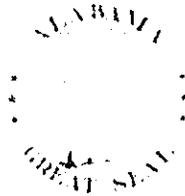


OFFICE OF THE ATTORNEY GENERAL

79-00203



file # 169

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ATTORNEY GENERAL
STATE OF ALABAMA
MAY 17 1979

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Honorable Curtis Finley
Mayor, Town of Pollard
Pollard, Alabama

City of Pollard - State
Comptroller - Taxation

City is entitled to 10 percent of the proceeds of the privilege tax on production of oil and gas from wells located within the corporate limits or the police jurisdiction thereof.

Opinion by Assistant Attorney General Davis.

Dear Mayor Finley:

In your letter of March 26, 1979, you requested of this office an opinion respecting the following situation:

Code of Alabama 1975, Section 40-20-8(2) provides for distribution to the city of 10 percent of the proceeds of the privilege tax on production of oil and gas from wells located within the corporate limits or police jurisdiction of the city. In late 1978, it was discovered that there were producing wells located within the police jurisdiction of the Town of Pollard and the comptroller's office began, in November, 1978, to distribute to the Town of Pollard the 10 percent required by the statute. Your question is: What is the responsibility of the comptroller with respect to the proceeds of the tax which were collected prior to November, 1978?

The statute is clear that 10 percent of the proceeds of the tax levied in Chapter 20 Title 40, Code of Alabama 1975, upon the production of gas and oil is due to be distributed to the

Honorable Curtis Finley
Mayor, Town of Pollard
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municipality within the jurisdiction of which the wells are located. Because it was not known that there were wells within the jurisdiction of the Town of Pollard the tax collected prior to that distributed in November, 1978, was distributed without consideration of the 10 percent due Pollard. I am informed that the amount of tax collected on oil and gas produced from the wells in Pollard preceeding the discovery that these wells were in fact within the jurisdiction of Pollard is known or can be computed from the records of the Department of Revenue and the Oil and Gas Board.

Accordingly, it is the opinion of this office that the comptroller should distribute to the Town of Pollard such additional sums from the future proceeds of the tax upon the production of those wells within the jurisdiction of the Town of Pollard as would make up the deficiency of distribution. It is suggested that these additional sums be calculated so as not to cause serious disruption of the fiscal plans of the other entities to which these tax proceeds are distributed.

Sincerely,

CHARLES A. GRADDICK
Attorney General

CAG:pcd