# **71 Am Jur 2d State and Local Taxation § 132**

***American Jurisprudence 2d (AMJUR)* > *State and Local Taxation* > *PART THREE. Subjects of Taxation* > *IX. Property Subject to State and Local Taxation, In General* > *E. Mineral or Gas and Oil Interests Subject to State and Local Taxation***

**Author**

George L. Blum, J.D.; James Buchwalter, J.D.; Lonnie E. Griffith, Jr., J.D.; Glenda K. Harnad, J.D.; Karl Oakes, J.D.; and Jeffrey J. Shampo, J.D.

**§ 132 Gas and *oil* interests subject to state and local taxation**

Some jurisdictions classify ***oil*** and gas interests as realty for the purposes of taxation [[1]](#footnote-2)1and classify the right to remove ***oil*** and gas from the ground as a property right taxable as real property. [[2]](#footnote-3)2***Oil*** and gas, not removed from the land, may be assessed as part of the value of the land for real property tax purposes, when reasonably determined to be recoverable in the future, and not taxed separately. [[3]](#footnote-4)3By one standard, when ***oil*** rights have been severed from surface estate and are owned by persons other than owners of surface rights, two separate and distinct freehold estates exist and are subject to property taxation. [[4]](#footnote-5)4

Although some jurisdictions recognize a contrary rule, [[5]](#footnote-6)5an ***oil*** and gas lease may be recognized as a taxable possessory interest constituting a servitude on the land and a chattel real, [[6]](#footnote-7)6and leasehold interests in ***oil*** and gas rights may be taxable as separate parcels of real estate, separate and apart from the rest of the land. [[7]](#footnote-8)7An ***oil*** and gas lease terminated by operation of law is not a taxable interest. [[8]](#footnote-9)8

**Reference**

West's Key Number Digest, Taxation [westkey]2172

A.L.R. Index, Taxes

West's A.L.R. Digest, Taxation [westkey]2172

West's Key Number Digest, Taxation [westkey]2172

**Source:** WEST GROUP

American Jurisprudence, Second Edition

Copyright © 2024 West Group

**End of Document**

1. 1 California Minerals, L.P. v. County of ***Kern***, 152 Cal. App. 4th 1016, 62 Cal. Rptr. 3d 1 (5th Dist. 2007); Cornwall Mountain Investments, L.P. v. Thomas E. Proctor Heirs Trust, 2017 PA Super 74, 158 A.3d 148 (2017); Coal Creek Company v. Anderson County, 546 S.W.3d 87 (Tenn. Ct. App. 2017).

   An ad valorem tax on gas as a mineral is legal, recognizing the interests as tangible real property for tax purposes. May v. Akers-Lang, 2012 Ark. 7, 386 S.W.3d 378 (2012).

   An ad valorem tax applies to mine gas captured and used in mining operations. Solvay Chemicals, Inc. v. Wyoming Department of Revenue, 2022 WY 122, 517 P.3d 1123 (Wyo. 2022).

   Natural gas in the ground is taxed as real property. Samson Hydrocarbons Co. v. Oklahoma Tax Com'n, 1998 OK 82, 976 P.2d 532 (Okla. 1998). [↑](#footnote-ref-2)
2. 2 Chevron USA, Inc. v. County of ***Kern***, 230 Cal. App. 4th 1315, 179 Cal. Rptr. 3d 372 (5th Dist. 2014), as modified on other grounds on denial of reh'g, (Nov. 19, 2014). [↑](#footnote-ref-3)
3. 3 Chevron USA, Inc. v. County of ***Kern***, 230 Cal. App. 4th 1315, 179 Cal. Rptr. 3d 372 (5th Dist. 2014), as modified on other grounds on denial of reh'g, (Nov. 19, 2014).

   ***Oil*** is an incorporeal hereditament possessing transitory characteristics until reduced to actual possession. Board of Com'rs of Sullivan County v. Heap, 155 Ind. App. 633, 294 N.E.2d 182 (1973). [↑](#footnote-ref-4)
4. 4 Federal Land Bank of Wichita v. Board of County Com'rs of Adams County, 607 F. Supp. 1137 (D. Colo. 1985), judgment aff'd, 788 F.2d 1440 (10th Cir. 1986) (applying Colorado law). [↑](#footnote-ref-5)
5. 5 Board of Com'rs of Sullivan County v. Heap, 155 Ind. App. 633, 294 N.E.2d 182 (1973). [↑](#footnote-ref-6)
6. 6 Leiper v. Gallegos, 42 Cal. App. 5th 394, 255 Cal. Rptr. 3d 293 (2d Dist. 2019). [↑](#footnote-ref-7)
7. 7 State v. Superior Court for Maricopa County, 113 Ariz. 248, 550 P.2d 626 (1976); Sun ***Oil*** Co. (Delaware) v. Fisher, 370 So. 2d 413 (Fla. 1st DCA 1979). [↑](#footnote-ref-8)
8. 8 In re Barker, 50 Kan. App. 2d 375, 327 P.3d 1036 (2014). [↑](#footnote-ref-9)