



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

Curt T. Schneider
Attorney General

June 9, 1976

ATTORNEY GENERAL OPINION NO. 76-175

Ivan Hadley
Barber County Assessor
Medicine Lodge, Kansas 67104

RE: Oil and Gas--Taxation--Statement for Assessment--
Listing Names of Royalty Owners and Division of
Production. K.S.A. 79-306b, 79-329, et seq.

Synopsis: Operators of producing oil and gas leases must annually file a full and complete statement, on prescribed forms, giving all of the necessary information requested. Where an inadequate return is filed, the assessor should demand a new statement and has power to investigate, examine persons under oath, audit books and records, and then appraise and assess such oil properties, adding thereto a 50% penalty for refusal to list.

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Dear Mr. Hadley:

You write that you have in your county oil and gas lease operators filing tax statements which are complete on the front of the form, but which leave blank the information lines on the back. You say you need this information, the names and addresses of all royalty owners, the percentage owned by each, and the exact division of production between them, in order to value properly each ownership for assessment. You ask if it is possible to force operators to furnish this list.

K.S.A. 79-306b gives the assessor generally authority to investigate inadequate tax statements and may examine on oath any person having knowledge of the taxable property.

Mr. Ivan Hadley
June 9, 1976
Page 2

However, K.S.A. 79-332 is a specific statute on oil and gas tax statements to be filed by operators by April 1. Here is the pertinent portion of that statute:

"When any person, corporation or association owning oil and gas leases or engaged in operating for oil or gas shall refuse or neglect to make and deliver to the county assessor of every county wherein the property to be assessed is located, a full and complete statement relative to said property as required by blank forms prepared or approved for the purpose by the director of property valuation to elicit the information necessary to fix the valuation of the property as herein provided, such assessor shall list the property and shall from any information obtainable appraise it at its fair market value in money and assess it at the percentage required in K.S.A. 79-1439, as amended, and add thereto as a penalty of fifty percent (50%) for refusal to list."

Even in the penalty statute, K.S.A. 79-333, the assessor is specifically given power to audit books and records:

"The assessor at any time shall have the right and power to examine the books and accounts of any person, corporation or association owning oil and gas leases or engaged in operating for oil and gas in order to verify the statement made by such person, corporation or association."

K.S.A. 79-329 declares oil and gas properties, when production exists, be valued and assessed as personal property. K.S.A. 79-330 provides that the properties be first valued as a "whole". Then, under K.S.A. 79-331, the 8/8th valuation must be assigned to each fractional owner of "the working interest, royalty interest, overriding royalty interest and production payment". The tax statement must be verified on oath under penalty of perjury. K.S.A. 79-334.

You say that there is sufficient information on the front of the form to make the valuation of the property as a whole, but without the information on the back, you can make no allocation to fractional owners, which you must do.

Mr. Ivan Hadley
June 9, 1976
Page 3

In our opinion, you should make formal written demand on these defaulting operators that they file forthwith full and complete tax statements on the prescribed forms. If there is any delay, we believe you have power to make an assessment of 100% ownership to the operator. If the operator then files a corrected statement showing other owners, impose a 50% penalty on the operator's share for refusal to file timely the prescribed list.

You also say that you have asked that the operators fill the column showing royalty owners' interests by a decimal figure, rather than some fraction of 8/8ths, because it facilitates your use of a computer. You ask if such request is reasonable. We believe that such request is reasonable.

Very truly yours,



CURT T. SCHNEIDER
Attorney General

CTS/CJM/cgm