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FINANCE AND ADMINISTRATION CABINET
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LORI HUDSON FLANERY
Secretary

THOMAS B. MILLER
Commissioner

In the matter of:

██████████ LLC DBA ██████████

Contact: ██████████ LLC

Attn: ██████████

FINAL RULING NO. 2015-30
July 8, 2015

Tangible Personal Property Ad Valorem Tax Assessments
Tax Years 2009 through 2012

FINAL RULING

The Kentucky Department of Revenue ("the Department") currently has outstanding tangible property ad valorem tax assessments issued to ██████████ LLC DBA ██████████ ("██████████") totaling \$██████████ (plus applicable interest and penalties) for the tax years 2009 to 2012. A breakdown of these assessments is shown in the chart below:

Tax Year	Tax Due	Interest as of July 8, 2015	Penalty	Total Due as of July 8, 2015
January 1, 2009	\$██████████	\$██████████	\$██████████	\$██████████
January 1, 2010	\$██████████	\$██████████	\$██████████	\$██████████
January 1, 2011	\$██████████	\$██████████	\$██████████	\$██████████
January 1, 2012	\$██████████	\$██████████	\$██████████	\$██████████
Totals	\$██████████	\$██████████	\$██████████	\$██████████

██████████ owns tangible personal property that had taxable situs in Kentucky as of the January 1 assessment dates of the tax years listed above. It was therefore required by law to list or report this property on the Department's Tangible Personal Property Tax Return, Form

62A500, by May 15 of each year at the property's fair cash value as of the relevant assessment date. KRS 132.020; 132.190(3); 132.220(1); Ky. Const. § 172. The Department's form is designed to implement these legal requirements relating to the ad valorem taxation of tangible personal property.

██████ timely filed returns for 2009 through 2012 with respect to the county in which it claimed its property had a taxable situs. An amnesty fee of 25% in the amount of \$██████ was assessed pursuant to KRS 131.440 (1)(b)(1)(b). A 10% omitted penalty in the amount of \$██████ was assessed pursuant to KRS 132.290(3) for all of its property not valued pursuant to the Department guidelines. The amnesty fee and penalty assessments are reflected in the chart above.

The above assessments are based primarily upon the Department's reopening of the assessments as permitted under KRS 132.360. Adjustments were made to value the tangible fixed assets based upon the Department's guidelines.

██████ protested these assessments but the documentation provided with the protest was insufficient. Requests for additional information were ignored. See KRS 132.290; 132.310. These omitted assessments are reflected or included in the assessments depicted in the chart above.

The Department's assessments are presumed to be valid and correct, with the burden resting upon the taxpayer to prove otherwise. See, e.g., Revenue Cabinet v. Gillig, 957 S.W.2d 206 (Ky. 1997); Walter G. Hougland & Sons v. McCracken Board of Supervisors, 306 Ky. 234, 206 S.W.2d 951 (1947). ██████ has not provided in support of its protest any persuasive evidence - - e.g., credible proof or documentation establishing its valuation of the property in question - -that would overcome the presumption of the assessments' validity and correctness. Accordingly, these assessments are hereby upheld.

As noted above, amnesty fees and penalties have been assessed pursuant to the statutes listed above based upon ██████'s failure to properly value its tangible personal property on the returns it filed. ██████ has not provided any persuasive proof that would establish that the property in question was valued incorrectly by the Department. Accordingly, these amnesty fees and penalties are also hereby upheld.

Therefore, the outstanding tangible property tax assessments totaling \$██████ (plus applicable interest and penalties) are legitimate liabilities of ██████ LLC DBA ██████ due 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 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 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. In accordance with Supreme Court Rule 3.020, if the appealing party is a corporation, trust, estate, partnership, joint venture, LLC, or any other artificial legal entity, the entity must be represented by an attorney on all matters before the Board, including the filing of the petition of appeal. If the petition of appeal is filed by a non-attorney representative for the legal entity, the appeal will be dismissed by the Board; 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,

DEPARTMENT OF REVENUE

A handwritten signature in black ink, appearing to read "Doug Donnell", written in a cursive style.

Attorney Manager
Office of Legal Services for Revenue

CERTIFIED MAIL
RETURN RECEIPT REQUESTED