



STEVEN L. BESHEAR  
Governor

FINANCE AND ADMINISTRATION CABINET  
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JONATHAN MILLER  
Secretary

THOMAS B. MILLER  
Commissioner

In the matter of:

[REDACTED]

Contact:

[REDACTED]

FINAL RULING NO. 2009-42  
November 19, 2009

Natural Gas Ad Valorem Tax Assessment  
November 2009

FINAL RULING

The Kentucky Department of Revenue ("DOR") currently has an outstanding natural gas ad valorem tax assessment issued to [REDACTED] ("the Taxpayer") totaling \$ [REDACTED] for 2009. Below are the values of the gas property interests in question, represented by these assessments, and the values that the Taxpayer claims should have been placed on these properties:

2009 Assessment Lease Number	Lease Name	Lessee	Value of Interest Per DOR	Value of Interest Per Taxpayer
[REDACTED]	[REDACTED]	[REDACTED] LLC	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] LLC	[REDACTED]	[REDACTED]
Total			[REDACTED]	[REDACTED]

In response to these assessments, the Taxpayer has stated only that he "disagree(s) with this tax proposal wholeheartedly." He has submitted no documentation or other information that would indicate or suggest that the fair cash value of the interests or properties in question is anything other than what the DOR's assessments reflect.

An issue is whether the Taxpayer has complied with the requirements of KRS 131.110(1), which states in pertinent part:

The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made. Upon written request, the cabinet may extend the time for filing the supporting statement if it appears the delay is necessary and unavoidable.

The Kentucky courts have held that this statutory provision imposes upon a taxpayer protesting an assessment or a refund denial a legal duty to provide the Department with “something more substantial than mere denials of tax liability.” Eagle Machine Co., Inc. v. Commonwealth ex rel. Gillis, 698 S.W.2d 528, 530 (Ky. App. 1985). In order to make a valid protest, a taxpayer must “provide financial statements, records or some other documentation that would allow the Revenue Department some basis for reconsideration.” Id. at 529.

The courts have held that this statutory provision (KRS 131.110(1)) is “mandatory in nature” and that failure to submit documentation as it requires will result in the taxpayer’s loss of the right to further review of the assessment or refund denial in question. Scotty’s Construction Co. v. Revenue Cabinet, 779 S.W.2d 234 (Ky. App. 1989). In both Scotty’s Construction and Eagle Machine the taxpayers failed to provide any substantial information in support of their denials of tax liability. The same is true in this matter.

For the reasons stated above, the Taxpayer has failed to preserve or perfect any challenge to the assessments in question. Therefore, the natural gas ad valorem tax assessments are correct.

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 40602-2120, 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 2 (3) of 802 KAR 1:010:

1. An individual may represent himself in hearings before the Board;
2. An individual who is not an attorney may not represent any other individual, corporation, trust, estate, or partnership before the Board; and
3. An attorney who is not licensed to practice in Kentucky may practice before the Board 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

