



**FINANCE AND ADMINISTRATION CABINET  
OFFICE OF THE SECRETARY**

**Ernie Fletcher**  
Governor

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**John R. Farris**  
Secretary

In the matter of:

[REDACTED]

Contact:

[REDACTED]

FINAL RULING NO 2007-12  
April 12, 2007

2006 Unmined Coal Assessment

**FINAL RULING**

The Department of Revenue (DOR) currently has an outstanding unmined coal estimated tax bill totaling \$ [REDACTED] for unmined coal for 2006 on the following parcel.

<u>Parcel</u>	<u>Owner</u>	<u>Lessee</u>	<u>DOR Value</u>	<u>Taxpayer Value</u>
[REDACTED]	[REDACTED] & [REDACTED]	[REDACTED]	\$ [REDACTED]	\$ [REDACTED]

At issue is whether DOR correctly assessed the fair cash value of the [REDACTED] acre parcel of deep mineable coal that is expected to be mined within the next 5 to 15 years.

The taxpayer argues that the value assessed by DOR exceeds the fair cash value of the property. The taxpayer asserts that the lessee has presently chosen to by-pass the coal because it couldn't obtain leases on the adjoining property and, because the coal may never be recovered, it has no realistic value.

Unmined coal is taxed under KRS 132.820, which states:

- (1) 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. . . .

The DOR's position is that the unmined coal in question has been properly valued at its fair cash value in accordance with the guidelines set forth in KRS 132.820. The lease at issue has duration of ten years – ██████████, 2005 to ██████████, 2015. Although the lessee does not have all the adjoining acreage controlled, it is probable that sufficient control will occur within the life of the lease. Since ██████████ still maintains a lease on the property without reduction or consideration, the assessed value of the parcel is unchanged.

Based upon the foregoing, the Department has determined that the estimated tax bill of \$██████████ is deemed a legitimate determination of liability of ██████████ due the Commonwealth of Kentucky.

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 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 within 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) or 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

██████████  
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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

A handwritten signature in black ink, appearing to read "Donald S. Guier", with a long horizontal flourish extending to the right.

DONALS S. GUIER  
Executive Director  
Office of Legal Services for Revenue

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

