

1 IN THE HOUSE

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2 HOUSE BILL NO. 10

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST SPECIAL SESSION

5 A BILL

6 For an Act entitled: "An Act providing for taxes on property used in the
7 exploration for, production of, or pipeline trans-
8 portation of gas or unrefined oil; and providing
9 for an effective date."

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

11 * Section 1. AS 43 is amended by adding a new chapter to read:

12 CHAPTER 56. OIL AND GAS EXPLORATION, PRODUCTION AND
13 PIPELINE TRANSPORTATION PROPERTY TAXES.

14 Sec. 43.56.010. LEVY OF TAX. (a) An annual tax of 20 mills is
15 levied each tax year beginning January 1, 1974, on the full and true
16 value of taxable property taxable under this chapter.

17 (b) This chapter does not prevent a municipality from assessing,
18 levying and collecting taxes under AS 29. However, the combined levy
19 of state and municipal taxes levied in any municipality under this
20 chapter shall not exceed 30 mills. If the total levies of state and
21 municipal taxes do exceed 30 mills, the amount actually collected
22 shall be 30 mills and the revenues collected shall be divided between
23 the levying governments in proportion to their proposed levies.

24 Sec. 43.56.020. EXEMPTIONS. The following are exempt from the
25 taxes levied or authorized under this chapter:

26 (1) property rights attached to or inherent in the right
27 to explore for or produce oil or gas;

28 (2) oil or gas leases or properties, whether producing or
29 not; "properties" means mineral interests in oil and gas and working

1 interests, royalty interests, and overriding interests in oil and gas
2 leases;

3 (3) oil or gas produced or extracted in the state.

4 Sec. 43.56.030. IN PLACE OF ALL OTHER TAXES. Except for those
5 taxes imposed under chs. 55 and 57 of this title, the taxes levied or
6 authorized under this chapter are in place of

7 (1) taxes on the sale or use of gas or unrefined oil;

8 (2) taxes on the sale or use of services used in or
9 associated with the property or in its erection, construction, main-
10 tenance or operation;

11 (3) taxes on or measured by gross or net income from the
12 property, including income from the exploration for, production of,
13 or pipeline transportation of gas or unrefined oil or property.

14 Sec. 43.56.040. STATE ASSESSMENT REVIEW BOARD. The State Assess-
15 ment Review Board is created within the Department of Revenue. The
16 board consists of five persons, appointed by the governor to serve at
17 his pleasure, of whom at least one shall be an elected official of
18 local government.

19 Sec. 43.56.050. PER DIEM AND EXPENSES. Members of the board
20 shall receive per diem and expenses authorized by law for boards and
21 commissions.

22 Sec. 43.56.060. ASSESSMENT. (a) The department or local munici-
23 palities shall assess property for the taxes levied under secs. 10(a)
24 and 10(b) of this chapter at its full and true value as of January 1
25 of the assessment year.

26 (b) The full and true value of taxable property used or intended
27 to be used for the exploration for gas or unrefined oil, or in the
28 erection, construction, installation, operation or maintenance of
29 facilities for the exploration for gas or unrefined oil, is the

1 estimated price which the property would bring in an open market and
2 under the then prevailing market conditions in a sale between a willing
3 seller and a willing buyer both conversant with the property and with
4 prevailing general price levels.

5 (c) The full and true value of taxable property used or intended
6 to be used for the production of gas or unrefined oil or in the
7 erection, construction, installation, operation or maintenance of
8 facilities for the production of gas or unrefined oil is determined
9 on each January 1 on the basis of actual cost less depreciation based
10 on units of production.

11 (d) The full and true value of taxable property used or intended
12 to be used for pipeline transportation of gas or unrefined oil, or in
13 the erection, construction, installation, operation or maintenance of
14 facilities for the pipeline transportation of gas or unrefined oil is:

15 (1) until January 1 following the date the pipeline begins to
16 transport gas or unrefined oil, the actual cost incurred or accrued with
17 respect to the property as of the date of assessment;

18 (2) determined on each January 1 thereafter with due regard
19 to the replacement cost of the pipeline and the economic life of the
20 property, including the pipeline, based on the estimated life of the
21 proven reserves of gas or unrefined oil then technically, economically
22 and legally deliverable into the transportation facility; however, if
23 the proven reserves of gas or unrefined oil then technically, economi-
24 cally and legally deliverable indicate an economic life materially
25 shorter than the estimated physical life of the transportation facility,
26 the full and true value is the replacement cost reduced by an annual
27 allowance for depreciation on a straight line basis over an economic
28 life based on the actual elapsed life from the commencement of full
29 operation to the date of assessment plus the estimated remaining life

1 of the proven reserves of gas and unrefined oil then technically,
2 economically and legally deliverable into the transportation facility
3 as of the date of the assessment; and

4 (3) on the assessment date next following inability to use
5 or construct all or a substantial part of the facility for a period of
6 90 or more consecutive days because of natural disaster.

