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Nauman
4/3/23

CS FOR SENATE BILL NO. 114(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE

A BILL

FOR AN ACT ENTITLED

"An Act establishing an income tax on certain entities producing or transporting oil or gas in the state; relating to the oil and gas production tax; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*** Section 1.** AS 43.20 is amended by adding a new section to read:

Sec. 43.20.019. Tax on income attributable to a qualified entity. (a) If an entity has qualified taxable income over $4,000,000 in a tax year, the entity shall pay a tax of 9.4 percent on the qualified taxable income over $4,000,000.

(b) The tax under this section does not apply to a corporation paying tax under AS 43.20.011.

(c) The department may aggregate the qualified taxable income of two or more entities for the purpose of determining the tax due under this section if the department determines that, without the provisions of this section, the qualified taxable income would reasonably be expected to be attributed to a single entity.

(d) In this section,

(1) "entity" means a

(A) sole proprietorship;

(B) partnership; or

(C) entity that has elected to file federal returns under 26 U.S.C. 1361 - 1379 (Internal Revenue Code);

(2) "qualified taxable income" means income from the production of oil or gas from a lease or property in the state or from the transportation of oil or gas by pipeline in the state before deductions for

(A) dividends and gifts; and

(B) wages, salaries, bonuses, or other similar payments to owners, partners, members, or shareholders of the entity.

* **Sec. 2.** AS 43.55.024(i) is amended to read:

(i) **<u>Subject to the restriction in (k) of this section, a</u>** [A] producer may apply against the producer's tax liability for the calendar year under AS 43.55.011(e) a tax credit of $5 for each barrel of oil taxable under AS 43.55.011(e) that receives a reduction in the gross value at the point of production under AS 43.55.160(f) or (g) and that is produced during a calendar year after December 31, 2013. A tax credit authorized by this subsection may not reduce a producer's tax liability for a calendar year under AS 43.55.011(e) below zero.

* **Sec. 3.** AS 43.55.024(j) is amended to read:

(j) **<u>Subject to the restriction in (k) of this section, a</u>** [A] producer may apply against the producer's tax liability for the calendar year under AS 43.55.011(e) a tax credit in the amount specified in this subsection for each barrel of oil taxable under AS 43.55.011(e) that does not receive a reduction in the gross value at the point of production under AS 43.55.160(f) or (g) and that is produced during a calendar year after December 31, 2013, from leases or properties north of 68 degrees North latitude. A tax credit under this subsection may not reduce a producer's tax liability for a calendar year under AS 43.55.011(e) below the amount calculated under AS 43.55.011(f). The amount of the tax credit for a barrel of taxable oil subject to this subsection produced during a month of the calendar year is

(1) **$5** [$8] for each barrel of taxable oil if the average gross value at the point of production for the month is less than $80 a barrel;

(2) **$4** [$7] for each barrel of taxable oil if the average gross value at the point of production for the month is greater than or equal to $80 a barrel, but less than $90 a barrel;

(3) **$3** [$6] for each barrel of taxable oil if the average gross value at the point of production for the month is greater than or equal to $90 a barrel, but less than $100 a barrel;

(4) **$2** [$5] for each barrel of taxable oil if the average gross value at the point of production for the month is greater than or equal to $100 a barrel, but less than $110 a barrel;

(5) **$1** [$4] for each barrel of taxable oil if the average gross value at the point of production for the month is greater than or equal to $110 a barrel, but less than $120 a barrel;

(6) [$3 FOR EACH BARREL OF TAXABLE OIL IF THE AVERAGE GROSS VALUE AT THE POINT OF PRODUCTION FOR THE MONTH IS GREATER THAN OR EQUAL TO $120 A BARREL, BUT LESS THAN $130 A BARREL;

(7) $2 FOR EACH BARREL OF TAXABLE OIL IF THE AVERAGE GROSS VALUE AT THE POINT OF PRODUCTION FOR THE MONTH IS GREATER THAN OR EQUAL TO $130 A BARREL, BUT LESS THAN $140 A BARREL;

(8) $1 FOR EACH BARREL OF TAXABLE OIL IF THE AVERAGE GROSS VALUE AT THE POINT OF PRODUCTION FOR THE MONTH IS GREATER THAN OR EQUAL TO $140 A BARREL, BUT LESS THAN $150 A BARREL;

(9)] zero if the average gross value at the point of production for the month is greater than or equal to **$120** [$150] a barrel.

* **Sec. 4.** AS 43.55.024 is amended by adding a new subsection to read:

(k) In a calendar year, for each lease or property, a producer may not apply against the producer's tax liability under AS 43.55.011(e) credits earned under (i) or (j) of this section in an amount that exceeds the producer's qualified capital expenditures for the lease or property. A producer may not carry forward an unused credit under this subsection. In this subsection, "qualified capital expenditure" has the meaning given in AS 43.55.023(o).

* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. (a) Section 1 of this Act applies to an entity with qualified taxable income over $4,000,000 for a tax year beginning on or after January 1, 2023.

(b) AS 43.55.024(i) and (j), as amended by secs. 2 and 3 of this Act, and AS 43.55.024(k), added by sec. 4 of this Act, apply to oil produced during a calendar year beginning on or after January 1, 2023.

* **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: PAYMENT OF TAX. (a) A person subject to tax before the effective date of sec. 1 of this Act under AS 43.20.019, added by sec. 1 of this Act, shall pay the balance of the tax due for a tax year ending before January 1, 2024, by January 1, 2024. Until January 1, 2024, the Department of Revenue shall waive interest that would otherwise accrue under AS 43.05.225 and civil and criminal penalties accruing under AS 43.05.220, 43.05.245, and 43.05.290 that are a result of the retroactivity of this Act.

(b) Notwithstanding AS 43.55.020, a person applying a tax credit under AS 43.55.024(i) or (j), as amended by secs. 2 and 3 of this Act, subject to AS 43.55.024(k), added by sec. 4 of this Act, shall pay the balance of the tax due before January 1, 2024, by January 1, 2024. Until January 1, 2024, the Department of Revenue shall waive interest that would otherwise accrue under AS 43.05.225 and civil and criminal penalties accruing under AS 43.05.220, 43.05.245, and 43.05.290 that are a result of the retroactivity of this Act.

* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

RETROACTIVITY OF REGULATIONS. Notwithstanding a contrary provision of AS 44.62.240, if the Department of Revenue expressly designates in the regulation that the regulation applies retroactively to a specific date, a regulation adopted by the department to implement, interpret, make specific, or otherwise carry out this Act applies retroactively to that date.

*** Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to read:

RETROACTIVITY. This Act is retroactive to January 1, 2023.

*** Sec. 9.** This Act takes effect immediately under AS 01.10.070(c).