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FINANCE AND ADMINISTRATION CABINET
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LORI HUDSON FLANERY
Secretary

THOMAS B. MILLER
Commissioner

In the matter of:

[redacted] COMPANY

Contact: [redacted] Company, LLC
Attn: [redacted]

FINAL RULING NO. 2013-06
February 7, 2013

Ad Valorem Tax Assessment of Unmined Coal Reserves
as of January 1, 2012

FINAL RULING

The Kentucky Department of Revenue ("DOR") currently has an outstanding unmined coal ad valorem tax assessment issued to [redacted] Company, LLC ("the Taxpayer") for 2012 that fixes the fair cash value of its interest in unmined coal reserves at $[redacted]. The chart below reflects this assessment, which is made pursuant to KRS 132.820:

Account Number	Parcel Identification	County	Assessed Value of Taxpayer Interest
[redacted]	[redacted]	[redacted]	$[redacted]
			$[redacted]
			$[redacted]
			$[redacted]
Total			$[redacted]

At issue is whether the DOR correctly assessed the fair cash value of the unmined coal reserves in question. Originally, the Taxpayer's unmined coal reserves were assessed by the DOR at $[redacted]. The Taxpayer protested the assessed royalty rate used to calculate the

values for the deep mine reserves in the parcels. The DOR corrected the royalty rate for deep coal in [redacted] County from $[redacted] per ton to $[redacted] per ton, which lowered the Taxpayer's assessed values for all the reserves to those shown in the chart above.

Also, the Taxpayer protested Parcels [redacted] and [redacted] specifically. Based upon documentation submitted, the DOR agreed with the protest, and removed a portion of the reserves from the assessed value. The assessed value of Parcel [redacted] was adjusted from $[redacted] to $[redacted], based on information available to the DOR and provided by the Taxpayer. The assessed value of Parcel [redacted] was adjusted from $[redacted] to $[redacted] based on the information provided by the Taxpayer. Finally, Parcel [redacted] was reduced from $[redacted] to $[redacted], also based on the information the Taxpayer provided.

Upon review of the protested parcels, the DOR discovered that Parcel [redacted], Seam [redacted] was below drainage and less than [redacted] inches in thickness. Therefore, the DOR reduced the taxable value of this parcel to zero, although it was not protested.

In its request for a final ruling, the Taxpayer placed a zero value on each parcel of the property. The DOR disagrees that these parcels are worthless, and the Taxpayer has not provided any additional information beyond what it initially filed that would support its position. The Taxpayer argues that [redacted] Company leased its property, and then surrendered the lease. The Taxpayer assumes that all of these leases have been surrendered due to a lack of mineable and merchantable coal. However, all the information that has been provided to date has been reviewed, and does not support this conclusion. In fact, another mining company has a lease on the property as well.

Remaining in the assessment are the reserves that which are mineable and merchantable and properly subject to assessment. For the portions of the parcels that the evidence did support the claim of depletion, the DOR reduced the reserves by the appropriate amount. The remaining reserves in the parcels have been properly valued, based on borehole data and maps.

The DOR's position is that the assessment correctly and properly reflects the fair cash value of the unmined coal reserves in question as required by law. See KRS 132.820(1); Ky. Const. § 172. The assessment in question is presumed to be valid and correct and it is the taxpayer's burden to prove otherwise. Revenue Cabinet v. Gillig, 957 S.W.2d 206 (Ky. 1997); Walter G. Hougland & Sons v. McCracken County Board of Supervisors, 306 Ky. 234, 206 S.W.2d 951 (1947). The Taxpayer has provided information that established portions of the assessments in question should be removed from the assessments, and DOR has reduced those assessments accordingly. However, proper documentation has not been provided that would allow the DOR to reduce the assessments to zero. The DOR's assessment of the unmined coal reserves stands at $[redacted].

Based on the information available to DOR, the unmined coal reserves that have been assessed consist of mineable and merchantable coal that is subject to ad valorem taxation and has been properly valued.

For the reasons stated above, the unmined coal ad valorem tax assessment is valid and correct and should not be reduced to zero.

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 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,
FINANCE AND ADMINISTRATION CABINET

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

cc: [redacted]
Attn [redacted]
[redacted]