7 (e) For purposes of this section "actual cost" and "replacement
8 cost" do not include interest capitalized before or during the period
9 of construction. In the case of taxable property under construction,
10 "actual cost" for purposes of this section means the costs incurred or
11 accrued with respect to the property as of the date of assessment.

12 Sec. 43.56.065. LOCAL ASSESSMENT. A municipality imposing a tax
13 under sec. 10(b) of this chapter may contract with the state for
14 assessment of the property or may do its own assessing. If munici-
15 palities elect to do their own assessing, the department shall provide
16 uniform standards for assessing property taxable under this chapter.
17 A municipality assessing property taxable under this chapter shall
18 send a copy of the notice of assessment to the department.

19 Sec. 43.56.070. RETURNS. (a) The department may require, by
20 notice, every person having ownership or control of an interest in
21 property taxable under this chapter to submit a return in the form
22 prescribed by the department, based on property values existing on
23 January 1, except as otherwise provided in this chapter.

24 (b) The department by written notice may require a person to
25 provide additional information within 30 days of the notice.

26 Sec. 43.56.080. INVESTIGATION. (a) The department may make an
27 investigation of property on which a return has been filed or of taxable
28 property upon which no return has been filed. In either case, the
29 department may make its own valuation of the taxable property, which

1 is prima facie evidence of full and true value.

2 (b) An employee or agent of the department may enter any premise
3 necessary for the investigation during reasonable hours and may examine
4 property and appropriate records. The owner of the taxable property
5 upon request shall furnish to the employee or agent of the department
6 reasonable assistance required for the investigation. If refused entry,
7 the department may seek a court order to compel entry.

8 (c) For the purpose of the investigation the owner of the
9 taxable property or his representative may be required to present
10 himself for examination under oath by the department.

11 Sec. 43.56.090. ASSESSMENT ROLL. The department shall prepare
12 annually the only assessment roll for taxation under this chapter. The
13 roll shall contain:

- 14 (1) a description of all taxable property;
15 (2) the assessed value of all taxable property;
16 (3) the names and addresses of persons owning property
17 subject to assessment and taxation.

18 Sec. 43.56.100. ASSESSMENT NOTICE. (a) On or before March 1
19 of each year, the department shall send to every owner of taxable
20 property named in the assessment roll a notice of assessment, showing
21 the assessed value of the property. Notice of assessment is effective
22 on the date of mailing.

23 (b) The department shall also send to a municipality a copy of
24 the notice of assessment on any taxable property which is assessed
25 under the provisions of this chapter and which is located in the
26 municipality and on which a tax is authorized under sec. 10(b) of this
27 chapter.

28 Sec. 43.56.110. APPEAL TO THE DEPARTMENT. (a) An owner of
29 taxable property or a municipality receiving an assessment notice

1 may object to the assessment by advising the department in writing of
2 the objections to the assessment within 20 days of the effective date
3 of the notice.

4 (b) The department shall provide by regulation for notices of
5 appeals to interested persons and municipalities.

6 (c) Following an objection the department may adjust the assess-
7 ment and the assessment roll. An adjustment based on an objection from
8 an owner of taxable property or a municipality shall be made within
9 30 days of the effective date of the notice of assessment.

10 Sec. 43.56.120. APPEAL TO THE STATE ASSESSMENT REVIEW BOARD.

11 (a) After a ruling by the department on an appeal made under sec. 110
12 of this chapter, the owner or municipality may further appeal to the
13 board. The appeal must be filed in writing within 50 days of the
14 effective date of the notice of assessment.

15 (b) The board shall provide by regulation for notices of appeals
16 to interested persons and municipalities.

17 Sec. 43.56.130. HEARINGS OF STATE ASSESSMENT REVIEW BOARD. (a)
18 The board shall hear appeals filed under sec. 120(a) of this chapter.

19 (b) A majority of the board constitutes a quorum required to
20 transact business.

21 (c) The board shall provide by regulation for notices of hearings
22 to interested persons and municipalities.

23 (d) If an appellant fails to appear at the hearing, the board
24 may proceed with the hearing in his absence.

