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LORI HUDSON FLANERY  
Secretary

THOMAS B. MILLER  
Commissioner

In the matter of:

██████████, INC.

Contact: ██████████, P.A.

Attn: ██████████

██████████

FINAL RULING NO. 2014-31  
July 25, 2014

Tangible Property Ad Valorem Tax Assessment  
For Assessment Dates January 1, 2010 through January 1, 2012

FINAL RULING

The Kentucky Department of Revenue currently has outstanding tangible personal property ad valorem tax assessments against ██████████, Inc. ("██████████") totaling \$██████████ (plus applicable interest and penalties) for the assessment dates of January 1, 2010, January 1, 2011, and January 1, 2012. A breakdown of these assessments is shown in the chart below:

Tax Year	Tax Due	Interest As of 07/25/14	Penalty As of 07/25/14	Total Due As of 07/25/14
January 1, 2010	\$██████████	\$██████████	\$██████████	\$██████████
January 1, 2010	\$██████████	\$██████████	\$██████████	\$██████████
January 1, 2011	\$██████████	\$██████████	\$██████████	\$██████████
January 1, 2011	\$██████████	\$██████████	\$██████████	\$██████████
January 1, 2012	\$██████████	\$██████████	\$██████████	\$██████████
January 1, 2012	\$██████████	\$██████████	\$██████████	\$██████████
Totals	\$██████████	\$██████████	\$██████████	\$██████████

██████████ protested these assessments in a letter dated ██████████, 2013, disputing the values assigned by the Department's audit to tangible personal property located in ██████████ County. ██████████ contends its' business was closed in 2010 in ██████████ County.

A letter dated ██████████, 2013 was sent by the Department requesting supporting documentation for ██████████'s claims. After no response to this ██████████, 2013 letter was received, second and third requests dated ██████████, 2014, and ██████████, 2014 were sent to ██████████ giving it additional time (thirty (30) days after each request) to respond. To date, no documentation has been received.

At issue is whether ██████████ has complied with the requirements of KRS 131.110(1), which states in pertinent part:

The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made. Upon written request, the department may extend the time for filing the supporting statement if it appears the delay is necessary and unavoidable.

The Kentucky courts have held that this statutory provision imposes upon a taxpayer protesting an assessment or a refund denial a legal duty to provide the Department with "something more substantial than mere denials of tax liability." Eagle Machine Co., Inc. v. Commonwealth ex rel. Gillis, 698 S.W.2d 528, 530 (Ky.App., 1985). In order to make a valid protest, a taxpayer must "provide financial statements, records or some other documentation that would allow the Revenue Department some basis for reconsideration." Id. at 529.

The courts have further held that KRS 131.110(1) is "mandatory in nature" and that failure to submit documentation as it requires will result in the taxpayer's loss of the right to further review of the assessment or refund denial in question. Scotty's Construction Co. v. Revenue Cabinet, 779 S.W.2d 234 (Ky.App., 1989). In both Scotty's Construction and Eagle Machine, the taxpayers failed to provide any substantial information in support of their denials of tax liability, despite being given ample opportunity to do. The same is true in this matter.

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

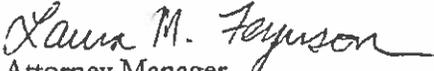
The petition of appeal must be in writing and signed by the petitioner or appellant. Filings by facsimile or other electronic means shall not be accepted.

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. In accordance with Supreme Court Rule 3.020, if the appealing party is a corporation, trust, estate, partnership, joint venture, LLC, or any other artificial legal entity, the entity must be represented by an attorney on all matters before the Board, including the filing of the petition of appeal. If the petition of appeal is filed by a non-attorney representative for the legal entity, the appeal will be dismissed by the Board; 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

  
Attorney Manager  
Office of Legal Services for Revenue

