

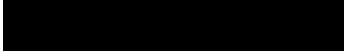


ERNIE FLETCHER
GOVERNOR

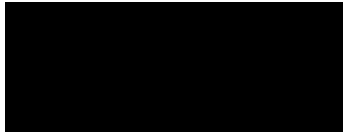
OFFICE OF THE SECRETARY
FINANCE AND ADMINISTRATION CABINET
383 CAPITOL ANNEX
FRANKFORT, KENTUCKY 40601
(502) 564-4240
(502) 564-6785 FAX

ROBBIE RUDOLPH
SECRETARY

In the matter of:



Contact:



FINAL RULING NO. 2005-42
October 18, 2005

Individual income tax assessments for
tax years 1982 - 1991

FINAL RULING

The Kentucky Department of Revenue has issued individual income tax assessments against you for the taxable periods ended December 31, 1982 through December 31, 1991 totaling \$ [REDACTED] plus applicable interest and penalties. 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
1982	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
1983	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
1984	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
1985	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
1986	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
1987	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
1988	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
1989	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
1990	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
1991	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Totals	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Bills were prepared based on Internal Revenue Service adjustments for the taxable years 1982 through 1991 on April 4, 1997. In response to the taxpayer's protest, the bills were held in abeyance pending further action by the Internal Revenue Service. In letters dated [REDACTED], 1998 and [REDACTED], 2000, this office inquired about the status of the taxpayer's case with the federal courts and the Internal Revenue Service. The taxpayer responded by sending revised Federal Audit Adjustments. The taxpayer was assessed with the fraud penalty. This office sent letters dated [REDACTED], 2002, [REDACTED], 2002, and [REDACTED], 2003 requesting documentation showing the progress with the federal courts and the Internal Revenue Service. In a letter dated [REDACTED], 2003, taxpayer responded that he withdrew his appeal with the federal court and made a compromise offer to the Internal Revenue Service of \$[REDACTED] which was the balance of his IRA account. The taxpayer claimed that he has no other assets and that he lives with his daughter's family receiving a \$[REDACTED] social security check and a \$[REDACTED] disability check monthly.

In a letter dated [REDACTED], 2003, the taxpayer was asked if the Internal Revenue Service responded to the compromise offer, what was the status of the case with the Internal Revenue Service, and if he wanted to pursue his protest with the Department of Revenue. The taxpayer responded on [REDACTED], 2003 that the Internal Revenue Service had not responded to the compromise offer and the protest was withdrawn with the compromise offer. The taxpayer requested that the case be held in abeyance pending final resolution with the Internal Revenue Service. In addition, the taxpayer wrote that he would personally notify this office of the final determination. A letter dated [REDACTED], 2003 was sent to the taxpayer confirming that the case was being held in abeyance and requested that the taxpayer advise this office of any information he receives from the Internal Revenue Service concerning the compromise offer.

A letter was sent dated [REDACTED], 2004 stating that this office had not received an update from the taxpayer and the bills for the years 1982 through 1991 remain unpaid. The taxpayer responded [REDACTED], 2004 claiming that an Internal Revenue Service agent had visited and advised the taxpayer's accountant that the outstanding tax liabilities were uncollectible. A letter dated [REDACTED], 2004 was sent by this office informing the taxpayer that unless he requested a conference, a final ruling would be prepared. The taxpayer did not respond, so a second letter was sent dated [REDACTED], 2005 stating that the taxpayer could request an "Offer in Settlement." The taxpayer has not responded.

The taxpayer was granted additional time to submit further information of the contested issues. However, the taxpayer never submitted further information. In Eagle Machine Company, Inc. v. Commonwealth ex rel Gillis, Ky.App., 698 S.W.2d 528 (1985), the Court held, inter alia, that

"...in a protest to a tax assessment, a taxpayer has an obligation to provide financial statements, records or some other documentation that would allow the Revenue Department some basis for reconsideration. In the instant case,

despite requests for such information by the appellee, Eagle Machine failed to supply any significant documentation in support of its contention that the assessments were in error.”

Then in Scotty's Construction Company, Inc. v. Commonwealth of Kentucky Revenue Cabinet, Ky.App., 779 S.W. 234 (1989), the Court mentions, “...the circuit court which held that Scotty's failure to submit documentation as required by the statute before the issuance of the final ruling had the effect of failure to preserve appellant's right to review the assessment and on the strength of Eagle Machine set aside the Board's order and reinstated the determination of Revenue.”

The Division of Protest Resolution granted [REDACTED] extensions in letters dated [REDACTED], 2002, [REDACTED], 2002, [REDACTED], 2003, [REDACTED], 2003, [REDACTED], 2003, [REDACTED], 2004, [REDACTED], 2004, and [REDACTED], 2005 to provide documentation to supports his protest. However, the taxpayer failed to respond or submit any documentation that would allow the Cabinet a basis for reconsideration of the tax liabilities.

After reviewing the applicable statutes and case law, it is the position of the Finance Cabinet that the individual income tax assessments issued against the taxpayer for the years 1982 through 1991 are valid liabilities due the Commonwealth of Kentucky.

This letter is the 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

