



ERNIE FLETCHER
GOVERNOR

OFFICE OF THE SECRETARY
FINANCE AND ADMINISTRATION CABINET
383 CAPITOL ANNEX
FRANKFORT, KENTUCKY 40601
(502) 564-4240
(502) 564-6785 FAX

ROBBIE RUDOLPH
SECRETARY

In the matter of:

██████████ ESTATE

Contact: ██████████ PSC
██████████

Final Ruling No. 2006-10
March 13, 2006

\$██████████ Assessment
Date of Death ██████████ 2000

FINAL RULING

The Department of Revenue's audit of the ██████████ Estate ("Taxpayer" or the "Estate") resulted in an assessment of inheritance and estate tax due to the Commonwealth.

Assessment as of November 9, 2005

Date of Death	Tax Due	Interest	Penalty	Total Due
██/██/2000	\$██████████	\$██████████	\$██████████	\$██████████

The Estate was notified by letter on ██████████, 2002, that an audit of the Inheritance and Estate Tax Return for the Estate had been initiated and additional information was requested. On August 4, 2006, an additional assessment of tax, notice number ██████████, was made by the Department in the amount of \$██████████, plus applicable interest and penalties. By a letter dated ██████████, 2004, the Estate notified the Department that the assessment was being protested. A formal conference was held in Frankfort on ██████████, 2005.

At issue is the taxability of the great-grandchildren's remainder interest in the joint life estate held by the grandchildren. Item VI of ██████████'s Last Will and Testament states:

"I give and devise all of the rest and remainder of my real property of every kind and description, wherever situated and whenever acquired by me, in which I have any interest at the time of my death, to such of my grandchildren as survive me

jointly for life, and, upon the death of the last of my grandchildren, to my great grandchildren in equal shares, per stirpes.

It is my intention herein to create a legal estate for life in my grandchildren, jointly and equally and to the survivor of them, and I confer upon them all of the rights and immunities incident to such an estate, but without power to sell, convey, mortgage encumber or otherwise transfer and/or dispose of any of such real property....”

The Estate contends that an ██████████, 2002, Order of the ██████████ County Circuit Court restructured the joint life estate and eliminated the great-grandchildren’s remainder interest.

The Order did not eliminate the great-grandchildren’s remainder interest. The Order’s only effect upon the life estate in question was to remove some of the restrictions placed upon the grandchildren’s management of the property, including allowing the sale of the property. The Order specifically provided that the great-grandchildren’s interest continued in both the property and the proceeds of any sale thereof, including providing for the proceeds of a sale to be placed in a trust for the benefit of the great-grandchildren. The great-grandchildren’s remainder interest remains intact and is taxable.

It should also be noted that in a letter dated ██████████, 2005, the taxpayer cited U.S. Inheritance Tax Statutes and Generation Skipping Transfer provisions, sections 2611, 2612 and 2613. However Kentucky’s Inheritance Tax statutes are not based upon U.S. tax codes and therefore do not apply.

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 40602-2120, 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 2 (3) of 802 KAR 1:010:

1. An individual may represent himself in hearings before the Board;
2. An individual who is not an attorney may not represent any other individual, corporation, trust, estate, or partnership before the Board; and
3. An attorney who is not licensed to practice in Kentucky may practice before the Board 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



THOMAS H. BROWN
Director
Division of Protest Resolution

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

