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DEPARTMENT OF REVENUE

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THOMAS B. MILLER
Commissioner

In the matter of:

[REDACTED] / [REDACTED] LLC

Contact: [REDACTED], LLC

Attn: [REDACTED]
[REDACTED]

FINAL RULING NO. 2008-46
July 18, 2008

Real Property Tax Assessment
January 1, 2001 through January 1, 2005

FINAL RULING

[REDACTED] / [REDACTED] (“[REDACTED]”) operated a [REDACTED] center in [REDACTED], Kentucky. The real property making up this facility qualified for a moratorium established by [REDACTED] County pursuant to Ky. Const. § 172B. This moratorium allows the assessment used in arriving at the ad valorem taxes due the local taxing jurisdiction declaring or establishing the moratorium to be frozen for up to five years. See generally Ky. Atty. Gen. Op. (“OAG”) 82-381.

The [REDACTED] moratorium froze the assessment for the real property in question at [REDACTED] for the tax years 2001, 2002, 2003, 2004 and 2005. This assessment was erroneously used not just as the basis for the ad valorem taxes due the county, which declared the moratorium, but also in arriving at the ad valorem taxes due the state, the city school district, the library district and the extension district (“the non-moratorium taxing jurisdictions”).

Pursuant to KRS 133.110, the [REDACTED] County Property Valuation Administrator (“the PVA”) discovered this error and accordingly corrected it, assessing the property at its fair cash value as required by the Kentucky Constitution and the Kentucky Revised Statutes. See, e.g., Ky. Const. §§ 172, 174; KRS 132.190(3); 132.450. The fair cash values arrived at by the PVA for each of the tax years in question were:



2001	\$	██████████
2002	\$	██████████
2003	\$	██████████
2004	\$	██████████
2005	\$	██████████

These values were then used as the basis for arriving at the ad valorem taxes due the non-moratorium taxing jurisdictions for these years. See generally American Life & Accident Insurance Co. of Kentucky, Inc. v. Revenue Cabinet, 173 S.W.3d 910, 914 (Ky. App. 2004) (“An *ad valorem* tax is one that is levied on property at a certain rate upon its [fair cash] value and literally means ‘according to the worth’”).

The PVA’s action was entirely proper. ██████████ was under both a constitutional and statutory duty to assess the property at its fair cash value. The moratorium value could only serve as a basis for establishing the ad valorem taxes due the taxing jurisdiction declaring the moratorium. OAG 82-381. It was therefore a clear procedural error for this moratorium assessment to have been used as the ad valorem tax assessment for the non-moratorium jurisdictions. KRS 133.110.

██████████ has not provided any evidence that would tend to show that the real property in question has been assessed at greater than fair cash value by the PVA for the tax years stated above. The assessments are presumed correct and it was ██████████’s burden to prove otherwise. Revenue Cabinet v. Gillig, 957 S.W.2d 206 (Ky. 1997).

Accordingly, the PVA’s real property ad valorem tax assessments for the non-moratorium jurisdictions for the tax years in question are proper and correct.

This letter is the final ruling of the Kentucky 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;

