



STEVEN L. BESHEAR  
Governor

FINANCE AND ADMINISTRATION CABINET  
DEPARTMENT OF REVENUE  
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LORI HUDSON FLANERY  
Secretary

THOMAS B. MILLER  
Commissioner

In the matter of:

[REDACTED]  
d/b/a [REDACTED] CO

Contact: [REDACTED]

FINAL RULING NO. 2012-30  
April 13, 2012

Sales and Use Tax Assessment  
for the period of  
January 1, 2009 through December 31, 2009

### FINAL RULING

The Kentucky Department of Revenue ("DOR") has an outstanding sales and use tax assessment against [REDACTED] d/b/a [REDACTED] Co ("[REDACTED]") for the period January 1, 2009 through December 31, 2009. The following schedule reflects the total underpayment, including applicable interest and penalty accrued to date:

Period	Tax	Interest as of 04/13/2012	Penalty	Total per period
01/01/09 – 12/31/09	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Totals	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

For the period listed above, [REDACTED] operated as an auctioneer conducting weekly livestock auctions and a once monthly farm equipment auction.

After failing to respond to inquiries from the Division of Sales and Use Tax's Program Compliance Branch, ██████████ was initially issued an assessment of \$ ██████████

██████████ timely protested this assessment. Over the period ██████████, 2010 to ██████████, 2011, after numerous requests, ██████████ provided documentation sufficient to reduce the assessment to the amount shown above as outstanding. The amount remaining is attributed to missing agricultural certificates ██████████ has failed to locate and provide.

At issue is whether ██████████ has provided a sufficient supporting statement as required by KRS 131.110(1) with respect to the outstanding assessment.

Subsequent to the adjustments supported by ██████████'s documentation, requests for documentation relating to the outstanding balance were sent to ██████████ on ██████████, 2011; ██████████, 2011; and ██████████, 2012. ██████████ has failed to respond or provide the documentation necessary to adjust the balance.

The Kentucky courts have held that KRS 131.110 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, 698 S.W.2d 528, 530, (Ky. App. 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, 779 S.W.2d 234, (Ky. App. 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.

As indicated above, a penalty has been assessed pursuant to KRS 131.180(2) because of ██████████'s failure to have timely paid at least 75% of the tax determined to be due by the DOR. ██████████ has provided nothing that would indicate that this penalty was erroneously applied or that it should be waived or abated.

Therefore, the outstanding sales and use tax assessments totaling \$ ██████████ (plus applicable penalty and interest) are deemed legitimate liabilities of ██████████ Co 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 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.

██████████ Co.

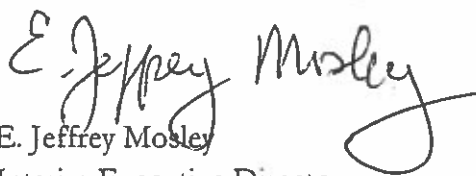
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You will be notified by the Clerk of the Board of the date and time set for any hearing.

Sincerely,

FINANCE AND ADMINISTRATION CABINET

A handwritten signature in cursive script, reading "E. Jeffrey Mosley". The signature is written in dark ink and is positioned above the printed name and title.

E. Jeffrey Mosley

Interim Executive Director

Office of Legal Services for Revenue

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

The first of these is the fact that the system is not a simple one. It is a complex system, and as such, it is not possible to understand it by looking at its parts in isolation. The system is a whole, and it is only by looking at the whole that we can understand it. This is the first principle of systems thinking: the whole is greater than the sum of its parts.

The second principle is that the system is dynamic. It is not a static system, and it is not a system that can be understood by looking at a single point in time. The system is a process, and it is only by looking at the process that we can understand it. This is the second principle of systems thinking: the system is a process.

The third principle is that the system is interconnected. It is not a system of isolated parts, and it is not a system that can be understood by looking at its parts in isolation. The system is a network, and it is only by looking at the network that we can understand it. This is the third principle of systems thinking: the system is a network.

The fourth principle is that the system is self-organizing. It is not a system that is controlled by an external force, and it is not a system that can be understood by looking at its parts in isolation. The system is a self-organizing system, and it is only by looking at the system that we can understand it. This is the fourth principle of systems thinking: the system is self-organizing.

The fifth principle is that the system is resilient. It is not a system that is fragile, and it is not a system that can be understood by looking at its parts in isolation. The system is a resilient system, and it is only by looking at the system that we can understand it. This is the fifth principle of systems thinking: the system is resilient.

The sixth principle is that the system is adaptable. It is not a system that is rigid, and it is not a system that can be understood by looking at its parts in isolation. The system is an adaptable system, and it is only by looking at the system that we can understand it. This is the sixth principle of systems thinking: the system is adaptable.

The seventh principle is that the system is sustainable. It is not a system that is unsustainable, and it is not a system that can be understood by looking at its parts in isolation. The system is a sustainable system, and it is only by looking at the system that we can understand it. This is the seventh principle of systems thinking: the system is sustainable.

The eighth principle is that the system is equitable. It is not a system that is inequitable, and it is not a system that can be understood by looking at its parts in isolation. The system is an equitable system, and it is only by looking at the system that we can understand it. This is the eighth principle of systems thinking: the system is equitable.

The ninth principle is that the system is just. It is not a system that is unjust, and it is not a system that can be understood by looking at its parts in isolation. The system is a just system, and it is only by looking at the system that we can understand it. This is the ninth principle of systems thinking: the system is just.

The tenth principle is that the system is peaceful. It is not a system that is violent, and it is not a system that can be understood by looking at its parts in isolation. The system is a peaceful system, and it is only by looking at the system that we can understand it. This is the tenth principle of systems thinking: the system is peaceful.

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