



ERNE FLETCHER
GOVERNOR

OFFICE OF THE SECRETARY
FINANCE AND ADMINISTRATION CABINET
383 CAPITOL ANNEX
FRANKFORT, KENTUCKY 40601
(502) 564-4240
(502) 564-6785 FAX

ROBBIE RUDOLPH
SECRETARY

In the matter of:

█ & █
Protest of Motor Vehicle
Property Tax For 2003
2003 Ford Explorer

Contact: █ & █
█

FINAL RULING NO. 2006-05
February 3, 2006

FINAL RULING

The Department of Revenue currently has an outstanding assessment for motor vehicle ad valorem or property taxes in the amount of \$ █ for a 2003 Ford Explorer owned by █ & █ ("the taxpayer"). A breakdown of the assessment is shown in the chart below:

Tax Year	Tax Due	Interest As of 2-02-2006	Penalty As of 2-2-2006	Total Due As of 2-2-2006
January 1, 2003	\$ █	\$ █	\$ █	\$ █

The Department of Revenue 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 taxpayers, █ & █, purchased the motor vehicle in question on █, 2002. No evidence has been presented by them that would establish that they 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 their assertion that they paid applicable taxes at the time of registration with the county clerk pursuant to KRS 134.805(5). At the time of registration with the county clerk pursuant to KRS 134.805(5), no ad valorem was collected. This procedure is not the exclusive and mandatory procedure for the ad valorem tax assessment of motor vehicles. Instead, this procedure has been instituted “[f]or the convenience and benefit of the Commonwealth’s citizens and to maximize ad valorem tax collections.” KRS 134.805(5)(a). 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. The motor vehicle in question was unquestionably not listed for ad valorem taxation for the 2003 tax year and thus has been properly assessed as omitted property.

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

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

