

KENTUCKY REVENUE CABINET
DIVISION OF PROTEST RESOLUTION
P.O. BOX 3, 200 FAIR OAKS LANE
FRANKFORT KY 40602-0003
PHONE (502) 564-6734 FAX (502) 564-3788

January 7, 2004

In the matter of:

[REDACTED]

Contact:

[REDACTED]

FINAL RULING NO. 2004-02
January 6, 2004

Individual income tax assessments for
tax years 1991 through 1995.

FINAL RULING

The Kentucky Revenue Cabinet has issued individual income tax assessments against you for your refusal to file Kentucky individual income tax returns, forms 740, for tax years 1991 through 1995, and to pay the tax due for each year as required by KRS 141.020. Your Kentucky net income was calculated based upon information obtained from the Internal Revenue Service pursuant to I.R.C. §6301 and your Kentucky individual income tax liability was estimated in accordance with KRS 131.180(4). The following table provides a summary of the tax that you owe, interest accrued to date, and all applicable penalties.

Period	Tax	Interest	Penalty	Total
1991	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
1992	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
1993	\$ [REDACTED]	[REDACTED]	[REDACTED]	\$ [REDACTED]
1994	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
1995	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Totals	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]



AN EQUAL OPPORTUNITY EMPLOYER M/F/D

The penalties were assessed for each tax year due to your refusal to file tax returns (KRS 131.180(4)) and your failure to pay the tax due (KRS 131.180(2)). The interest amount reflected in the above table equals interest accrued through the date of this final ruling, however interest will continue to accrue until the tax liability for each year is paid in full.

In your protest of the assessments in this matter, you have taken the position that you are not a "Citizen of the Corporate State of Kentucky nor is the source of [your] compensation derived from possessions of the Corporate State of Kentucky."

KRS 141.020 levies an income tax on the entire net income of every resident individual of the Commonwealth of Kentucky, without limitation with regard to income received from the Commonwealth of Kentucky itself. KRS 141.010(17) defines the term "resident" to mean an individual domiciled within Kentucky. According to the information obtained by the Revenue Cabinet, you were a "resident" of the Commonwealth of Kentucky during each of the tax years at issue in this final ruling, and you are subject to Kentucky income tax pursuant to KRS 141.020.

The arguments that you have submitted in support of your protest concerning the inapplicability of the income tax to you has been universally rejected by a number of courts, See, eg., United States v. Gerads, 999 F.2d 1255 (8th Cir. 1993)(wages are income under the Internal Revenue Code, payment of income taxes is not voluntary); Ficalora v. Commissioner, 751 F.2d 85 (2nd Cir. 1984) (26 U.S.C. § 1 clearly imposes a tax for which taxpayers are liable); Porth v. Broderick, 214 F.2d 925 (10th Cir. 1954) (income tax is not involuntary servitude under the 13th Amendment); United States v. Sloan, 939 F.2d 499 (7th Cir. 1991) (revenue laws impose tax on all income); Cullinane v. Commissioner, 77 T.C.M. (CCH) 1192 (T.C. 1999) (taxpayer liable for income tax regardless of whether taxpayer received a privilege or license on which traditional excise tax could be imposed); Aiello v. Commissioner, 66 T.C.M. (CCH) 1201 (rejecting Illinois resident's argument that he was not a citizen of the United States).

For the reasons provided above, you are a resident of the Commonwealth of Kentucky and you are subject to Kentucky income tax upon your net income. The tax assessments issued against you for tax years 1991 through 1995, including all accrued interest and penalties assessed pursuant to KRS 131.180, are valid liabilities due the Commonwealth of Kentucky. This is the final ruling of the Kentucky Revenue Cabinet.

You may appeal this 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 ruling, you must file your complaint or petition of appeal with the Clerk, Kentucky Board of Tax Appeals, 128 Brighton Park Boulevard, Frankfort, Kentucky 40601, within thirty (30) days from the date of this letter. The rules of the Kentucky Board of Tax Appeals, which are set forth in 802 KAR 1:010, require that the complaint or petition of appeal must:

1. Be filed in quintuplicate;
2. Contain a brief statement of the law and facts in issue;
3. State the petitioner's position regarding the law, facts or both; and
4. Include a copy of this final ruling letter with each copy of the complaint or petition.

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,
KENTUCKY REVENUE CABINET



GEORGE D. RENFRO
Assistant Director
Division of Protest Resolution

CERTIFIED MAIL
RETURN RECEIPT REQUESTED