

**HOUSE BILL NO. 17**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

**BY REPRESENTATIVES HAWKER, CHENAULT, JOHNSON, AND OLSON, Millett, Thompson**

**Introduced: 1/18/11**

**Referred: Resources, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the tax on oil and gas production; providing for different tax rates**  
2 **based on the average production tax value of oil and gas produced during a calendar**  
3 **year; relating to the tax credit for a carried forward annual loss applicable to the tax on**  
4 **oil and gas production; and providing for an effective date."**

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

6 **\* Section 1.** AS 43.55.011(e) is amended to read:

7 (e) There is levied on the producer of oil or gas a tax for all oil and gas  
8 produced each calendar year from each lease or property in the state, less any oil and  
9 gas the ownership or right to which is exempt from taxation or constitutes a  
10 landowner's royalty interest. Except as otherwise provided under (f), (j), (k), and (o) of  
11 this section, the tax is equal to the sum of

12 (1) the annual production tax value of the taxable oil and gas as  
13 calculated under AS 43.55.160(a)(1) multiplied by 20 [25] percent; and

14 (2) the sum, over all months of the calendar year, of the tax amounts

1 determined under (g) of this section.

2 \* **Sec. 2.** AS 43.55.011(g) is amended to read:

3 (g) For each month of the calendar year for which the producer's average  
4 monthly production tax value under AS 43.55.160(a)(2) per BTU equivalent barrel of  
5 the taxable oil and gas is more than \$30, the amount of tax for purposes of (e)(2) of  
6 this section is determined by multiplying the monthly production tax value of the  
7 taxable oil and gas produced during the month by the **following tax rates, as**  
8 **applicable** [RATE CALCULATED AS FOLLOWS]:

9 (1) if the producer's average monthly production tax value **of a** [PER]  
10 BTU equivalent barrel of the taxable oil and gas for the month is not more than **\$51.67**  
11 [\$92.50], the tax rate is **4.3 percent of** [0.4 PERCENT MULTIPLIED BY THE  
12 NUMBER THAT REPRESENTS] the difference between that average monthly  
13 production tax value **of a** [PER] BTU equivalent barrel and \$30; [OR]

14 (2) if the producer's average monthly production tax value **of a** [PER]  
15 BTU equivalent barrel of the taxable oil and gas for the month is **more than \$51.67**  
16 **but not** more than **\$73.34, the tax rates are**

17 **(A) 4.3 percent on the first \$21.67 of monthly production**  
18 **tax value for each BTU equivalent barrel above \$30; and**

19 **(B) 8.6 percent of the monthly production tax value for**  
20 **each BTU equivalent barrel that is greater than \$51.67;**

21 **(3) if the producer's average monthly production tax value of a**  
22 **BTU equivalent barrel of the taxable oil and gas for the month is more than**  
23 **\$73.34 but not more than \$95.01, the tax rates are**

24 **(A) 4.3 percent on the first \$21.67 of monthly production**  
25 **tax value for each BTU equivalent barrel above \$30;**

26 **(B) 8.6 percent of the next higher \$21.67 of monthly**  
27 **production tax value for each BTU equivalent barrel; and**

28 **(C) 12.9 percent of the monthly production tax value for**  
29 **each BTU equivalent barrel that is greater than \$73.34;**

30 **(4) if the producer's average monthly production tax value of a**  
31 **BTU equivalent barrel of the taxable oil and gas for the month is more than**

1 \$95.01 but not more than \$116.68, the tax rates are

2 (A) 4.3 percent on the first \$21.67 of monthly production  
3 tax value for each BTU equivalent barrel above \$30;

4 (B) 8.6 percent of the next higher \$21.67 of monthly  
5 production tax value for each BTU equivalent barrel;

6 (C) 12.9 percent of the next higher \$21.67 of monthly  
7 production tax value for each BTU equivalent barrel; and

8 (D) 17.2 percent of the monthly production tax value for  
9 each BTU equivalent barrel that is greater than \$95.01;

