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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:

██████████, INC.

Contact: ██████████

FINAL RULING NO. 2011- 24
March 17, 2011

Telecommunications Property Tax Assessment
January 1, 2009 through December 31, 2009

FINAL RULING

The Kentucky Department of Revenue issued a Kentucky Telecommunications ad valorem tax assessment of property totaling \$██████████ for the tax year 2010. ██████████, Inc. has protested this assessment pursuant to KRS 131.110. In addition, ██████████, Inc. has made a full tax payment of \$██████████ based upon the 2010 ad valorem property assessment of \$██████████.

██████████, Inc. is a ██████████ and ██████████ service provider who owns communications equipment that is subject to Telecommunications Property Tax. ██████████, Inc. protested the Telecommunications Property Tax assessment in a letter dated ██████████ 2010, disputing the assessed value of their telecommunications equipment.

██████████, Inc. states that "Each year our business is deteriorating from the competition of satellite and telephone companies, as well as rising cost of programming and other overhead expenses. It is our opinion that the value of our company is decreasing, and therefore, should be reflected proportionally in our assessment."

A letter dated ██████████, 2010 was sent by the Department requesting a stated claim value pursuant to KRS 132.825 (10). In addition, the Department asked for detailed documentation to support the claimed value per KRS 131.180. Per no response, a second request dated ██████████, 2011 was sent to ██████████, Inc. providing an additional thirty (30) days to respond. To date, no documentation has been received.

The assessed tax liabilities in question are presumed to be valid 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). ██████████, Inc. has had ample time to meet its burden of proof but has failed to provide any documentation in support of its position.

Therefore, the 2010 Kentucky Telecommunications ad valorem tax assessment of property totaling \$██████████ and the corresponding tax of \$██████████ are legitimate liabilities of ██████████, Inc. 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