

CHAPTER 446

(SB 323)

AN ACT relating to the taxation of property.

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 cabinet shall **annually** 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 Revenue Cabinet as a distinct interest in real property, separate and apart from the surface real estate.
- (2) Each owner or lessee of property assessed under subsection (1) of this section shall annually, between January 1 and April 15, **list their property with the cabinet by filing**~~file~~ a return with the cabinet in a form as the cabinet 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 cabinet to file a return.
- (3) **Commencing with the 2001 tax year, the cabinet shall no less than once every four (4) years review each property listing using available geologic data. The cabinet shall maintain a record of the review for each parcel which includes the dates of the examination and the results of the review. If the cabinet assesses any property at a different value than that resulting from the taxpayer's listing based upon geologic data, the cabinet shall notify the taxpayer in the cabinet's notice of assessment.**
- (4) Any property subject to assessment by the cabinet 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.
- ~~(5)(4)~~ After the valuation of unmined minerals or other energy sources has been finally fixed by the cabinet, the cabinet 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.
- ~~(6)(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.
- ~~(7)(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 134.390 shall apply to the tax bill.
- ~~(8)(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.

- (9) *Any assessment of unmined coal or other minerals may be reviewed by the Revenue Cabinet after the filing of the return. If upon review, the cabinet finds that the assessment or the amount of taxes due should be increased due to revaluation or reclassification based upon information available at the time the return was filed, the cabinet shall give notice of the revised assessment to the taxpayer as provided under KRS 131.110 within five (5) years after the due date of the return. Upon the revised assessment being final, the tax bill shall be handled and collected as an omitted property tax bill and the additional tax shall be subject to the same penalties and interest as the tax on omitted property voluntarily listed.*

Section 2. KRS 136.120 is amended to read as follows:

- (1) Every railway company, sleeping car company, chair car company, dining car company, gas company, water company, ferry company, bridge company, street railway company, interurban electric railroad company, express company, electric light company, electric power company, telephone company, telegraph company, commercial air carrier, air freight carrier, pipeline company, common carrier water transportation company, privately owned regulated sewer company, cable television company, municipal solid waste disposal facility, as defined by KRS 224.01-010(15), where solid waste is disposed by landfilling, railroad car line company, which means any company, other than a railroad company, which owns, uses, furnishes, leases, rents, or operates to, from, through, in, or across this state or any part thereof, any kind of railroad car including, but not limited to, flat, tank, refrigerator, passenger, or similar type car, and every other like company or business performing any public service, except bus line companies, regular and irregular route common carrier trucking companies, and taxicab companies, shall annually pay a tax on its operating property to the state and to the extent the property is liable to taxation shall pay a local tax thereon to the county, incorporated city, and taxing district in which its operating property is located.
- (2) The property of the taxpayers shall be classified as operating property, nonoperating tangible property, and nonoperating intangible property. Nonoperating intangible property within the taxing jurisdiction of the Commonwealth shall be taxable for state purposes only at the same rate as the intangible property of other taxpayers not performing public services, and operating property and nonoperating tangible property shall be subject to state and local taxes at the same rate as the tangible property of other taxpayers not performing public services.
- (3) The Revenue Cabinet shall have sole power to **annually** value and assess all of the property of every corporation, company, association, partnership, or person performing any public service, including those enumerated above and all others to whom this section may apply, whether or not the operating property, nonoperating tangible property, or nonoperating intangible property has heretofore been assessed by the cabinet, and shall allocate the assessment as provided by KRS 136.170, and shall certify operating property liable to local taxation and nonoperating tangible property to the counties, cities, and taxing districts as provided in KRS 136.180. All of the property assessed by the cabinet pursuant to this section shall be assessed as of December 31 each year for the following year's taxes, and the lien therefor shall attach as of the assessment date. In the case of a taxpayer whose business is predominantly nonpublic service and the public service business in which he is engaged is merely incidental to his principal business, the cabinet shall in the exercise of its judgment and discretion determine, from evidence which it may have or obtain, what portion of the operating property is devoted to the public service business subject to assessment by the

cabinet under this section and shall require the remainder of the property not so engaged to be assessed by the local taxing authorities.

- (4) *Commencing with the 2001 tax year, the cabinet shall no less than once every four (4) years review the taxpayer report made under KRS 136.130 using independent industry and market data and research and regulating authority reports. The cabinet shall maintain a record of the review for each taxpayer.*

Approved April 21, 2000