



MATTHEW G. BEVIN
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

WILLIAM M. LANDRUM III
Secretary

DANIEL P. BORK
Commissioner

In the matter of:

██████████ INC.

Contact: ██████████
c/o ██████████ Inc.

FINAL RULING NO. 2016-29
August 5, 2016

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

FINAL RULING

The Kentucky Department of Revenue ("Department") currently has outstanding tangible personal property tax assessments against ██████████, Inc. ("Taxpayer") in the amount of \$██████████ plus applicable interest for tax years 2009 through 2012 ("Audit Period"). A breakdown of the assessments is shown in the chart below:

Tax Year	Notice #	Tax	Interest August 5, 2016	Total August 5, 2016
2009	██████████	\$██████████	\$██████████	\$██████████
2010	██████████	\$██████████	\$██████████	\$██████████
2011	██████████	\$██████████	\$██████████	\$██████████
2012	██████████	\$██████████	\$██████████	\$██████████
	Totals	\$██████████	\$██████████	\$██████████

The Department performed a tangible property tax audit on the Taxpayer for tax years 2009 through 2012, years for which the required returns were not filed. The Taxpayer's Chief Financial Officer, ██████████, responded in a letter dated ██████████, 2013 by stating that many of the records the Department requested had been destroyed by a flood in ██████████. ██████████ offered general information regarding audit results with which he disagreed and stated that research was being performed to reconstruct information helpful to support his position.

On ██████████, 2014 and again on ██████████, 2014 correspondence was sent to ██████████ requesting the information necessary to review the audit issues in dispute. Neither request was acknowledged. A third request for information was made on ██████████, 2014 to which ██████████ responded on ██████████, 2014.

The Department sent correspondence to ██████████ on ██████████, 2015 advising that certain issues he raised were addressed and corrected and that additional information was needed to complete the review. Supplemental information was subsequently received by the Department which allowed it to adjust the audit findings further and narrow the issues remaining in dispute to one final item, i.e. the treatment of property for which the Taxpayer could produce no records as they were lost or destroyed in the aforementioned flood in ██████████.

On ██████████, 2016, ██████████ stated in a telephone conversation that it was his belief the property in question was purchased with Industrial Revenue Bond money, a situation which could possibly provide the Taxpayer more favorable tax treatment on that property. The Department requested that ██████████ provide evidence of such a bond issue.

In an email dated ██████████, 2016, ██████████ disclosed that the Industrial Revenue Bonds had been redeemed in 2004. In an email dated ██████████, 2016, ██████████ was advised that Industrial Revenue Bond property is subject to full state and local property tax rates after redemption of the bonds occurs.

An email dated ██████████, 2016 was sent to ██████████ to determine his response to the email sent ██████████, 2016. There was no response. A voicemail was left on ██████████'s telephone on ██████████, 2016 requesting a return call in order to assess the status of this case. Again there was no response. On ██████████, 2016, another voicemail was left for ██████████ to which he responded in an email dated ██████████, 2016. The Department responded to that email the same day requesting clarification of the information sent. The Department followed with another request for clarification in an email dated ██████████, 2016. The Department has not received a response to that request.

The Department believes it has allowed the Taxpayer ample time to submit information in support of its position disputing the audit treatment of certain tangible personal property. Therefore, the assessments against the Taxpayer for the Audit period are now deemed due and owing.

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.

██████████ Inc.

August 5, 2016 – Final Ruling No. 2016-29

Page 4

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 Dowell". The signature is fluid and cursive, with the first name "Doug" and last name "Dowell" clearly distinguishable.

Attorney Manager

Office of Legal Services for Revenue

CERTIFIED MAIL
RETURN RECEIPT REQUESTED