

Publications

State and Local Tax Alert: Board of Tax Appeals Decides First Case Concerning Allocation of Property Taxes from Horizontal Drilling

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The Ohio Board of Tax Appeals (BTA) recently decided what we believe is its first case concerning the allocation of property taxes from horizontal drilling. In the case, the BTA affirmed the Harrison County Board of Revision's decision dismissing a complaint filed by a local taxing authority challenging the allocation of the tax revenue.

Union Local Board of Education (Union Local) filed a complaint against the value of the parcel number assigned by the Harrison County Auditor to all of the oil and gas rights associated with a particular horizontal drilling unit for tax year 2013. Union Local sought to obtain what it claimed was its proper ad valorem tax revenue from the horizontal unit, which encompassed multiple taxing districts. The well head was located within the Harrison Hills Board of Education (Harrison Hills) taxing district, but the drilling unit was located in multiple taxing districts across county lines.

Union Local did not contend that the value of the drilling unit was calculated incorrectly – just that the value was not allocated correctly. It provided documentation from the Ohio Department of Natural Resources to establish that more than 40% of the drilling unit was located in its taxing district. Harrison Hills argued that the Harrison County Auditor properly valued the subject property per the prescribed formula determined by the Ohio Tax Commissioner, and as a result, Union Local did not have standing to pursue its complaint before the Harrison County Board of Revision.

On appeal, the BTA held that the board of revision was not the proper venue to challenge the allocation from the horizontal drilling unit. The BTA concluded that Union Local was really challenging the relevant statutes and rules promulgated by the Ohio Tax Commissioner. It also described the rule review process and noted that Union Local failed to follow that process.

So, what does this decision mean for the ad valorem tax on drilling units? In the short term, it means very little because the BTA did not change the status quo. In the long term, however, it is likely that other

taxing units will attempt to follow the rule review process described by the BTA, will take their complaints to the Ohio General Assembly or will attempt to follow different litigation strategies.

Vorys has extensive experience in state and local tax and the oil and gas industry. Contact your Vorys attorney with questions or concerns about the ad valorem tax and how it impacts your business.