

Returned



**FINANCE AND ADMINISTRATION CABINET  
OFFICE OF THE SECRETARY**

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**John R. Farris**  
Secretary

In the matter of:

██████████ and ██████████  
Protest of Motor Vehicle  
Property Tax for 2006  
1998 Plymouth Voyager

Contact: ██████████ and ██████████  
██

FINAL RULING NO. 2006-96  
October 10, 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 1998 Plymouth Voyager owned by ██████████ and ██████████ ("the taxpayers"). A breakdown of the assessment is shown in the chart below:

Tax Year	Tax Due	Interest As of 10-9-2006	Penalty As of 10-9-2006	Total Due As of 10-9-2006
January 1, 2006	\$ ██████████	\$ ██████████	\$ ██████████	\$ ██████████

The Department of Revenue discovered that the property taxes for the motor vehicle in question had not been assessed or paid for 2006 and accordingly issued the taxpayer the omitted assessment referred to above. For the reasons that follow, the taxpayers were properly assessed property tax for this vehicle.

The Department of Revenue has determined that the taxpayers were residents of Kentucky as of January 1, 2006 who have registered their motor vehicle in ██████████ (License Plate # ██████████). Taxpayers have a home located at ██████████, Kentucky, ██████████ has a valid Kentucky operator's license issued in 2003 and the taxpayers filed a joint 2005 Kentucky Individual Income Tax Return. As Kentucky residents, the motor vehicle should have been registered in Kentucky in compliance with KRS 186.010(12) and KRS 186.020. KRS 186.010(12) defines a resident as any person who has established Kentucky as his

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or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement. The possession by an operator of a valid Kentucky operator's license shall be prima-facie evidence that the operator is a resident of Kentucky. The Department has not received any such documents. KRS 186.020 requires that all owners of motor vehicles operating a motor vehicle on Kentucky highways make application for registration within fifteen (15) days. KRS 186.150 states that the use of a license of any state other than Kentucky by a resident of this state on his car driven over Kentucky highways shall be prima facie evidence of guilt.

KRS 132.190(1)(a) requires the taxation of all personal property unless exempted by the Kentucky Constitution. This motor vehicle has not been exempted by the Kentucky Constitution.

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, ██████████ and ██████████, were residents of Kentucky as of the January 1, 2006 assessment date.

The only thing that the taxpayers state in response to the assessment is a statement that that they have a Post Office Box in Kentucky. Upon complying with KRS 186.020, the taxpayers would be required to pay the annual property tax on their motor vehicle at the time of registration renewal. Provisions of the property tax law, including the Kentucky Constitution, require that all personal property, which includes 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 2006 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 taxpayers ██████████ and ██████████.

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:

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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

