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FINANCE AND ADMINISTRATION CABINET
DEPARTMENT OF REVENUE
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JONATHAN MILLER
Secretary

THOMAS B. MILLER
Commissioner

In the matter of:



Contact:



FINAL RULING NO. 2010-42
July 12, 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]	[REDACTED]	[REDACTED]	\$ [REDACTED]	\$ [REDACTED]

At issue is whether the DOR correctly assessed the fair cash value of the coal property in question. It is the Taxpayer's position that this coal seam no longer has a viable point of entry, and the property cannot be reached because of prior mining in the area, gas wells, and natural obstacles. The Taxpayer argues that the coal property in question is unreachable, and thus is unmineable.

DOR's position is that the disputed unmined coal property is mineable and merchantable and has been properly valued at the fair cash value as required by law. See KRS 132.820(1); Kentucky Constitution Section 172. The 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. Houglan & Sons v. McCracken County Board of Supervisors, 306 Ky. 234, 206 S.W.2d 951 (1947). DOR's assessments are presumed to be correct, and [REDACTED] has provided no additional documentation to support his claim that his property is not mineable and merchantable. The argument that the seam is unmineable is without merit. The subject tract is part of a much larger reserve that would allow access to the tract. DOR recognizes that under current market conditions, the coal in this property is unlikely to be mined in the immediate future. However, this property has mineable coal that may be severed at some future date; thus, the property has been assessed in the category of idle coal, which is the lowest possible valuation method for this tax type.

Therefore, the unmined coal ad valorem tax assessments are correct.

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 40602-3714, 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 hearings 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