



STEVEN L. BESHEAR
Governor

FINANCE AND ADMINISTRATION CABINET
DEPARTMENT OF REVENUE
501 HIGH STREET
FRANKFORT, KENTUCKY 40620
Phone (502) 564-3226
Fax (502) 564-3875
www.kentucky.gov

JONATHAN MILLER
Secretary

THOMAS B. MILLER
Commissioner

In the matter of:

[REDACTED]

Contact:

[REDACTED]

FINAL RULING NO. 2010-08
February 19, 2010

Tangible Personal Property Tax Assessment
January 1, 2007

FINAL RULING

The Kentucky Department of Revenue ("Department") currently has an outstanding tangible personal property tax assessment against [REDACTED] totaling \$ [REDACTED] (plus applicable interest and penalties) for the tax year represented by the assessment date of January 1, 2007. A breakdown of the assessment is shown in the chart below:

Tax Year	Tax Due	Interest As of 02-19-2010	Penalty As of 02-19-2010	Total Due As of 02-19-2010
January 1, 2007	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

The assessment in question is attributable to aircraft owned by [REDACTED]. Tangible personal property having a taxable situs in Kentucky is subject to Kentucky's ad valorem or property tax. See, e.g., KRS 132.190; 132.200; 132.220. The assessment in question is presumed to be valid or correct and the burden of proving otherwise rests upon [REDACTED]. See, e.g., Revenue Cabinet v. Gillig, 957 S.W.2d 206 (Ky. 1997); Commonwealth v. Kroger, 503 S.W.2d 722 (Ky. 1973); Hahn v. Allphin, 282 S.W.2d 824 (Ky. 1955).

The information available to the Department indicates that [REDACTED] aircraft are kept or hangared at a Kentucky airport. [REDACTED] has asserted in his protest that he has "no aircraft that is registered in the state of Kentucky, nor do[es] [he] have any aircraft that is based

in the state of Kentucky.” He admits that he “do[es] rent a warehouse (hangar) to store aircraft during layovers and maintenance.” He further asserts that he does not have “[any] aircraft that are in the state of Kentucky on January the 1st of any year.” He also asserts that any of his aircraft coming into Kentucky would be exempt under KRS 132.097 and 132.099, which provide for or authorize ad valorem tax exemptions for personal property placed in a warehouse or distribution center for the purpose of subsequent shipment to an out-of-state destination.

The primary flaw in [REDACTED]’ position is its lack of factual or evidentiary support. Despite requests by the Department, [REDACTED] has not provided documentation or evidence sufficient to support his assertions, such as adequate or complete flight logs, maintenance and fuel records and hangar rental receipts or agreements. In the absence of such proof, the Department has no choice but to conclude that the assessment in question is correct.

[REDACTED]’ reliance upon KRS 132.097 and 132.099 is also misplaced. He has not offered any proof to support this contention. Moreover, these statutory provisions would be inapplicable here. The aircraft would not be “shipped” to an out-of-state destination, but would instead be operated by [REDACTED] and would return from time to time to the Kentucky airport. Thus, Mr. Parsons’ aircraft are not placed at the Kentucky airport or hangar for the purpose of subsequent shipment to an out-of-state destination. That airport and hangar also simply do not constitute a warehouse or distribution center.

Therefore, the outstanding tangible personal property tax assessments totaling \$ [REDACTED] (plus applicable interest and penalties) are deemed legitimate liabilities of [REDACTED] 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



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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED