

AN ACT relating to the property tax on unmined coal.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

□ Section 1. KRS 132.820 is amended to read as follows:

- (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 cash~~market~~ value in place, considering all relevant circumstances.
- (2)** Unmined coal, oil, and gas reserves and other mineral or energy resources shall in all cases be valued and assessed by the department~~of Revenue~~ as a distinct interest in real property, separate and apart from the surface real estate unless:
 - (a) The unmined coal, oil, and gas reserves, and other mineral or energy resources are owned in their entirety by the surface owner;
 - (b) The surface owner is neither engaged in the severance, extraction, processing, or leasing of mineral or other energy resources nor is he an affiliate of a person who engages in those activities; and
 - (c) The surface is being used by the surface owner primarily for the purpose of raising for sale agricultural crops, including planted and managed timberland, or livestock or poultry.

As used in this subsection~~For purposes of this section~~, "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another individual, partnership, committee, association, corporation, or any other organization or group of persons.

- (3) In the case of unmined coal reserves assessed on or after January 1, 2018, if no amount of coal has been severed from an unmined coal reserve during the ten (10) year period immediately preceding the assessment date, the standard value of the unmined coal reserve shall be zero unless information is available that warrants any deviation from the standard value.**

~~(4)~~~~(2)~~ Each owner or lessee of property assessed under ~~subsection (1) of~~ this section shall ~~annually, between January 1 and April 15,~~ file a return with the department in the~~a~~ form and manner prescribed by ~~as~~ the department ~~may prescribe~~. Other individuals or corporations having knowledge of the property described~~defined~~ in subsection (1) of this section gained through contracting, extracting, or similar means may also be required by the department to file a return.

~~(5)~~~~(3)~~ Any property subject to assessment by the department under ~~subsection (1) of~~ this section which has not been listed for taxation, for any year in which it is taxable, by April 15 of that year shall be omitted property.

~~(6)~~~~(4)~~ After the valuation of unmined minerals or other energy sources has been finally fixed by the department, the department shall certify to the county clerk of each county the amount liable for county, city, or district taxation. The report shall be filed by the county clerk in his office, and shall be certified by the county clerk to the proper collecting officer of the county, city, or taxing district for collection.

~~(7)~~~~(5)~~ The notification, protest, and appeal of assessments under ~~subsection (1) of~~ this section shall be made pursuant to the provisions of KRS Chapter 131.

~~(8)~~~~(6)~~ No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.015(6) shall apply to the tax bill.

~~(9)~~~~(7)~~ The collection of tax bills generated from the assessments made under ~~subsection (1) of~~ this section shall be made pursuant to the provisions of KRS Chapter 134.

- (10) (a) On or before January 1, 2018, the department shall prepare an informational document explaining the procedure to follow to appeal an assessment of any property made by the department under this section. The document shall be adopted through the promulgation of an administrative regulation that incorporates the document by reference.**
- (b) The document shall include a brief explanation of the basis of the tax and the procedures used by the department to value and assess the various types of property under this section.**
- (c) The document shall be made publicly available in the office of each property valuation administrator and on the department's Web site. A copy of the document shall be provided by the department to a taxpayer upon request.**

Section 2. KRS 131.190 is amended to read as follows:

- (1) (a) No present or former commissioner or employee of the department~~—of Revenue~~, present or former member of a county board of assessment appeals, present or former property valuation administrator or employee, present or former secretary or employee of the Finance and Administration Cabinet, former secretary or employee of the Revenue Cabinet, or any other person, shall intentionally and without authorization inspect or divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the department or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business.
- (b) The prohibition established by paragraph (a) of this subsection does not extend to:
1. Information required in prosecutions for making false reports or returns

- of property for taxation, or any other infraction of the tax laws;
2. Any matter properly entered upon any assessment record, or in any way made a matter of public record;
 3. Furnishing any taxpayer or his properly authorized agent with information respecting his own return;
 4. Testimony provided by the commissioner or any employee of the department~~[of Revenue]~~ in any court, or the introduction as evidence of returns or reports filed with the department, in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws;
 5. Providing an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820~~{(1)}~~, or owners of surface land under which the unmined minerals lie, factual information about the owner's property derived from third-party returns filed for that owner's property, under the provisions of KRS 132.820~~(4)~~(4)~~{(2)}~~, that is used to determine the owner's assessment. This information shall be provided to the owner on a confidential basis, and the owner shall be subject to the penalties provided in KRS 131.990(2). The third-party filer shall be given prior notice of any disclosure of information to the owner that was provided by the third-party filer;
 6. Providing to a third-party purchaser pursuant to an order entered in a foreclosure action filed in a court of competent jurisdiction, factual information related to the owner or lessee of coal, oil, gas reserves, or any other mineral resources assessed under KRS 132.820~~{(1)}~~. The department may promulgate an administrative regulation establishing a fee schedule for the provision of the information described in this subparagraph. Any fee imposed shall not exceed the greater of the actual

