



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

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John R. Farris
Secretary

In the matter of:

██████████, INC

Contact: ██████████, Inc

FINAL RULING NO. 2006-87
October 3, 2006

Tangible Property Tax Assessments
January 1, 2001 – January 1, 2005

FINAL RULING

The Kentucky Department of Revenue has outstanding tangible personal property tax assessments against ██████████, Inc. (Taxpayer) for the periods of January 1, 2001 through January 1, 2005 totaling \$██████████, plus applicable interest and penalties. A breakdown of the assessment is shown in the chart below:

Tax Year	Tax Due	Interest As of 10-15-2006	Penalty As of 10-15-2006	Total Due As of 10-15-2006
2001	██████████	██████████	██████████	██████████
2002	██████████	██████████	██████████	██████████
2003	██████████	██████████	██████████	██████████
2004	██████████	██████████	██████████	██████████
2005	██████████	██████████	██████████	██████████
Totals	██████████	██████████	██████████	██████████

██████████, Inc failed to file tangible personal property tax returns for the periods January 1, 2001 through January 1, 2005. On February 3, 2006, the Department of Revenue assessed tangible personal property tax on the equipment of the taxpayer in accordance with KRS 132.020(1).

On ██████████, 2006, the Department received a protest letter from the taxpayer. The issues being protested involved classification of the assets and possible duplications. Letters requesting the specific assets in dispute were sent to the taxpayer on ██████████, 2006 and ██████████, 2006. To date no response has been received.

KRS 131.110(1) states “The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made.” The taxpayer failed to provide a supporting statement identifying the specific adjustments under protest.

The Kentucky courts have held that this statutory provision imposes upon a taxpayer protesting an assessment or a refund denial a legal duty to provide the Department with “something more substantial than mere denials of tax liability.” Eagle Machine Co., Inc. v. Commonwealth ex rel. Gillis, Ky. App., 698 S.W.2d 528, 530 (1985). In order to make a valid protest, a taxpayer must “provide financial statements, records or some other documentation that would allow the Revenue Department some basis for reconsideration.” Id. at 529.

The courts have held that this statutory provision (KRS 131.110(1)) is “mandatory in nature” and that failure to submit documentation as it requires will result in the taxpayer’s loss of the right to further review of the assessment or refund denial in question. Scotty’s Construction Co. v. Revenue Cabinet, Ky. App., 779 S.W.2d 234 (1989). In both Scotty’s Construction and Eagle Machine, the taxpayers failed to provide any substantial information in support of their denials of tax liability, despite being given ample opportunity to do. The same is true in this matter.

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.”

Therefore, the outstanding tangible property tax assessments totaling \$ ██████████ (plus applicable interest and penalties) are deemed legitimate liabilities of ██████████, Inc 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:

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