10 (5) if the producer's average monthly production tax value of a  
11 BTU equivalent barrel of the taxable oil and gas for the month is more than  
12 \$116.68 but not more than \$138.35, the tax rates are

13 (A) 4.3 percent on the first \$21.67 of monthly production  
14 tax value for each BTU equivalent barrel above \$30;

15 (B) 8.6 percent of the next higher \$21.67 of monthly  
16 production tax value for each BTU equivalent barrel;

17 (C) 12.9 percent of the next higher \$21.67 of monthly  
18 production tax value for each BTU equivalent barrel;

19 (D) 17.2 percent of the next higher \$21.67 of monthly  
20 production tax value for each BTU equivalent barrel; and

21 (E) 21.5 percent of the monthly production tax value for  
22 each BTU equivalent barrel that is greater than \$116.68;

23 (6) if the producer's average monthly production tax value of a  
24 BTU equivalent barrel of the taxable oil and gas for the month is more than  
25 \$138.35 but not more than \$160, the tax rates are

26 (A) 4.3 percent on the first \$21.67 of monthly production  
27 tax value for each BTU equivalent barrel above \$30;

28 (B) 8.6 percent of the next higher \$21.67 of monthly  
29 production tax value for each BTU equivalent barrel;

30 (C) 12.9 percent of the next higher \$21.67 of monthly  
31 production tax value for each BTU equivalent barrel;

1                    **(D) 17.2 percent of the next higher \$21.67 of monthly**  
 2 **production tax value for each BTU equivalent barrel;**  
 3                    **(E) 21.5 percent of the next higher \$21.67 of monthly**  
 4 **production tax value for each BTU equivalent barrel; and**  
 5                    **(F) 25.8 percent of the monthly production tax value for**  
 6 **each BTU equivalent barrel that is greater than \$138.35; or**  
 7                    **(7) if the producer's average monthly production tax value of a**  
 8 **BTU equivalent barrel of the taxable oil and gas for the month is more than \$160,**  
 9 **the tax rates are**

10                    **(A) 4.3 percent on the first \$21.67 of monthly production**  
 11 **tax value for each BTU equivalent barrel above \$30;**

12                    **(B) 8.6 percent of the next higher \$21.67 of monthly**  
 13 **production tax value for each BTU equivalent barrel;**

14                    **(C) 12.9 percent of the next higher \$21.67 of monthly**  
 15 **production tax value for each BTU equivalent barrel;**

16                    **(D) 17.2 percent of the next higher \$21.67 of monthly**  
 17 **production tax value for each BTU equivalent barrel;**

18                    **(E) 21.5 percent of the next higher \$21.67 of monthly**  
 19 **production tax value for each BTU equivalent barrel;**

20                    **(F) 25.8 percent of the next higher \$21.65 of monthly**  
 21 **production tax value for each BTU equivalent barrel; and**

22                    **(G) 30 percent of the monthly production tax value for each**  
 23 **BTU equivalent barrel that is greater than \$160** [\$92.50, THE TAX RATE  
 24 IS THE SUM OF 25 PERCENT AND THE PRODUCT OF 0.1 PERCENT  
 25 MULTIPLIED BY THE NUMBER THAT REPRESENTS THE  
 26 DIFFERENCE BETWEEN THE AVERAGE MONTHLY PRODUCTION  
 27 TAX VALUE PER BTU EQUIVALENT BARREL AND \$92.50, EXCEPT  
 28 THAT THE SUM DETERMINED UNDER THIS PARAGRAPH MAY NOT  
 29 EXCEED 50 PERCENT].

