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LORI HUDSON FLANERY
Secretary

THOMAS B. MILLER
Commissioner

In the matter of:

██████████ and ██████████

Contact: ██████████ and ██████████
██████████

FINAL RULING NO. 2012-13
February 23, 2012

Denial of 2009 New Home Tax Credit Application

FINAL RULING

The Department of Revenue ("the DOR") has denied the application for a new home tax credit submitted by ██████████ and ██████████ pursuant to KRS 141.388. This application, which was received by the DOR on May 16, 2011, states that the new home was purchased on ██████████ 2010. The sole basis of the DOR's denial of the credit is that this application was not submitted to the DOR in a timely manner.

The statute creating the new home tax credit unambiguously states:

Within seven (7) calendar days after the purchase of a qualified principal residence, the qualified buyer shall submit via fax a completed application for the new home tax credit on forms provided by the department, except that any qualified buyer who purchased a qualified principal residence after November 6, 2009, but before June 4, 2010, shall have thirty (30) calendar days from June 4, 2010, to submit via fax a completed application.

KRS 141.388(2)(c). Furthermore, KRS 141.388(4) provides:

The application for the new home tax credit shall be void if:

* * * * *

- (b) The application is not received within seven (7) calendar days from the purchase;

* * * * *

██████████ and ██████████ do not dispute the fact that their application failed to meet the deadline specified above in KRS 141.388(2)(c) and (4)(b). They assert that they knew nothing about the credit until tax time in 2011. They further state that the real estate agent did not inform them of the availability of the credit.

The law is clear, however, that “[e]very person is conclusively presumed to know the law.” Oppenheimer v. Commonwealth, 305 Ky. 147, 202 S.W.2d 373, 375 (1947). Our state’s highest court long ago observed that

[t]here is a maxim as old as the law itself, *ignorantia legis neminem excusat*, ‘ignorance of the law excuses no one’, 42 C.J.S. page 380. This is a rule of necessity, otherwise ignorance of the law would furnish immunity from punishment for violations of the Criminal Code and immunity from liability for violations of personal and property rights. Topolewski v. Plankington, 143 Wis. 52, 73, 126 N.W. 554, 561. In Logsdon v. Haney, 74 S.W. 1073, 25 Ky. Law Rep. 245, it was written that this maxim has been applied with the same rigor in this jurisdiction as elsewhere, and that one’s non-action through ignorance of the law could not be allowed to extend or enlarge his legal rights.

Freeman v. Louisville & Jefferson Planning & Zoning Comm’n, 380 Ky. 360, 214 S.W.2d 582, 583 (1948). In this case, the plaintiff argued that it was not aware of an amendment to a law shortening its time to file an appeal. The court rejected that argument, holding that

like all changes made in the law by the Legislature, it was necessary for the litigants to keep themselves informed thereof—ignorance on the part of a litigant of a change the Legislature has made in the law will not excuse him from its effect nor allow him to extend or enlarge his legal rights.

Id. at 584. By the same token, ignorance of the deadline for submission of the application of the new home tax credit and of the procedure for obtaining that credit cannot permit the DOR to overlook non-compliance with that deadline. It was incumbent upon ██████████ and ██████████ to acquaint themselves with the law instead of relying upon the advice of others. The law unambiguously imposes the duty upon ██████████ and ██████████, as qualified buyers, to submit the application for the credit in a timely manner. KRS 141.388(2)(c).

For the reasons stated above, the new home tax credit was properly denied pursuant to KRS 141.388(2)(c) and (4)(b).

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 40601-3714, 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 3 of 802 KAR 1:010:

1. An individual may represent himself in any proceedings before the Board where his individual tax liability is at issue or he may obtain an attorney to represent him in those proceedings;
2. An individual who is not an attorney may not represent any other individual or legal entity in any proceedings before the Board;
3. Any party appealing a final ruling to the Board other than an individual, such as a corporation, limited liability company, partnership, joint venture, estate or other legal entity, shall be represented by an attorney in all proceedings before the Board, including the filing of the petition of appeal; and
4. An attorney who is not licensed to practice in Kentucky may practice before the Board only if he complies with Rule 3.030(2) of the Rules of the Kentucky Supreme Court.

