



FINANCE AND ADMINISTRATION CABINET
OFFICE OF THE SECRETARY

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John R. Farris
Secretary

In the matter of:

[REDACTED]

Contact:

[REDACTED]

FINAL RULING NO. 2006-58
August 23, 2006

Individual income tax assessments
for the periods ended
December 31, 1998, December 31, 1999 & December 31, 2000

FINAL RULING

The Kentucky Department of Revenue (successor to the Kentucky Revenue Cabinet) has issued individual income tax assessments against you for the taxable years 1998, 1999 and 2000 totaling \$ [REDACTED], plus applicable interest, fees and penalty. The following table provides a breakdown of the amount of tax due and the accrued interest as of the date of this final ruling.

Tax Period	Tax	Interest	Fees	Penalty	Total
1/01/93-12/31/98	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
1/01/95-12/31/99	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
1/01/96-12/31/00	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Totals	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

The Kentucky Department of Revenue, Division of Field Operations, conducted an examination of [REDACTED] records and Kentucky Individual Income Tax Returns filed for the years in question. [REDACTED] is sole owner and operator of [REDACTED] Inc. and [REDACTED] located in [REDACTED], KY. [REDACTED] performs general bookkeeping for not only the restaurant, but also [REDACTED]. Per the Agents' Narrative, additional documents were requested during the examination but none were submitted. On [REDACTED], 2003, the Department of Revenue sent [REDACTED] an Agents' Narrative and supporting schedules reflecting adjustments to [REDACTED]' individual income tax returns.

At issue in the field audit was the reporting of rental receipts on Federal Schedule E. [REDACTED] reported rental receipts for [REDACTED] on a Schedule E. These receipts are for the rental of the [REDACTED] party rooms. Catering receipts generated from the party lodge are reported on the returns for [REDACTED] Inc. Sales taxes collected on the catering receipts are reported under [REDACTED] Inc. Bank statements for the party lodge were reviewed. Deposits for each month were totaled by year. The deposits for each year were compared to the annual rental receipts reported on the Federal Schedule E. For tax periods 1998 and 2000, there were large differences between the amounts reported on the Federal Schedule E and the total deposits per year. Adjustments were made for the differences calculated.

Also at issue was the reporting of rental income. During the course of the sales tax audit and corporate income tax audit, it was discovered that [REDACTED] also rented out apartments and small homes. There were no rental receipts reported for the rental of either the apartments or small homes. An adjustment was made for all periods under audit to increase Gross Income by these rental receipts.

These adjustments were made in accordance with KRS 141.010(10) which provides:

“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 ...

On [REDACTED], 2003, [REDACTED] Attorney at Law, submitted a letter of protest on behalf of [REDACTED]. On May 1, 2003, the Department followed up the letter of protest with a request for a supporting statement setting forth the grounds upon which the protest was made. The Department of Revenue received a supporting statement on [REDACTED], 2003. The supporting statement included an attachment representing rental income for the years in question. The attachment illustrated the taxpayer’s position that the field audit misrepresented rental income. The attachment to the supporting statement led to a request for more information. On [REDACTED], 2005, the Department requested rental agreements and receipts of rental payments. The Department made a second request for this information on [REDACTED], 2005. The requests were not fulfilled.

After reviewing the available information, and the applicable statutes and case law, it is the position of the Kentucky Department of Revenue that the outstanding individual income tax assessments issued against [REDACTED] for the 1998, 1999 and 2000 tax years 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

cc: [REDACTED]

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

