



ERNIE FLETCHER  
GOVERNOR

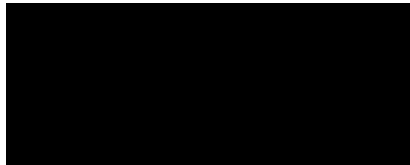
DEPARTMENT OF REVENUE  
FINANCE AND ADMINISTRATION CABINET  
200 FAIR OAKS LANE  
FRANKFORT, KENTUCKY 40620  
www.kentucky.gov

ROBBIE RUDOLPH  
SECRETARY

In the matter of:

[REDACTED], INC.

Contact:



FINAL RULING NO. 2005-19  
July 6, 2005

Sales and use tax assessments  
for the periods October 1, 1992 through December 31, 1997

### FINAL RULING

The Kentucky Department of Revenue has issued sales and use tax assessments to [REDACTED], Inc. ("[REDACTED]") totaling \$[REDACTED], plus interest, for the period October 1, 1992 through December 31, 1997. For the reasons that follow, these assessments are a legitimate tax liability of [REDACTED] to the Commonwealth of Kentucky.

The Department's audit determined that during the period in question, [REDACTED] was a federal service contractor providing grounds maintenance and cleaning services for the Army Corps of Engineers. The audit further determined that [REDACTED] had purchased a variety of items of tangible personal property for use in its Kentucky operations and that no sales and use tax had been paid for these purchases.

It is the Department's understanding that [REDACTED] does not contest its liability for \$[REDACTED] of the tax assessed. As to the balance of the amount assessed, [REDACTED] reports that it is unable to provide a defense due to the loss of business records in an automobile accident in which its owner and operator was killed.

Unfortunately, the Department cannot relieve [REDACTED] from its liability, even in light of the tragic circumstance of its owner and operator, unless it can be established by satisfactory evidence and based upon some provision of law that tax was not due on the transactions in question or that these transactions were exempt from tax. The law clearly places

the burden of proof upon the taxpayer. KRS 139.260; 139.400; 139.460; Camera Center, Inc. v. Revenue Cabinet, 34 S.W.3d 39 (Ky. 2000).

██████████ has had ample time and opportunity to reconstruct or retrieve from other sources records, documents and other evidence to use in defending the assessments in question. It has not done so, and the Department therefore has no choice but to uphold these assessments and deny ██████████ protest.

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 40602-2120, 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 2 (3) of 802 KAR 1:010:

1. An individual may represent himself in hearings before the Board;
2. An individual who is not an attorney may not represent any other individual, corporation, trust, estate, or partnership before the Board; and
3. An attorney who is not licensed to practice in Kentucky may practice before the Board if he complies with Rule 3.030(2) of the Rules of the Kentucky Supreme Court.

[REDACTED], Inc.  
July 6, 2005 – Final Ruling No. 2005-19

You will be notified by the Clerk of the Board of the date and time set for any hearing.

Sincerely,  
FINANCE AND ADMINISTRATION CABINET



THOMAS H. BROWN  
Director  
Division of Protest Resolution

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

