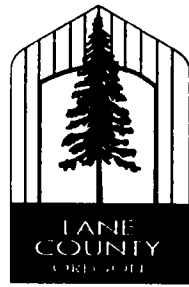


EM...
DU...



MEMORANDUM

TO: Zoe Gilstrap, Management Services Coordinator
County Administration

FROM: Daniela Urbatzka, Property and Tax Manager
Department of Assessment and Taxation

SUBJECT: Board Agenda Item for February 11, 2009

DATE: February 6, 2009

Please schedule one Board agenda item on the **consent calendar** for the Department of Assessment and Taxation for the Board meeting of February 11, 2009. Item title is listed below.

(CC) ORDER _____ /In the Matter of a Refund to Kinder Morgan Energy Partner in the Amount of \$238,227.67.

The action required is a certified copy of the signed Board order will be returned upon approval of the item.

Please contact **Krista Kerins** when the order has been signed, but before it has been filed in Deeds and Records, and we will come and pick the order up. Management Services will issue the check, however, they need the signed order **as soon as possible** in order to process the check timely.

DU/

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NUMBER) IN THE MATTER OF A REFUND TO)
))
) KINDER MORGAN ENERGY PARTNER)
))
) IN THE AMOUNT OF \$238,227.67)

WHEREAS the following account was assessed in the wrong tax code area, and

WHEREAS the tax code area is used in computing the tax amount , and

WHEREAS the following property tax account has been charged or has paid property taxes
in excess of the correct amount, as indicated, and

WHEREAS a refund of these taxes, with interest, as appropriate, per ORS 308.624(3)(d) and
ORS 311.205(1)(c), should be made to Kinder Morgan Energy Partner, now therefore be it,

ORDERED that the Lane County Departments of Assessment and Taxation and
Management Services take such action as is necessary and proper to refund to Kinder Morgan
Energy Partner, the taxes and interest indicated from the unsegregated funds.

CLERICAL ERROR REDUCTION

2007 & 2008 TAX YEARS

Account Number 8502583 \$ 217,864.70 Tax Refund
Kinder Morgan Energy Partner 20,362.97 Interest Refund
c/o Gary Prim, Assistant Treasurer
1100 Town & Country Road
Orange, CA 92868

TOTAL REFUND: \$ 238,227.67

DATED this _____ day of February 11, 2009

APPROVED AS TO FORM

Date 2-9-09 lane county

2/06/09

Peter Sorenson, Chair
Lane County Board of Commissioners

PAGE 1 OF 1

BCC #1

OFFICE OF LEGAL COUNSEL IN THE MATTER OF A REFUND TO KINDER MORGAN ENERGY PARTNER
IN THE AMOUNT OF \$238,227.67



Oregon

Theodore R. Kulongoski, Governor

Department of Revenue
955 Center St NE
Salem, OR 97301-2555

Anette Spickard, Assessor
Public Service Building c/o Assmt & Tax
125 E 8th Ave
Eugene OR 97401-2968

CENTRALLY ASSESSED PROPERTIES
NOTICE OF ROLL CORRECTION
FOR THE 2007-08 TO 2008-09 ASSESSMENT YEAR
SUPERVISORY ORDER PTU # 2009-001

The Oregon Department of Revenue assessed the property of your company pursuant to ORS 308.505 et seq. This notice is being issued to correct apportionment information in Lane County for the 2007-08 and 2008-09. On August 6, 2007, Kinder Morgan Energy Partners had e-mailed the department indicating that the Eugene Terminal was incorrectly apportioned to tax code area 00400 and should have been apportioned to tax code area 05229. The department failed to make the correction as requested.

Therefore, it is ordered that the assessment roll of the Department of Revenue for 2007-08 and 2008-09 be corrected as follows:

Tax Year	TCA	Description	As Originally Reported	As Corrected	Exception Value as Reported	As Corrected
2007-2008	00400	PCM 1979-183 Eugene	19,098,900	-0-	1,493,496	-0-
2007-2008	05229	PCM 1979-183 Eugene	-0-	19,098,900	-0-	1,493,496
2008-2009	00400	PCM 1979-183 Eugene	21,420,700	-0-	-0-	-0-
2008-2009	05229	PCM 1979-183 Eugene	-0-	21,420,700	-0-	-0-

Authority for making this change is provided by ORS 308.624(3)(d) and ORS 311.205(1)(c).

If you have any questions, please contact Mike Hillstrom, Valuation Section, at (503) 945-8241.

Done in Salem, Oregon, this 5th day of February, 2009.

DEPARTMENT OF REVENUE


Elizabeth Harchenko, Director

cc: Kinder Morgan Energy Partners

Interoffice Memo

To: Elizabeth Harchenko
From: Vera Carriger, Valuation Section Manager
Date: February 5, 2009
Subject: Central Assessment Correction of Error

Executive Summary

Oregon statute 308.624 requires a decision by the Director when a correction of the central assessment roll is recommended. Following is the situation and a recommendation for correction of the tax roll.

A. Is the property for Kinder Morgan (a centrally assessed taxpayer) that has been in the incorrect code area for at least six years considered a "correctable error" on the tax roll anytime retroactively to the current tax year? Which tax years can we correct?

Recommendation: Award a refund for the 2007-08 and 2008-09 tax years. Do not adjust the central assessment rolls for years prior to the 2007-08 tax year.

B. Is interest due on any refund of tax?

Recommendation: Pay interest for the correctable tax years (2007-08, 2008-09).

Substantial Facts:

- To date, Kinder Morgan has not provided required apportionment information showing the correct tax code for the Eugene Terminal nor updated apportionment information, even for the tax year subsequent to notice given in August 2007.
- The Eugene Terminal is located in tax code area (TCA) 05229. The taxpayer should have reported it as such in apportionment data required as part of the annual return required in statute and administrative rule.
- The Eugene Terminal has been apportioned and taxed in the wrong TCA, TCA 0400, going back at least to the 1999-2000 tax year.
- There is a significant difference in millage rates between TCA 0400 and TCA 05229 causing a potentially large refund.
- On August 6, 2007, Jeff Durant, Kinder Morgan's representative, sent an e-mail to the department indicating that the TCA for the terminal was incorrect and requesting the department change the tax code area for the Eugene Terminal property from 0400 to 05229.
- A copy of the e-mail noting the error was not placed in the company's file and the subsequent year's appraisal was performed by a different appraiser, who did not know of the error in TCA.
- On January 9, 2009, Jeff Durant requested the department to correct the tax roll and provide a refund to the full extent allowed by law.

Support of Recommendation A

- The information necessary to make the correction was in the records of the department on August 6, 2007. ORS 308.624(2).
- The taxpayer is required to provide the information requested in the forms provided by the department.

Interoffice Memo

- ORS 308.584(1) states the taxpayer may make a request for a conference on the reduction in valuation or modification of the apportionment of a tentative assessment set forth in the notice. The taxpayer did not request a conference.
- Prior to August 6, 2007, there was no information in the department's records to indicate an error in the company's apportionment.
- The taxpayer continued to file in the same manner since 2000 and did not appeal or request a correction to the apportionment for any year prior to the August 6, 2007 e-mail.
- Consistent with AG advice.

Support of Recommendation B

- ORS 311.812 (2)(a) Interest may be paid on a refund resulting from the correction under 311.205 of an error made by the assessor, Department of Revenue or tax collector.
- The information to make the correction was in the records of the department as of August 6, 2007.
- Consistent with AG advice.