- cost of providing the information or ten dollars (\$10); or
7. Providing information to a licensing agency, the Transportation Cabinet, or the Kentucky Supreme Court under KRS 131.1817.
- (2) The commissioner shall make available any information for official use only and on a confidential basis to the proper officer, agency, board or commission of this state, any Kentucky county, any Kentucky city, any other state, or the federal government, under reciprocal agreements whereby the department shall receive similar or useful information in return.
 - (3) Statistics of tax-paid gasoline gallonage reported monthly to the department ~~of Revenue~~ under the gasoline excise tax law may be made public by the department.
 - (4) Access to and inspection of information received from the Internal Revenue Service is for department ~~of Revenue~~ use only, and is restricted to tax administration purposes. Notwithstanding the provisions of this section to the contrary, information received from the Internal Revenue Service shall not be made available to any other agency of state government, or any county, city, or other state, and shall not be inspected intentionally and without authorization by any present secretary or employee of the Finance and Administration Cabinet, commissioner or employee of the department ~~of Revenue~~, or any other person.
 - (5) Statistics of crude oil as reported to the department ~~of Revenue~~ under the crude oil excise tax requirements of KRS Chapter 137 and statistics of natural gas production as reported to the department ~~of Revenue~~ under the natural resources severance **and processing** tax requirements of KRS Chapter 143A may be made public by the department by release to the Energy and Environment Cabinet, Department for Natural Resources.
 - (6) Notwithstanding any provision of law to the contrary, beginning with mine-map submissions for the 1989 tax year, the department may make public or divulge only those portions of mine maps submitted by taxpayers to the department pursuant to

KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-out parcel areas. These electronic maps shall not be relied upon to determine actual boundaries of mined-out parcel areas. Property boundaries contained in mine maps required under KRS Chapters 350 and 352 shall not be construed to constitute land surveying or boundary surveys as defined by KRS 322.010 and any administrative regulations promulgated thereto.

- (7) Notwithstanding any other provision of the Kentucky Revised Statutes, the department may divulge to the applicable school districts on a confidential basis any utility gross receipts license tax return information that is necessary to administer the provisions of KRS 160.613 to 160.617.

□ Section 3. KRS 134.546 is amended to read as follows:

- (1) Any action to collect any amount due on a certificate of delinquency or personal property certificate of delinquency may be brought at any time after the passage of one (1) year from the date the taxes became delinquent, and shall be brought within eleven (11) years of the date when the taxes became delinquent.
- (2) A third-party purchaser may:
- (a) Institute an action against the delinquent taxpayer to collect the amount of the certificate of delinquency and any other certificates of delinquency subsequently issued to the same third-party purchaser against the same delinquent, and shall have all the remedies available for the enforcement of a debt;
 - (b) Institute an action to enforce the lien provided in KRS 134.420, represented by the certificate of delinquency and those certificates subsequently held by the same third-party purchaser against the same delinquent or property; or
 - (c) Institute one (1) action including both types of actions mentioned in paragraphs (a) and (b) of this subsection, and the joinder of actions shall not be defeated if the delinquent taxpayer has disposed of any property covered by

the lien, but the purchaser of the property shall be made a defendant if the judgment is to affect his or her interest in the property, and as between them the delinquent taxpayer shall be responsible.

- (3) If the state, county, or a taxing district is the owner of a certificate of delinquency or personal property certificate of delinquency, it shall have, in addition to the remedies provided in subsection (1) of this section, the right to distrain and sell any property owned by the delinquent taxpayer, including that on which the lien provided in KRS 134.420 has attached. Any property sold under distraint proceedings shall be sold in the same manner as provided in KRS 131.500, except that the exercise of the power shall be vested in the county attorney.
- (4) Any property while owned by a delinquent taxpayer shall be subject to foreclosure or execution in satisfaction of a judgment pursuant to an action in rem or an action in personam, or both, to enforce the obligation.
- (5) If property is sold pursuant to a judgment of foreclosure, it shall be appraised pursuant to the provisions of KRS 426.520, and there shall be a right of redemption as provided in KRS 426.530. If there is no purchaser at a foreclosure sale, the master commissioner shall make a deed to the person or persons shown by record to be the owner of the certificate or certificates of delinquency, and that person or persons shall have a pro rata interest in accordance with the amount of their respective certificates.
- (6) The department may provide to a third-party purchaser factual information related to the owner or lessee of the coal, oil, gas reserves, or any other mineral resources assessed under KRS 132.820~~{(1)}~~ pursuant to an order entered in a foreclosure action involving a certificate of delinquency for unmined coal, oil, gas, or any other mineral resources. The department may promulgate an administrative regulation establishing a fee schedule for the provision of the information described in this subsection. Any fee imposed shall not exceed the greater of the actual cost of

providing the information or ten dollars (\$10).