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LORI HUDSON FLANERY
Secretary

THOMAS B. MILLER
Commissioner

In the matter of:

[REDACTED], INC.

Contact: [REDACTED], Inc.

Attn: [REDACTED]

FINAL RULING NO. 2015-31
July 23, 2015

Assessment of Kentucky Corporation Income Tax
Taxable Years 2005 and 2006

FINAL RULING

The Kentucky Department of Revenue ("the Department") has outstanding corporation income tax assessments against [REDACTED], Inc. ("the Taxpayer") for the taxable years 2005 and 2006. The assessments resulted from the Taxpayer's failure to remit payment of tax for the audit period. See KRS 141.040(1). The following table provides a breakdown of the amount of tax due, all assessed penalties, as well as accrued interest as of the date of this final ruling:

TAX YEARS	TAX	INTEREST	PENALTIES	TOTAL
2005	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
2006	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
TOTAL	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

For the taxable years in question, the Taxpayer, an S-Corporation, failed to file the corporation income tax returns by the return due dates in question. These returns were not received until [REDACTED], 2013, and did not include payment for the taxes due. On [REDACTED] 2013,

notices of tax due were issued to the Taxpayer. For the 2005 tax year, a notice was issued totaling \$██████████ (Tax: \$██████████, Interest: \$██████████, Late Filing Penalty: \$██████████, Non-Payment Penalty: \$██████████). For the 2006 tax year, a notice was issued totaling \$██████████ (Tax: \$██████████, Interest: \$██████████, Late Filing Penalty: \$██████████, Non-Payment Penalty: \$██████████). The Taxpayer has since made payments towards the notices totaling \$██████████.

For all taxable years beginning after December 31, 2004, and ending before January 1, 2007, every corporation doing business in this state shall pay for each taxable year a tax to be computed by the taxpayer on taxable net income or the alternative minimum calculation or the minimum tax. See KRS 141.0401(5) and (7).

The Taxpayer argues that the returns were filed in the year they were due and that the fees were paid with the extensions not with the returns. The Department has no record of having received the 2005 and 2006 returns prior to ██████████ 2013. Moreover, the Department also has no record of having received extensions of time to file these returns.

Furthermore, both the tax returns and the payment of the tax were due by “the fifteenth day of the fourth month following the close of the taxpayer’s taxable year”. KRS 141.220; 141.160(1); 103 KAR 15:050 § 3. Since the Taxpayer failed to timely remit payment of the tax due, interest accrued and continues to accrue until the tax was paid. See KRS 141.220; 141.985; 131.183; 103 KAR 15:050 § 4. The Taxpayer is also liable for interest and penalties attributable to the failure to pay the tax due and the late filing of the tax return for the tax years in question. KRS 131.180(1) and (2).

After reviewing the available information, and the applicable statutes, it is the position of the Kentucky Department of Revenue that the outstanding corporation income tax assessments issued against ██████████, Inc. for tax years ended December 31, 2005, through December 31, 2006, are valid liabilities 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 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



Attorney Manager
Office of Legal Services for Revenue

CERTIFIED MAIL
RETURN RECEIPT REQUESTED