



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. 2015-44
October 28, 2015

Individual Income Tax Assessment
For the Year Ended 2010 through 2013

FINAL RULING

The Kentucky Department of Revenue (“the Department”) has issued individual income tax assessments to █ & █ (“the Taxpayers”) for taxable years ended December 31, 2010, December 31, 2011, December 31, 2012, and December 31, 2013. 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	█	█	█	█	█
12/31/2011	█	█	█	█	█
12/31/2012	█	█	█	█	█
12/31/2013	█	█	█	█	█
TOTAL	█	█	█	█	█

The Taxpayers protested the disallowance of deductions claimed on Schedules A and M of Form 740 Kentucky Individual Income Tax Return, Kentucky form 5695-K and Kentucky form 8863-K, Federal Schedule C, and Federal form 4684 for the years ended December 31, 2010 through December 31, 2013.

For taxable period ending December 31, 2010, the following Kentucky Schedule A deductions were disallowed for lack of substantiation, Medical and Dental Expenses in the amount of \$████ (before the mandatory 7.5% reduction), Real Estate Taxes in the amount of \$████, Personal Property Taxes in the amount of \$████, Mortgage Insurance Premium in the amount of \$████, Charitable Contributions in the amount of \$████, Job Expenses and Other Miscellaneous Deductions in the amount of \$████ (before the mandatory 2% reduction), and Other Miscellaneous Deductions in the amount of \$████. Additionally, a loss claimed on Federal form 4684, Casualties and Thefts, in the amount of \$████ and an \$████ loss deducted on Federal Schedule C were disallowed; no information was provided to substantiate either deduction. An Energy Efficiency Products Credit, identified by Kentucky form 5695-K was reduced by \$████ due to a lack of substantiation of the original amount claimed. A Kentucky Education Tax Credit, identified by Kentucky form 8863-K, was reduced by \$████, resulting from an income limitation exclusion due to adjustments identified on Federal Schedule C and Federal form 4684 for this 2010 period.

For taxable period ending December 31, 2011, the following Kentucky Schedule A deductions were disallowed for lack of substantiation, Medical and Dental Expenses in the amount of \$████ (before the mandatory 7.5% reduction), Personal Property Taxes in the amount of \$████, Mortgage Insurance Premium in the amount of \$████, Charitable Contributions in the amount of \$████, Job Expenses and Other Miscellaneous Deductions in the amount of \$████ (before the mandatory 2% reduction), and Other Miscellaneous Deductions in the amount of \$████. A \$████ Health Insurance Premium Deduction on Kentucky Schedule M was disallowed; no documentation was provided to identify amounts paid were with pre-tax dollars as required. A \$████ loss, deducted on Federal Schedule C, was disallowed; no information was provided to substantiate the deduction.

For taxable period ending December 31, 2012, the following Kentucky Schedule A deductions were disallowed for lack of substantiation, Medical and Dental Expenses in the amount of \$████ (before the mandatory 7.5% reduction), Local Income Taxes in the amount of \$████, Real Estate Taxes in the amount of \$████, Personal Property Taxes in the amount of \$████, Mortgage Insurance Premium in the amount of \$████, Charitable Contributions in the amount of \$████, Job Expenses, and Other Miscellaneous Deductions in the amount of \$████ (before the mandatory 2% reduction). A \$████ Health Insurance Premium deduction on Kentucky Schedule M was disallowed; no documentation was provided to identify amounts paid were with pre-tax dollars as required. A \$████ loss, deducted on Federal Schedule C, was disallowed; no information was provided to substantiate the deduction.

For taxable period ending December 31, 2013, the following Kentucky Schedule A deductions were disallowed for lack of substantiation, Medical and Dental Expenses in the amount of \$██████████ (before the mandatory 7.5% reduction), Local Income Taxes in the amount of \$██████████, Personal Property Taxes in the amount of \$██████████, Charitable Contributions in the amount of \$██████████ and Job Expenses and Other Miscellaneous Deductions in the amount of \$██████████ (before the mandatory 2% reduction). A \$██████████ Health Insurance Premium Deduction on Kentucky Schedule M was disallowed; no documentation was provided to identify amounts paid were with pre-tax dollars as required. A \$██████████ loss, deducted on Federal Schedule C, was disallowed; no information was provided to substantiate the deduction. A Kentucky Education Tax Credit, identified by Kentucky form 8863-K, was increased by \$██████████ as a result of an increase in tax liability, due to an increase in Kentucky taxable income. Schedule A, Mortgage Interest Expense has been increased in the amount of \$██████████ due to documentation presented during the initial audit review.

No documentation, receipt or otherwise, was supplied during the protest review to substantiate deductions disallowed. On the contrary, the Taxpayers submitted the following statements during the protest review, “Also, we do not have any documentation to present.”, “Also, we paid cash for a lot of the job-related expenses, esp. meals, travel expenses, etc.”, and “Therefore, I think we will need to contact the Collections Branch and beg for mercy.”

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. Late payment penalty was properly assessed under KRS 131.180(2). The Taxpayers have 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, for the taxable period ending December 31, 2010, under KRS 131.440(1).

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 years 2010 through 2013 are valid liabilities 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,

FINANCE AND ADMINISTRATION CABINET



Attorney Manager
Office of Legal Services for Revenue