

ReedSmith

# Texas Tax Update

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UT LAW CLE Continuing  
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Driving progress  
through partnership

1

## Agenda

- Pending Litigation
- Legislative Updates
- Audit Considerations

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2

## Pending Litigation

3

### *Hibernia Energy LLC v. Hegar*

- Texas total revenue is the sum of several lines on the partnership's IRS Form 1065 including, but not limited to:
  - Line 1c, 4, 6, and 7; and
  - Lines 3a and 5 through 11 of Schedule K
- Sale of leasehold interests

4

## *Hibernia Energy LLC v. Hegar*

- Hibernia’s two main arguments:
  - Form 1065 instructions don’t reference “gains (loss) from the disposition of an interest,” only “disposition”; and
  - A partnership cannot determine its “gain” from the disposition of an interest in oil or gas properties because adjustments to basis are only tracked and made at the partner level.

## *Hibernia Energy LLC v. Hegar*

- The amounts “reportable as income” on the specified Form 1065 lines (here, line 11).
- While Hibernia reported nothing on its federal tax return on line 11—the Texas statute requires not what an entity “reports” but, rather, the amounts “reportable.”
- Was Hibernia required by federal tax law to include on line 11, Schedule K of its Form 1065 its net gains from the sale of the leasehold interests?

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