



**FINANCE AND ADMINISTRATION CABINET  
OFFICE OF THE SECRETARY**

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**John R. Farris**  
Secretary

In the matter of:

[REDACTED], INC.

Contact:

[REDACTED], Inc.

FINAL RULING NO. 2006-102  
October 17, 2006

Assessment of Public Service Company  
for tax year 2003

**FINAL RULING**

The Kentucky Department of Revenue currently has an outstanding assessment on property value totaling \$ [REDACTED] for tax year 2003 against [REDACTED], Inc. (Taxpayer). The taxpayer has not submitted a claimed true value. The taxpayer's principal business activity is telecommunications service as a local exchange company. The taxpayer was a public service corporation for tax year 2003.

At issue are the following:

1. What is the company's fair cash value?
2. Has the taxpayer properly supported the protest in accordance with KRS 131.110?

Concerning the first issue, the taxpayer stated in the protest that documents were attached providing numbers from a Kentucky Annual Report, and that Public Service Company property tax forms should be received within a few days.

It is the Department's position that the documents provided with the taxpayer's protest did not demonstrate in any fashion what the taxpayer's fair cash value was, and no Public Service Company property tax returns were ever received; therefore, the Department's valuation should stand.

All property must be assessed at its fair cash value (KY Constitution Sec. 172). The Department of Revenue, Public Service Branch has a standard valuation process to determine the company's fair market value to comply with KRS 136.160.

KRS 136.160(1) states:

The Revenue Cabinet shall determine the fair cash value of the operating property of a domestic public service corporation as a unit. The fair cash value of the operating property shall be equalized.

Concerning the second issue, it is the Department's position that although the taxpayer provided three documents along with the protest, the information was insufficient for the Department to make a reconsideration of the assessment or constitute a supporting statement in accordance with KRS 131.110(1).

KRS 131.110(1) states in part:

The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made.

The Department sent letters on ██████████, 2006 and ██████████, 2006 advising the taxpayer that the available information did not warrant adjustment, and requesting the taxpayer to respond. The taxpayer has failed to provide additional information that may allow the Department to reconsider their assessment or respond in any way. In the following court cases the courts have agreed that supporting documentation must be filed in order for the Department to make reconsideration.

In Eagle Machine Company, Inc. v. Commonwealth ex rel Gillis, Ky. App., 698 S.W.2d 528 (1985), the Court held, inter alia, that ". . . in a protest to a tax assessment, a taxpayer has an obligation to provide financial statements, records or some other documentation that would allow the Revenue Department some basis for reconsideration. In the instant case, despite requests for such information by the appellee, Eagle Machine failed to supply any significant documentation in support of its contention that the assessments were in error."

In Scotty's Construction Company, Inc. v. Commonwealth Of Kentucky Revenue Cabinet, Ky. App., 779 S.W. 234 (1989), the Court mentions, ". . . the circuit court which held that Scotty's failure to submit documentation as required by the statute before the issuance of the final ruling had the effect of failure to preserve appellant's right to review the assessment and on the strength of Eagle Machine set aside the Board's order and reinstated the determination of Revenue."

The Court then reaffirms its opinion in Eagle Machine by stating: "In a protest to a tax assessment, a taxpayer has an obligation to provide financial statements, records or some other documentation that would allow the Revenue Department some basis for reconsideration. In the

instant case, despite requests for such information by the appellee, Eagle Machine failed to supply any significant documentation in support of its contention that the assessments were in error."

The Court concludes by stating, "... the statute is mandatory in nature."

Based on the above, the Department maintains that ██████████, Inc. is subject to full state and local property tax rates on the value totaling \$ ██████████. 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 40602-2120, 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 proceedings officially reported. Legal representation of parties to appeals before the Board is governed by the following rules set forth in Section 2 (3) of 802 KAR 1:010:

1. An individual may represent himself in hearings before the Board;
2. An individual who is not an attorney may not represent any other individual, corporation, trust, estate, or partnership before the Board; and
3. An attorney who is not licensed to practice in Kentucky may practice before the Board if he complies with Rule 3.030(2) of the Rules of the Kentucky Supreme Court.

[REDACTED], Inc.

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

Sincerely,

FINANCE AND ADMINISTRATION CABINET

A handwritten signature in cursive script, appearing to read "Thomas H. Brown".

THOMAS H. BROWN

Director

Division of Protest Resolution

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

