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ROBBIE RUDOLPH
SECRETARY

In the matter of:

[REDACTED]

Contact:

[REDACTED]

Final Ruling No. 2006-12
March 13, 2006

Tangible Property Tax Assessments
January 1, 1999 through January 1, 2003

FINAL RULING

The Kentucky Department of Revenue has outstanding tangible personal property tax assessments against [REDACTED] (Taxpayer) for the periods January 1, 1999 through January 1, 2003 totaling \$ [REDACTED], plus applicable interest. A breakdown of the assessment is shown in the chart below:

Tax Year	Tax Due	Interest As of 3/1/2006	Penalty As of 3/1/2006	Total Due As of 3/1/2006
1999	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2000	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2001	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2002	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2003	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2003	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Totals	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

██████████ protested the penalties, interest, and fees associated with the above tax notices stating ignorance of tax laws and failure of notification about the tax laws from the previous owner and the Revenue Cabinet. A letter was sent to the taxpayer's representative, ██████████, dated ██████████, 2004, granting penalty waiver. A second letter dated ██████████, 2005, was sent to ██████████ asking for documentation to support his protest for interest waiver. To date, no documentation has been received.

KRS 131.081(6) states:

If any taxpayer's failure to submit a timely return or payment to the department is due to the taxpayer's reasonable reliance on written advice from the department, the taxpayer shall be relieved of any penalty or interest with respect thereto, provided the taxpayer requested the advice in writing from the department and the specific facts and circumstances of the activity or transaction were fully described in the taxpayer's request, the department did not subsequently rescind or modify the advice in writing, and there were no subsequent changes in applicable laws or regulations or a final decision of a court which rendered the department's earlier written advice no longer valid.

KRS 131.110(1) states, in pertinent part:

The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made. Upon written request, the cabinet may extend the time for filing the supporting statement if it appears the delay is necessary and unavoidable.

In Eagle Machine Company, Inc. v. Commonwealth ex rel Gillis, Ky.App., 698 S.W.2d 528 (1985), the Court held, inter alia, that ". . . in a protest to a tax assessment, a taxpayer has an obligation to provide financial statements, records or some other documentation that would allow the Revenue Department some basis for reconsideration. In the instant case, despite requests for such information by the appellee, Eagle Machine failed to supply any significant documentation in support of its contention that the assessments were in error."

In Scotty's Construction Company, Inc. v. Commonwealth of Kentucky Revenue Cabinet, Ky.App., 779 S.W. 234 (1989), the Court mentions, ". . . the circuit court which held that Scotty's failure to submit documentation as required by the statute before the issuance of the final ruling had the effect of failure to preserve appellant's right to review the assessment and on the strength of Eagle Machine set aside the Board's order and reinstated the determination of Revenue."

The Court then reaffirms its opinion in Eagle Machine by stating, "In a protest to a tax assessment, a taxpayer has an obligation to provide financial statements, records or some other documentation that would allow the Revenue Department some basis for reconsideration. In the instant case, despite requests for such information by the appellee, Eagle Machine failed to supply any significant documentation in support of its contention that the assessments were in error."

The Court concludes by stating "... the statute is mandatory in nature."

The Department requested [REDACTED] to provide supporting documentation by [REDACTED], 2005. [REDACTED] has failed to submit any documentation that would allow the Department a basis for reconsideration of the interest waiver.

Therefore, the outstanding tangible property tax assessments totaling \$ [REDACTED] (plus applicable interest) are deemed legitimate liabilities of [REDACTED] due payable 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 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



THOMAS H. BROWN
Director
Division of Protest Resolution

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

