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ROBBIE RUDOLPH
SECRETARY

In the matter of:

[REDACTED] COMPANY

Contact: [REDACTED]
Tax Department [REDACTED]
[REDACTED]

FINAL RULING NO. 2006-32
April 4, 2006

Denial of Application for Income Tax Credit for
Recycling and/or Composting Equipment
Tax Year 1996

FINAL RULING

The Kentucky Department of Revenue has denied the taxpayer's 1996 Application for Income Tax Credit for Recycling and/or Composting Equipment in the amount of \$ [REDACTED].

Tax Year	Recycling and/or Composting Credit Per Application	Recycling and/or Composting Credit Denied
1996	\$ [REDACTED]	\$ [REDACTED]

At issue is whether certain equipment purchased by the taxpayer and located within Kentucky qualifies for the tax credit for recycling or composting equipment.

In its application for the credit, the taxpayer states that its "██████████ [Kentucky] facility utilizes a manufacturing process to combine and shape linerboard and corrugating medium into containerboard packaging – the finished product." The taxpayer goes on to say that "the linerboard and corrugating medium used to manufacture ██████████'s containerboard packaging products is primarily obtained from taxpayer's ██████████, ██████████ facility."

The Department of Revenue reviewed the taxpayer's manufacturing process(es) and subsequently denied the taxpayer's Application for Income Tax Credit for Recycling and/or Composting Equipment for tax year 1996.

KRS 141.390 provides for a tax credit for recycling and composting equipment. KRS 141.390(2)(a) provides as follows:

A taxpayer that purchases recycling or composting equipment to be used exclusively within this state for recycling or composting postconsumer waste materials shall be entitled to a credit against the income taxes imposed pursuant to this chapter[.]

KRS 141.390(1)(a) provides that for purposes of this credit, "postconsumer waste" means:

any product generated by a business or consumer which has served its intended end use, and which has been separated from solid waste for the purposes of collection, recycling, composting, and disposition and which does not include secondary waste material or demolition waste[.]

The materials used in the manufacturing process in Kentucky are not considered to be postconsumer waste materials insofar as they are procured from the taxpayer's facility in ██████████. They have neither served their "intended end use" nor have they "been separated from solid waste for the purposes of collection, recycling, composting, and disposition" within Kentucky. Moreover, the linerboard materials and corrugating medium are finished products from the taxpayer's ██████████ plant. Therefore, the equipment in Kentucky does not process postconsumer waste materials and does not qualify as recycling and/or composting equipment. See KRS 141.390(1)(b).

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



THOMAS H. BROWN
Director
Division of Protest Resolution

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

