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SECTIONAL ANALYSIS

House Bill 191
Version H

HB 191 Sectional Analysis
Version: 29-LS0849H

An Act relating to the oil and gas corporate income tax; and providing for an effective date.

Please note that a sectional analysis of a bill or resolution should not be considered an authoritative interpretation of the measure itself. The legislation is the best statement of its contents.

NOTE: Oil & Gas Corporate Income Tax, also known as Separate Accounting, will be a new section added to statute: AS 43.21. This is noted in Section 5 of this sectional analysis. Oil and Gas Producers and Pipelines, also known as Worldwide Apportionment, is repealed in Section 7.

Section 1: *Page 1: Lines 4-8*

Amends language in AS 29.60.599(1), *Definitions*, by directly defining the meaning of barrel when used with reference to oil. It removes the reference to the same definition that is listed in AS 43.20.144, a statute which is being repealed in Section 7 of this bill.

Section 2: *Pages 1, Line 9 – page 2, Line 1*

Amends language in AS 41.09.010(b), *Exploration Incentive Credit*, by allowing for the credit to be used against AS 43.21, *Oil and Gas Corporate Income Tax*.

Section 3: *Page 2: Lines 2-5*

Adds a new subsection under AS 43.20.011, *Tax on Corporations*, stating that corporations engaged in the production or transportation of crude oil or natural gas shall be taxed under AS 43.21, *Oil and Gas Corporate Income Tax* (separate accounting).

Section 4: *Page 2: Lines 6-12*

Amends language in AS 43.20.145(f), *Affiliated Groups*, to replace AS 43.20.144 (worldwide apportionment) with AS 43.21 (separate accounting). Because AS 43.20.144 dealt with more than just oil and gas companies, clarifying language was included in (f). Since AS 43.21 only deals with oil and gas production and transportation companies, the clarifying language was not necessary and therefore deleted.

Section 5: *Page 2, Line 13 – Page 10, Line 21*

Adds new sections to AS 43.21, *Oil and Gas Corporate Income Tax*; includes addition of Articles 1, 2, and 3. This reinstates the Oil and Gas Corporate Income Tax (separate accounting) which was repealed in 1982.

Article 1: Determination of Taxable Income

Section 43.21.200 *Page 2, Line 15-20:* Clarifies that this tax applies to every corporation with business in the state that has income from production and/or transportation of oil or gas in the state.

Section 43.21.210 *Page 2, Line 21-31:* Adopts 26 U.S.C. 1-1399, *Normal Taxes and Surtaxes*, and 6001-7872, *Internal Revenue Code*, by reference, which thereby incorporates these codes as regulations adopted by the department.

Section 43.21.220 *Page 3, Line 1 – Page 5, Line 23:* Describes how the taxable income from oil and gas production is calculated.

Section 43.21.230 *Page 5, Line 24 – Page 6, Line 22:* Describes how the taxable income from oil and gas pipeline transportation is calculated.

Section 43.21.240 *Page 6, Line 23 – Page 7, Line 14:* Clarifies how taxable income is determined from activities other than oil and gas production or pipeline transportation as established through AS 43.19.010, *Multistate Tax Compact*, and AS 43.20.143, *Transportation Carriers*.

Section 43.21.250 *Page 7, Line 15-17:* Clarifies that AS 43.21, *Oil and Gas Corporate Income Tax*, applies to a consolidated business whether or not the taxpayer is the parent or controlling corporation.

Article 2: Calculation of Tax; Returns

Section 43.21.300 *Page 7, Line 19 – Page 8, Line 4:* Part (a) clarifies that the amount of tax payable is determined using the tax rates in AS 43.20.011(e), *Tax on Corporations*. (For most companies the tax rate is 9.4%.) Part (b) provides the department the ability to combine taxable income of corporations who are part of the same consolidated business. Part (c) states that if methods of allocation and apportionment which are provided in the chapter are not

fairly representative of the corporation's business activity in the state, the corporation is able to petition the department under certain requirements noted in this section.

