



STEVEN L. BESHEAR  
Governor

FINANCE AND ADMINISTRATION CABINET  
DEPARTMENT OF REVENUE  
501 HIGH STREET  
FRANKFORT, KENTUCKY 40620  
Phone (502) 564-3226  
Fax (502) 564-3875  
www.kentucky.gov

LORI HUDSON FLANERY  
Secretary

THOMAS B. MILLER  
Commissioner

In the matter of:

[REDACTED]

Contact:

[REDACTED]

FINAL RULING NO. 2015-15  
March 19, 2015

Individual Income Tax Assessment  
For the Year Ended 2009

### FINAL RULING

The Kentucky Department of Revenue ("the Department") has issued an individual income tax assessment to [REDACTED] & [REDACTED] ("the Taxpayers") for the taxable year ended December 31, 2009. The following table provides a breakdown of the amount of tax and penalty assessed, as well as interest accrued as of the date of this final ruling:

	Tax	Interest	Amnesty Fees	Penalties	Total
12/31/2009	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

The Taxpayers protested the disallowance of expenses claimed on the Schedule A of the Form 740 Kentucky Individual Income Tax Return for the year ended December 31, 2009. The expenses disallowed from the Schedule A were taxes of \$ [REDACTED], mortgage interest of \$ [REDACTED], mortgage insurance premiums of \$ [REDACTED], contributions of \$ [REDACTED] and job expense/most other miscellaneous deductions of \$ [REDACTED]. The components of the unreimbursed employee expenses disallowed were vehicle expense of \$ [REDACTED]; parking, tolls and transportation expense of \$ [REDACTED]; travel and business expense of \$ [REDACTED]; meals and entertainment expense of \$ [REDACTED]; excess educator expense of \$ [REDACTED]. The total unreimbursed employee expenses were reduced by \$ [REDACTED], a sum equal to two percent of the Taxpayer's Kentucky adjusted gross income.

The expenses listed were disallowed because the Taxpayers failed to submit adequate documentation to substantiate the deductions. For example, the Taxpayers submitted documentation, a Certificate of Registration, Fee and tax receipt, to only verify \$██████████ of \$██████████ claimed for personal property taxes. An adjustment allowed \$██████████ for understated real estate taxes.

The Taxpayers claimed a mortgage interest deduction of \$██████████. However, a Form 1098 was submitted identifying only \$██████████ of mortgage interest paid. Mortgage insurance premiums were verified by Form 1098 only in the amount of \$██████████; however no date of inception for the mortgage in question was presented. Therefore, all \$██████████ was disallowed. Mortgage insurance premiums paid on any mortgage insurance contract issued before January 1, 2007, are not deductible.

The Taxpayers claimed \$██████████ for charitable donations of other than by cash or check. Statements presented identified the items as being donated to ██████████ but no receipts for the period under review were presented. Statements from the Taxpayer identified, “As for the ██████████ deduction the receipt I have is for a different year...” \$██████████ in contributions by cash or check were disallowed for a lack of substantial proof. No documentation from charitable organizations, receipt or canceled check, was presented in support of the amounts claimed.

The only documentation submitted to substantiate the unreimbursed employee expenses was a flight past trips log for ██████████ identifying trips for the past twelve months, a ██████████ Policies & Processes guide from the employer, ██████████ and an excerpt from a ██████████ Agreement. The log identified trips for the 2012 and 2013 periods, not the 2009 period in question. The ██████████ guide, updated on ██████████ 2013, stated, “This policy provides guidelines for reimbursing associates for reasonable and necessary expenses incurred while carrying out preauthorized travel and other business related assignments for ██████████.” The ██████████ Agreement contained language that stated payments for internet services will not be reimbursed, however, no documentation for proof of expense by the Taxpayer was provided. Furthermore, the ██████████ Agreement was unsigned and undated. In totality, no documentation was presented to identify expenditures of any kind or reimbursements from ██████████. No mileage log or other supporting documentation was submitted to support vehicle expenses. No receipts for meals and entertainment were submitted.

No documentation, receipts or otherwise, was supplied to support excess educator expenses.

Late payment penalty was properly assessed under KRS 131.180(2). Taxpayers have failed to provide any documentation showing why the penalty should not apply.

Correspondence dated ████████, 2014, ████████, 2014, ████████, 2014 and ████████, 2014, requesting documentation in support of the disallowed expenses was sent to the Taxpayers. No response was received with respect to these requests.

After reviewing the protest, and the applicable statutes and case law, it is the position of the Department that the individual income tax assessment issued against the Taxpayers for taxable year 2009 is a valid liability 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 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.

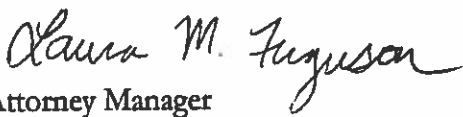
Proceedings before the Kentucky Board of Tax Appeals (the "Board") are conducted in accordance with 103 KAR 1:010, 802 KAR 1:010 and KRS 131.340-131.365 and KRS Chapter 13B. Formal hearings are held by the Board concerning the tax appeals before it, with all testimony and proceedings officially reported. 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. In accordance with Supreme Court Rule 3.020, if the appealing party is a corporation, trust, estate, partnership, joint venture, LLC, or any other artificial legal entity, the entity must be represented by an attorney on all matters before the Board, including the filing of the

- petition of appeal. If the petition of appeal is filed by a non-attorney representative for the legal entity, the appeal will be dismissed by the Board; 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

  
Attorney Manager  
Office of Legal Services for Revenue

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED