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LORI HUDSON FLANERY
Secretary

THOMAS B. MILLER
Commissioner

In the matter of:

[REDACTED] LLC

Contact:

[REDACTED]
Attn: [REDACTED]
[REDACTED]

FINAL RULING NO. 2015-18
April 16, 2015

Assessment of Kentucky Limited Liability Entity Tax
Taxable Years 2008, 2009, 2010, 2011 and 2012

FINAL RULING

The Kentucky Department of Revenue ("the Department") has outstanding limited liability entity tax ("LLET") assessments against [REDACTED] LLC ("the Taxpayer") for the taxable years ended on December 31, 2008, through December 31, 2012. The assessments were estimated assessments resulted from the Taxpayer's failure to file tax returns and remit payment of tax for the audit period. See KRS 131.180(4). The following table provides a breakdown of the amount of tax due as estimated, all assessed penalties, as well as accrued interest as of the date of this final ruling:

TAX YEARS	TAX	INTEREST	PENALTIES	TOTAL
2008	\$[REDACTED]	\$[REDACTED]	\$[REDACTED]	\$[REDACTED]
2009	\$[REDACTED]	\$[REDACTED]	\$[REDACTED]	\$[REDACTED]
2010	\$[REDACTED]	\$[REDACTED]	\$[REDACTED]	\$[REDACTED]
2011	\$[REDACTED]	\$[REDACTED]	\$[REDACTED]	\$[REDACTED]
2012	\$[REDACTED]	\$[REDACTED]	\$[REDACTED]	\$[REDACTED]
TOTAL	\$[REDACTED]	\$[REDACTED]	\$[REDACTED]	\$[REDACTED]

At issue is whether the Taxpayer was required to file tax returns and pay the LLET for the taxable years ended December 31, 2008, through December 31, 2012. The Taxpayer was registered with the Kentucky Secretary of State as a Kentucky Limited Liability Company from the time the Articles of Organization were filed on ██████████, 2007, until the Articles of Dissolution were filed on ██████████, 2013, with an effective date of ██████████, 2013.

KRS 141.206(2) states:

Every pass-through entity doing business in this state shall, on or before the fifteenth day of the fourth month following the close of its annual accounting period, file a copy of its federal tax return with the form prescribed and furnished by the department.

“Doing business in this state” is defined as including, but not limited to, being organized under the laws of this state. See KRS 141.010(25)(a). The Taxpayer was considered to be doing business in Kentucky by being organized under Kentucky laws through its registration with the Kentucky Secretary of State. Therefore, the Taxpayer was required to file returns for tax years ended December 31, 2008, through December 31, 2012.

In addition to having a filing requirement, the Taxpayer was subject to the LLET for at least the minimum tax of one hundred seventy-five dollars (\$175). See KRS 141.0401(2)(a). The Taxpayer has not paid tax for tax years ended December 31, 2008, through December 31, 2012.

Moreover, the payment of the tax was due by “the fifteenth day of the fourth month following the close of the taxpayer’s taxable year”. KRS 141.160; 141.220; 103 KAR 15:050 § 3. Since the Taxpayer has failed to remit payment of any tax due, interest will accrue until the tax is paid. See KRS 141.985; 131.183; 103 KAR 15:050 § 4. The Taxpayer is also liable for a penalty attributable to the failure to pay the tax due for tax years ended December 31, 2008, through December 31, 2012. KRS 131.180(2).

After reviewing the available information, and the applicable statutes, it is the position of the Kentucky Department of Revenue that the outstanding LLET assessments issued against ██████████, LLC for tax years ended December 31, 2008, through December 31, 2012, are valid liabilities due to 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.

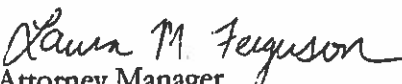
The petition of appeal must be in writing and signed by the petitioner or appellant. Filings by facsimile or other electronic means shall not be accepted.

Proceedings before the Kentucky Board of Tax Appeals (the "Board") 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,
FINANCE AND ADMINISTRATION CABINET


Attorney Manager
Office of Legal Services for Revenue

CERTIFIED MAIL
RETURN RECEIPT REQUESTED