



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:

[REDACTED], INC

Contact: [REDACTED], Inc

Attn: [REDACTED]  
[REDACTED]

FINAL RULING NO. 2012-31  
April 25, 2012

Tangible Personal Property Tax Assessments  
January 1, 2006 through January 1, 2008

### FINAL RULING

The Kentucky Department of Revenue ("Department") currently has outstanding tangible personal property ad valorem tax assessments against [REDACTED], Inc ("Inc"), for the January 1, 2006 through January 1, 2009 tax years. These assessments total \$ [REDACTED] (plus applicable interest and penalties). A breakdown of the assessments is shown in the chart below:

Tax Year	Tax Due	Interest As of 04/25/2012	Penalty As of 04/25/2012	Total Due As of 04/25/2012
January 1, 2006	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
January 1, 2007	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
January 1, 2008	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
January 1, 2009	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
<b>TOTALS</b>	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

██████████ protested the assessments contending that the “tax deficiencies do not represent a correct computation for the period of the exam”. ██████████ described the three issues in dispute as; the reclassification of assets as Schedule A property and Schedule B property which are entitled to tax treatment afforded under KRS 132.020 and KRS 132.200(4); the reclassification of assets among the economic class life; and the classification of inventory as Manufacturer’s Finished Goods. ██████████ also contended that the assessed penalties were not applicable due to reasonable cause and should be abated.

In classifying property for assessment purposes, the Department relies on a mass appraisal approach; the use of such an approach in arriving at ad valorem tax assessments is supported by Revenue Cabinet v. Gillig, 957 S.W.2d 206, 209, (Ky. 1997). The assessment in question is presumed to be valid and it is the taxpayer’s burden to prove otherwise. Revenue Cabinet v. Gillig, 957 S.W.2d at 210; Walter G. Hougland & Sons v. McCracken County Board of Supervisors, 306 Ky. 234, 206 S.W.2d 951 (1947). ██████████ has not met its burden of establishing that the property in question was misclassified for assessment purposes and thus assessed incorrectly or in excess of its fair cash value. See KRS 132.190(3); Ky. Const. Section 172.

A penalty of ten percent (10%) was originally assessed in accordance with KRS 132.290(3). The Department has the authority to abate assessed penalties where it is shown to its satisfaction that failure to file or pay timely is due to reasonable cause. Per KRS 131.175. ██████████ requested abatement, stating that it “feels that it had a reasonable basis for filing the returns as it did for the reasons detailed in this protest...” ██████████ failed to provide any proof that the reasons meet the requirements needed to abate the penalties as outlined in 103 KAR 1:040.

Therefore, the outstanding tangible personal property tax assessments totaling \$ ██████████ (plus applicable interest and penalties) are legitimate liabilities of ██████████ and are due to the Commonwealth of Kentucky.

This letter is the final ruling of the Department.

### 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

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED



