

ReedSmith

Texas Tax Update

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Agenda

- Pending Litigation
- Legislative Updates
- Audit Considerations

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Pending Litigation

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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

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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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First appeared as part of the conference materials for the
32nd Annual LLCs, LPs and Partnerships session

"Texas Tax Update"