



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

GERALD C. MANN
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ATTORNEY GENERAL

Honorable George H. Sheppard
Comptroller of Public Accounts
Austin, Texas

Dear Sir:

Opinion No. 0-4100

Re: Whether gas on which tax has
been paid and injected into the
earth for lifting oil is tax-
able on being "re-produced."

In your letter of October 8th you submit the following questions:

"High pressure gas is produced and processed for its gasoline content by 'A' who sells the residue to 'B' for jetting (lifting oil). 'A' pays the tax on the value of 25% of the gasoline content plus the gross receipts from the sale of residue to 'B'.

"'B' saves the low-pressure gas after it has lifted the oil and sells it back to 'A' for 25% of the new gasoline content plus 50% of the money received by 'A' from the sale of the residue to a carbon plant.

"'B' is 'Re-producing' this gas. It seems proper that he should pay a tax on the liquid content as the gas he puts into the ground had already been stripped, but will a production tax be due on the value of the residue going to the carbon plant, assuming that the volume of gas sold from 'A' to 'B' is the same as the volume re-produced by 'B' and sold back to 'A'?"

We are advised that every producing well produces some casinghead gas along with the oil, and that when dry gas is injected into an oil well for lifting purposes, some casinghead gas will be mixed with the injected dry gas when it emerges from the well in the production process. It seems inevitable, in the situation described, that all of the liquid hydrocarbons which are extracted from the gas which comes from "B's" oil well must have been produced for the first time from "B's" well since only dry gas was injected into it. A tax, therefore,

based upon a percentage of the gasoline extracted from the gas taken from "B's" well would be a tax only on that part of the gas actually produced from "B's" well as distinguished from the gas which was injected and is being "re-produced." If the operation were 100% efficient, the volume of gas emerging from the well would be greater than the volume of gas injected into the well by the amount of the casinghead gas which is being produced. If after the gas emerging from "B's" well is processed, there is a volume of residue greater than that injected into the well, this excess would represent gas actually produced from "B's" well and his proceeds from the sale of such excess would be properly made the basis of computing the value of the casinghead gas produced by him in addition to his proceeds from the gasoline extracted therefrom.

Under the facts submitted, the volume of gas injected into the well is assumed to be the same as the volume emerging from the well. If there is any method whereby you can accurately determine what proportion of the volume of gas emerging from "B's" well is casinghead gas produced from that well as distinguished from injected gas being "re-produced" then under "Rule 4" of our Opinion No. 0-3516, you may tax "B" based upon that same proportion of his receipts from the sale of the residue gas to the carbon black plant, in addition to his gross receipts from the gasoline extracted.

The residue gas injected into the well is derived from gas upon which a production tax has already been paid, and a second tax is of course not payable upon it being "re-produced," after injection. The tax is payable by "B" only on the gas which emerges from the ground for the first time from his well.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/Walter R. Koch
Walter R. Koch
Assistant

WRK:db:wc

APPROVED DEC 3, 1941
s/Grover Sellers
FIRST ASSISTANT
ATTORNEY GENERAL

Approved Opinion Committee By BWB Chairman