

BY COWPER, BOWMAN, BRADLEY, BRADNER,
BROWN, COTTEN, DUNCAN, GARDINER,
GRUENING, KELLEY, MCKINNON, MALONE,
MILLER, NAUGHTON, PARKER, SMITH, PARR,
SULLIVAN AND OSTROSKY

1 IN THE HOUSE

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 297

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the oil and gas reserves ad valorem
7 tax and its relationship to other oil and gas taxation;
8 and providing for an effective date."

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

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

11 CHAPTER 58. OIL AND GAS RESERVES AD VALOREM TAX.

12 Sec. 43.58.010. AD VALOREM TAX. (a) An annual tax is levied each
13 tax year beginning January 1, 1976, on the full and true value of
14 taxable property under this chapter.

15 (b) The legislature shall annually determine by law the rate of
16 the levy before April 1.

17 (c) If on April 1 the legislature has not determined the rate of
18 levy, the rate of levy shall be zero for that year. The rate of levy
19 may not exceed 20 mills.

20 Sec. 43.58.020. EXEMPTIONS. The following interests in the
21 proven reserves of a lease or property shall be exempt from taxation
22 under this chapter:

23 (1) any interest of the United States or the state;

24 (2) any interest exempted from taxation by sec. 21 of the
25 Alaska Native Claims Settlement Act (P.L. 92-203; 43 U.S.C. sec. 1620);

26 (3) all other interests in the proven reserves of a lease or
27 property during the five year period beginning with the earlier of:

28 (A) the date of the original lease, concession, contract
29 or any other agreement that is made for the oil and gas development

1 of a part or all of the land subject to that lease or property, or

2 (B) the date of the first completion, suspension, or
3 abandonment of a discovery well in a field or pool which in whole
4 or in part underlies or comprises the lease or ownership interest;

5 (4) taxable property under ch. 56 of this title;

6 (5) any and all interests conveyed pursuant to the Alaska
7 Native Claims Settlement Act (P.L. 92-203; 43 U.S.C. 1620), including
8 the interests of lessees of all or part of such interests.

9 Sec. 43.58.030. CREDIT AGAINST TAX. There shall be allowed, as a
10 credit against the tax levied under this chapter for a lease or property,
11 the amount of oil and gas properties production taxes paid under ch. 55
12 of this title for that lease or property for the 12 months before the
13 tax payment date under this chapter. The credit may not exceed the
14 amount of tax due under this chapter. For purposes of this section, the
15 credit shall be calculated without regard to the allowance of any credit
16 under AS 43.55.018 against the taxes levied by ch. 55 of this title.

17 Sec. 43.58.040. ASSESSMENT. (a) The department shall assess
18 taxable property under this chapter at its full and true value as of
19 January 1 of each year.

20 (b) The full and true value of taxable property under this chapter
21 is the estimated price which the property would bring in an open market
22 and under the then prevailing market conditions in a sale between a
23 willing seller and a willing buyer both conversant with the property and
24 with prevailing values. In determining this value, the department shall
25 consider all factors which may be known by the department to affect the
26 value of the proven reserves of the lease or property, including but not
27 limited to the present value of the expected discounted future net
28 income from the lease or property.

29 Sec. 43.58.050. ASSESSMENT ROLL. The department shall prepare

1 annually the assessment roll for taxation under this chapter. The roll
2 shall contain:

- 3 (1) a description of all taxable property;
4 (2) the assessed value of all taxable property; and
5 (3) the names and addresses of persons owning or otherwise
6 holding an interest in taxable property.

7 Sec. 43.58.060. ASSESSMENT NOTICE. On or before April 15 of each
8 year, the department shall send to every owner of taxable property named
9 in the assessment roll a notice of assessment showing the assessed value
10 of the property. The notice of assessment is effective on the date of
11 its mailing.

12 Sec. 43.58.070. APPEAL. (a) A person aggrieved by the action of
13 the department in making an assessment may request a hearing not later
14 than 20 days after the effective date of the assessment notice.

