



STEVEN L. BESHEAR
Governor

FINANCE AND ADMINISTRATION CABINET
DEPARTMENT OF REVENUE
501 HIGH STREET
FRANKFORT, KENTUCKY 40620
Phone (502) 564-3226
Fax (502) 564-3875
www.kentucky.gov

JONATHAN MILLER
Secretary

THOMAS B. MILLER
Commissioner

In the matter of:

[REDACTED]

Contact:

[REDACTED]

FINAL RULING NO. 2010-10
March 5, 2010

Unmined Coal Ad Valorem Tax Assessment
for January 1, 2009

FINAL RULING

The Kentucky Department of Revenue ("DOR") currently has an outstanding unmined coal ad valorem tax assessment issued to [REDACTED] ("the Taxpayer") totaling \$ [REDACTED] for the 2009 tax year. Below is the assessment in question, which is made by the DOR pursuant to KRS 132.820.

| Account Number | Lease Name | Interest Holder | DOR Value or Assessment | Estimated Taxes Based on Value |
|----------------|------------------|-----------------|-------------------------|--------------------------------|
| [REDACTED] | Tract [REDACTED] | [REDACTED] | \$ [REDACTED] | \$ [REDACTED] |

At issue is whether the DOR correctly assessed the fair cash value of the coal property in question. [REDACTED] protested the assessment set forth above, asserting that the property has been mined out and thus has no value.

The DOR originally sent notice of assessments to [REDACTED] for three parcels, as follows: [REDACTED] fixing a value of \$ [REDACTED]; [REDACTED] (*sic*), fixing a value of \$ [REDACTED]; and Tract [REDACTED] ([REDACTED]), fixing a value of \$ [REDACTED]. [REDACTED] protested these assessments. After taking into account the points made by his protest, the DOR reduced the assessment values of

██████████ and ██████████ Hrs (*sic*) to \$██████████. The DOR reduced the assessed value of Tract ██████████ (██████████) from \$██████████ to \$██████████, and that is the assessment that is the subject of this final ruling.

The DOR's position is that this remaining assessment correctly and properly reflects the fair cash value of the unmined coal property or reserves in question as required by law. See KRS 132.820(1); Kentucky Constitution, Section 172. This assessment in question is 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). DOR has agreed with ██████████ as to those protested assessments for which there was appropriate evidence. However, mineable and merchantable coal remains in Tract ██████████ (██████████). This parcel contains ██████████ acres that is part of a larger block of coal with ██████████ acres in the ██████████ seam, which can be deep mined. ██████████ has not provided proof establishing that this assessment is incorrect.

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