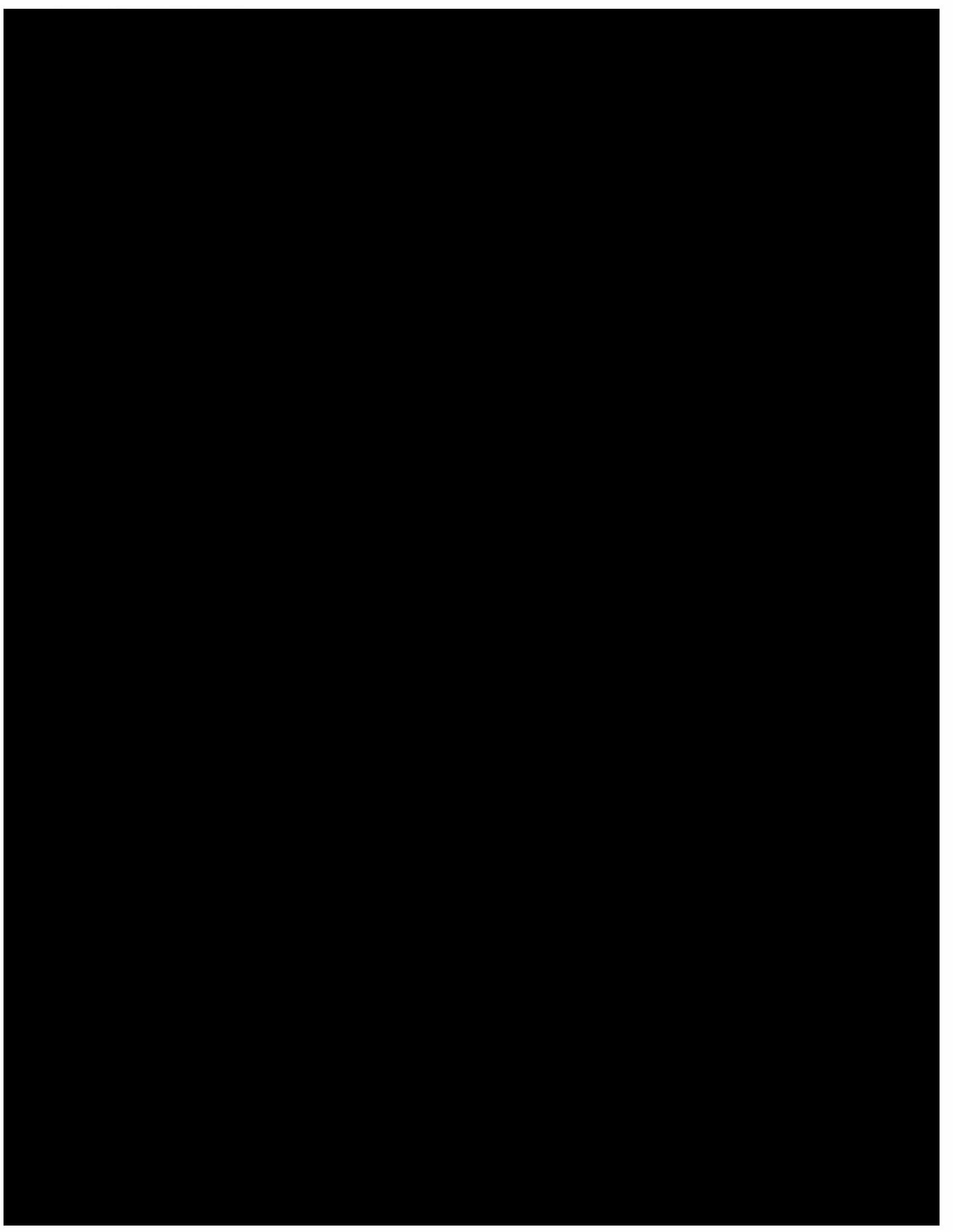
You will be notified by the Clerk of the Board of the date and time set for any hearing.

Sincerely,
FINANCE AND ADMINISTRATION CABINET



E. Jeffrey Mosley
Interim Executive Director
Office of Legal Services for Revenue

CERTIFIED MAIL
RETURN RECEIPT REQUESTED



The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry, no matter how small, should be recorded to ensure the integrity of the financial data. This includes not only sales and purchases but also expenses and income. The document provides a detailed list of items that should be tracked, such as inventory levels, accounts payable, and accounts receivable. It also outlines the procedures for recording these transactions, including the use of double-entry bookkeeping to ensure that the books are balanced.

The second part of the document focuses on the analysis of the financial data. It explains how to calculate key financial ratios and metrics, such as the gross profit margin, operating profit margin, and return on investment. These metrics are used to evaluate the company's performance and identify areas for improvement. The document also discusses the importance of comparing the company's performance to industry benchmarks and competitors. This helps to provide context and identify trends in the market.

The third part of the document addresses the preparation of financial statements. It provides a step-by-step guide to creating the income statement, balance sheet, and cash flow statement. It explains the relationship between these statements and how they provide a comprehensive view of the company's financial health. The document also discusses the importance of auditing the financial statements to ensure their accuracy and reliability. It provides information on the different types of audits and the role of auditors in the process.

The final part of the document discusses the use of financial data for decision-making. It explains how the information provided in the financial statements can be used to make strategic decisions about the company's future. This includes decisions about investment opportunities, capital structure, and operational efficiency. The document also discusses the importance of communicating the financial information to stakeholders, such as investors, creditors, and management. It provides tips on how to present the information in a clear and concise manner that is easy to understand.