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In the matter of:

██████████ LTD

Contact: ██████████
██████████ P.S.C.
██████████

FINAL RULING NO. 2014-02
January 17, 2014

Unmined Coal Ad Valorem Tax Assessment
for January 1, 2013

FINAL RULING

The Kentucky Department of Revenue ("DOR") currently has an outstanding unmined coal ad valorem tax assessment or valuation in the amount of \$ ██████████ issued to ██████████ LTD ("the Taxpayer") for the 2013 tax year. The chart below describes this assessment, which was made by the DOR pursuant to KRS 132.820:

Account Number	Lease Name	Lessor Name	DOR Value or Assessment	Estimated Property or Ad Valorem Taxes Based on DOR Value
██████████	██████████	██████████	\$ ██████████	\$ ██████████

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 due to the decrease in the market value of coal in 2013 and prior years, the DOR's assessment exceeds the property's fair cash value. This argument is without merit because property is assessed at its fair cash value for ad valorem tax purposes as of January 1. See KRS 132.220(1)(a). The Taxpayer has not submitted any

persuasive evidence that would establish or indicate that the assessment referred to above does not represent the fair cash value of the unmined coal reserves in question as of the January 1, 2013 assessment date.

Also, the Taxpayer asserts that because the coal tonnage it has sold from year to year since 2008 has decreased, the fair market value of the coal reserves should be lowered to \$██████████. However, the amount of coal sold by an individual taxpayer does not have a direct correlation to the fair cash value of the taxpayer's unmined coal reserves. Additionally, the Taxpayer did not provide any specific information or calculations relating to how its alternative value of \$██████████ was determined.

The DOR maintains that its tax calculation takes the current market and economy into account. The DOR uses a three year average of actual sales price from severance tax returns, and the median of royalties from the preceding five years reported on unmined coal tax returns. This calculation system is designed to prevent the fair cash value of the unmined coal reserves as of the applicable assessment date from being unduly influenced by price spikes and drops from year to year. As the prices drop, so too do the factors used by the DOR. Because the assessment date is January 1, 2013, the market swing downward during 2013 tax year (i.e., after the assessment date) will not be reflected for that year. However, any market decrease in 2013 will be reflected in the January 1, 2014 assessment, even if the market price for coal were to increase substantially during the year 2014 (i.e., after the assessment date for that year, or January 1, 2014).

Unmined coal reserves are assessed by the DOR pursuant to KRS 132.820, which states, in part:

- (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 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 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). The Taxpayer has not met this burden in the case of the assessment in question.

Therefore, the unmined coal ad valorem tax assessment described above is valid and correct and is hereby upheld.

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 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.

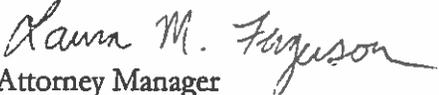
The petition of appeal must be in writing and signed by the petitioner or appellant. Filings by facsimile or other electronic means shall not be accepted.

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,
FINANCE AND ADMINISTRATION CABINET


Attorney Manager
Office of Legal Services for Revenue

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

