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LORI HUDSON FLANERY  
Secretary

THOMAS B. MILLER  
Commissioner

In the matter of:

[Redacted] Company

Contact: [Redacted] Company

FINAL RULING NO. 2015-47  
November 19, 2015

Gas Ad Valorem Tax Assessments  
As of January 1, 2015

FINAL RULING

The Kentucky Department of Revenue ("DOR") currently has outstanding gas ad valorem tax assessments issued to [Redacted] Company ("the Taxpayer") for 2015. Below are the values reflected by the assessments of gas reserves, pursuant to KRS 132.820. These values have been protested.

2015 Assessment Lease Number	Lease Name	County	Reported By	Value of Interest Per DOR	Value of Interest Per Tp
[Redacted]	[Redacted]	[Redacted]	[Redacted]	\$ [Redacted]	\$ [Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	\$ [Redacted]	\$ [Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	\$ [Redacted]	\$ [Redacted]
		Total of [Redacted] County Values		\$ [Redacted]	\$ [Redacted]
		Total *Estimated* Tax @ 1%		\$ [Redacted]	\$ [Redacted]

At issue is whether DOR correctly assessed the fair cash value of the gas reserves in question. The Taxpayer has protested the assessed amounts, stating that DOR should reconsider the natural gas assessment he received as an overriding royalty interest owner. The Taxpayer states that he has not received as much income as what [Redacted] reported,

and that ██████████ filed false and fraudulent information with the State of Kentucky. In his ██████████, 2015 letter, he states, “By my calculations, if ██████████ is reporting that our overrides on the three (3) wells total \$██████████, when at the same time, they are actually providing us revenue of \$██████████, I would suggest that there is a 100% overstatement by ██████████. By reporting this false income to the overriding royalty interest owners, as well as the royalty owners, ██████████ is, in effect, shifting the tax on income that ██████████ should be taxed on and pushing it off onto the ‘little guy.’”

At issue is whether DOR correctly assessed the fair cash value of the gas reserves in question. DOR based the January 1, 2015 assessment on the amount of royalties that were reported in 2014 by ██████████. The Taxpayer did not support his position with evidence from 2014 that the amount reported by ██████████ was incorrect. The Taxpayer provided information which was an income report from the producer for the ██████████ and ██████████ 2015 period. The document was not relevant to the 2015 assessments, as DOR is bound to value property as of January 1 of each year. Therefore, the income information provided by the Taxpayer for DOR to review is irrelevant for this period.

DOR’s assessments are in accordance with KRS 132.220(1)(a) which states, “All taxable property and all interests in taxable property, unless otherwise specifically provided by law, shall be listed, assessed, and valued as of January 1 of each year.” The assessment represents the approximate fair market value of the Taxpayer’s interest in the wells.

DOR’s position is that the natural gas 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 natural gas reserves are correct and should not be reduced.

This letter is the final ruling of the 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. In accordance with Supreme Court Rule 3.020, if the appealing party is a corporation, trust, estate, partnership, joint venture, LLC, or any other artificial legal entity, the entity must be represented by an attorney on all matters before the Board, including the filing of the petition of appeal. If the petition of appeal is filed by a non-attorney representative for the legal entity, the appeal will be dismissed by the Board; 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,

DEPARTMENT OF REVENUE



Attorney Manager  
Office of Legal Services for Revenue

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED