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Secretary

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Commissioner

In the matter of:

[REDACTED]

Contact:

[REDACTED]

FINAL RULING NO. 2011-59
July 28, 2011

Oil Ad Valorem Tax Assessments
As of January 1, 2010

FINAL RULING

The Kentucky Department of Revenue ("DOR") currently has outstanding oil ad valorem tax assessments issued to [REDACTED] ("the Taxpayer") for 2010. Below are the values reflected by the assessments of oil reserves, pursuant to KRS 132.820. These values have been protested.

2010 Assessment Lease Number	Lease Name	Interest Holder/ County	Reported By	Value of Interest Per DOR
[REDACTED]	[REDACTED]	[REDACTED] / County	[REDACTED]	\$ [REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] / County	[REDACTED]	\$ [REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] / County	[REDACTED]	\$ [REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] / County	[REDACTED]	\$ [REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] / County	[REDACTED]	\$ [REDACTED]

At issue is whether DOR correctly assessed the fair cash value of the oil reserves in question. The Taxpayer has protested the assessed amounts, stating that DOR has duplicated the assessments on oil wells. The Taxpayer asserts that the duplicated distributions/royalties should be removed from the assessment.

DOR's basis of assessment is the income of the taxpayer, as reported in the tax returns filed by the companies that have made payments to them. The Taxpayer received income in all the protested amounts from either [REDACTED] (" [REDACTED] ") or [REDACTED] (" [REDACTED] "), as well as the non-protested amounts from [REDACTED] [REDACTED]. The Taxpayer's original protest letters assert that DOR assessed the Taxpayer on distributions that were mistakenly reported twice on the same well(s). However, DOR calculated the assessments based on information that has been provided in tax returns; namely, that Taxpayer received income(s) from each of the wells, sometimes from separate entities, sometimes multiple distributions, and in varying amounts. The amounts reported and assessed are correct and correspond with the amounts reported to DOR as distributions, and there are no duplications of taxable property assessed. Therefore, the Taxpayer's argument that two amounts paid to the Taxpayer on the same well by two different companies that are "very close" are duplicates is incorrect.

In the original protests, the Taxpayer protested the amounts reported by [REDACTED] and [REDACTED] as incorrect. The Taxpayer asked DOR to delete the assessments based on the incorrect reports from [REDACTED] and [REDACTED]. However, the Taxpayer, in a later correspondence, stated that [REDACTED] and [REDACTED] made the actual distributions. By using actual amounts, their reports are not incorrect. Additionally, the Taxpayer included proof of distributions from [REDACTED] Corporation, which illustrated that [REDACTED], too, made distributions.

As it stands, DOR has information that confirms Taxpayer received distributions from [REDACTED], [REDACTED], and [REDACTED]. All of these distributions relate to the wells that have been protested. This information is independently supplied to DOR, and tax notices are prepared based on the information that DOR receives from the companies that make the distributions.

DOR's position is that the oil reserves in question have been properly valued at the fair cash value as required by law. See KRS 132.820(1); Ky. Const. § 172. The assessments in question are 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).

Therefore, the ad valorem tax assessments of oil reserves 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