

132.820 Assessment of unmined coal, oil, and gas reserves held separately from surface real property -- Exceptions -- Effect of appeal on payment of taxes.

- (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. 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.

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.

- (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 a form as the department may prescribe. Other individuals or corporations having knowledge of the property 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.
- (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.
- (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.
- (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.
- (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.

- (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.

Effective: January 1, 2010

History: Amended 2009 Ky. Acts ch. 10, sec. 40, effective January 1, 2010. -- Amended 2005 Ky. Acts ch. 85, sec. 222, effective June 20, 2005. -- Amended 2002 Ky. Acts ch. 234, sec. 1, effective July 15, 2002. -- Amended 1998 Ky. Acts ch. 391, sec. 3, effective July 15, 1998. -- Created 1994 Ky. Acts ch. 263, sec. 1, effective July 15, 1994.

Legislative Research Commission Note (7/14/00). 2000 Ky. Acts ch. 446 (Senate Bill 323), sec. 1, purports to amend this statute, and the General Assembly version of that bill was signed by both presiding officers and by the Governor. The Journals of the House of Representatives and Senate will reflect, however, that House Floor Amendment 1 was adopted by the House on March 27, 2000, but was not transmitted to the Senate for its concurrence when the bill was returned to that body. Thus, the bill signed did not pass both chambers of the General Assembly in the same form and did not become law. Ky. Const. secs. 46 and 88; see also Mason's Manual of Legislative Procedure sec. 737, at 508-509 (1989 ed.). Because the General Assembly's own official records establish this constitutional deficiency, the provisions of 2000 Ky. Acts ch. 446 have not been codified into the Kentucky Revised Statutes. See KRS 7.131(2).

Legislative Research Commission Note (7/15/2002). The amendments made to subsection (1) of this statute in 2002 Ky. Acts ch. 234, sec. 1, "shall apply to tax assessments made on or after January 1, 2003." 2002 Ky. Acts ch. 234, sec. 3.