

FINANCE AND ADMINISTRATION CABINET OFFICE OF THE SECRETARY

Ernie Fletcher Governor

Room 383, New Capitol Annex Frankfort, Kentucky 40601 Phone: (502) 564-4240 Fax: (502) 564-6785 John R. Farris Secretary

In the matter of:

INC. dba

Contact:

Inc. dba

c/o

FINAL RULING NO. 2006-100 November 29, 2006

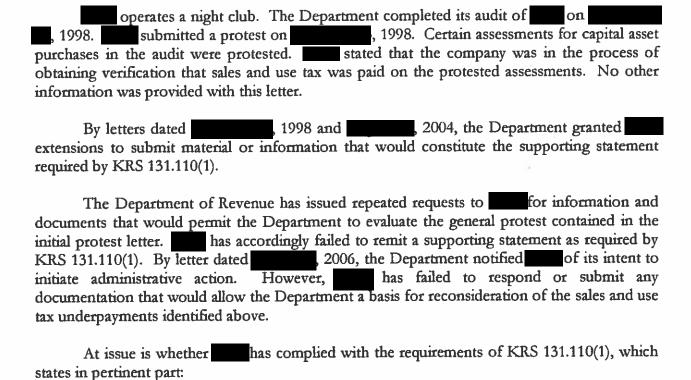
Sales and use tax assessments for the periods October 1, 1993 through June 30, 1998

FINAL RULING

Period	Тах	Interest as of 11/28/2006	Amnesty Fee	Penalties	Total per Period
1/1/94- 12/31/94					
1/1/95- 12/31/95				_	
1/1/96- 12/31/96					
TOTAL					

In addition, was assessed sales tax in the amount of \$ plus interest and penalties, which was not protested. To date, and has not made payment of any portion of this audit liability.





The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made. Upon written request, the cabinet 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." <u>Eagle Machine Co., Inc. v. Commonwealth ex rel. Gillis, Ky. App., 698 S.W.2d 528, 530 (1985)</u>. 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." <u>Id.</u> at 529.

The courts have held that this statutory provision (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, Ky. App., 779 S.W.2d 234 (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 sales and use tax assessments totaling \$ applicable interest and penalties) are deemed legitimate liabilities of Inc. dba 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 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.

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

