



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: ██████████ and ██████████

FINAL RULING NO. 2005-37  
October 18, 2005

Individual income tax assessments  
for the periods ended  
December 31, 1998 through 2000

**FINAL RULING**

The Kentucky Department of Revenue has issued individual income tax assessments against you for the taxable years 1998, 1999, and 2000 totaling \$██████████ plus applicable interest. At issue are adjustments made to your 1998, 1999 and 2000 individual tax returns by the Department of Revenue that disallowed the deductions for non-cash contributions claimed as Itemized Deductions on Schedules A. The following table provides a breakdown of the amount of tax due as well as accrued interest calculated through June 20, 2005, however interest will continue to accrue.

Tax Year	Notice Number	Tax Due	Interest	Total
1998	██████████	\$██████████	\$██████████	\$██████████
1999	██████████	\$██████████	\$██████████	\$██████████
2000	██████████	\$██████████	\$██████████	\$██████████
<b>Total</b>		\$██████████	\$██████████	\$██████████

Chapter 141 of the Kentucky Revised Statutes pertains to income taxes. The definitions for the chapter are found in KRS 141.010.

KRS 141.010(3) states:

“Internal Revenue Code’ means the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on

December 31, 2001, that would otherwise terminate, and as modified by KRS 141.0101;”

KRS 141.010(9) and (10) define “gross income” and “adjusted gross income” to mean the following:

KRS 141.010(9) states:

“Gross income’ in the case of taxpayers other than corporations means “gross income” as defined in Section 61 of the Internal Revenue Code;”

KRS 141.010(10) states in part:

“Adjusted gross income’ in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101...”

Internal Revenue Code Section 170 allows a taxpayer to deduct a charitable contribution. Code section 170(a)(1) states:

“General rule. There shall be allowed as a deduction any charitable contribution (as defined in subsection (c)) payment of which is made with the taxable year. A charitable contribution shall be allowable as a deduction only if verified under regulations prescribed by the secretary.”

Upon review of your 1998 through 2000 Kentucky individual income tax return, the Department of Revenue requested that you provide additional information regarding the amounts claimed as non-cash contributions on the corresponding Schedules A. The Department of Revenue stated that IRS Forms 8283, Non-cash Charitable Contributions, were incomplete because details such as date acquired, how acquired, and basis in the property were not provided. Therefore, assessments were issued for 1998, 1999, and 2000.

In addition, you requested a compromise of the assessment and an informal conference to discuss your case. Based on these requests, the Division of Protest Resolution asked for dates that would be convenient for conference in letters dated ██████████, 2004, ██████████, 2004, and ██████████, 2004 but no response was received.

After reviewing your protest, and the applicable statutes and regulations, it is the position of the Kentucky Department of Revenue that the individual income tax assessments issued against you for the tax years 1998, 1999, and 2000 of \$██████████, plus accrued interest are legitimate liabilities due the Commonwealth of Kentucky. This is a 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:

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



