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Secretary

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Commissioner

In the matter of:

[REDACTED]

Contact:

[REDACTED]

FINAL RULING NO. 2014-25
July 23, 2014

Motor Vehicle Usage and Ad Valorem
Tax Assessments

FINAL RULING

The Kentucky Department of Revenue ("the Department") has issued a motor vehicle usage tax ("MVUT") assessment for the year 2007, and motor vehicle property or ad valorem tax ("MOTAX") assessments for the tax years 2008 through 2012 to [REDACTED]. The assessments relate to a 2006 Ford F-250 and have been protested by [REDACTED].

The following schedule provides a breakdown of these assessments, including penalties and applicable interest that has been accrued to the date of the instrument and will continue to accrue until the assessments are paid:

Type Tax	Period	Tax Due	Interest as of 07/23/2014	Penalty	Total Due
MVUT	5/27/07	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
MOTAX	2008	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
MOTAX	2009	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
MOTAX	2010	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
MOTAX	2011	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
MOTAX	2012	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
TOTALS (MOTAX)		\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

GRAND TOTAL (MOTAX & MVUT)		\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
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The assessments in question resulted from a report or tip to the Department's Freeroader Program. [REDACTED] asserts that she has been a resident of [REDACTED] for several years and licensed or registered her motor vehicles in [REDACTED]. She acknowledges that she has filed Kentucky resident income tax returns with her husband for the years in question but claims that this was her tax preparer's error and has since submitted amended returns for those years that claim non-resident status.

The Department's records indicate that [REDACTED] was issued a Kentucky driver's license on [REDACTED], 2007 at the Kentucky address of [REDACTED], Kentucky. This driver's license expired on [REDACTED], 2011. This address is where her son resides. [REDACTED] and her husband stay with their son frequently due to her husband's becoming disabled as of [REDACTED], 2011 and his difficulty driving as a result of that disability. [REDACTED] use the [REDACTED] Kentucky residence as a mailing address.

The Department's records also indicate that [REDACTED] was registered to vote in the Commonwealth of Kentucky and did in fact vote in Kentucky elections in [REDACTED] and [REDACTED], 2007; [REDACTED] and [REDACTED], 2008; and [REDACTED] and [REDACTED], 2010. In doing so, she in effect represented and admitted that she was a Kentucky resident or domiciled in Kentucky during these years. See Everman v. Thomas, 303 Ky. 156, 197 S.W.2d 58, 62-63, 66 (1946); Wheeler v. Burgess, 263 Ky. 693, 93 S.W.2d 351, 354-55 (1936). See also KRS 116.025; 116.035; 116.045.

"Residence" for purposes of Kentucky motor vehicle registration is defined in KRS 186.010(12) as follows:

"Resident" means any person who has established Kentucky as his or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement. The possession by an operator of a vehicle of a valid Kentucky operator's license shall be prima-faire evidence that the operator is a resident of Kentucky.

See also KRS 186.020(1). In light of her actual residence in [REDACTED] Kentucky, her holding a Kentucky driver's license, her voting in Kentucky, and her filing of Kentucky resident income tax returns, [REDACTED] was a resident of or domiciled in Kentucky during the years for which the MOTAX and MVUT assessments have been made.

As a Kentucky resident, she was required to register her 2006 Ford F-250 in Kentucky in 2007. See KRS 138.460(1) and (2); 186.010(12); 186.020(1); 186A.065. Had she properly registered this vehicle during the period for which MOTAX and MVUT assessments described above have been made, the MOTAX would have been properly collected by the county clerk. See KRS 134.800 to 134.820; 132; 132.485; 132.487.

As noted above, MOTAX assessments have also been issued to [REDACTED] for 2008 through 2012. Based upon the foregoing, the Ford F-250 had a taxable situs in Kentucky during these years. [REDACTED] failure to list or obtain a Kentucky registration and title for the Ford F-250 rendered it omitted property and subject to ad valorem tax assessment as such by the Department. See, KRS 132.290; 132.310; and 132.320.

