



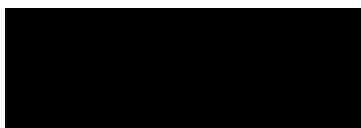
**STEVEN L. BESHEAR**  
Governor

**FINANCE AND ADMINISTRATION CABINET**  
**DEPARTMENT OF REVENUE**  
501 HIGH STREET  
FRANKFORT, KENTUCKY 40620  
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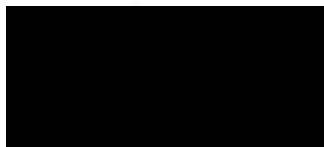
**LORI HUDSON FLANERY**  
Secretary

**THOMAS B. MILLER**  
Commissioner

In the matter of:



Contact:



FINAL RULING NO. 2013-48  
September 18, 2013

Denial of Refund

FINAL RULING

██████████ had an unpaid Kentucky state income tax liability relating to the 2005 calendar year. For calendar year 2005, ██████████ filed a joint return with her then husband.

██████████ also had an unpaid federal income tax liability relating to the 2005 calendar year, and her federal return also was filed jointly with her then husband. She requested innocent spouse relief from the Internal Revenue Service ("IRS"), and that was granted on ██████████, 2012. She never contacted the Kentucky Department of Revenue (the "Department") to request innocent spouse relief or to notify it of the IRS's actions. In ██████████ of 2013, the Department offset a federal income tax refund to ██████████ in the amount of \$██████████. Following the offset, ██████████ contacted the Department and requested that the Department refund the \$██████████.

KRS 141.180(4)(a) provides as follows:

(4) Notwithstanding any other provisions of KRS Chapters 131 and 141, a husband or a wife who is jointly and severally liable for taxes levied under KRS 141.020, applicable penalties, and interest shall be relieved of liability for tax, interest, penalties, and other amounts if:

(a) The spouse has been relieved of liability for federal income tax, interest, penalties, and other amounts for the same taxable year by the Internal Revenue Service under Section 6015 of the Internal Revenue Code; or

Thus, under KRS 141.180(4), Kentucky generally follows the Internal Revenue Service when it comes to granting relief. However, KRS 141.180(5) adds, "Any relief granted pursuant to paragraphs (a) and (b) of subsection (4) of this section shall *not* result in a tax *overpayment* to the spouse requesting relief." (Emphasis added). Because Kentucky already had collected on [REDACTED]'s 2005 debt when [REDACTED] informed the Kentucky Department of Revenue of the grant of Innocent Spouse Relief by the Internal Revenue Service, the Department is prevented from granting [REDACTED]'s request for relief to the extent of the amount previously collected. This is because, if Kentucky did grant that relief with respect to the 2005 tax year, [REDACTED] would be found to have overpaid her tax for that year and be due a refund. KRS 141.180(5) prevents the Department from refunding money already collected.

Based upon the foregoing, and after considering the information presented by [REDACTED] it is held that, pursuant to KRS 141.180(5), [REDACTED] is not entitled to a refund of the amount that Kentucky offset from her federal income tax refund.

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,

DEPARTMENT OF REVENUE

A handwritten signature in black ink, appearing to read "Stephen Crawford". The signature is fluid and cursive, with the first name "Stephen" being more prominent than the last name "Crawford".

Stephen Crawford  
Assistant General Counsel

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED