



STEVEN L. BESHEAR
Governor

FINANCE AND ADMINISTRATION CABINET
DEPARTMENT OF REVENUE
501 HIGH STREET
FRANKFORT, KENTUCKY 40620
Phone (502) 564-3226
Fax (502) 564-3875
www.kentucky.gov

LORI HUDSON FLANERY
Secretary

THOMAS B. MILLER
Commissioner

In the matter of:

██████████ INC.

Contact: ██████████ Inc.

Attn: ██████████
██████████

FINAL RULING NO. 2011-68
August 15, 2011

FINAL RULING

The Kentucky Department of Revenue ("Department") currently has outstanding tangible property tax assessments against ██████████ Inc. ("██████████") totaling \$ ██████████ (plus applicable interest and penalties) for the period January 1, 2006 through January 1, 2008. A breakdown of the assessments is shown in the chart below:

Tax Year	Tax Due	Interest as of August 15, 2011	Penalty	Total Due as of August 15, 2011
January 1, 2006	\$ ██████████	\$ ██████████	\$ ██████████	\$ ██████████
January 1, 2007	\$ ██████████	\$ ██████████	\$ ██████████	\$ ██████████
January 1, 2008	\$ ██████████	\$ ██████████	\$ ██████████	\$ ██████████
Totals	\$ ██████████	\$ ██████████	\$ ██████████	\$ ██████████

These assessments were made in accordance with tangible property tax returns filed by ██████████. ██████████ has protested the assessments, challenging the valuations reported on its returns. In its ██████████, 2010 protest letter, ██████████ claimed that the value of its inventory was overstated and included other tangible personal property. ██████████ advocates the use of insurance values for the property instead of the values reported on ██████████ returns. However, the values reported by ██████████ returns were consistent with the corporate tax returns on which the values of the property as reported on the returns were based. The use of the insurance values would result in an underreporting of the value of the tangible personal property listed on the returns.

The Department sent letters to both ██████████ and its CPA dated ██████████, 2011, ██████████, 2011, and ██████████, 2011. All these letters requested documentation that would further support its protest. ██████████ has failed to reply or submit any other documentation that would allow the Department a basis of reconsideration of the tax liability.

The appraisal technique utilized by the Department's tangible personal property ad valorem tax returns is presumed to be valid and it is ██████████ burden to prove otherwise. ██████████ has not demonstrated that the fair cash value of its tangible personal property should be determined or reported by an alternative method such as insurance value. The Department maintains that the valuation or assessment resulting from the application of original cost to the property factors of the tangible property tax returns reflects an accurate estimation of the tangible personal property's fair cash value.

The property in question must be assessed for ad valorem taxation at its fair cash value. Ky. Const. § 172; KRS 132.190(3); 132.820(1). The assessments in question are presumed to be valid and correct and it is the taxpayer'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). ██████████ has not provided any proof that the values reflected by the assessments in question are incorrect and should be reduced.

Therefore, the outstanding tangible property tax assessments totaling \$ ██████████ (plus applicable interest and penalties) are 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 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