30 \* **Sec. 3.** AS 43.55.011(i) is amended to read:

31                    (i) There is levied on the producer of oil or gas a tax for all oil and gas

1 produced each calendar year from each lease or property in the state the ownership or  
 2 right to which constitutes a landowner's royalty interest, except for oil and gas the  
 3 ownership or right to which is exempt from taxation. The provisions of this subsection  
 4 apply to a landowner's royalty interest as follows:

5 (1) the tax levied for oil is equal to five percent of the gross value at  
 6 the point of production of the oil;

7 (2) the tax levied for gas is equal to 1.667 percent of the gross value at  
 8 the point of production of the gas;

9 (3) if the department determines that, for purposes of reducing the  
 10 producer's tax liability under (1) or (2) of this subsection, the producer has received or  
 11 will receive consideration from the royalty owner offsetting all or a part of the  
 12 producer's royalty obligation, other than a deduction under AS 43.55.020(d) of the  
 13 amount of a tax paid, then, notwithstanding (1) and (2) of this subsection, the tax is  
 14 equal to 20 [25] percent of the gross value at the point of production of the oil and gas.

15 \* **Sec. 4.** AS 43.55.020(a) is amended to read:

16 (a) For a calendar year, a producer subject to tax under AS 43.55.011(e) - (i)  
 17 shall pay the tax as follows:

18 (1) an installment payment of the estimated tax levied by  
 19 AS 43.55.011(e), net of any tax credits applied as allowed by law, is due for each  
 20 month of the calendar year on the last day of the following month; except as otherwise  
 21 provided under (2) of this subsection, the amount of the installment payment is the  
 22 sum of the following amounts, less 1/12 of the tax credits that are allowed by law to be  
 23 applied against the tax levied by AS 43.55.011(e) for the calendar year, but the amount  
 24 of the installment payment may not be less than zero:

25 (A) for oil and gas produced from leases or properties in the  
 26 state outside the Cook Inlet sedimentary basin but not subject to  
 27 AS 43.55.011(o), other than leases or properties subject to AS 43.55.011(f), the  
 28 greater of

29 (i) zero; or

30 (ii) the sum of 20 [25] percent and the tax rate  
 31 calculated for the month under AS 43.55.011(g) multiplied by the

1 remainder obtained by subtracting 1/12 of the producer's adjusted lease  
 2 expenditures for the calendar year of production under AS 43.55.165  
 3 and 43.55.170 that are deductible for the leases or properties under  
 4 AS 43.55.160 from the gross value at the point of production of the oil  
 5 and gas produced from the leases or properties during the month for  
 6 which the installment payment is calculated;

7 (B) for oil and gas produced from leases or properties subject  
 8 to AS 43.55.011(f), the greatest of

9 (i) zero;

10 (ii) zero percent, one percent, two percent, three  
 11 percent, or four percent, as applicable, of the gross value at the point of  
 12 production of the oil and gas produced from all leases or properties  
 13 during the month for which the installment payment is calculated; or

14 (iii) the sum of 20 [25] percent and the tax rate  
 15 calculated for the month under AS 43.55.011(g) multiplied by the  
 16 remainder obtained by subtracting 1/12 of the producer's adjusted lease  
 17 expenditures for the calendar year of production under AS 43.55.165  
 18 and 43.55.170 that are deductible for those leases or properties under  
 19 AS 43.55.160 from the gross value at the point of production of the oil  
 20 and gas produced from those leases or properties during the month for  
 21 which the installment payment is calculated;

22 (C) for oil and gas produced from each lease or property  
 23 subject to AS 43.55.011(j), (k), or (o), the greater of

24 (i) zero; or

25 (ii) the sum of 20 [25] percent and the tax rate  
 26 calculated for the month under AS 43.55.011(g) multiplied by the  
 27 remainder obtained by subtracting 1/12 of the producer's adjusted lease  
 28 expenditures for the calendar year of production under AS 43.55.165  
 29 and 43.55.170 that are deductible under AS 43.55.160 for oil or gas,  
 30 respectively, produced from the lease or property from the gross value  
 31 at the point of production of the oil or gas, respectively, produced from

1 the lease or property during the month for which the installment  
2 payment is calculated;

