



MATTHEW G. BEVIN
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

WILLIAM M. LANDRUM III
Secretary

DANIEL P. BORK
Commissioner

In the matter of:

██████████ and ██████████

Contact: ██████████ and ██████████
██████████

FINAL RULING NO. 2016-13
April 8, 2016

Individual Income Tax Assessments
For the Years Ended 2011, 2012, 2013, and 2014

FINAL RULING

The Kentucky Department of Revenue (“the Department”) issued individual income tax assessments to ██████████ and ██████████ (“the Taxpayers”) for the taxable years ended 2011, 2012, 2013 and 2014. 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:

Period	Tax	Interest	Penalty	Total
2011	██████████	██████████	██████████	██████████
2012	██████████	██████████	██████████	██████████
2013	██████████	██████████	██████████	██████████
2014	██████████	██████████	██████████	██████████
Total	██████████	██████████	██████████	██████████

The Taxpayers protested the disallowance of expenses that were claimed on the Schedule A, Schedule C, and Schedule M of the Form 740 Kentucky Individual Income Tax Returns for the taxable years ended 2011, 2012, 2013 and 2014. The expenses were disallowed due to the lack of documentation to substantiate the amounts.

The Taxpayers' protest letter indicated that the documentation regarding the deductions was either damaged or lost during a change of residence that occurred in 2013. The protest claimed that if the Taxpayers were granted more time then they could provide the required information to prove the deductions. However, during the examination of the individual income tax returns, the Taxpayers were granted additional time to produce the required documentation on three different occasions. The Taxpayers failed to follow through with the Department each time.

The expenses claimed on Schedule A were medical, local income taxes, real estate taxes, other taxes, home mortgage, contributions, and unreimbursed employee expenses. The local income taxes and contributions were verified and allowed. However, the standard deductions exceeded the verified expenses. Therefore, the itemized deduction amounts were replaced with the standard deductions for taxable years ended 2011, 2012, 2013 and 2014.

The expenses claimed on Schedule C were advertising, car, legal and professional, office expense, rent, supplies, taxes and licenses, meals and entertainment, uniforms, cell phone, equipment, donations, promotion, business subscriptions, and other expenses. The taxpayers did submit documentation for the advertising, supplies and other expenses claimed for the taxable year ended 2014. However, no other documentation was submitted to substantiate the expenses claimed on Schedule C.

The majority of the deductions claimed on Schedule A and Schedule C involve travel for both ██████████ and ██████████. ██████████ admitted during the examination of the individual income tax returns that the mileage claimed on Schedule C was for her commute to and from work. Transportation expenses between home and work are nondeductible commuting expenses. In addition, ██████████'s travel for the taxable years ended 2013 and 2014 appear to have been reimbursed by his employer. Only unreimbursed work expenses are considered to be allowable Schedule A deductions.

The Taxpayers claimed health insurance premiums on the Schedule M for taxable years ended 2011 and 2012. No documentation was provided to substantiate the amounts so the deductions were disallowed.

The Taxpayers were informed that any of the deductions claimed for the taxable years ended 2011, 2012, 2013 and 2014 would be allowed if they were substantiated with the proper documentation. However, the Taxpayers failed to submit any additional information.

The paid late penalty was issued with the taxable years ended 2011, 2012, 2013 and 2014 individual income tax assessments. Under KRS 131.440, the penalties may be waived if the taxpayer can prove that failure to pay was due to reasonable cause. The Taxpayer failed to establish reasonable cause to substantiate waiver of the penalties.

After reviewing the Taxpayers' protest, and the applicable statutes and case law, the Kentucky Department of Revenue maintains that the individual income tax assessments issued to ██████████ and ██████████ for the taxable years ended 2011, 2012, 2013 and 2014 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,

DEPARTMENT OF REVENUE

A handwritten signature in black ink that reads "Dorey Dowell". The signature is written in a cursive style with a large, sweeping initial "D".

Attorney Manager
Office of Legal Services for Revenue