

**R861. Tax Commission, Administration.**

**R861-1A. Administrative Procedures.**

**R861-1A-31. Declaratory Orders Pursuant to Utah Code Ann. Section 63G-4-503.**

(1) A party has standing to bring a declaratory action if that party is directly and adversely affected or aggrieved by an agency action within the meaning of the relevant statute. A party with standing may petition for a declaratory order to challenge:

(a) the commission's interpretation of statutory language as stated in an administrative rule; or

(b) the commission's grant of authority under a statute.

(2) The commission shall not accept a petition for declaratory order on matters pending before the commission in an audit assessment, refund request, collections action or other agency action, or on matters pending before the court on judicial review of a commission decision.

(3) The commission may refuse to render a declaratory order if the order will not completely resolve the controversy giving rise to the proceeding or if the petitioner has other remedies through the administrative appeals processes. The commission's decision to accept or reject a petition for declaratory order rests in part on the petitioner's standing to raise the issue and on a determination that the petitioner has not already incurred tax liability under the statutes or rules challenged.

(4) A declaratory order that invalidates all or part of an administrative rule shall trigger the rulemaking process to amend the rule.

**KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements**

Effective: 8/18/2008