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OPINION NO. 86-164

April 30, 1986

Honorable L. L. "Doc" Bryan
State Representative
305 South Vancouver
Russellville, AR 72801

Dear Representative Bryan:

This is in response to your opinion request regarding Arkansas' "Severance Tax Act", Ark. Stat. Ann. §84-2101 et. seq. (Repl. 1980). Each of the questions you posed is immediately followed with a brief reply:

IS A LANDOWNER WHO LEASES HIS PROPERTY
FOR OIL PRODUCTION OBLIGATED TO PAY
SEVERANCE TAXES ON THE ROYALTY INTEREST
HE RECEIVES?

Generally, the owner (lessor) is not required to directly pay any severance taxes because primary responsibility lies with the producer (lessee). However, the owner's (lessor's) royalty interest may be subject to a lien should the producer (lessee) fail to pay all severance taxes due. The lessee (producer) is primarily obligated to pay all severance taxes including that amount which is the basis of the lessor's royalty interest. The producer (lessee) is required to deduct that "amount of the severance tax in respect thereto from any such royalty . . ." Ark. Stat. Ann. §84-2105 (Repl. 1980).

ARE SEVERANCE TAXES BASED ON GAS
PRODUCED OR THE VALUE OF THE GAS STILL
IN THE GROUND?

Severance taxes are only based on the gas produced or the quantity severed. Ark. Stat. Ann. §84-2102 (Repl. 1980).

IS A LANDOWNER WHO DRILLS HIS OWN WELL
EXEMPT FROM PAYING SEVERANCE TAXES?

No. A landowner who engages in the business of severing natural resources is a "producer" pursuant to Ark. Stat. Ann. §84-2101(f) and required to pay severance taxes pursuant to Ark. Stat. Ann. §84-2102 (Repl. 1980).

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General David S. Mitchell.

Sincerely,

STEVE CLARK
Attorney General

SC/DSM/ljm