



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:

Contact:

FINAL RULING NO. 2004-12
June 2, 2004

Denial of 2002 Application for Income Tax Credit for
Recycling and/or Composting Equipment
Tax year 2002

FINAL RULING

The Department of Revenue denied your 2002 application for Income Tax Credit for Recycling and/or Composting Equipment in the amount of \$ [REDACTED] for the litter shed.

KRS 141.390(2) states in part, that a taxpayer who purchases recycling or composting equipment to be used exclusively within this state for recycling or composting post consumer waste materials shall be entitled to a credit against the income taxes imposed in Chapter 141.

At issue is the disallowance of the tax credit. You stated in your letter of protest dated [REDACTED], 2003 that the single purpose structure erected in November 2002 is solely for the purpose of composting litter generated by the process of raising chickens. You went on to state that the verbiage used in your "Supplement to Schedule RC" submitted with your original application may have given the impression that this was a storage facility.

KRS 141.390(c) states, "Composting equipment" means any equipment used in a process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in an environmentally acceptable manner.

Your letter of protest dated [REDACTED], 2003 described in vague detail what the building did to compost the litter, such as providing a longer period of decomposition. However, the

process described appears to be in the nature of storage rather than composting. Further, the litter does not appear to fit within the statutory definition of post consumer waste materials.

Based on the information submitted, the Department of Revenue determined that the building was not "Composting Equipment" as meant under KRS 141.390, but rather a storage facility. Therefore, the denial of your 2002 Application for Income Tax Credit for Recycling and/or Composting Equipment in the amount of \$ [REDACTED] is correct.

This letter is the final ruling of the Department of Revenue.

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