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Governor

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LORI HUDSON FLANERY
Secretary

THOMAS B. MILLER
Commissioner

In the matter of:

█ and █ & █

Contact: █ and █
█

FINAL RULING NO. 2015-36
August 21, 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 █ and █ (“the Taxpayers”) 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	\$ █	\$ █	\$ █	\$ █	\$ █

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, 2010. The expenses disallowed from the Schedule A were personal property taxes of \$ █, charitable contributions of \$ █, unreimbursed employee expenses of \$ █, and other deductions of \$ █. The components of the unreimbursed employee expenses disallowed were vehicle expense of \$ █ and union fees of \$ █. The total unreimbursed employee expenses were reduced by \$ █, a sum equal to two percent of the Taxpayers’ Kentucky adjusted gross income.

The deductions and expenses listed were reduced or disallowed because the Taxpayers failed to submit adequate documentation to substantiate the deductions. No documentation was submitted to substantiate the deductions for personal property taxes, charitable contributions, and other deductions.

Regarding unreimbursed employee expenses, a statement from the employer, ██████████ Inc., was presented to confirm that ██████████ was employed by the company and that no reimbursements were paid. The only documentation submitted to substantiate the vehicle expenses included as part of the unreimbursed employee expenses was a calendar with numbers written on various days and the number of miles roundtrip. Documentation to corroborate the vehicle expenses was requested on ██████████ 2015, ██████████ 2015, and ██████████ 2015, but it was never furnished. In totality, no documentation was presented to verify that ██████████'s place of employment was due to a temporary assignment. No complete mileage log or other supporting documentation was submitted to support the vehicle expenses. Vehicle expenses totaling \$██████████ were accordingly disallowed.

Interest has accrued and continues to accrue until the remaining tax due has been paid. See KRS 141.220; 141.985; 131.183; 103 KAR 15:050 § 4. In addition, the cost of collection fee that resulted 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 Taxpayers have failed to provide any documentation showing why the fee should not apply.

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 2010 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 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