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Kan. and Okla.	$2.25	North Lima ...	2.48
Healdton ...	1.20	Wooster ...	2.95
Corsicana (lt)	2.25	Indiana ...	2.38
Corsicana (hv)	1.50	Princeton ...	2.52
Electra ...	2.25	Somerset ...	2.70
Caddo (37°) ..	2.15	Ragland ...	1.25
Corning ...	2.95	Illinois ...	2.52
Henryetta ...	2.25	Canada ...	2.78
Caddo (35°) ..	2.15	Elk Basin (Wy)	1.85
Penn ...	4.25	Caddo (38°) ..	2.2[illegible]
Osage ...	2.25	Grass Creek ..	1.85
[illegible] Lima ...	-	Big Muddy ...	[illegible]

Important Decision.

Decision, revenue act of 1919, November 5, 1919.

Depletion allowance in the case of operating leases of mines. Mohawk Mining company vs. Harry H. Weiss, collector (United States district court for the northern district of Ohio, eastern division.)

MEMORANDUM.

3635 Westenhaver, district judge: plaintiff brings this action to recover income tax paid under protest. The parties have by stipulation in writing waived a jury and submitted their case for decision by me upon an agreed statement of facts.

3636 plaintiff is the owner of a Minnesota mining lease on iron ore property acquired prior to March 1, 1913, conferring a right to mine and remove all of the ore and requiring the payment of 25 cents a ton royalty on such ore mined and moved. The question of law presented for decision is whether or not the plaintiff is entitled to deduct a reasonable allowance for depletion of iron ore from the gross amount of its receipts from all sources in order to determine the net income subject to tax. The answer to this question turns on the true meaning of Section 12 of the revenue act of September 18, 1916. The government's contention is that the deduction authorized by the second subdivision of this section is allowable only to an operating owner of an ore mine and not to an operating lessee under a lease of the character stated.

*Comment: The present act makes provision for the equitable apportionment of depreciation between lessees and lessors.

3637 I have carefully examined all of the cases decided under the corporation tax act of 1909 and under the several income tax acts and have also carefully studied the several provisions of these several acts so far as they relate to this question. My conclusion is that the operating lessee is entitled to the deduction as claimed. My engagements are such that it would be impossible for me, without neglecting other work, to prepare and file an extended opinion setting forth my reasons for this conclusion earlier than the latter part of December. There are, however, no disputed questions of fact, and the question of law is so clear cut and simple, that an extended written opinion would add nothing to the information of counsel. It is sufficient to say that I concur in the reasoning of plaintiff's brief, particularly its reply brief and disagree wholly with the reasoning of the brief of defendant.

3638. Judgment will be rendered for plaintiff in accordance with the prayer of its petition. An exception will be noted on behalf of defendant.

D. C. WESTENHAVER, Judge.

Cleveland, Ohio, November 8, 1919.

The treasury department has held that lessees may not deplete against the value of leases as of March 1, 1913, for 1917 tax.*

This decision if upheld, and it is surely good law, means a vast saving to oil producers.

Sinclair First Pipe Line Into Burkburnett.

The Sinclair people have flanged their line and are running oil out of the Burkburnett field, being the first to get oil into the line of any of them. The Texas & Empire joint line and the Gypsy Oil company are both ready to start shortly. It will mean the end of congestion in that field. The Empire-Texas line, 32 miles in length to the loading racks at Waurika, is in operation where tank cars are used.

AT M'ALESTER—The Hailey-Wilkenson syndicate is drilling at 500 feet and has a showing of oil in 33-2-15.

L. C. Wassmus and others are starting a test in 8-2-16 and St. Louis people headed by M. E. Phillips are starting another in 5-2-16. It is said that preliminary tests have shown oil in the outcroppings and in fact this section of country has long been considered likely looking territory by geologists.

OKMULGEE COUNTY—The Ohiokla Oil company (Ed George) drilling on the Sam Taylor 2½-acre piece in 6-14-12 has a 600-barrel well. No. 4 is about due but is delayed on account of pipe. The same company No. 1 Robert Boone in 17-14-12 is fishing at 2,800 feet.

