



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 matter of:

██████████, INC.

Contact: ██████████, Inc.

██████████
██████████

FINAL RULING NO. 2006-47
June 5, 2006

Intangible Property Tax Assessment
January 1, 2001

FINAL RULING

The Kentucky Department of Revenue has an outstanding intangible property tax assessment against ██████████ Inc. (Taxpayer) for the period of January 1, 2001 totaling \$██████████ in penalties. A breakdown of the assessment is shown in the chart below:

Tax Year	Tax Due	Interest As of 02-20-2006	Penalty As of 02-20-2006	Total Due As of 02-20-2006
2001	██████████	██████████	██████████	██████████
Totals	██████████	██████████	██████████	██████████

██████████, Inc. protested the penalty assessment for the original audit period of 01/01/01 through 01/01/04. Along with the protest letter, the taxpayer enclosed a check for payment of tax and interest for the assessment periods. The taxpayer's basis for abatement of penalties was as follows: 1) taxpayer contended this was their first audit and 2) the taxpayer was unaware that the CPA firm had not filed the tax returns.

Penalties were assessed in accordance with KRS 132.290(4) and (5) which states:

- (4) All omitted property not voluntarily listed shall be subject to a penalty of twenty percent (20%) of the amount of taxes, and interest at the tax

interest rate as defined in KRS 131.010(6) from the date when the taxes would have become delinquent had the property been listed as required by law, until the date the tax bill is paid.

- (5) When the property is assessed retroactively by action prosecuted in the manner provided by KRS 132.330 and 132.340, an additional penalty of twenty percent (20%) of the amount of the original tax, interest and penalty may be collected for the purpose provided in KRS 134.400 and paid into the State Treasury. All other penalties and interest shall be distributed in the same manner as the tax.

The taxpayer was sent a letter dated ██████████ 2005, which served as notification that the request for abatement of penalties had been denied. Requests for payment of the outstanding assessment were sent to the taxpayer dated ██████████ 2005 and ██████████, 2005.

On November 23, 2005, the Department received the taxpayer's 2005 intangible property tax return. Within this correspondence, the taxpayer requested for a second time that the penalties be waived for the 01/01/01 through 01/01/04 assessment periods.

In a letter dated ██████████, 2005, the Department granted the taxpayer's request for abatement of ten percent of the twenty percent penalty assessed for the 01/01/02 through 01/01/04 periods. The taxpayer was notified that the ten percent penalty assessed for the 01/01/01 penalty was not abated.

The taxpayer remitted payment for the outstanding assessment for the 01/01/02 through 01/01/04 periods on ██████████, 2005. No payment has been received to date for the penalty assessed for the 01/01/01 period.

Therefore, the outstanding penalty relative to the intangible property tax assessment totaling \$██████████ is deemed a legitimate liability of ██████████, Inc. 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 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:

██████████, Inc.

June 5, 2006 – Final Ruling No. 2006-47

Page 3

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

