



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

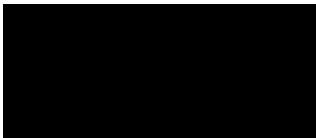
LORI HUDSON FLANERY  
Secretary

THOMAS B. MILLER  
Commissioner

In the matter of:



Contact:



FINAL RULING NO. 2015-27  
June 29, 2015

Individual Income Tax Assessment  
For the Year Ended 2010

**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, 2010. 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
12/31/2010	\$ [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 and the disallowance of a Kentucky tax credit related to credit received for taxes paid to another state for the year ended December 31, 2010. All deductions related to Kentucky Schedule A, originally disallowed, were restored based on an examination of additional information submitted during the protest review. No information was received to verify the Kentucky credit for Taxes Paid to Another State deduction.

KRS 141.070(1) states, "Whenever an individual who is a resident of this state has become liable for income tax to another state upon all or any part of his net income for the taxable year, derived from sources without this state and subject to taxation under this chapter, the amount of income tax payable by him under this chapter shall be credited on his return with

the income tax so paid by him to the other state, upon his producing to the proper assessing officer satisfactory evidence of the fact of such payment, except that application of such credits shall not operate to reduce the tax payable under this chapter to an amount less than would have been payable were the income from the other state ignored.”

The 2010 Package K, Kentucky Individual Income Tax and Corporation Income Tax Forms, instructions for line 4 of Section A of Kentucky Form 740 states in part, “You may not claim credit for tax withheld by another state. You must file a return with the other state and pay tax on income also taxed by Kentucky in order to claim the credit.”

Although requested on several occasions, tax returns detailing taxes paid to states other than Kentucky in support of the Taxes Paid to Another State deduction were not provided. Thusly, the Kentucky Taxes Paid to Another State deduction, in the amount of \$ [REDACTED] is denied.

Late payment penalty was properly assessed under KRS 131.180(2). The Taxpayer has failed to provide any documentation showing why the penalty should not apply. In addition 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). The Taxpayer has failed to provide any documentation showing why the fee should not apply.

Correspondence dated [REDACTED], 2015, [REDACTED], 2015 and [REDACTED], 2015, requesting documentation in support of the disallowed credit 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 2010 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