15 (b) At the hearing the department may subpoena witnesses and may
16 administer oaths and make inquiries necessary to determine the correct-
17 ness of the assessment. At the hearing the appellant bears the burden
18 of proof, and in the absence of this proof the assessment will be
19 upheld. If the department determines that a correction is warranted,
20 the department shall correct the assessment and the assessment roll.

21 (c) Within 30 days after the decision by the department after a
22 hearing, either the department or a person aggrieved by the decision may
23 appeal to the superior court for a trial de novo. The superior court
24 shall grant priority on its dockets for the appeals over all civil cases
25 then pending.

26 Sec. 43.58.080. CERTIFICATION. On or before June 15 of each year,
27 the department shall certify the final assessment roll and mail to the
28 operator or other person filing a return and paying tax on the taxable
29 property a statement of the amount of tax due.

1 Sec. 43.58.090. SUPPLEMENTAL ASSESSMENT ROLLS. The department
2 shall include property omitted from the assessment roll on a supple-
3 mental roll, using the procedures set out in this chapter for the
4 original roll.

5 Sec. 43.58.100. INVESTIGATION. (a) The department may make an
6 investigation of property on which a return has been filed or on pro-
7 perty for which no return has been filed. In either case, the depart-
8 ment may make its own valuation of the taxable property, which is prima
9 facie evidence of full and true value.

10 (b) An employee or agent of the department may enter any premise
11 necessary for the investigation during reasonable hours and may examine
12 property and appropriate records. The owner of taxable property upon
13 request shall furnish to the employee or agent of the department reason-
14 able assistance required for the investigation. If refused entry or
15 assistance the superior court may, after reasonable notice to the owner,
16 order the owner to allow the entry or to furnish the assistance.

17 (c) For the purpose of the investigation, the operator or other
18 person filing a return and paying the tax on the taxable property or his
19 representative may be required to present himself for examination under
20 oath by the department.

21 Sec. 43.58.110. RETURNS AND PAYMENT OF TAX. (a) The operator of
22 a lease or property is primarily liable for payment of the tax levied by
23 this chapter. All other persons owning or otherwise holding an interest
24 or right in that lease or property are secondarily liable for payment of
25 the tax levied by this chapter.

26 (b) The operator of a lease or property shall submit returns on
27 the form prescribed by the department and shall make payment of the tax
28 levied under this chapter, on behalf of itself and all other persons
29 holding an interest or right in that lease or property. With the written

1 approval of the department, a non-operator of the lease or property may
2 submit returns or make payment of the tax levied under this chapter, on
3 behalf of himself and such other persons as the department may approve.
4 All returns shall be filed on or before February 1 of each year.

5 (c) The tax levied under this chapter is payable to the department
6 on or before June 30 of each year or in installments at the times and
7 under the conditions the department may by regulation require. This
8 provision applies even though the assessment is under appeal.

9 (d) With the prior written approval of the department, a person
10 submitting returns or making payments as required under this chapter for
11 more than one lease or property may regard those leases or properties as
12 a single lease or property for purposes of submitting those reports or
13 making those payments.

14 (e) An operator or other person making payment of the tax levied
15 under this chapter on behalf of one or more other persons owning or
16 otherwise holding an interest in a lease or property may withhold a
17 proportionate share of the payment from any proceeds or other benefits
18 from the lease or property owed to any person on whose behalf the pay-
19 ment is made. Unless otherwise specifically provided by written contract
20 or agreement, the person so withholding a proportionate share of the tax
21 levied under this chapter incurs no liability to those from whom it is
22 withheld by virtue of having made the withholding.

23 (f) By written notice the department may require a person filing
24 a return to submit additional information to the department no later
25 than 30 days after the notice.

