



FINANCE AND ADMINISTRATION CABINET
DEPARTMENT OF REVENUE

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Mike Burnside
Secretary

John May
Commissioner

In the matter of:

[REDACTED] INC.

Contact: [REDACTED] Inc.

Attn: [REDACTED]

FINAL RULING NO. 2007-51
October 16, 2007

Tangible Personal Property Tax Assessment
January 1, 2001 through January 1, 2003

FINAL RULING

The Kentucky Department of Revenue currently has outstanding tangible personal property tax assessments against [REDACTED] Inc. ([REDACTED]) totaling \$[REDACTED] (plus applicable interest and penalties) for the periods of January 1, 2001 through January 1, 2003. A breakdown of the assessments is shown in the chart below:

Tax Year	Tax Due	Interest As of 10/09/2007	Penalty As of 10/09/2007	Total Due As of 10/09/2007
January 1, 2001	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
January 1, 2002	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
January 1, 2003	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
TOTALS	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

[REDACTED] Inc. is a manufacturer of [REDACTED] for [REDACTED]. The taxpayer's manufacturing plant is in [REDACTED], Kentucky. The taxpayer has sales offices in [REDACTED], Kentucky, which opened in [REDACTED] of 2000 and another in [REDACTED]. [REDACTED] Inc. merged with their sister company, [REDACTED] Inc., located in [REDACTED], on [REDACTED], 2003. Manufacturing operations will continue at the [REDACTED] plant, but under a new name of [REDACTED] Inc. [REDACTED] Inc.'s Federal Identification number is [REDACTED].

██████████ maintains that all property located at its factory should qualify for the favorable tax treatment afforded under KRS 132.020(1) and KRS 132.200(4). ██████████ has the burden of proving that the exemption it claims applies to the property in question. Department of Revenue v. Hobart Mfg. Co., 549 S.W.2d 297 (Ky. 1977); Owens-Illinois Labels, Inc. v. Commonwealth, 27 S.W.3d 798 (Ky. App. 2000); American Tobacco Co. v. City of Bowling Green, 191 Ky. 416, 205 S.W. 570 (1918).

The provisions in question do not provide an exemption and reduced state rate for all property owned by a business engaged in manufacturing. Instead, the property must be “[m]achinery actually engaged in manufacturing.” KRS 132.020(1); 132.200(4). The Department has allowed ██████████ the appropriate tax treatment called for under these provisions to all of its property qualifying. The remaining property that is the subject of the assessment at issue consists of such items as storage racks, cabinets, and break room table and chairs, and thus cannot qualify for the reduced state tax rate and exemption from local taxation sought by ██████████.

Therefore, the outstanding tangible personal property tax assessments totaling \$ ██████████ (plus applicable interest, penalties and fees) are deemed legitimate liabilities of ██████████, Inc. and are due to the Commonwealth of Kentucky.

This letter is the final ruling of the Kentucky 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



DONALD S. GUIER
Executive Director
Legal Services for Revenue

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

