

MATTHEW G. BEVIN
Governor

FINANCE AND ADMINISTRATION CABINET DEPARTMENT OF REVENUE DIVISION OF PROTEST RESOLUTION

501 HIGH STREET, STATION 7 FRANKFORT, KENTUCKY 40601 Phone (502) 564-6734 Fax (502) 564-3788 www.revenue.ky.gov WILLIAM M. LANDRUM III
Secretary

DANIEL P. BORK
Commissioner

In the matter of:



FINAL RULING NO. 2016-15 April 25, 2016

Assessment of Limited Liability Entity Tax Tax Year Ended December 31, 2013

FINAL RULING

The Kentucky Department of Revenue ("the Department") has issued a limited liability entity tax ("LLET") assessment against tax year ended December 31, 2013. The assessment resulted from the Taxpayer's failure to pay the tax due. The following table provides a breakdown of the amount of tax due, all assessed penalties, as well as accrued interest as of the date of this final ruling:

TAX YEARS	TAX	INTEREST	PENALTIES	TOTAL
2013	\$	\$	\$	\$
TOTAL	\$	\$	\$	\$

The Taxpayer filed a return for the tax year ended December 31, 2013, showing LLET due in the amount of but did not remit payment of the amount owed. The return was signed and dated on 2014. The Taxpayer argues that it did not conduct any business and remained in existence in name only after January 2011 and that no tax return was filed.



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During 2013, the Taxpayer was still registered with the Kentucky Secretary of State; administrative dissolution did not occur until 2013. Pursuant to KRS 141.010(25)(a), "Doing business in this state' includes but is not limited to being organized under the laws of this state." Furthermore, KRS 141.0401(2)(a) states that every corporation and limited liability pass-through entity doing business in Kentucky shall pay an annual tax for taxable years beginning on or after January 1, 2007. Since the Taxpayer was considered to be doing business in Kentucky through its registration with the Kentucky Secretary of State, at least the minimum tax of one hundred seventy-five dollars (\$175.00) is required to be paid for each taxable year. See KRS 141.0401(2)(a).

Based on the above, it is the position of the Kentucky Department of Revenue that the outstanding LLET assessment issued against period of the Commonwealth of Kentucky. In addition, the assessment for the tax year ended December 31, 2013, includes assessed interest that will accrue until the tax is paid. See KRS 141.220; 141.985; 131.183; 103 KAR 15:050 § 4. The Taxpayer is also liable for a penalty attributable to the failure to pay the tax due. KRS 131.180(2).

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:

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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,

Dans Soull

Attorney Manager

Office of Legal Services for Revenue

CERTIFIED MAIL
RETURN RECEIPT REQUESTED