3 (2) an amount calculated under (1)(C) of this subsection for oil or gas  
4 produced from a lease or property subject to AS 43.55.011(j), (k), or (o) may not  
5 exceed the product obtained by carrying out the calculation set out in  
6 AS 43.55.011(j)(1) or (2) or 43.55.011(o), as applicable, for gas or set out in  
7 AS 43.55.011(k)(1) or (2), as applicable, for oil, but substituting in  
8 AS 43.55.011(j)(1)(A) or (2)(A) or 43.55.011(o), as applicable, the amount of taxable  
9 gas produced during the month for the amount of taxable gas produced during the  
10 calendar year and substituting in AS 43.55.011(k)(1)(A) or (2)(A), as applicable, the  
11 amount of taxable oil produced during the month for the amount of taxable oil  
12 produced during the calendar year;

13 (3) an installment payment of the estimated tax levied by  
14 AS 43.55.011(i) for each lease or property is due for each month of the calendar year  
15 on the last day of the following month; the amount of the installment payment is the  
16 sum of

17 (A) the applicable tax rate for oil provided under  
18 AS 43.55.011(i), multiplied by the gross value at the point of production of the  
19 oil taxable under AS 43.55.011(i) and produced from the lease or property  
20 during the month; and

21 (B) the applicable tax rate for gas provided under  
22 AS 43.55.011(i), multiplied by the gross value at the point of production of the  
23 gas taxable under AS 43.55.011(i) and produced from the lease or property  
24 during the month;

25 (4) any amount of tax levied by AS 43.55.011(e) or (i), net of any  
26 credits applied as allowed by law, that exceeds the total of the amounts due as  
27 installment payments of estimated tax is due on March 31 of the year following the  
28 calendar year of production.

29 \* **Sec. 5.** AS 43.55.023(b) is amended to read:

30 (b) A producer or explorer may elect to take a tax credit in the amount of **20**  
31 **[25]** percent of a carried-forward annual loss. A credit under this subsection may be

1 applied against a tax levied by AS 43.55.011(e). For purposes of this subsection, a  
2 carried-forward annual loss is the amount of a producer's or explorer's adjusted lease  
3 expenditures under AS 43.55.165 and 43.55.170 for a previous calendar year that was  
4 not deductible in calculating production tax values for that calendar year under  
5 AS 43.55.160.

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

8 TRANSITION: PAYMENT OF TAX. A person that was required to make one or  
9 more installment payments of estimated tax or other payment of tax under AS 43.55.020(a)  
10 during the period after December 31, 2010, and before the effective date of secs. 2 and 5 of  
11 this Act, but failed to pay the full amount of the installment payments or other payment  
12 because of the retroactive application of AS 43.55.011(e), as amended by sec. 1 of this Act,  
13 and AS 43.55.023(b), as amended by sec. 5 of this Act, which are retroactive to January 1,  
14 2011, under sec. 9 of this Act, shall pay, before April 1, 2012, the balance of any tax due for  
15 the period after December 31, 2010, and before the effective date of this section.

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

18 TRANSITION: RETROACTIVITY OF REGULATIONS. Notwithstanding any  
19 contrary provision of AS 44.62.240, if the Department of Revenue expressly designates in the  
20 regulation that the regulation applies retroactively to January 1, 2011, a regulation adopted by  
21 the Department of Revenue to implement, interpret, make specific, or otherwise carry out  
22 secs. 1 - 5 of this Act may apply retroactively to January 1, 2011.

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

25 TRANSITION: REGULATIONS. The Department of Revenue may proceed to adopt  
26 regulations to implement this Act. The regulations take effect under AS 44.62 (Administrative  
27 Procedure Act), but not before the effective date of the law implemented by the regulation.

28 \* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to  
29 read:

30 RETROACTIVITY OF CERTAIN PROVISIONS OF THIS ACT. Sections 1 - 5 of  
31 this Act are retroactive to January 1, 2011.

1     \* **Sec. 10.** This Act takes effect immediately under AS 01.10.070(c).