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Everything is Different if the Land is Agricultural

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On October 24, 2013, the Kentucky Board of Tax Appeals (the "KBTA") ruled for two farm owners regarding the valuation of their agricultural property. In Kentucky, agricultural and horticultural land is assessed according to the land's value *for agricultural or horticultural use.* Ky. Const. § 172A. Thus, if the land has a higher value if employed differently, the higher value must be disregarded. Agricultural or horticultural value is based upon the land's income–producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value.

In *Le v. McCreary County Property Valuation Administrator*, KBTA Case Nos. K12-S-43 and K12-S-44 (October 24, 2013) and *Reeder v. McCreary County Property Valuation Administrator*, KBTA Case Nos. K11-S-55 and K12-S-46 (October 24, 2013), the KBTA was presented with the proper valuation of poultry farms located in McCreary County. In *Le*, the taxpayers protested the assessment of their 36.82 acre poultry farm, separate 5.54 acres of land, residential home and garage on three acres of land and miscellaneous improvements including outbuildings and chicken houses. The McCreary County Property Valuation Administrator (the "PVA") originally valued the farmland as a farm. However, the McCreary County Local Board of Assessment Appeals reversed the assessment and ruled that the land should be valued at as non-farm land, resulting, of course, in a much higher value.

In *Reeder*, the taxpayers protested the assessment of their 55 acre poultry farm, their residence and three acres on which it sat and miscellaneous improvements including outbuildings and hen houses. The PVA originally valued only 5 acres as agricultural land. The remaining land consisted of 35 acres of woodland and 12 acres of pastureland which the PVA valued as non-farm land.

The arguments of the parties and the rulings of the KBTA are consistent across both cases. The taxpayers argued that, aside from three acres upon which their residences sat, the land should be valued as agricultural land. The PVA argued that the land outside the residence should be valued at non-farm values because the land did not actually produce income and therefore did not qualify for agricultural valuation.

The KBTA ruled the acreage beyond the residence was entitled to agricultural valuation. The Board found that KRS § 132.010 did not require the land to actually be producing income to qualify for agricultural valuation; it merely included income-producing property. The KBTA noted the statute previously contained such restrictions, but those were removed by the

legislature in 1992. The KBTA also held improvements, such as hen houses and other outbuildings, were entitled to the agricultural valuation because they *were* income-producing.

Finally, the KBTA considered the proper valuation of the taxpayers' residence and surrounding acreage. The KBTA agreed with the taxpayers and the PVA that the residences and surrounding acres were ***not*** to be valued as farm land. In *Reeder*, the PVA failed to contest the valuation presented by the taxpayer. In *Le*, the KBTA found the taxpayer's appraisals to be valid and the appraisals satisfied the burden of proof despite the PVA's attempt to introduce new valuation information from Marshall & Swift.

Ultimately, the KBTA held for the taxpayers on all issues and ordered a reduction in the assessments.