A penalty has been assessed pursuant to KRS 131.180(2) because [REDACTED] did not pay the MVUT in a timely manner. Penalties have also been assessed pursuant to KRS 132.290(4) because the Ford F-250 was not listed for MOTAX purposes by [REDACTED] for any of the tax years in question. [REDACTED] has not offered anything that would show or suggest that these penalties were erroneously assessed or that [REDACTED] should be relieved of liability from these penalties.

The MVUT and MOTAX assessments are presumed to be valid and correct, with the burden resting upon [REDACTED] to prove otherwise. See, e.g. Revenue Cabinet v. Gillig, 957 S.W.2d 206, 209-210 (Ky. 1997); Hahn v. Allphin, 282 S.W.2d 824, 825 (Ky. 1955). [REDACTED] has failed to do so.

Therefore, the outstanding MVUT and the MOTAX assessments in the amount of \$[REDACTED] (plus applicable interest and penalties) are legitimate liabilities of [REDACTED] due 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 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 appeal before the Board is governed by the following rules set forth on 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 these 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 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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

cc: [REDACTED], Attorney

[REDACTED]

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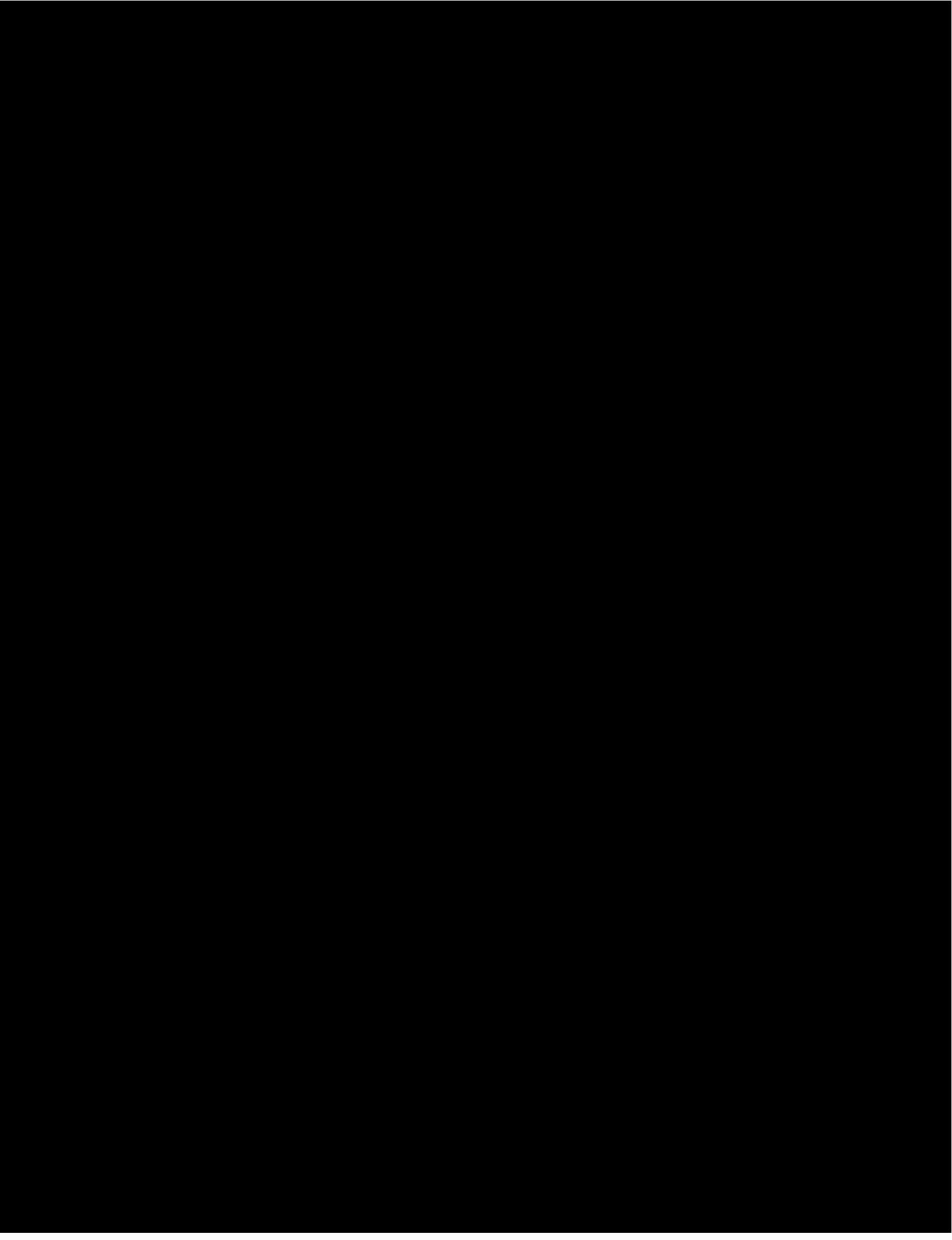
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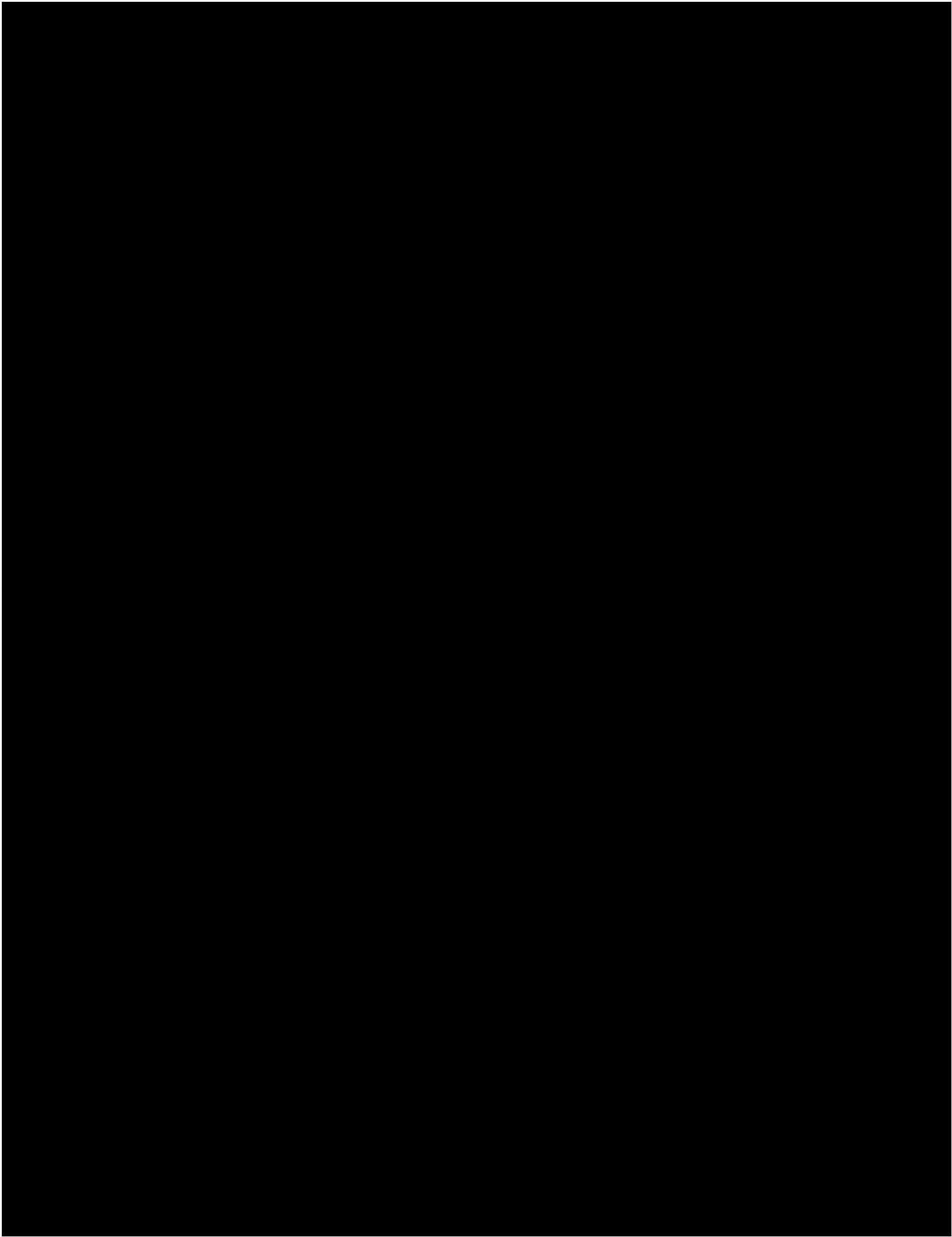
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the 1990s, the number of people in the UK who are aged 65 and over has increased by 1.5 million (1990–2000) and is projected to increase by a further 1.5 million by 2020 (Office for National Statistics 2001). The number of people aged 65 and over is projected to increase from 10.5 million in 1990 to 12.5 million in 2020, with the number of people aged 75 and over increasing from 4.5 million to 6.5 million in the same period (Office for National Statistics 2001).

