



STEVEN L. BESHEAR  
Governor

FINANCE AND ADMINISTRATION CABINET  
DEPARTMENT OF REVENUE  
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JONATHAN MILLER  
Secretary

THOMAS B. MILLER  
Commissioner

In the matter of:

[REDACTED], INC.

Contact: [REDACTED], Inc

Attn: [REDACTED]

FINAL RULING NO. 2010-91  
December 10, 2010

Tangible Personal Property Tax Assessment  
January 1, 2005

**FINAL RULING**

The Kentucky Department of Revenue currently has outstanding a tangible personal property ad valorem tax assessment against [REDACTED], Inc. ("[REDACTED]"), for the January 1, 2005 tax year. The assessment totals \$ [REDACTED] (plus applicable interest and penalty). A breakdown of the assessment is shown in the chart below:

Tax Year	Tax Due	Interest As of 12/10/2010	Penalty 12/10/2010	Total Due As of 12/10/2010
January 1, 2005	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
<b>TOTALS</b>	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

[REDACTED] operated a [REDACTED] and [REDACTED] shop in Kentucky. The Department's Tangible Property Tax Section issued an omitted property assessment for 2005 pursuant to KRS 132.290 and 132.310. [REDACTED], president of the corporation, responded to the assessment stating that he had made payment to the Sheriff of [REDACTED] County for the taxes due for 2005. The Section determined upon verification that the payment made to the Sheriff was for an intangible bill and

not a tangible bill. ██████████ continued to argue that he had filed and paid the 2005 tangible property tax return. Several attempts have been made to explain that the tangible property tax return had not been filed or taxes paid by ██████████ for the tangible personal property it owned as of January 1, 2005. A 2005 return was finally submitted on ██████████, 2010. This return showed that the Department's assessment was, if anything, too low. ██████████ states that he closed ██████████'s business in 2008 and cannot pay the amount due.

A penalty of twenty percent (20%) and interest were correctly assessed in accordance with KRS 132.290(4) since the property was not voluntarily listed.

The assessment in question is presumed to be valid and it is ██████████'s burden to prove otherwise. Revenue Cabinet v. Gillig, 957 S.W.2d 206 (Ky.1997); Walter G. Hougland & Sons v. McCracken County Board of Supervisors, 306 Ky. 234, 206 S.W.2d 951 (1947).

For the reasons stated above, the outstanding tangible personal property tax assessments totaling \$██████████ (plus applicable interest and penalty) are deemed legitimate liabilities of ██████████, Inc and are due to the Commonwealth of Kentucky.

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 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.

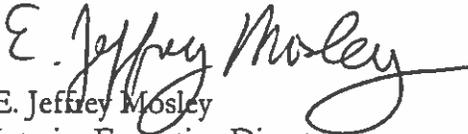
Proceedings before the Kentucky Board of Tax Appeals are conducted in accordance with 103 KAR 1:010, 802 KAR 1:010 and KRS 131.340-131.365 and KRS Chapter 13B. Formal hearings are held by the Board concerning the tax appeals before it, with all testimony and

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. Any party appealing a final ruling to the Board other than an individual, such as a corporation, limited liability company, partnership, joint venture, estate or other legal entity, shall be represented by an attorney in all proceedings before the Board, including the filing of the petition of appeal; 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

  
E. Jeffrey Mosley  
Interim Executive Director  
Office of Legal Services for Revenue