Ibid. Vol. 5, 138.

our present procedures. The legal issues which arise are the same as those which arise here. The Canadian programme has proved very successful. It has required no legislative changes and was set up entirely within the discretion of the Canadian Department of National Revenue. Advance rulings are all dealt with by a central Rulings Division. It is divided into six sections and ruling requests are assigned to the appropriate section, depending upon the nature of the taxpayer's business or the subject matter of the proposed transaction.

As well as handling ruling requests, the staff of this Division also deal, on an informal basis, with enquiries about completed transactions, District Office questions and other general enquiries from taxpayers.

There are certain specific areas in which rulings will not be given. These include questions which are primarily factual, where the transaction is completed, where the transaction is hypothetical and not seriously contemplated or where it lacks bona fide business purpose and is considered to circumvent the policy of the Act.

The Department will not assist taxpayers in preparing their requests, which must comply with detailed guidelines. A request must contain a clear statement of the question on which the ruling is sought, it must indicate the specific provisions of the Act which are in issue, the taxpayer's own interpretation of those provisions and the reasons and authorities which support it. In other words, the taxpayer cannot use the Rulings Division as a tax planner or researcher. Of course, the request must also contain a complete and detailed statement on the relevant facts and a frank disclosure of the purpose of the transaction. This is most important, because a ruling may be revoked retroactively if there has been a material omission or misrepresentation in the request. The taxpayer may also include a draft ruling with the request. This can help to save time in drafting a reply and can also help to make clear exactly what the taxpayer is seeking.

Another important feature of the Canadian rulings procedure is that it is not free. A minimum fee of $180.00 must accompany the request. The actual fee is charged on a time basis which, in 1978, was $30.00 an hour. The rationale for charging a fee is that taxpayers requesting advance rulings should bear the cost, rather than taxpayers in general. It also generates revenue to fund the programme and to help cover the cost of hiring additional staff.

A taxpayer is entitled to an oral discussion of the issue prior to the ruling being made. In practice, if a favourable ruling is to be issued, the Rulings Division will usually discourage the holding of a discussion.

Rulings are dealt with, in most cases, within two to three months of request, depending upon their complexity. If a favourable ruling is given, a time limit for completion of the proposed transaction is prescribed. It is usually between three to six months, although extensions may be granted.

Rulings are regarded by the Department as binding, as long as the law remains unchanged, all material facts are disclosed and provided the transaction is completed within the prescribed time limits. It is clear, however, that they are not legally binding. The legal position is no different to that which exists in New

Zealand. A ruling can only be relied on by the taxpayer who requested it. Although rulings of general interest are published, they can only be used by other taxpayers as an indication of the Department's attitudes.

## VI. JUDICIAL REVIEW OF RULINGS

One complaint I raised earlier regarding rulings in New Zealand, was that a taxpayer has no way of challenging an adverse ruling or the revocation of a ruling. In Canada, the latter situation is no longer a problem since the rulings are accepted as binding. However, where a taxpayer receives an adverse ruling, which he or she considers to be incorrect, there is no means of challenging it prior to assessment. Similarly, a refusal to rule cannot be challenged.

A review procedure would seem to be in keeping with a system which emphasises the rights of taxpayers to know, in advance, how a transaction will be treated for tax purposes. However, in both Canada and the United States there is considerable opposition to the prospect of judicial review of rulings. It is felt that such a procedure would lengthen the rulings process and make it unnecessarily formal. It is argued that each ruling would need to be drafted exceptionally carefully to withstand challenge and there would be a consequent loss of flexibility for the Revenue.

It does not seen, however, that if a binding system of rulings is to be established, which is fair to all taxpayers and not just those who receive favourable rulings, some form of judicial review should be available. Obviously, it would need to be available quickly. This, in itself, should not prove impossible; consider, for example, the speed with which applications for interim injunctions are dealt with. I would not imagine that providing for review of rulings in the same way would cause undue problems for the Administrative Division of the High Court, since it would only be available in exceptional cases, where a taxpayer had some basis on which to challenge the fairness or validity of the decision, as opposed to whether or not it was correct.

The other main objection raised to judicial review of rulings is that it would make the rulings process unnecessarily formal. In my view, if one acknowledges the need and desirability of a binding rulings procedure, one must also acknowledge the need for that procedure to be fair. The possibility for review of the way in which a ruling had been determined would reinforce this principle and provide security for taxpayers. Since it would not give an appeal on the merits of a case, it should not impose any unreasonable or unnecessary delays or burdens on the Department in giving rulings. Accordingly, if a binding rulings procedure, similar to the one I have outlined, were introduced into New Zealand, in my view it would be desirable to extend section 4(1) of the Judicature Amendment Act 1972 to cover them explicitly.