Section 43.21.320 *Page 8, Line 5-10*: References tax credits that may be applied against AS 43.21, *Oil and Gas Corporate Income Tax*, which include: Income Tax Education Credit (AS 43.20.014), Gas Exploration and Development Credit (AS 43.20.043), Exploration Incentive Credit (AS 43.20.044), Gas Storage Facility Credit (AS 43.20.046), Liquefied Natural Gas Storage Facility Credit (AS 43.20.047), Veteran Employment Credit (AS 43.20.048), Qualified Oil and Gas Service Industry Expenditure Credit (AS 43.20.049), and Qualified In-State Oil Refinery Infrastructure Expenditures Credit (AS 43.20.053). Credits may only be applied if they were not already taken as a credit under AS 43.20 or AS 43.55. Refunds of credits will be limited to the portion of the tax credit that is unused under this title.

Section 43.21.330 *Pages 8, Line 11 – Page 9, Line 15*: Returns and payment of taxes. Part (a): 30 days after a corporation files their return under the Internal Revenue Code, the corporation must submit their state return. Part (b) states that the state return shall be made under oath to be true or contain a written declaration to be true. Part (c) states that taxpayers shall supply the department with a copy of each annual tax return that is filed with the IRS. Taxpayers shall provide in writing any change in their federal income return; any change must be reported within 60 days. Part (d): the state tax is due at the same time and in the same manner as the United States Internal Revenue Service federal tax due; this includes quarterly tax prepayments. Part (e) states that the tax is due even if the assessment is under appeal or challenge. Part (f) states that any unpaid amount of an installment payment will be treated as an underpayment and shall accrue interest.

Article 3: Administrative Matters

Section 43.21.400 *Page 9, Lines 17-27*: Relates to Regulations. The Department shall adopt regulations under Administrative Procedures Act (AS 44.62). The Department shall use the regulations that had been adopted in 1981 as guidance. Regulations to be adopted must include methods for accounting for: 1) intercompany transactions in a fair and equitable manner to prevent purposeful tax evasion or manipulation of income or deduction; and 2) transactions between parent and subsidiary companies.

Section 43.21.410 *Page 9, Line 28 – Page 10, Line 5*: Relates to Public Reporting. Part (a) states that an annual report of state revenue along with the implementation of taxation policies under the chapter must be provided to the legislature. Part (b) states that a legislative auditor shall notify the legislature on or before the first day of each regular session when the report is available.

Section 43.21.420 *Page 10, Lines 6-13*: Information Disclosure. The Department shall disclose to any legislator that requests information collected from a taxpayer if: 1) the taxpayer is a publicly traded company; 2) information has been filed in report to the United States Securities Exchange Commission; and 3) the information has been made public by the United States Securities Exchange Commission.

Section 43.21.499 Page 10, Lines 14-21: The section adds in the definitions for consolidated business and Internal Revenue Code in relationship to the chapter.

Section 6: Pages 10, Line 22 – Page 11, Line 10

Amends Section 43.82.210(a), *Contract terms relating to payment in lieu of one or more taxes*, to include AS 43.21, *Oil and Gas Corporate Income Tax*.

Section 7: Page 11, Line 11

AS 43.20.144, *Oil and Gas Producers and Pipelines*, is repealed. (This is the worldwide apportionment method.)

Section 8: Page 11: Lines 12-15

Amends the Uncodified Law of the State of Alaska by adding a new section clarifying that AS 43.21, *Oil and Gas Corporate Income Tax*, applies to taxable income earned or received after December 31, 2015.

Section 9: Page 11: Lines 16-27

Amends the Uncodified Law of the State of Alaska by adding a new section on Regulations. Part (a): Department of Revenue may adopt the regulations necessary to implement AS 43.21, *Oil and Gas Corporate Income Tax*, which would take effect under Administrative Procedure Act (AS 44.62) after the effective date of law which is implemented by regulations. Part (b): Department of Revenue shall provide by regulations a transition period for the corporations that fall under AS 43.20 before the date of December 31, 2015. This is in order to prevent double taxation with the implementation of AS 43.21, *Oil and Gas Corporate Income Tax*. Part (c): Department of Revenue may adopt regulations in order to provide a 5-year transition period for depreciation.

Section 10: Page 11: Line 28

States that Section 9 will take effect immediately.

Section 11: Page 11: Line 29

States that Sections 1-8 will take effect January 1, 2016.