



ERNIE FLETCHER
GOVERNOR

DEPARTMENT OF REVENUE
FINANCE AND ADMINISTRATION CABINET
200 FAIR OAKS LANE
FRANKFORT, KENTUCKY 40620
www.kentucky.gov

ROBBIE RUDOLPH
SECRETARY

In the matter of:

[REDACTED]

Contact:

[REDACTED]

FINAL RULING NO. 2004-09
June 10, 2004

Individual income tax assessments for
tax years 1998, 1999, and 2000

FINAL RULING

The Kentucky Department of Revenue (successor to the Kentucky Revenue Cabinet; hereinafter the "Department") has issued individual income tax assessments against you for taxable years 1998, 1999, and 2000 totaling \$ [REDACTED] plus applicable interest and penalties for your failure to file Kentucky individual income tax returns, forms 740, and to pay the tax due for each year as required by KRS 141.020. The following table provides a breakdown of the amount of tax due, all assessed fees and penalties, as well as accrued interest as of the date of this final ruling.

Tax Year	Tax Due	Interest	Penalties	Total
1998	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
1999	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2000	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Totals	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

The Department obtained information from the Internal Revenue Service pursuant to Internal Revenue Code § 6103 and other applicable law. The information indicated that you had taxable income for the years 1998, 1999 and 2000 and that you were a resident of Kentucky for those years. Based upon this information, the Department issued the individual income tax assessments described above. The penalties were assessed for each tax year for failure to file tax returns (KRS 131.180(4)) and for failure to pay the tax due (KRS 131.180(2)).

In response to the assessment, you sent a letter, dated October 22, 2003, to the Department requesting, among other things,:

1. A copy of the document(s) that COMMONWEALTH OF KENTUCKY and/or [a Department employee] rely upon to determine that Declarant has a legal, lawful duty to COMMONWEALTH OF KENTUCKY and/or [a Department employee].

2. A copy of the document(s) that COMMONWEALTH OF KENTUCKY and/or [a Department employee] rely upon to determine that Declarant has a legal, lawful obligation to COMMONWEALTH OF KENTUCKY and/or [a Department employee].

3. A copy of the document(s) that COMMONWEALTH OF KENTUCKY and/or [a Department employee] rely upon to determine that Declarant has a legal, lawful liability to COMMONWEALTH OF KENTUCKY and/or [a Department employee].

4. A copy of the document(s) that COMMONWEALTH OF KENTUCKY and/or [a Department employee] rely upon to determine that Declarant has a legal, lawful debt to COMMONWEALTH OF KENTUCKY and/or [a Department employee]. . . .

7. A copy of the document(s) that authorizes any authority to the COMMONWEALTH OF KENTUCKY to apply its taxing powers to any person who is not an officer and/or agency and/or instrumentality of STATE OF KENTUCKY.

8. A copy of the document(s) that identifies the authority that COMMONWEALTH OF KENTUCKY has to compel involuntary servitude in the form of causing Declarant to work a percentage of Declarants [sic] productive time for the profit, gain and enrichment of the State.

The letter contained no information indicating you were not a Kentucky resident during the years 1998, 1999, and 2000 or that you did not receive the income assessed by the Department.

KRS 141.020(1)(a) states, in part, as follows:

"An annual tax shall be paid for each taxable year by every resident individual of this state upon his entire net income as defined in this chapter..."

KRS 131.110(1) and (3) state in part, as follows:

- (1) The Revenue Cabinet shall mail to the taxpayer a notice of any tax assessed by it. The assessments shall be due and payable if not protested in writing to the cabinet within forty-five (45) days from the date of notice. The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made..."
- (3) After considering the taxpayer's protest, including any matters presented at the final conference, the cabinet shall issue a final ruling on any matter which may still be in controversy, which shall be mailed to the taxpayer..."

It is the opinion of the Department that the assessment of tax is authorized by the provisions of KRS Chapter 141 and supported by the information in the possession of the Department. The only response you have made to the assessments contains no information to indicate the assessments or the information in the Department's possession is incorrect.

The information upon which the Department relies in this matter has been forwarded to you and your allegations concerning the scope of the Commonwealth's taxing power are incorrect. See, e.g., KRS 141.020(1)(a), Porth v. Brodrick, 214 F.2d 925 (10th Cir. 1954) (income tax is not involuntary servitude under the 13th Amendment).

For the reasons provided above, the individual income tax assessments issued against you for taxable years 1998, 1999, 2000 are valid liabilities due the Commonwealth of Kentucky. After reviewing your protest, and the applicable statutes and case law, this is the final ruling of the Department.

APPEAL

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:

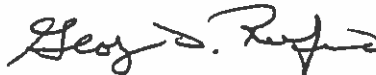
1. Be filed in quintuplicate;
2. Contain a brief statement of the law and facts in issue;
3. State the petitioner's position regarding the law, facts or both; and
4. Include a copy of this final ruling letter with each copy of the complaint or petition.

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,
FINANCE AND ADMINISTRATION CABINET


GEORGE D. RENFRO
Assistant Director
Division of Protest Resolution

CERTIFIED MAIL
RETURN RECEIPT REQUESTED