## VII. A BINDING RULINGS PROCEDURE v. THE DOCTRINE OF ESTOPPEL

Even if the Commissioner accepted the need for a binding rulings procedure, could he in fact give up the right to reverse rulings decisions? The answer is, legally, No. A statutory functionary, such as the Commissioner, cannot be estopped

from carrying out statutory duties, regardless of whether he has previously agreed to act differently. In practical terms, however, I suggest that a policy adopted by the Commissioner, to consider himself bound by rulings, would be very effective.

An analogy can be drawn from the approach of the House of Lords in *I.R.C.* v. *National Federation of Self-Employed and Small Businesses Ltd.*[8] In that case, the applicant Federation sought judicial review of the Commissioners' decision not to investigate past evasion of tax by Fleet Street casual employees, in return for an agreement for future co-operation and payment. The Federation alleged that the Commissioners had failed to perform their duties and had acted unfairly as between taxpayers.

The House of Lords held that the Federation's case must fail. Lord Wilberforce stated that the applicants had no standing to challenge the Commissioner's actions, and that to allow such a right would be "subversive of the whole system".[9] The other Law Lords did not go as far, but nevertheless held that the applicants lacked sufficient interest to proceed further with their claim. In this case, it was expressly recognised that the duty of the Commissioners to collect every dollar of tax due must be balanced against the duty of good management. This means that the Commissioner must have power to make administrative decisions which will inevitably mean that not all the tax which is in fact payable will be collected.

It is likely that this approach would also be taken in New Zealand, in the event that a taxpayer attempted to challenge the Commissioner's agreement to be bound by a ruling given to another taxpayer. Unless there was a clear abuse of discretion, the courts would be very reluctant to interfere with the way in which the Commissioner administered the tax laws.

## VIII. PUBLICATION OF RULINGS

A binding rulings procedure needs to be adopted in conjunction with a comprehensive system of publication. First, the Department's present practice of issuing Public Information Bulletins needs to be expanded. General statements of procedures which are accepted by the Department should be published, and up-dated frequently.

In addition, to assist taxpayers and to reduce the areas in which rulings are needed, the Department could formulate general guidelines for particular types of activities or transactions. The Department would agree, in advance, and in general, to apply these guidelines. This procedure is commonly and effectively used in the United States. A taxpayer whose proposed transaction is within the guidelines published by the Department, would not need to seek a ruling before undertaking it. The Department's present depreciation schedules are an example of this procedure. It could be extended to other areas, for example, tax-free allowances.

8 [1981] 2 All E.R. 93.
9 Ibid. 98.

As well as this, in my view, advance rulings should themselves be published. Confidentiality of the taxpayers involved could be protected by deleting identifying material, as is presently done with cases heard by the Taxation Review Authority.

Even though published rulings would have no value as binding precedents, knowledge of what has been accepted previously can be a valuable aid to tax planning. More importantly, if rulings are not generally published, a body of "secret law" is inevitably created. It would be accessible only to knowledgeable tax practitioners and those taxpayers able to afford their services.

It would probably not be necessary to publish all rulings but rather those which deal with significant and difficult issues. If it is thought that the cost of publication and distribution would prove excessive for the Department, then perhaps they could be published on a commercial basis by private publishers, as is presently done with reports of tax cases. Equally, it should be possible for the applicant to submit, with his or her formal application, a draft suitable for publication.

## IX. ADVANTAGE OF A FORMAL RULINGS PROCEDURE

A formal rulings procedure, which the Commissioner would accept, in practice, as binding, similar to the Canadian procedure I have outlined, would provide substantial advantages for both taxpayers who use it and for the Inland Revenue Department. For the taxpayer:

1. In practice, it would provide certainty with respect to the tax implications of proposed transactions. Major commercial transactions could be undertaken with a much more secure knowledge of their real cost.
2. It would enable parties to transactions to make any necessary changes before their completion. In this way, an adverse ruling could assist a taxpayer in rethinking a transaction to secure an appropriate result.
3. It would allow for issues to be settled prior to assessment, and would doubtless be of great effect in reducing the number of expensive and long drawn out objections to assessments before the courts.

The advantages for the Inland Revenue Department would also be substantial:

1. It is, no doubt, of great benefit to the Department, as well as to taxpayers, to avoid disputes over assessments and consequent litigation.
2. Advance rulings make it easier for taxpayers to compute their taxes once the transactions are completed, and would accordingly simplify the work of tax inspectors. They would only need to verify that the facts of the transaction were in accordance with those upon which the rulings had been given.
3. Uniformity in the application of the tax laws throughout the country would be improved because the rulings would be issued from one central office, by people with expertise in this area.
4. Requests for rulings can provide a valuable source of information for the Department as to the kinds of transactions being considered by taxpayers.

This enables the Department to prepare for types of problems they are likely to face in the future.

5. Finally, the acceptance of a binding rulings programme would promote confidence and trust of taxpayers in the Department and thus its good relations with the community.

The "disadvantage" to the Department of voluntarily surrendering the right to revoke a ruling, except where the law changes or material facts were not disclosed, seems an insignificant price to pay.