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FINANCE AND ADMINISTRATION CABINET
DEPARTMENT OF REVENUE

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THOMAS B. MILLER
Commissioner

In the matter of:

██████████ and ██████████
Protest of Intangible
Intangible Property Tax for 2004-2005

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

FINAL RULING NO. 2008-50
August 22, 2008

FINAL RULING

The Department of Revenue currently has an outstanding assessment for intangible ad valorem or property taxes in the amount of \$██████████ for 2004 against ██████████ and ██████████. A breakdown of the assessment and applicable penalty and interest is shown in the chart below:

| Tax Year | Tax Due | Interest As of 8-22-2008 | Penalty As of 8-22-2008 | Total Due As of 8-22-2008 |
|-----------------|--------------|-----------------------------|----------------------------|------------------------------|
| January 1, 2004 | \$██████████ | \$██████████ | \$██████████ | \$██████████ |

The assessment in question is presumed to be valid and it is the taxpayer's burden to prove otherwise. Revenue Cabinet v. Gillig, 957 S.W.2d 206 (Ky. 1997); Walter G. Hougland & Sons v. McCracken County Board of Supervisors, 306 Ky. 234, 206 S.W.2d 951 (1947). It is undisputed that the taxpayer, ██████████ and ██████████ are residents of Kentucky in ██████████, Kentucky. ██████████ and ██████████ owned intangible property on January 1, 2004.

Kentucky law is clear that all property, including intangible personal property, must be assessed for ad valorem tax purposes unless an exemption authorized by or set forth in the Kentucky Constitution applies. Ky. Const. §§ 3, 170, 172, 174. The term "property" is broad in



scope and embraces any existing, enforceable collectible demand that one person has against another person or against property upon which it is a lien and out of which it can be collected. See, e.g., Button v. Drake, 302 Ky. 517, 195 S.W.2d 66 (1946); Commonwealth v. Kentucky Distilleries & Warehouse Co., 143 Ky. 314, 136 S.W.1032 (1911).

Such is the case here. Based upon the foregoing, the ██████████ owned intangible property - - cash and bonds held with ██████████ Inc. - - during the tax year in question. This property had a tax situs in Kentucky, as the ██████████ were Kentucky residents. See KRS 132.190(1) and (4)(version in effect for the tax years in question); 132.200; Commonwealth ex rel. Lockett v. Louisville and Nashville Railroad Co., 479 S.W.2d 15 (1972); Semple v. Commonwealth, 181 Ky. 675, 205 S.W. 789 (1918); Inter-Southern Life Ins. Co. v. Milliken, 149 Ky. 516, 149 S.W. 875 (1912). This property was most definitely not exempt from taxation for the years in question. Intangible property - - e.g., money in hand, notes, bonds, accounts and other credits - - was clearly subject to ad valorem taxation until the 2005 tax year. 2005 Ky. Acts, ch. 168, §§ 52-66, 168, 171.

The only issue that appears to be raised by the ██████████ is they were unaware of the assets being held with ██████████ Inc. The Department of Revenue mailed copies of the account description listing all assets to the Rosses and no response has been received.

For the reasons stated above, the assessment in question is valid and a legitimate ad valorem tax liability of ██████████ and ██████████.

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.

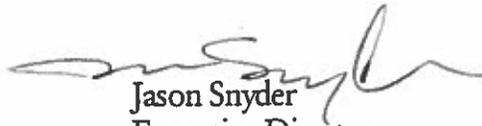
The petition of appeal must be in writing and signed by the petitioner or appellant. Filings by facsimile or other electronic means shall not be accepted.

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



Jason Snyder
Executive Director
Office of Legal Services for Revenue

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

cc: ██████████ & Company, PLLC.

Attn: ██████████
██████████

