



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. 2012-60  
November 15, 2012

Tangible Personal Property Tax Assessment  
January 1, 1999

**FINAL RULING**

The Kentucky Department of Revenue currently has outstanding tangible personal property tax assessments against ██████████, Inc. ("██████") totaling \$██████ (plus applicable interest and penalties) for the period of January 1, 1999. A breakdown of the assessments is shown in the chart below:

Tax Year	Tax Due	Interest As of 11/15/2012	Penalty As of 11/15/2012	Total Due As of 11/15/2012
January 1, 1999	\$██████	\$██████	\$██████	\$██████
<b>TOTALS</b>	\$██████	\$██████	\$██████	\$██████

██████ is a construction contractor that specializes in building ████████. ████████ is headquartered in ████████, Kentucky. ████████'s Federal Identification number is ████████.

██████ asserts that the Department's assessments erroneously reclassified its tangible personal property from Schedule B: Manufacturing assets to Schedule A: Non-manufacturing assets. ████████ maintains that all of the property in question should qualify for the favorable tax treatment afforded under KRS 132.020(1) and KRS 132.200(4).

KRS 132.200(4) provides that "machinery actually engaged in manufacturing" is subject to state ad valorem tax, but is exempt from local ad valorem taxes. Further, "machinery actually engaged in manufacturing" is subject to a lower state ad valorem tax rate. KRS 132.020(1)(i).

It is the Department's position that the tangible personal property at issue is not "machinery actually engaged in manufacturing" as provided in KRS 132.200(4) and KRS 132.020(1)(i). ██████████ has the burden of proving that the exemption it claims applies to the property in question. Department of Revenue v. Hobart Mfg. Co., 549 S.W.2d 297 (Ky. 1977); Owens-Illinois Labels, Inc. v. Commonwealth, 27 S.W.3d 798 (Ky. App. 2000); American Tobacco Co. v. City of Bowling Green, 191 Ky. 416, 205 S.W. 570 (1918).

██████████ has failed to meet its burden of proving that the tangible personal property at issue is "machinery actually engaged in manufacturing" entitled to the application of a lower state tax rate and exemption from local taxes.

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