26 Sec. 43.58.120. CIVIL PENALTY. Five per cent shall be added to
27 the tax for each 30-day period or fraction of that period during which
28 the taxpayer fails to file a return or pay the full amount of the tax,
29 or a portion or a deficiency of the tax due and payable as finally

1 determined by the department and required by this chapter, unless it is
2 shown that the failure is due to a reasonable cause and not to wilful
3 neglect. The penalty may not exceed 25 per cent in the aggregate. The
4 penalty shall be collected at the same time, in the same manner and as a
5 part of the original tax, but if the original tax is paid before the
6 neglect is discovered the penalty shall be collected in the same manner
7 as the original tax. The department shall describe by regulation circum-
8 stances which constitute reasonable cause for purposes of this section.

9 Sec. 43.58.130. INTEREST. When the tax levied in this chapter
10 becomes delinquent it bears interest at the rate of eight per cent a
11 year.

12 Sec. 43.58.140. LIEN. The tax, penalty and interest payable under
13 this chapter are first and paramount liens on the property subject to
14 tax under this chapter.

15 Sec. 43.58.150. REMEDY. The remedy of distraint of property set
16 out in AS 43.20.270 applies to the tax levied by this chapter.

17 Sec. 43.58.160. REGULATIONS. The department may adopt regulations
18 in accordance with the Administrative Procedure Act (AS 44.62) as
19 appropriate to administer and enforce this chapter.

20 Sec. 43.58.170. TERMINATION OF TAX. The tax imposed by this
21 chapter shall terminate on December 31, 1977.

22 Sec. 43.58.180. ACCRUAL OF EARLY DEVELOPMENT INCENTIVE CREDIT.

23 (a) An early development incentive credit, calculated in accordance
24 with this section, shall be applied to the tax payable under ch. 55 of
25 this title as provided in AS 43.55.018. The early development incentive
26 credit for a lease or property is zero until changed as provided in this
27 section.

28 (b) The early development incentive credit for a lease or property
29 shall be increased each calendar year by the amount of net tax paid

1 under this chapter.

2 (c) The early development incentive credit for a lease or property
3 shall be reduced each month by the amount of tax credit allowed in that
4 month under AS 43.55.018 for that lease or property.

5 Sec. 43.58.190. DEFINITIONS. In this chapter:

6 (1) "department" means the Department of Revenue;

7 (2) "gas" means all hydrocarbon substances not defined as oil
8 in this chapter;

9 (3) "lease or property" means

10 (A) a lease or other property that includes mineral
11 rights in oil and gas,

12 (B) a leasehold interest in oil and gas,

13 (C) a working interest, royalty interest, overriding
14 royalty interest, production payments, net profit interest or any
15 other interest in a lease, concession, joint venture or other
16 agreement for oil and gas exploration, development or production,

17 (D) a working interest, royalty interest, overriding
18 royalty interest, production payment, net profit interest or any
19 other interest in an agreement for unitization or pooling under the
20 provisions of sec. 614(b)(3) of the Internal Revenue Code of 1954
21 as defined on the effective date of this paragraph;

22 (4) "net tax paid under this chapter" means the amount of tax
23 payable under sec. 10 of this chapter, less the credit allowed under
24 sec. 30 of this chapter without regard to interest or penalty;

25 (5) "oil" means crude petroleum oil and other hydrocarbons
26 regardless of gravity which, when recovered, are recovered at the well-
27 head in liquid form, and the liquid hydrocarbons known as distillate or
28 condensate that are recovered by separation from gas other than at a gas
29 processing plant;

1 (6) "operator" means the person conducting the exploration,
2 development or production operation for a lease or property;

3 (7) "proven reserves" means the volumes of oil and gas in a
4 known deposit which geological and engineering information indicate to
5 be recoverable in the future under prevailing economic conditions and
6 technology;

7 (8) "taxable property" means any interest in the proven
8 reserves of a lease or property.

9 Sec. 43.58.200. PAYMENT TO ALASKA NATIVE FUND. When the tax levied
10 under this chapter is payable, an amount not less than two per cent of
11 the tax shall be paid by the state from oil and gas royalty payments
12 into the Alaska Native Fund established by sec. 6 of the Alaska Native
13 Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 USC 1601 et seq.)
14 until all payments paid into the fund equals \$500,000,000.

