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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]

Contact: [redacted]

FINAL RULING NO. 2014-24
June 17, 2014

Unmined Coal Ad Valorem Tax Assessment
for January 1, 2013

FINAL RULING

The Kentucky Department of Revenue ("DOR") currently has an outstanding unmined coal ad valorem tax assessment issued to [redacted] ("the Taxpayer") totaling $[redacted] for 2013. Below is the value reflected by the assessment, pursuant to KRS 132.820.

	Account Number	Parcel Identification	Value of Interest Per DOR	Estimated Tax Assessment
Original Assessment	[redacted]	[redacted]	$[redacted]	$[redacted]
Current, Adjusted Assessment	[redacted]	[redacted]	$[redacted]	$[redacted]

At issue is whether DOR correctly assessed the fair cash value of the coal property in question. The Taxpayer protested the assessed amount, stating that the property was mined out and thus has no value.

The DOR originally sent a notice of assessment to the Taxpayer, which valued Parcel [redacted] ([redacted]) at $[redacted]. The Taxpayer protested the assessment. After taking into account the valid points made by his protest, the DOR reduced the assessment value of the parcel to $[redacted]. However, the Taxpayer remains in disagreement with the remaining assessment.

The DOR and Taxpayer had a conference on , 2014. The DOR requested information in further support of the Taxpayer's position following the conference on , 2014 and on , 2014. The Taxpayer has not responded to those requests.

It is the DOR's position that the Taxpayer has not submitted any persuasive evidence that would establish or indicate that the assessment referred to above does not represent the fair cash value of the unmined coal reserves in question as of the January 1, 2013 assessment date. Based on the information available to DOR, the reserves that have been assessed consist of mineable and merchantable coal that is subject to ad valorem taxation and have been properly valued.

Unmined coal reserves are assessed by the DOR pursuant to KRS 132.820(1), which states, in part:

> The department shall value and assess unmined coal, oil, and gas reserves, and any other mineral or energy resources which are owned, leased, or otherwise controlled separately from the surface real property at no more than fair market value in place, considering all relevant circumstances…

Ky. Const. § 172 states in part:

> All property, not exempted from taxation by this Constitution, shall be assessed for taxation at its fair cash value, estimated at the price it would bring at a fair voluntary sale…

DOR's position is that the remaining assessment correctly and properly reflects the fair cash value of the unmined coal property or reserves in question as required by law. See KRS 132.820(1); Kentucky Constitution, Section 172. The assessment in question is presumed to be valid 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). Mineable and merchantable coal remains in Parcel ( ). This parcel contains acres that is part of a larger block of coal. The Taxpayer has not provided proof establishing that this assessment is incorrect.

Therefore, the unmined coal ad valorem tax assessment is valid and correct and is hereby upheld.

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. In accordance with Supreme Court Rule 3.020, if the appealing party is a corporation, trust, estate, partnership, joint venture, LLC, or any other artificial legal entity, the entity must be represented by an attorney on all matters before the Board, including the filing of the petition of appeal. If the petition of appeal is filed by a non-attorney representative for the legal entity, the appeal will be dismissed by the Board; 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

Doug Dowell

Attorney Manager
Office of Legal Services for Revenue

CC: [redacted] Law Firm
[redacted]