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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. 2013-05
February 7, 2013

Oil Property Ad Valorem Tax Assessment
as of January 1, 2012

FINAL RULING

The Kentucky Department of Revenue ("DOR") currently has an outstanding oil ad valorem tax assessment issued to [REDACTED] ("the Taxpayer") totaling \$ [REDACTED] for 2012 for oil property he owns that is located in [REDACTED] County, Kentucky. The table below reflects the fair cash value as of the relevant assessment date (January 1, 2012) placed upon these reserves by the assessment, as well as the value of income from the oil production for 2011, which was used to arrive at this assessment.

2012 Assessment Lease Number	Lease Name	2011 Value of Production	Assessment Value (as of 1/1/2012)
937	[REDACTED]	\$ [REDACTED]	\$ [REDACTED]

The sole issue presented is whether the DOR has properly and correctly assessed the oil property in question at fair cash value. The Taxpayer submitted a protest stating that he disagrees with the fair cash value of the oil property represented by the assessment, but provided no supporting documentation in support of his protest. When the DOR reviewed the protested assessment, the DOR discovered that the assessment contained an error in which [REDACTED] had been afforded a first year (of oil production) credit. The credit was removed

since the DOR's records showed that the lease had been in operation since at least 2001. This correction increased the assessment from \$[REDACTED] to \$[REDACTED], which the Taxpayer finds "triply unfair." The Taxpayer has agreed that the value of oil income from the 2011 production used to arrive at the assessment is correct, which is the basis for the calculation of the 2012 assessment value. Additional information was requested by the DOR in letters dated [REDACTED] 2012 and [REDACTED] 2012. The Taxpayer did not respond to those letters, and has not submitted any evidence that would indicate that the assessment does not represent the fair cash value of the oil property in question as of the January 1, 2012 assessment date.

Oil reserves are assessed by the DOR pursuant to KRS 132.820, which states, in part:

- (1) 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...

DOR's position is that the oil property in question has been properly and correctly assessed at fair cash value as required by law. See Ky. Const. § 172; KRS 132.190(3); 132.820(1). 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). [REDACTED] has not provided any proof that the value reflected by the assessment in question is incorrect and should be reduced.

Therefore, the ad valorem tax assessment of the Taxpayer's oil reserves is valid and correct and should not be reduced to zero, as requested by the Taxpayer.

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 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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED