STEVEN L. BESHEAR
Governor

FINANCE AND ADMINISTRATION CABINET
DEPARTMENT OF REVENUE
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LORI HUDSON FLANERY
Secretary

THOMAS B. MILLER
Commissioner

In the matter of:

[redacted] LLC

Contact: [redacted]

FINAL RULING NO. 2012-20
May 10, 2012

Motor Vehicle Property Tax Assessment
Tax Years 2009 through 2011

FINAL RULING

The Kentucky Department of Revenue currently has outstanding motor vehicle property tax ("MOTAX") assessments against [redacted] and [redacted] in the amount of $[redacted] (plus applicable interest and penalty) for the assessment dates of January 1, 2009, January 1, 2010 and January 1, 2011. A breakdown of the assessments is shown in the chart below:

Assessment Date	Tax Due	Interest As of 05-10-2012	Penalty As of 05-10-2012	Total Due As of 05-10-2012
January 1, 2009	[redacted]	[redacted]	[redacted]	[redacted]
January 1, 2010				
January 1, 2011				
Totals	$[redacted]	$[redacted]	$[redacted]	$[redacted]

[redacted] and [redacted] have protested this assessment, asserting they do not own the motor vehicle in question. In fact, [redacted] and [redacted] are the only members of the limited liability company that holds title to the vehicle and are thus being treated as owners by virtue of this fact. At issue is whether [redacted] and [redacted] have complied with the requirements of KRS 131.110(1), which states in pertinent part:

> The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made.

The Kentucky courts have held that this statutory provision imposes upon a taxpayer protesting an assessment or a refund denial a legal duty to provide the Department with "something more substantial than mere denials of tax liability." Eagle Machine Co., Inc. v. Commonwealth ex rel. Gillis, 698 S.W.2d 528, 530 (Ky.App., 1985). In order to make a valid protest, a taxpayer must "provide financial statements, records or some other documentation that would allow the Revenue Department some basis for reconsideration." Id. at 529.

The courts have further held that KRS 131.110(1) is "mandatory in nature" and that failure to submit documentation as it requires will result in the taxpayer's loss of the right to further review of the assessment or refund denial in question. Scotty's Construction Co. v. Revenue Cabinet, 779 S.W.2d 234 (Ky.App., 1989). In both Scotty's Construction and Eagle Machine, the taxpayers failed to provide any substantial information in support of their denials of tax liability, despite being given ample opportunity to do. The same is true in this matter.

The Department of Revenue has offered [redacted] and [redacted] the opportunity to meet with Department officials in letters dated [redacted], 2012 and [redacted], 2012 in an effort to resolve the issue in dispute. [redacted] and [redacted] have not responded to these offers. Therefore, the outstanding MOTAX assessments totaling $[redacted] (plus applicable interest and penalties) are legitimate liabilities of [redacted] and [redacted] due to the Commonwealth of Kentucky.

This letter is the final ruling of the Kentucky 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.

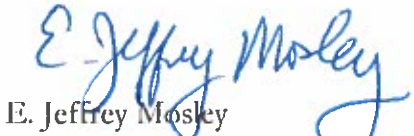
The petition of appeal must be in writing and signed by the petitioner or appellant. Filings by facsimile or other electronic means shall not be accepted.

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. Any party appealing a final ruling to the Board other than an individual, such as a corporation, limited liability company, partnership, joint venture, estate or other legal entity, shall be represented by an attorney in all proceedings before the Board, including the filing of the petition of appeal; 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,
FINANCE AND ADMINISTRATION CABINET



E. Jeffrey Mosley
Interim Executive Director
Office of Legal Services for Revenue

CERTIFIED MAIL
RETURN RECEIPT REQUESTED