



ERNIE FLETCHER
GOVERNOR

DEPARTMENT OF REVENUE
FINANCE AND ADMINISTRATION CABINET
200 FAIR OAKS LANE
FRANKFORT, KENTUCKY 40620
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ROBBIE RUDOLPH
SECRETARY

In the matter of:

[REDACTED]
Protest of Motor Vehicle
Property Tax on 2003
1999 Ford F150 Pickup

Contact:

[REDACTED]

FINAL RULING NO. 2005-31
September 21, 2005

FINAL RULING

The Department of Revenue currently has an outstanding assessment for motor vehicle ad valorem or property taxes in the amount of \$ [REDACTED] for a 1999 Ford F150 Pickup owned by [REDACTED] ("the taxpayer"). A breakdown of the assessment is shown in the chart below:

Tax Year	Tax Due	Interest As of 9-15-2005	Penalty As of 9-15-2005	Total Due As of 9-15-2005
January 1, 2003	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

The Department of Revenue had discovered that the property taxes for the motor vehicle in question had not been assessed or paid for 2003 and accordingly issued the taxpayer the omitted assessment referred to above. For the reasons that follow, the taxpayer was properly assessed property tax for this vehicle.

Liability for ad valorem taxes on a motor vehicle is fixed by KRS 134.810(4), which states:

When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the owner pursuant to KRS 186.010(7)(a) and (c) on January 1 of any year shall be liable for the taxes on the motor vehicle...

Under KRS 186.010(7)(a), the owner of a motor vehicle is defined as “a person who holds legal title of a vehicle or a person who pursuant to a bona fide sale has received physical possession of the vehicle subject to any applicable security interest.”

The assessment in question is presumed to be valid and it is the taxpayer’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 the taxpayer, [REDACTED], purchased the motor vehicle in question on [REDACTED], 2002. No evidence has been presented by him that would establish that he did not have physical possession as of the January 1, 2003 assessment date.

The only issue that appears to be raised by the taxpayer is his assertion that the vehicle was not titled/registered to taxpayer on January 1, 2003 and no tax should be due. At the time of registration with the county clerk pursuant to 134.805(5), no ad valorem was collected. The taxpayer argues that he did not receive notice of this tax liability, that the title to the motor vehicle was not placed in his name until [REDACTED], 2003 and that the title to the motor vehicle was transferred out of his name on [REDACTED], 2003, after non-repairable damage from an accident. As already explained above, liability for the 2003 property tax does not hinge on title, but the holding of physical possession pursuant to a bona fide sale as of the January 1, 2003 assessment date. Other provisions of the property tax law, including the Kentucky Constitution, require that all personal property, which would include motor vehicles, 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. Every person is conclusively presumed to know the law: Oppenheimer v. Commonwealth, 305 KY146, 202 S.W. 2d 373, 375 (1947). The full force of this legal principle applies here. The motor vehicle in question was unquestionably not listed for taxation for the 2003 tax year, as it should have been, and thus has been properly assessed as omitted property.

Finally, the subsequent transfer of the motor vehicle in [REDACTED] 2003 does not affect the taxpayer’s liability for the 2003 property taxes on that vehicle. Liability for these taxes is based upon the January 1, 2003 ownership as of the January 1, 2003 assessment date. See, e.g., OAG 85-108; OAG 81-432. As we have seen above, the taxpayer was the owner of the motor vehicle as of the assessment date and therefore was liable for the 2003 property taxes notwithstanding the transfer of the motor vehicle after this date.

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

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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

