

STEVEN L. BESHEAR Governor

FINANCE AND ADMINISTRATION CABINET DEPARTMENT OF REVENUE

501 HIGH STREET FRANKFORT, KENTUCKY 40620 Phone (502) 564-3226 Fax (502) 564-3875 www.kentucky.gov LORI HUDSON FLANERY
Secretary

THOMAS B. MILLER Commissioner

In the matter of:	
and	FINAL RULING NO. 2011-72 August 25, 2011
Contact:	

Denial of 2009 New Home Tax Credit Application

FINAL RULING

The Department of Revenue ("the DOR") has denied the application for a new home tax credit submitted by and pursuant to KRS 141.388. The application was received by the DOR on 2011, and states that the new home was purchased on 2011. The sole basis of the DOR's denial of the credit is that the new home was not purchased within the approved time as specified in the statute providing the credit.

The statute creating the new home tax credit unambiguously states that "[t]he credit shall apply to the tax liability of the qualified buyer who <u>purchases</u> a qualified principal residence within the <u>approved time</u>." KRS 141.388 (2)(d). [emphasis added]

KRS 141.388(1) further states in relevant part:

(a) "Approved time" means a period of time beginning on July 26, 2009, and ending on December 31, 2010[.]



(c) "Purchase" means a point within the approved time when escrow closes between the qualified buyer and the seller of the qualified principal residence[.]

It is the secure 's position that they did everything possible to secure their home loan and purchase their new home before the expiration of the approved time in order to take advantage of the new home tax credit. Unfortunately, the law is clear that the purchase must take place within the approved time.

The property in question on 2011. This purchase date did not meet the requirement set forth in the statutory provisions quoted above, as it was beyond the approved time prescribed by the provisions.

After reviewing the available information, the DOR correctly denied the new home tax credit application.

This letter is the final ruling of the Department of Revenue.

APPEAL

You may appeal this final ruling to the Kentucky Board of Tax Appeals pursuant to the provisions of KRS 131.110, KRS 131.340-131.365, 103 KAR 1:010 and 802 KAR 1:010. If you decide to appeal this final ruling, your petition of appeal must be filed at the principal office of the Kentucky Board of Tax Appeals, 128 Brighton Park Boulevard, Frankfort, Kentucky 40601-3714, within thirty (30) days from the date of this final ruling. The rules of the Kentucky Board of Tax Appeals, which are set forth in 802 KAR 1:010, require that the petition of appeal must:

- 1. Be filed in quintuplicate;
- 2. Contain a brief statement of the law and facts in issue;
- 3. Contain the petitioner's or appellant's position as to the law and facts; and
- 4. Include a copy of this final ruling with each copy of the petition of appeal.

The petition of appeal must be in writing and signed by the petitioner or appellant. Filings by facsimile or other electronic means shall not be accepted.

Proceedings before the Kentucky Board of Tax Appeals are conducted in accordance with 103 KAR 1:010, 802 KAR 1:010 and KRS 131.340-131.365 and KRS Chapter 13B. Formal hearings are held by the Board concerning the tax appeals before it, with all testimony and

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proceedings officially reported. Legal representation of parties to appeals before the Board is governed by the following rules set forth in Section 3 of 802 KAR 1:010:

- 1. An individual may represent himself in any proceedings before the Board where his individual tax liability is at issue or he may obtain an attorney to represent him in those proceedings;
- 2. An individual who is not an attorney may not represent any other individual or legal entity in any proceedings before the Board;
- 3. Any party appealing a final ruling to the Board other than an individual, such as a corporation, limited liability company, partnership, joint venture, estate or other legal entity, shall be represented by an attorney in all proceedings before the Board, including the filing of the petition of appeal; and
- 4. An attorney who is not licensed to practice in Kentucky may practice before the Board only if he complies with Rule 3.030(2) of the Rules of the Kentucky Supreme Court.

You will be notified by the Clerk of the Board of the date and time set for any hearing.

Sincerely,

FINANCE AND ADMINISTRATION CABINET

E. Jeffrey Mbsley

Interim Executive Director

Office of Legal Services for Revenue