



STEVEN L. BESHEAR  
Governor

FINANCE AND ADMINISTRATION CABINET  
DEPARTMENT OF REVENUE  
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JONATHAN MILLER  
Secretary

THOMAS B. MILLER  
Commissioner

In the matter of:

██████████ Ltd

Contact:

██████████ Ltd

FINAL RULING NO. 2011-12  
February 15, 2011

### FINAL RULING

The Kentucky Department of Revenue ("DOR") currently has an outstanding sales and use tax assessment against ██████████ Ltd ("██████████") totaling \$██████████ plus interest for the period July 1, 2005 through December 31, 2008. A breakdown of the outstanding amount of the assessment still due is shown in the chart below:

Period	Tax	Interest as of 02/15/2011	Total per Period
7/1/05 – 12/31/05	\$██████████	\$██████████	\$██████████
1/1/06 – 12/31/06	\$██████████	\$██████████	\$██████████
1/1/07 – 12/31/07	\$██████████	\$██████████	\$██████████
1/1/08 – 12/31/08	\$██████████	\$██████████	\$██████████
<b>TOTAL</b>	<b>\$██████████</b>	<b>\$██████████</b>	<b>\$██████████</b>

██████████ is a ██████████ manufacturer. It now operates from one plant facility in ██████████, Kentucky.

At issue is ██████████'s failure to pay the remaining liability and the assessment of related interest. All other protested issues have been resolved, yet ██████████ has not remitted payment on the remaining non-contested liability and related interest.

██████████ has been granted several extensions to submit information or make payment as requested by the Department in letters dated ██████████, ██████████, ██████████, ██████████, ██████████, and ██████████ of 2010. ██████████ has failed to respond in any manner to the DOR requests.

KRS 139.650 plainly and unambiguously states:

In every case, any tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

It is further provided in KRS 131.175:

Notwithstanding any other provisions of KRS Chapters 131 to 143A, for all taxes payable directly to the Department of Revenue, the sheriff or the county clerk, the commissioner shall have authority to waive the penalty, but not interest, where it is shown to the satisfaction of the department that failure to file or pay timely is due to reasonable cause.

Under the foregoing statutory provisions, interest must accrue on any unpaid taxes and this interest cannot be waived by the DOR. For the reasons stated above, the outstanding liability totaling \$██████████ set forth above is a legitimate liability of ██████████ Ltd due to 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 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:

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. Any party appealing a final ruling to the Board other than an individual, such as a corporation, limited liability company, partnership, joint venture, estate or other legal entity, shall be represented by an attorney in all proceedings before the Board, including the filing of the petition of appeal; 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,



E. Jeffrey Mosley  
Interim Executive Director  
Office of Legal Services for Revenue