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GOVERNOR

**OFFICE OF THE SECRETARY**  
FINANCE AND ADMINISTRATION CABINET  
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ROBBIE RUDOLPH  
SECRETARY

In the matter of:

[REDACTED]

Contact:

[REDACTED]

FINAL RULING NO. 2006-51  
June 9, 2006

Sales and use tax assessments  
for the periods  
June 1, 1999 through May 31, 2003

**FINAL RULING**

The Kentucky Department of Revenue has issued sales and use tax assessments to [REDACTED] totaling \$ [REDACTED], plus interest and Amnesty fees for the periods June 1, 1999 through May 31, 2003. The following schedule reflects the total underpayment for each period.

Period	Tax	Interest as of 4/6/2006	Amnesty Fee	Total per Period
6/1/99-12/31/99	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
1/1/00-12/31/00	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
1/1/01-11/30/01	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
12/1/01-12/31/01	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
1/1/02-12/31/02	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
1/1/03-5/31/03	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
<b>TOTAL</b>	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

[REDACTED] (" [REDACTED]"), located in [REDACTED] Kentucky, is a retailer of food, gasoline, lottery items, cigarettes and other miscellaneous items. [REDACTED] has a sister corporation, [REDACTED] (" [REDACTED]"), for which a concurrent audit was conducted and for which a separate final ruling is issued.

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At issue are the computation of the taxable percentages of purchases and the Amnesty fee charged on the assessments.

For the reasons that follow, the above-referenced assessments are a legitimate tax liability of ██████████ to the Commonwealth of Kentucky.

The taxpayer's representative told the auditor that ██████████ paid for inventory sold at ██████████. There was no means by which inventory could be traced to each store; therefore, a combined audit of both stores' purchases was performed and the percentages were applied to both stores' sales.

The taxpayer's representative claimed that ██████████ had not claimed the Lottery deduction on the sales and use tax returns when filed and requested that the audit be adjusted for the deduction. He stated that this would affect the audit for ██████████ by reducing the taxable percentage of purchases.

A review of the ██████████ audit work papers and Lottery sales reports submitted by the taxpayer's representative showed that the auditor had allowed the Lottery deduction on ██████████'s Schedule A. Furthermore, the Lottery deduction did not affect the calculation of the taxable percentage of purchases; therefore, there was no effect on the audit for ██████████. This was explained to the taxpayer's representative in the Department's letters dated ██████████, 2006 and ██████████, 2006. The Department's ██████████, 2006 letter requested payment in full or a request for a conference or final ruling by ██████████, 2006. No response was received.

Regarding the request for waiver of the Amnesty fees, the taxpayer's representative did not submit information to establish reasonable cause for the waiver; therefore, the fees were deemed to have been correctly charged.

Based upon the foregoing, the Department has determined that the sales and use tax audit assessment totaling \$█████████ (plus applicable interest and fees) is deemed a legitimate liability of Kentucky Konvenience 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:

[REDACTED]  
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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

