

Kansas Administrative Regulations

Department of Insurance Assistant Commissioner, Securities Division

Article 5.—Exemptions

81-5-10. Oil and gas exemptions.

(a) Definitions. For purposes of this regulation, the following definitions shall apply:

(1) "Commission" shall be defined as specified in K.A.R. 81-1-1. However, the term shall not include any interest in the oil and gas estate being sold, including any overriding royalty interest and any interest in the production from the oil and gas estate, if the identity of the person or persons owning or holding the interest and the extent of the interest are fully disclosed to all purchasers.

(2) "Public auction" means the public sale of an interest in an oil and gas royalty, lease, or mineral deed to the highest bidder when the offer of the interest and the bids are communicated through open, public outcry and the sale is complete when the auctioneer so announces by the fall of the hammer or other customary manner.

(3) "Purchaser" means any individual, corporation, limited liability company, partnership, association, joint stock company, trust, or unincorporated organization. However, if an entity was organized for the specific purpose of acquiring the oil or gas interests offered, each beneficial owner of an equity interest or equity security in the entity shall count as a separate purchaser.

(b) Oil and gas transactions.

(1) K.S.A. 17-12a301 through 17-12a306 and K.S.A. 17-12a401, 17-12a402, and 17-12a504, and amendments thereto, shall not apply to any offer or sale of any limited partnership interest, fractional undivided interest, or certificate based upon any fractional undivided interest involving any oil or gas royalty, lease, or deed, including subsurface gas storage and payments out of production, if the land subject to the interest or certificate is located in Kansas and all sales are made in accordance with one of the following conditions:

(A) Each sale is made to a person who is or has been during the preceding two years engaged primarily in the business of drilling for, producing, or refining oil or gas or whose corporate predecessor, for a corporation, has been so engaged or whose officers and two-thirds of the directors, for a corporation having an existence of less than two years, have each been so engaged.

(B) Sales are made to not more than a total of 32 purchasers without regard to whether the purchasers reside within or without the state of Kansas; the seller reasonably believes that every purchaser is purchasing the interest or certificate for investment purposes and not for resale; no general solicitation is used in connection with the offer or sale of the interest or certificate to any person; and no commission is paid or given for the offer or sale of the interest or certificate or the solicitation of prospective purchasers.

(C) Each sale involves property that produces oil, gas, or petroleum products in paying quantities on the date of sale, and the seller, after the sale, does not retain any ownership interest in or control over the lease or the interest or interests that are being sold.

(2) The exemption provided by this subsection shall not be cumulative to or used in conjunction with any other exemption provided under K.S.A. 17-12a202, and amendments thereto.

(c) Oil and gas auctions. The offer and sale of any interest in an oil and gas royalty, lease, or mineral deed shall be exempt from the requirements of K.S.A. 17-12a301 through 17-12a306 and K.S.A. 17-12a401, 17-12a402, and 17-12a504, and amendments thereto, if the interest is sold at a public auction.

(Authorized by K.S.A. 2005 Supp. 17-12a605(a); implementing K.S.A. 2005 Supp. 17-12a203; effective June 28, 1993; amended Jan. 19, 2007.)

***** Authenticated Kansas Administrative Regulation *****