15 * Sec. 2. AS 43.55.010(b) is amended to read:

16 (b) Except as provided in ch. 58 of this title, the [THE] tax
17 imposed by this chapter is in place of all taxes now imposed by the
18 state or any of its municipalities, and neither the state nor a munici-
19 pality may impose a tax upon

20 (1) [deleted]

21 (2) producing oil or gas leases;

22 (3) oil or gas produced or extracted in the state;

23 (4) [deleted]

24 (5) the value of intangible drilling and exploration expenses.

25 * Sec. 3. AS 43.55 is amended by adding a new section to read:

26 Sec. 43.55.018. CREDIT AGAINST TAX. (a) There shall be allowed
27 as a credit against the taxes levied under this chapter for a lease or
28 property the early development incentive credit accrued for that lease
29 or property under AS 43.58.180. In no event may the credit allowed for

1 a lease or property exceed 50 per cent of the taxes levied under this
2 chapter for that lease or property.

3 (b) The credit shall be allowed on a monthly basis.

4 * Sec. 4. AS 43.55.140(8) is repealed and re-enacted to read:

5 (8) "lease or property" means

6 (A) a lease or other property that includes mineral
7 rights in oil and gas,

8 (B) a leasehold interest in oil and gas,

9 (C) a working interest, royalty interest, overriding
10 royalty interest, net profit interest or any other interest in a
11 lease, concession, joint venture or other agreement for oil and gas
12 exploration, development or production,

13 (D) a working interest, royalty interest, overriding
14 royalty interest, net profit interest or any other interest in an
15 agreement for unitization or pooling under the provisions of sec.
16 614(b)(3) of the Internal Revenue Code of 1954 as defined on the
17 effective date of this paragraph;

18 * Sec. 5. Sec. 29.53.050(b) is amended to read:

19 (b) No municipality, or combination of municipalities occupying
20 the same geographical area, in whole or in part, may levy taxes which
21 result in tax revenues from all sources exceeding either (1) \$1,000 a
22 year for each person residing within their boundaries or (2) when com-
23 bined with the value of property otherwise taxable by the municipality,
24 the product of 225 per cent of the average per capita assessed full and
25 true value in the state multiplied by the number of residents of the
26 taxing municipality. If two or more municipalities occupying the same
27 geographical area, in whole or in part, attempt to levy a tax the
28 combined levy of which would result in tax revenues from all sources
29 exceeding either (1) \$1,000 a year for each person residing within their

1 boundaries or (2) when combined with the value of property otherwise
2 taxable by the municipality, the product of 225 per cent of the average
3 per capita assessed full and true value of property in the state multi-
4 plied by the number of residents of the taxing municipality, the commis-
5 sioner of community and regional affairs shall apportion the lawful levy
6 and equitably divide these revenues on the basis of need, services
7 performed and other considerations in the public interest. For the
8 purpose of this subsection population shall be determined by the commis-
9 sioner of community and regional affairs based on the latest statistics
10 of the United States Bureau of the Census or on other reliable population
11 data. For purposes of this subsection the average per capita assessed
12 full and true value of property in the state shall be calculated without
13 regard to the assessed value of taxable property under AS 43.58.

14 * Sec. 6. Sec. 43.56.010(c) is amended to read:

15 (c) If the total value of assessed property of a municipality
16 taxing under AS 29.53.045(c) exceeds the product of 225 per cent of the
17 average per capita assessed full and true value of property in the state
18 (to be determined by the department and reported to each municipality by
19 January 15 of each year) multiplied by the number of residents of the
20 taxing municipality, the department shall designate the portion of the
21 tax base against which the local tax may be applied. For purposes of
22 this subsection the average per capita assessed full and true value of
23 property in the state shall be calculated without regard to the assessed
24 value of taxable property under ch. 58 of this title.

25 * Sec. 7. This Act takes effect on April 30, 1975.
26
27
28
29