



**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

The Kentucky Department of Revenue has issued sales and use tax assessments to █████ Inc. dba █████ ("████") totaling \$████, plus interest and penalties, for the periods January 1 1994 through December 31, 1996. The following schedule reflects the total underpayment for each period.

Period	Tax	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, █████ has not made payment of any portion of this audit liability.

██████████ operates a night club. The Department completed its audit of ██████████ on ██████████, 1998. ██████████ submitted a protest on ██████████, 1998. Certain assessments for capital asset purchases in the audit were protested. ██████████ stated that the company was in the process of obtaining verification that sales and use tax was paid on the protested assessments. No other information was provided with this letter.

By letters dated ██████████, 1998 and ██████████, 2004, the Department granted ██████████ extensions to submit material or information that would constitute the supporting statement required by KRS 131.110(1).

The Department of Revenue has issued repeated requests to ██████████ for information and documents that would permit the Department to evaluate the general protest contained in the initial protest letter. ██████████ has accordingly failed to remit a supporting statement as required by KRS 131.110(1). By letter dated ██████████, 2006, the Department notified ██████████ of its intent to initiate administrative action. However, ██████████ has failed to respond or submit any documentation that would allow the Department a basis for reconsideration of the sales and use tax underpayments identified above.

At issue is whether ██████████ has complied with the requirements of KRS 131.110(1), which states in pertinent part:

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.” Eagle Machine Co., Inc. v. Commonwealth ex rel. Gillis, Ky. App., 698 S.W.2d 528, 530 (1985). 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.” Id. 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 \$ ██████████ (plus 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

the 1990s, the number of people in the UK with a mental health problem has increased by 50% (Mental Health Foundation 2000).

There is a growing awareness of the need to address the needs of people with mental health problems, and the importance of providing them with appropriate services. However, there is a significant gap between the current needs of people with mental health problems and the services that are available to them. This gap is due to a number of factors, including a lack of resources, a lack of training for health professionals, and a lack of awareness of the needs of people with mental health problems.

One of the main reasons for the gap between need and service is a lack of resources. There are not enough health professionals to meet the needs of people with mental health problems, and there are not enough services available to them. This is due to a number of factors, including a lack of funding, a lack of training for health professionals, and a lack of awareness of the needs of people with mental health problems.

Another reason for the gap between need and service is a lack of training for health professionals. Many health professionals do not have the necessary training to deal with people with mental health problems. This is due to a number of factors, including a lack of funding, a lack of training for health professionals, and a lack of awareness of the needs of people with mental health problems.

A third reason for the gap between need and service is a lack of awareness of the needs of people with mental health problems. Many people do not know what to do if they or someone they know has a mental health problem. This is due to a number of factors, including a lack of funding, a lack of training for health professionals, and a lack of awareness of the needs of people with mental health problems.

There are a number of ways in which the gap between need and service can be closed. One way is to increase the number of health professionals. This can be done by increasing the number of people who are trained to deal with people with mental health problems. Another way is to increase the number of services available to people with mental health problems. This can be done by increasing the number of people who are trained to deal with people with mental health problems.

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[REDACTED]