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LORI HUDSON FLANERY
Secretary

THOMAS B. MILLER
Commissioner

In the matter of:

[REDACTED]

Contact:

[REDACTED]

FINAL RULING NO. 2013-37
June 14, 2013

Denial of Individual Income Tax Refund Claims for Tax Years 2003-2007

FINAL RULING

The Kentucky Department of Revenue ("the Department") has denied the individual income tax refund claims submitted by [REDACTED] ("the Taxpayer"). The amount of the refund claims and the tax years to which the claim relates are set forth in the table below:

Taxable Year	2003	2004	2005	2006	2007	Total
Tax	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

The refund claims in question were asserted on Kentucky returns (Forms 740-X) filed on [REDACTED], 2012, in which the Taxpayer requested refunds of Kentucky individual income tax paid for 2003-2007. The Taxpayer asserts that during these years he had paid tax on all of his pension income and social security income which were partially or wholly nontaxable to Kentucky.

The Department denied the Taxpayer's refund claims as untimely under the applicable statute of limitations, which he has protested in accordance with KRS 131.110 and 134.580(3). See also KRS 141.235(2).

The statute that governs the Taxpayer's refund claims is KRS 134.580. See KRS 141.235(2). Subsection 3 of KRS 134.580 specifically states:

No refund shall be made unless each taxpayer individually files an application or claim for the refund within four (4) years from the date payment was made. Each claim or application for a refund shall be in writing and state the specific grounds upon which it is based. Denials of refund claims or applications may be protested and appealed in accordance with KRS 131.110 and 131.340.

KRS 134.580(5) further states:

Nothing in this section shall be construed to authorize the agency to make or cause to be made any refund except within four (4) years of the date prescribed by law for the filing of a return including any extension of time for filing the return, or the date the money was paid into the State Treasury, whichever is the later, except in any case where the assessment period has been extended by written agreement between the taxpayer and the department, the limitation contained in this subsection shall be extended accordingly. Nothing in this section shall be construed as requiring the agency to authorize any refund to a taxpayer without demand from the taxpayer, if in the opinion of the agency the cost to the state of authorizing the refund would be greater than the amount that should be refunded or credited.

103 KAR 15:040 section 3 (1) specifically states:

Payments received on or after January 1, 1966 may be refunded or credited within four (4) years from the due date of the return or the date the tax was paid, whichever is later.

All of the refund claims in question were submitted on [REDACTED], 2012, more than four years after the due dates of the returns and payment of the tax due for the taxable years that are the subject of the refund claims. See also KRS 141.160(1). Therefore, under the statutory provisions referred to or quoted above, the denial of the Taxpayer's refund claims was correct.

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

