



ERNIE FLETCHER
GOVERNOR

DEPARTMENT OF REVENUE
FINANCE AND ADMINISTRATION CABINET
200 FAIR OAKS LANE
FRANKFORT, KENTUCKY 40620
www.kentucky.gov

ROBBIE RUDOLPH
SECRETARY

In the matter of:

[REDACTED]

Contact:

[REDACTED]

FINAL RULING NO. 2005-08
March 3, 2005

2004 Unmined Coal Assessment for Parcel

[REDACTED]

FINAL RULING

The Department of Revenue currently has assessed the unmined coal associated with the parcel [REDACTED] (which is located in [REDACTED] County) at a fair cash value of \$ [REDACTED] as summarized below.

TAX YEAR	CASH VALUE	TAX
2004	\$ [REDACTED]	\$ [REDACTED]
Total	\$ [REDACTED]	\$ [REDACTED]

Under the Kentucky constitution, all property must be assessed for ad valorem taxation at its fair cash value, estimated at the price the property would bring at a fair voluntary sale. Ky. Const. §172. Kentucky law specifically provides that the Department "shall value and assess unmined coal oil, and gas reserves, and any other mineral or energy resources which are owned, leased, or otherwise controlled separately from the surface real property at no more than fair market value in place, considering all relevant circumstances" KRS 132.820(1). Unmined coal assessments are presumed valid and the burden rests upon the taxpayer to establish that the assessment is incorrect Revenue Cabinet v. Gillig, 957 S.W. 2d 206 (Ky. 1997).

As you have been advised previously, the lessee of your property, [REDACTED] Company, has reported unmined coal under your property having a fair cash value of \$ [REDACTED]. You

have not offered any evidence that this unmined coal does not exist or that its fair cash value is less than what the Department has assessed it for.

Your sole contention appears to be that the property should not be assessed because it is not presently being mined or producing income. This is not a valid objection to the assessment. The property tax is based upon the fair cash value of property owned by the taxpayer as of the January 1 assessment date. It does not depend upon whether the property is actually generating income. This point is illustrated on a daily basis all across the Commonwealth, by the assessment for ad valorem tax purposes of residential properties that are not producing any income.

Therefore, it is the final ruling of the Department of Revenue that the unmined coal property tax assessment described above is valid and correct and is a legitimate liability of the taxpayer [REDACTED].

APPEAL

You may appeal this 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 ruling, you must file your complaint or petition of appeal with the Clerk, Kentucky Board of Tax Appeals, 128 Brighton Park Boulevard, Frankfort, Kentucky 40601, within thirty (30) days from the date of this letter. The rules of the Kentucky Board of Tax Appeals, which are set forth in 802 KAR 1:010, require that the complaint or petition of appeal must:

1. Be filed in quintuplicate;
2. Contain a brief statement of the law and facts in issue;
3. State the petitioner's position regarding the law, facts or both; and
4. Include a copy of this final ruling letter with each copy of the complaint or petition.

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



THOMAS H. BROWN
Director
Division of Protest Resolution

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

