



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

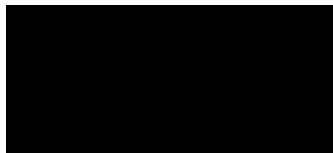
LORI HUDSON FLANERY
Secretary

THOMAS B. MILLER
Commissioner

In the matter of:



Contact:



FINAL RULING NO. 2015-25
June 29, 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] ("the Taxpayer") 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 Taxpayer protested the disallowance of deductions claimed on the Schedule A of the Form 740 Kentucky Individual Income Tax Return for the year ended December 31, 2009. The deductions disallowed from the Schedule A were taxes of \$ [REDACTED], interest expense of \$ [REDACTED] and unreimbursed employee expenses of \$ [REDACTED]. The components of the unreimbursed employee expenses disallowed were vehicle expense of \$ [REDACTED] and tax preparation 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 deductions listed were disallowed because the Taxpayer failed to submit adequate documentation to substantiate the deductions. For example, documentation presented to verify taxes claimed of \$ [REDACTED] only substantiated \$ [REDACTED]. Thus, the remaining \$ [REDACTED] was disallowed.

Regarding mortgage interest expense, the Taxpayer submitted documentation to verify mortgage interest expense of \$ [REDACTED] but failed to completely substantiate \$ [REDACTED] in additional mortgage insurance premiums (MIPs). MIPs paid or incurred on any mortgage insurance contract issued before January 1, 2007, are not deductible. No mortgage inception date has been supplied and verified to determine eligibility for the MIP deduction.

Regarding unreimbursed employee expenses, documentation was presented to report [REDACTED] miles driven for the tax period. However, no documentation was presented to identify the nature (temporary or permanent job assignment), business purpose or specific employer reimbursement. In fact, documentation presented outlined an employer reimbursement policy which states a mileage reimbursement of \$.45/mile (effective March 31, 2008). "Daily mileage equals mileage per day minus 50 miles each day ([REDACTED] business only). Lodging and site address must be annotated on mileage log for mileage reimbursement." No receipts substantiating the tax preparation expense were provided. Unreimbursed employee expenses, net of the required 2% of adjusted gross income reduction and totaling \$ [REDACTED], were thusly disallowed.

A cost of collection fee resulting from the assessment of additional tax after the amnesty period for taxable periods ending prior to October 1, 2011, was properly assessed under KRS 131.440(1). Taxpayer has failed to provide any documentation showing why the fee should not apply.

Correspondence dated [REDACTED], 2014, [REDACTED], 2014, [REDACTED], 2015 and [REDACTED], 2015, requesting documentation in support of the disallowed expenses was sent to the Taxpayer. No documentation 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 Taxpayer for taxable year 2009 is a valid liability due the Commonwealth of Kentucky.

This letter is the final ruling of the Department.

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,

DEPARTMENT OF REVENUE



Attorney Manager
Office of Legal Services for Revenue

CERTIFIED MAIL
RETURN RECEIPT REQUESTED