



STEVEN L. BESHEAR
Governor

FINANCE AND ADMINISTRATION CABINET
DEPARTMENT OF REVENUE

JONATHAN MILLER
Secretary

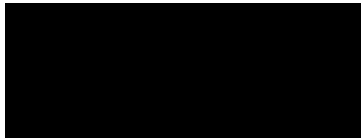
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THOMAS B. MILLER
Commissioner

In the matter of:



Contact:



FINAL RULING NO. 2008-90
December 30, 2008

Individual Income Tax Assessment for
Tax Years 1999 through 2005

FINAL RULING

The Kentucky Department of Revenue (the "Department") has individual income tax assessments against you for the taxable periods January 1, 1999 through December 31, 2005 in the amount of \$ [REDACTED], plus applicable interest and penalties. The "late pay" penalty is assessed in accordance with KRS 131.180(2) and the "failure to file" penalty is assessed in accordance with KRS 131.180(4). The following table provides a breakdown of the amount of tax due for each periods, all assessed penalties, as well as accrued interest as of December 12, 2008. Interest will continue to accrue daily on the unpaid balance.

Tax Period	Tax	Interest	Penalties	Total
1999	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2000	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2001	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2002	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2003	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2004	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2005	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

At issue is whether you are subject to Kentucky individual income tax imposed on Kentucky residents in accordance with KRS 141.020(1). KRS 141.020(1) states:

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. The tax shall be determined by applying the rates in subsection (2) of this section to net income and subtracting allowable tax credits provided in subsection (3) of this section.

You have timely protested the assessments and it is your position that you were not a Kentucky resident prior to or during the periods in question.

The Department determined in the course of an audit that you purchased a home at [REDACTED] in [REDACTED], Kentucky to be used as your primary residence and domicile. The Department further maintains that you never have abandoned that residence.

In conducting the audit, Department auditors interviewed your neighbors who stated that you resided at [REDACTED] in [REDACTED], Kentucky. A Department auditor also interviewed employees of [REDACTED] where you were employed and they stated that you were a Kentucky resident.

A meeting was held on [REDACTED], 2007 at [REDACTED]'s office, among [REDACTED], (your CPA); [REDACTED], (your attorney); [REDACTED], Audit Supervisor for the Department and [REDACTED], lead auditor for the Department. Your attorney and your CPA stated that you were indeed a Kentucky resident once they were confronted with evidence that corroborate the facts.

On [REDACTED], 1996, you signed an Application for Exemption under the Homestead/Disability Amendment ("HEX"). This exemption allowed you to forgo the property tax liability you would have had to otherwise pay on the property located at [REDACTED]. The years in which this HEX was in effect were for the tax periods January 1, 1995 through December 31, 1999. The explanation of the terms of this application clearly state that the applicant must own, occupy and maintain a residential unit for such exemption to apply. You signed the affixed affidavit under penalty of perjury that you were the owner of the property identified on the application and that you occupied and maintained this property as your primary personal residence. This application covered one of the years at issue in your protest and there is no indication that you abandoned the [REDACTED] property as your primary residence.

During the course of the field audit, your federal individual income tax returns were examined. Each return reported rental income or losses on property located in [REDACTED] County, Kentucky. This is Kentucky source income and should have been reported to

Kentucky on a Kentucky income tax return, regardless of whether you were a Kentucky resident, which in any event was the case here. [See 103 KAR 17:060 Sections 1 and 4(1)]

The amount of tax, interest, and penalties referenced above are legitimate liabilities due to the Commonwealth.

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:

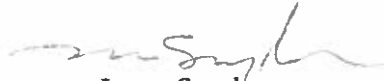
1. An individual may represent himself in hearings before the Board;
2. An individual who is not an attorney may not represent any other individual, corporation, trust, estate, or partnership before the Board; and
3. An attorney who is not licensed to practice in Kentucky may practice before the Board if he complies with Rule 3.030(2) of the Rules of the Kentucky Supreme Court.

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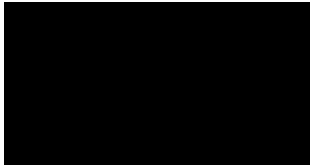
You will be notified by the Clerk of the Board of the date and time set for any hearing.

Sincerely,
FINANCE AND ADMINISTRATION CABINET



Jason Snyder
Executive Director
Office of Legal Services for Revenue

cc:



CERTIFIED MAIL
RETURN RECEIPT REQUESTED