25 (e) The appellant bears the burden of proof at the hearing.

26 (f) The only grounds for adjustment of assessed value is proof of
27 unequal, excessive or improper valuation or valuation not determined in
28 accordance with the standards set out in this chapter, based on facts
29 stated in a written appeal timely filed or proved at the hearing.

1 (g) The board shall certify its determinations to the department
2 within seven days of the hearing.

3 (h) The department shall enter the changes and certify the final
4 assessment roll on or before June 1 of each year and by July 1 shall
5 mail to the owner of taxable property or his authorized agent a state-
6 ment of the amount of tax due.

7 (i) An owner or municipality may appeal to the superior court
8 for, and is entitled to, trial de novo of the board's action.

9 Sec. 43.56.140. SUPPLEMENTARY ASSESSMENT ROLLS. The department
10 shall include property omitted from the assessment roll on a supple-
11 mentary roll, using the procedures set out in this chapter for the
12 original roll.

13 Sec. 43.56.150. COLLECTION AND DEPOSIT. (a) The tax levied by
14 this chapter is payable to the department on or before September 30 of
15 the tax year.

16 (b) The department may provide for voluntary prepayment and for
17 payment by installments.

18 (c) If a municipality levies the tax authorized by sec. 10(b)
19 of this chapter, the department shall collect the tax under this
20 chapter and promptly remit it to the municipality, unless the munici-
21 pality elects to collect that portion of the tax itself.

22 (d) All other taxes, interest and penalties collected under
23 this chapter shall be deposited in the general fund.

24 Sec. 43.56.160. INTEREST AND PENALTY. When the tax levied by
25 this chapter becomes delinquent, a penalty of 10 per cent shall be
26 added. Interest on the delinquent taxes, exclusive of penalty, shall
27 be assessed at a rate of eight per cent a year.

28 Sec. 43.56.170. LIEN FOR TAX. The tax levied under this chapter
29 and the interest and penalty provided in sec. 160 of this chapter are

1 first and paramount liens on the property subject to tax under this
2 chapter.

3 Sec. 43.56.180. REMEDY. The remedy of distraint on property
4 set out in AS 43.20.270 applies to the tax levied by this chapter.
5 However, only property subject to the tax may be distrained.

6 Sec. 43.56.190. PENALTIES. A person who knowingly fails to file
7 a return when due or who makes a false statement in a return required
8 under this chapter with intent to evade taxation is guilty of a mis-
9 demeanor and upon conviction is punishable by a fine of not more than
10 \$1,000, or by imprisonment for not more than six months, or by both,
11 together with costs of prosecution.

12 Sec. 43.56.200. REGULATIONS. The board and the department may
13 adopt regulations in accordance with AS 44.62 as appropriate to carry
14 out their respective duties under this chapter.

15 Sec. 43.56.210. DEFINITIONS. In this chapter

16 (1) "board" means the State Assessment Review Board;

17 (2) "department" means the Department of Revenue;

18 (3) "gas" includes all natural gas and all hydrocarbons
19 produced at the wellhead not defined as oil;

20 (4) "intangible drilling and development expenses" means
21 those expenses defined in sec. 263(c) of the United States Internal
22 Revenue Code as defined on the effective date of this paragraph;

23 (5) "taxable property" means real and tangible personal
24 property used or intended to be used within this state primarily in
25 the exploration for, production of, or pipeline transportation of gas
26 or unrefined oil (except for property used solely for the retail dis-
27 tribution or solely for the liquification of natural gas), or in the
28 erection, construction, installation, operation or maintenance of
29 facilities used in the exploration for, production of, or pipeline

1 transportation of gas or unrefined oil, including machinery, appliances,
2 supplies, equipment, drilling rigs, gathering lines and transmission
3 lines, pumping stations, compressor stations, power plants, topping
4 plants, processing units, roads, tank farms, tanker terminals, docks
5 and other port facilities, air strips, communication equipment and
6 facilities, and maintenance equipment and facilities, construction
7 and maintenance camps and other related facilities; and includes
8 intangible drilling and development expenses and exploration expenses,
9 and oil or gas in place;

10 (6) "unrefined oil" includes crude petroleum oil and other
11 hydrocarbons regardless of gravity which are produced at the wellhead
12 in liquid form and the liquid hydrocarbons known as distillate or
13 condensate recovered or extracted from gas other than gas produced
14 in association with oil and commonly known as casinghead gas.

15 * Sec. 2. This Act takes effect on the day after its passage and approval
16 or on the day it becomes law without approval.