There is a growing awareness of the need to develop strategies to meet the needs of the ageing population. The Department of Health (2000) has identified the need to develop a 'new paradigm' for the care of the elderly, one that is based on the principles of 'active ageing' and 'positive ageing'. This paradigm is based on the idea that ageing is a process, not a state, and that the quality of life in old age is determined by the choices that people make throughout their lives.

The Department of Health (2000) has identified a number of key areas for action in order to develop this new paradigm. These include: (1) promoting the health and well-being of older people; (2) ensuring that older people have access to the services and resources that they need; (3) ensuring that older people are able to participate in the decisions that affect their lives; and (4) ensuring that older people are able to live in their own homes and communities.

The Department of Health (2000) has also identified a number of key areas for research in order to develop this new paradigm. These include: (1) understanding the needs and experiences of older people; (2) understanding the factors that influence the health and well-being of older people; (3) understanding the effectiveness of interventions to improve the health and well-being of older people; and (4) understanding the costs and benefits of different approaches to the care of older people.

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The first part of the paper discusses the importance of the research and the objectives of the study. It then proceeds to a literature review, where the existing research on the topic is examined. The methodology section describes the research design and the data collection process. The results section presents the findings of the study, and the conclusion summarizes the main points and offers suggestions for future research.

The study was conducted in a laboratory setting, where the participants were asked to perform a series of tasks. The data was collected using a specialized software package, which allowed for the recording of the participants' responses in real-time. The results were then analyzed using statistical methods, and the findings were compared to the existing literature.

The findings of the study indicate that there is a significant relationship between the variables being studied. This relationship was found to be consistent across the different groups of participants, suggesting that the results are generalizable. The study also identified some limitations, which were discussed in the conclusion.

In conclusion, the study provides valuable insights into the topic being investigated. The findings suggest that there is a need for further research in this area, and the study offers some suggestions for future research. The study also highlights the importance of the research and the need for more studies in this field.

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The study was conducted in a laboratory setting, and the data were collected using a series of experiments. The results of the experiments were analyzed using statistical methods, and the findings were compared with the results of previous studies. The study found that the research objectives were achieved, and the results were consistent with the findings of previous research.

The study has several limitations, and there are some areas that need to be explored in future research. The study was conducted in a laboratory setting, and the results may not be generalizable to real-world situations. The study also had a limited sample size, and the results may be affected by the characteristics of the sample.

In conclusion, the study provides valuable insights into the research topic, and the findings are consistent with the findings of previous research. The study also identifies some limitations and areas for future research, which will help to improve the understanding of the research topic.