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Governor

FINANCE AND ADMINISTRATION CABINET
DEPARTMENT OF REVENUE

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WILLIAM M. COX, SR.
Commissioner

In the matter of:

[REDACTED], INC

Contact: [REDACTED], Inc.

FINAL RULING NO. 2008-22
May 5, 2008

FINAL RULING

The Department of Revenue currently has an outstanding liability for intangible property taxes in the amount of \$ [REDACTED] for the period of January 1, 2001 through January 1, 2005. A breakdown of the assessment is shown in the chart below:

Tax Year	Tax Due	Interest As of 05/01/2008	Penalty As of 05/01/2008	Total Due As of 05/01/2008
January 1, 2001	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
January 1, 2002	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
January 1, 2003	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
January 1, 2004	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
January 1, 2005	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Totals	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

[REDACTED], Inc failed to file intangible personal property tax returns for the period January 1, 2001 through January 1, 2005. On [REDACTED], 2006, the Department of Revenue assessed intangible property tax against the accounts receivable and loans to stockholders or employees in accordance with KRS 132.020(1).

On [REDACTED] 2006, the Department of Revenue received a protest letter from the taxpayer requesting further explanation from the Department regarding the company's intangible property tax liability. The Department responded to [REDACTED], Inc. with

letters on ██████████, 2006 and ██████████, 2006 explaining the company's liability and requested payment of such. To date, no response or payment has been received by the Department.

In accordance with the applicable law, the Department of Revenue has assessed all intangible property of the taxpayer. The taxpayer filed a protest without a supporting statement or documentation as required by KRS 131.110. The Kentucky courts have held that this statutory provision imposes upon a taxpayer protesting an assessment or a refund denial a legal duty to provide the Department with "something more substantial than mere denials of tax liability." Eagle Machine Co., Inc. v. Commonwealth ex rel. Gillis, 698 S.W.2d 528, 530 (Ky. App. 1985).

In order to make a valid protest, a taxpayer must "provide financial statements, records or some other documentation that would allow the Revenue Department some basis for reconsideration." Id. at 529.

The courts have held that this statutory provision (KRS 131.110(1)) is "mandatory in nature" and that failure to submit documentation as it requires will result in the taxpayer's loss of the right to further review of the assessment or refund denial in question. Scotty's Construction Co. v. Revenue Cabinet, 779 S.W.2d 234 (Ky. App. 1989). In both Scotty's Construction and Eagle Machine, the taxpayers failed to provide any substantial information in support of their denials of tax liability, despite being given ample opportunity to do. The same is true in this matter.

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.

██████████, Inc
Final Ruling No. 2008-22
May 5, 2008

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



Jason Snyder
Executive Director
Office of Legal Services for Revenue

CERTIFIED MAIL
RETURN RECEIPT REQUESTED