



Kentucky Supreme Court Rules in Favor of Frost Brown Todd Tax Case

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Kentucky taxpayers now have access to the state's Department of Revenue (DOR) tax rulings. The case, *Department of Revenue v. Mark F. Sommer*, was successfully argued before the Kentucky Supreme Court by Frost Brown Todd (FBT) Member Jennifer Barber. The Court ruled that the state Department of Revenue took an "unreasonable and overly broad view" of public records statutes when they refused to make their rulings public. The DOR appealed, which the court denied. Barber's client was fellow FBT Member Mark Sommer. The two have spent seven years fighting for these rights receiving affirmative rulings at every level.

Barber and Sommer said the Finance and Administration Cabinet must release the DOR's redacted final rulings and failing to do so amounted to a "secret law" giving the state an unfair advantage over taxpayers during administrative hearings. The DOR argued statutes prohibit them from disclosing confidential taxpayer documents. Barber successfully countered that a simple redaction of private information would solve that problem. Before this case, businesses lacked an understanding of how the DOR issues and enforces their final rulings because they could not review the documents.

"We are pleased that this case has reached the end of the road, with each of the three courts that heard this case ruling in favor of transparency," said Barber. "We look forward to receiving these final rulings which will arm taxpayers with the same information used by the Department of Revenue in administering Kentucky's tax laws."

The issue also came up in the 2019 legislative session when lawmakers passed a last-minute provision making tax-related documents secret. However, that law was then eliminated in a second bill.

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