

IN THE CIRCUIT COURT OF BROOKE COUNTY, WEST VIRGINIA

STATOIL USA ONSHORE PROPERTIES, INC.,

Petitioner,

v.

Civil Action No. 16-AA- 2
The Honorable MAZZONE

THE HONORABLE MARK MATKOVICH,
West Virginia State Tax Commissioner,

THE HONORABLE THOMAS A. OUGHTON,
Assessor of Brooke County, and

THE COUNTY COMMISSION OF BROOKE COUNTY,

Respondents.

COMPLAINT OF STATOIL USA ONSHORE PROPERTIES, INC.

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BROOKE CIRCUIT COURT
BROOKE COUNTY

I. INTRODUCTION

Statoil USA Onshore Properties, Inc. ("Statoil") holds non-operating working interests in natural gas wells in Brooke County.

The type of non-operating working interest that Statoil has in Brooke County is a "take-in-kind" interest, under which Statoil receives a portion of the natural gas produced by a well's third-party operator. Statoil then markets and sells this natural gas to its customers. The West Virginia State Tax Department (the "Tax Department") only allows the operator for the wells to file property tax returns with it, and values all economic interests in a particular well based on the operator's returns. For tax year 2015, Statoil provided revenue data to the third party operator of the Brooke County wells in which it had a "take-in-kind" interest. The Tax Department valued Statoil's "take-in-kind" interest in the Brooke County wells based on the returns filed by the operator of these wells.

tax year payments (*See* Hr'g Tr., Ex. 1), and Statoil appeared on July 11, 2016, by counsel, before the County Commission. (*See* W. Va. Code § 11-3-27). Statoil hired Streski Reporting, LLC to produce a certified transcript of the hearing at which it presented the evidence discussed above. Exhibits introduced at the hearing and provided to the County Commission are appended to the transcript. The original record of the proceeding was attached to Statoil's Petition as Exhibit A. (*See* W. Va. Code § 58-3-4.)

By August 11, 2016 Order, the County Commission denied the request for exoneration for the 2015 tax year. (*See* Ex. B to Statoil's Petition). Statoil received notice of the Order on August 18, 2016 and timely petitions this Court for relief from the County Commission's erroneous determination. (*See* W. Va. Code § 11-3-25).

III. ANALYSIS AND CAUSES OF ACTION

1. When an error occurs in a taxpayer's reporting or record-keeping, the Code of the State of West Virginia provides relief through the process of exoneration. W. Va. Code § 11-3-27.
2. Exoneration is a process that has been evaluated through the court system, and most-recently the case of State of W. Va. ex rel. Prosecuting Attorney of Kanawha County, W. Va., v. Bayer Corporation, 672 S.E. 2d 282 (2008) provides controlling law with regard to standards for obtaining exoneration on mistaken tax reporting.
3. In this case, the County Commission has not applied the proper factors for determining exoneration and has erroneously denied the exoneration request made to the County Commission by Statoil, as set forth in Statoil's Exhibits and expert testimony at the hearing before the County Commission on July 11, 2016.

STATOIL USA ONSHORE PROPERTIES, INC.,

By Counsel

John J. Meadows by William A. Wilmoth
Craig A. Griffith (WVSB No. 8549)
John J. Meadows (WVSB No. 9442)
Steptoe & Johnson PLLC
Post Office Box 1588
Charleston, West Virginia 25326
Telephone (304) 353-8000
Facsimile (304) 353-8180