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Governor

FINANCE AND ADMINISTRATION CABINET  
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LORI HUDSON FLANERY  
Secretary

THOMAS B. MILLER  
Commissioner

In the matter of:

[REDACTED]

Contact:

[REDACTED]

FINAL RULING NO. 2012-67  
December 31, 2012

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] ("the Taxpayer") for 2012 that fixes the fair cash value of his interest in unmined coal reserves at \$[REDACTED]. Below is the value reflected by the assessment, which is made pursuant to KRS 132.820:

Account Number	Owner Parcel Identification/County	Lease Parcel Identification	Assessed Value of Taxpayer Interest
[REDACTED]	[REDACTED]	[REDACTED]	\$[REDACTED]

At issue is whether DOR correctly assessed the fair cash value of the unmined coal reserves in question. The Taxpayer has protested the assessed amount. He has not provided any documentation that would support a lower fair cash value figure. His protest states that DOR is "manufacturing more coal on paper each year to assist in meeting (the) budget." The basis of the protest is that because the land is idle, there is no reason for any increase in the fair cash value of the reserves in question.

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); 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 not provided any documentation or information that would establish that the assessment in question is invalid or incorrect.

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. The increased value of the unmined coal reserves was due to a previously unknown and untaxed seam of coal in the parcel in question. When this seam was reported to the DOR, it was subsequently taxed in 2012 to the owners of the interests in the unmined coal reserves in question, one of whom is the Taxpayer.

For the reasons stated above, the unmined coal ad valorem tax assessment is valid and 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

A handwritten signature in black ink, reading "E. Jeffrey Mosley". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

E. Jeffrey Mosley

Interim Executive Director

Office of Legal Services for Revenue



[REDACTED]