



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

JONATHAN MILLER
Secretary

THOMAS B. MILLER
Commissioner

In the matter of:

[REDACTED], INC

Contact: [REDACTED]

Final Ruling No. 2010-01
January 15, 2010

Sales and Use Tax Assessment
Periods July 1, 2000 through June 30, 2004

FINAL RULING

The Kentucky Department of Revenue has outstanding sales and use tax assessments against [REDACTED], Inc ("[REDACTED]") for the audit period July 1, 2000 through June 30, 2004. The following schedule reflects the total liability for the periods including interest that has accrued through January 15, 2010.

Period	Tax	Interest as of 01/15/10	Fees	Total per period
07/01/00-12/31/00	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
01/01/01-11/30/01	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
12/01/01-12/31/01	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
01/01/02-12/31/02	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
01/01/03-12/31/03	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
01/01/04-06/30/04	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Totals	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

[REDACTED] is a communications system contractor/retailer specializing in the engineering, installation and service of fire alarm systems, telephone systems, voice mail, school intercoms, nurse call stations, closed circuit televisions, access control and smart sound, fiber optic cabling and network systems.

At issue is ██████'s refusal to remit the tax imposed by KRS 139.200 and 139.310.

The Department's audit determined that ██████ failed to collect and remit sales tax for retail sales subject to that tax and failed to remit use tax for various items of tangible personal property it used, stored or otherwise consumed in Kentucky. The schedule above reflects the amount of tax due for these retail sales and this use, storage or other consumption of tangible personal property in this state. ██████ is liable for sales or use tax for these transactions represented by the above schedule. See generally KRS 139.200; 139.210; 139.310; 139.330; and 103 KAR 26:070. Indeed, ██████ has agreed that the amount of its outstanding sales and use tax liability reflected on this schedule is correct but refuses to pay anything other than what it may be able to collect from its customers.

██████████ has been assessed amnesty fees for the audit periods ending prior to December 1, 2001 under the provisions of KRS 131.440(1)(b).

KRS 131.440(1)(b) states:

(b) Taxes which are assessed and collected after the amnesty period for taxable periods ending or transactions occurring prior to December 1, 2001, shall be charged a cost of collection fee of twenty-five percent (25%) at the time of assessment.

Therefore, the outstanding sales and use tax assessments totaling \$ ██████ (plus applicable interest and fees) are deemed legitimate liabilities of ██████ Inc due to the Commonwealth of Kentucky.

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.

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 MOSLEY
Interim Executive Director
Office of Legal Services for Revenue

cc: [REDACTED] Co LLC
Attn: [REDACTED] CPA
[REDACTED]

CERTIFIED MAIL
RETURN RECEIPT REQUESTED