The Savoy Oil company is starting No. 2 Smith in 25-15-10.

The Gladys Belle Oil company No. 9 Adams in the northwest of the northeast of the southeast of the northwest of 6-14-12 is making 200 barrels natural from sand found at 2,275 to 2,311.

The Eastern Oil company No. 2 Washington in the northwest of 8-14-12 is making 1,000 barrels natural.

The Peterson and others No. 2 Field farm in the southeast of 7-14-12 has a 75-barrel well before the shot.

The Ross Scott and others No. 1 Moona Hatche in the northeast of the above section have a 15-barrel natural showing at 2,750-67 feet. This well made about 6,000,000 gas in sand found at 1,884-87.

The Minnehoma Oil company has a rig up for No. 2 Hanes farm in the northeast corner of the northwest of the southeast of 6-15-12.

Bradstreet and Howe have a rig up for No. 2 Harjo in the southwest of the northeast of 6-13-12.

The Prairie has a rig up for No. 3 Roberts in the northwest corner of 26-13-12.

Doctor Skelton has a rig up for No. 4 Hodges in the northeast corner of the northwest of the southeast of 29-13-12.

The Allied Oil company has a rig up for No. 2 Smith farm at the center of the south line of the southwest of the northwest of 29-13-12.

IN THE OSAGE—W. J. Kanupp has a completed 20-barrel well in 17-27-11. The sand was found from 1,997-35 feet.

In the northeast corner of 35-27-11 the 202 Oil company has a 20-barrel well after a shot of 80 quarts.

In 5-24-10 the Barnsdall No. 18 in the northwest corner of the northwest is making 25 barrels.

In 6-24-10 the Carter Oil company No. 19 is making 4,000,000 gas at 2,015-40 feet.

Penn Osage No. 1 in the northeast corner of the southwest of 24-25-10 is dry and abandoned in the Mississippi lime found at 1,924 feet.

Alexander and others have a 30-barrel well after a 40-quart shot in their No. 22 in 33-22-10.

Duffy Gillespie No. 9 is a 150-barrel well in 34-22-10 in sands from 1,892 to 1,907.

In 8-23-11 the Skelly No. 8 in the southeast corner of the northeast of the southeast of the southwest is making 100 barrels after a shot of 60 quarts. The Bartlesville sand was found at 1,751-78.

Charles Page has a 75-barrel well in 26-20-11.

In 24-24-9 W. H. Skelly No. 19 in the northeast of the southwest of the northeast of the southwest has a 50-barrel well at 2,163 feet.

The Gypsy Oil company and others No. 5 in the southeast of 18-27-8 Blackland pool is now doing 110 barrels at 2,483 feet. It started at 600 barrels.

In 2-27-8 the Diamonds No. 17 drilled itself in by pumping 225 barrels per day for the past four days.

The Tidal Oil company has a failure and a hole full full of salt water at 2,135 feet in its No. 10 at the center of the east line of the southeast of the southwest of 22-23-11. The top of the Mississippi lime was encountered at 1,826.

AT EASTLAND, TEXAS—The Royal Duke test on the Hanks in C-6 is making 1,500 barrels at 3,505 feet.

The Stakes Oil corporation No. 1 Earnest on B-10 also in Eastland county is making 600 barrels in shallow sand.

IN THE OSAGE—W. J. Kanupp has a 2,500-barrel well in the northeast corner of the southwest of the northeast of the southwest of 3-24-9. The well is 1,550 feet in depth and only two feet in the sand. This is on his $800 stuff and one of his wells started at 1,800 barrels.

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For the purpose of the meeting the books for the transfer of stock will be closed at 5 p. m. November 12, 1919, and will be reopened at 9 o'clock a. m. on Wednesday, December 3, 1919.

(Signed) G. A. DYE, Vice President.

Attest: L. V. CRATER, Secretary-Treasurer.

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