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Governor

FINANCE AND ADMINISTRATION CABINET
DEPARTMENT OF REVENUE
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JONATHAN MILLER
Secretary

THOMAS B. MILLER
Commissioner

In the matter of:

[REDACTED]
Protest of Tangible
Property Tax on Federally Documented Boat

Contact: [REDACTED]

FINAL RULING NO. 2011-25
March 18, 2011

Tangible Personal Property Tax Assessments
January 1, 2006 – January 1, 2007

FINAL RULING

The Kentucky Department of Revenue currently has outstanding Tangible Personal Property Tax assessments against [REDACTED] totaling \$ [REDACTED] (plus applicable interest and penalties) for the period January 1, 2006 and January 1, 2007. A breakdown of the assessment is shown in the chart below:

Tax Year	Tax Due	Interest As of 03-18-2011	Penalty As of 03-18-2011	Total Due As of 03-18-2011
January 1, 2006	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
January 1, 2007	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Totals	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

The Department of Revenue had discovered that the property taxes for the federally documented vessel in question had not been assessed or paid for 2006 and 2007 and accordingly issued [REDACTED] an omitted property tax assessment for each period, in accordance with KRS 132.290. The penalty of twenty percent (20%) and interest as required by KRS 132.290(4) have been assessed as part of this tax liability. The tax, penalty and accruing interest remain

unpaid. For the reasons that follow, [REDACTED] was properly assessed property tax for this watercraft.

Liability for ad valorem taxes on a federally documented vessel is in accordance with KRS 132.190, which states:

- (1) All property shall be subject to taxation, unless exempted by the Constitution or in the case of personal property unless it is exempted by the Constitution or by statute....

The assessment in question is presumed to be valid and it is [REDACTED]'s burden to prove otherwise. Revenue Cabinet v. Gillig, 957 S.W.2d 206 (Ky. 1997); Walter G. Houglund & Sons v. McCracken County Board of Supervisors, 306 Ky. 234, 206 S.W.2d 951 (1947). It is undisputed that [REDACTED] owned the federally documented watercraft in question on January 1, 2006 and January 1, 2007.

The provisions of the property tax law, including the Kentucky Constitution, require that all personal property, which would include watercraft, shall be listed for taxation and if for any reason personal property is not listed, then it may be assessed by the Department of Revenue as omitted property. KRS 132.190; 132.220; 132.290; 132.310; 132.320; Ky. Const. §§ 3, 170, 172, 174. The watercraft in question was unquestionably not listed for ad valorem taxation for the 2006 and 2007 tax years and thus has been properly assessed as omitted property. [REDACTED] has provided no information disputing the assessment.

Therefore, the outstanding Tangible Personal Property Tax assessments totaling \$ [REDACTED] (plus applicable interest and penalties) are legitimate liabilities of [REDACTED] 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 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