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FINANCE AND ADMINISTRATION CABINET
DEPARTMENT OF REVENUE

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THOMAS B. MILLER
Commissioner

In the matter of:

[REDACTED]
Protest of Tangible
Property Tax on Federally Documented Boat

Contact: [REDACTED]

FINAL RULING NO. 2008-55
August 22, 2008

FINAL RULING

The Department of Revenue currently has an outstanding assessment tangible ad valorem or property taxes in the amount of \$ [REDACTED] for a federally documented boat owned by [REDACTED]. A breakdown of the assessment, along with applicable penalty and interest, is shown in the chart below:

Tax Year	Tax Due	Interest As of 8-22-2008	Penalty As of 8-22-2008	Total Due As of 8-22-2008
January 1, 2006	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

The Department of Revenue had discovered that the property taxes for the federally documented vessel in question had not been assessed or paid for 2006 and accordingly issued [REDACTED] the omitted property tax assessment, in accordance with KRS 132.290, referred to above. The penalty of twenty percent (20%) and interest as required by KRS 132.290(4) have been assessed as part of this tax liability. For the reasons that follow, [REDACTED] was properly assessed property tax for this watercraft.

Liability for ad valorem taxes on a federally documented vessel is in accordance with KRS 132.190, which states:

(1) All property shall be subject to taxation, unless exempted by the Constitution or in the case of personal property unless it is exempted by the Constitution or by statute....

The assessment in question is presumed to be valid and it is [REDACTED]'s burden to prove otherwise. Revenue Cabinet v. Gillig, 957 S.W.2d 206 (Ky. 1997); Walter G. Hougland & Sons v. McCracken County Board of Supervisors, 306 Ky. 234, 206 S.W.2d 951 (1947). It is undisputed that [REDACTED] owned the federally documented watercraft in question on January 1, 2005. The boat was advertised for sale on [REDACTED].com as being located in [REDACTED], Kentucky.

The only issue that appears to be raised by [REDACTED] is [REDACTED] assertion that the boat was not operated in Kentucky water during 2006. [REDACTED] has not provided any supporting documentation of this claim as required by KRS 131.110(1). The Kentucky courts have held that this statutory provision imposes upon a taxpayer protesting an assessment or a refund denial a legal duty to provide the Department with "something more substantial than mere denials of tax liability." Eagle Machine Co., Inc. v. Commonwealth ex rel. Gillis, 698 S.W.2d 528, 530 (Ky app. 1985). In order to make a valid protest, a taxpayer must "provide financial statements, records or some other documentation that would allow the Revenue Department some basis for reconsideration." Id. at 529.

The provisions of the property tax law, including the Kentucky Constitution, require that all personal property, which would include watercraft, shall be listed for taxation and if for any reason personal property is not listed, then it may be assessed by the Department of Revenue as omitted property. KRS 132.190; 132.220; 132.290; 132.310; 132.320; Ky. Const. §§ 3, 170, 172, 174. The watercraft in question was unquestionably not listed for ad valorem taxation for the 2005 tax year and thus has been properly assessed as omitted property.

For the reasons stated above, the assessment in question is valid and a legitimate ad valorem tax liability of [REDACTED].

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



Jason Snyder
Executive Director
Office of Legal Services for Revenue

CERTIFIED MAIL
RETURN RECEIPT REQUESTED