



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

LORI HUDSON FLANERY  
Secretary

THOMAS B. MILLER  
Commissioner

In the matter of:

[REDACTED]

Contact: [REDACTED], CPA

FINAL RULING NO. 2012-50  
August 27, 2012

Unmined Coal Ad Valorem Tax Assessments  
As of January 1, 2011

### FINAL RULING

The Kentucky Department of Revenue ("DOR") currently has an outstanding unmined coal ad valorem tax assessment issued to [REDACTED], in care of [REDACTED] ("the Taxpayer") totaling \$ [REDACTED] for 2011. 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
[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 coal could not be mined due to the high moisture and high sulfur content, and the cost of transporting it would be prohibitive. Also, the Taxpayer stated that the existing coal in the parcel consists of a very thin seam with little value and access to the coal is unattainable and therefore unmineable. The Taxpayer provided documentation, which consisted of drilling results and lab analysis of their seam.

DOR's position is that the 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). Based on the information available to DOR, mineable and merchantable coal exists on Parcel ██████████. DOR has requested additional information and documentation supporting the Taxpayer's position, and the lab analysis provided by the Taxpayer, in fact, supported the Department's position that the seam is both thick enough and of sufficient quality and composition to allow for its taxation. The Taxpayer has not provided proof establishing that the assessment is incorrect.

Therefore, the unmined coal ad valorem tax assessments are correct and should not be reduced.

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

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

