

Original sponsor: Cowper, Bowman,
Bradley, et al

Offered: 5/6/75
For Calendar 5/7/75

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 297 (Rules)

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 rate of levy for the tax year beginning January 1, 1976
16 is 20 mills.

17 (c) The legislature shall annually determine by law the rate of
18 the levy for the succeeding year.

19 (d) The rate of levy 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 in proven reserves during the five-year
25 period beginning with the date of the first completion, suspension, or
26 abandonment of a discovery well in an oil or gas field or pool which in
27 whole or in part underlies or comprises the lease or property;

28 (3) any interest in proven reserves until the earlier of
29 either of the following occurs:

1 (A) the issuance, upon application, of a permit for
2 construction of a facility to transport oil or gas from any well or
3 wells in an oil or gas field or pool which in whole or in part
4 underlies or comprises the lease or property to market; or

5 (B) the commencement of construction of a facility to
6 transport oil or gas from any well or wells in an oil or gas field
7 or pool which in whole or in part underlies or comprises the lease
8 or property to market;

9 (4) any interest in proven reserves as to which the issuance
10 of a permit for, or the commencement of construction of a facility to
11 transport oil or gas from any well or wells in an oil or gas field or
12 pool which in whole or in part underlies or comprises the lease or
13 property, or the use of those facilities, is enjoined, either temporar-
14 ily or permanently, by an order, judgment, decree, determination or
15 award of a federal, state or local court or administrative or regulatory
16 agency.

17 Sec. 43.58.030. CREDIT AGAINST TAX. There shall be allowed, as a
18 credit against the tax levied under this chapter for a lease or prop-
19 erty, the amount of oil and gas properties production taxes paid under
20 ch. 55 of this title for that lease or property for the 12 months before
21 the tax payment date under this chapter. The credit may not exceed the
22 amount of tax due under this chapter. For purposes of this section, the
23 credit shall be calculated without regard to the allowance of any credit
24 under AS 43.55.018 against the taxes levied by ch. 55 of this title.

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

28 (b) The full and true value of taxable property under this chapter
29 is the estimated price which the property would bring in an open market

1 and under the then prevailing market conditions in a sale between a
2 willing seller and a willing buyer both conversant with the property and
3 with prevailing values. In determining this value, the department shall
4 consider all factors which may be known by the department to affect the
5 value of the proven reserves of the lease or property, including but not
6 limited to the present value of the expected discounted future net
7 income from the lease or property.

8 Sec. 43.58.050. ASSESSMENT ROLL. The department shall prepare
9 annually the assessment roll for taxation under this chapter. The roll
10 shall contain:

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

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

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

23 (b) At the hearing the department may subpoena witnesses and may
24 administer oaths and make inquiries necessary to determine the correct-
25 ness of the assessment. At the hearing the appellant bears the burden
26 of proof, and in the absence of this proof the assessment will be
27 upheld. If the department determines that a correction is warranted,
28 the department shall correct the assessment and the assessment roll.

29 (c) Within 30 days after the decision by the department after a

1 hearing, either the department or a person aggrieved by the decision may
2 appeal to the superior court for a trial de novo. The superior court
3 shall grant priority on its dockets for the appeals over all civil cases
4 then pending.

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

9 Sec. 43.58.090. SUPPLEMENTAL ASSESSMENT ROLLS. The department
10 shall include property omitted from the assessment roll on a supple-
11 mental roll, using the procedures set out in this chapter for the
12 original roll.

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

18 (b) An employee or agent of the department may enter any premise
19 necessary for the investigation during reasonable hours and may examine
20 property and appropriate records. The owner of taxable property upon
21 request shall furnish to the employee or agent of the department reason-
22 able assistance required for the investigation. If refused entry or
23 assistance the superior court may, after reasonable notice to the owner,
24 order the owner to allow the entry or to furnish the assistance.

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

29 Sec. 43.58.110. RETURNS AND PAYMENT OF TAX. (a) The operator of

1 a lease or property is primarily liable for payment of the tax levied by
2 this chapter. All other persons owning or otherwise holding an interest
3 or right in that lease or property are secondarily liable for payment of
4 the tax levied by this chapter.

5 (b) The operator of a lease or property shall submit returns on
6 the form prescribed by the department and shall make payment of the tax
7 levied under this chapter, on behalf of itself and all other persons
8 holding an interest or right in that lease or property. With the
9 written approval of the department, a nonoperator of the lease or prop-
10 erty may submit returns or make payment of the tax levied under this
11 chapter, on behalf of himself and such other persons as the department
12 may approve. All returns shall be filed on or before February 1 of each
13 year.

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

18 (d) With the prior written approval of the department, a person
19 submitting returns or making payments as required under this chapter for
20 more than one lease or property may regard those leases or properties as
21 a single lease or property for purposes of submitting those reports or
22 making those payments.

23 (e) An operator or other person making payment of the tax levied
24 under this chapter on behalf of one or more other persons owning or
25 otherwise holding an interest in a lease or property may withhold a
26 proportionate share of the payment from any proceeds or other benefits
27 from the lease or property owed to any person on whose behalf the pay-
28 ment is made. Unless otherwise specifically provided by written con-
29 tract or agreement, the person so withholding a proportionate share of

1 the tax levied under this chapter incurs no liability to those from whom
2 it is withheld by virtue of having made the withholding.

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

6 Sec. 43.58.120. CIVIL PENALTY. Five per cent shall be added to
7 the tax for each 30-day period or fraction of that period during which
8 the taxpayer fails to file a return or pay the full amount of the tax,
9 or a portion or a deficiency of the tax due and payable as finally
10 determined by the department and required by this chapter, unless it is
11 shown that the failure is due to a reasonable cause and not to wilful
12 neglect. The penalty may not exceed 25 per cent in the aggregate. The
13 penalty shall be collected at the same time, in the same manner and as a
14 part of the original tax, but if the original tax is paid before the
15 neglect is discovered the penalty shall be collected in the same manner
16 as the original tax. The department shall describe by regulation
17 circumstances which constitute reasonable cause for purposes of this
18 section.

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

22 Sec. 43.58.140. LIEN. The tax, penalty and interest payable under
23 this chapter are first and paramount liens on the property subject to
24 tax under this chapter.

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

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

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

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

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

9 (b) The early development incentive credit for a lease or property
10 shall be increased each calendar year by the amount of net tax paid
11 under this chapter.

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

15 Sec. 43.58.190. DEFINITIONS. In this chapter:

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

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

19 (3) "lease or property" means

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

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

23 (C) a working interest, royalty interest, overriding
24 royalty interest, production payments, net profit interest or any
25 other interest in a lease, concession, joint venture or other
26 agreement for oil and gas exploration, development or production,

27 (D) a working interest, royalty interest, overriding
28 royalty interest, production payment, net profit interest or any
29 other interest in an agreement for unitization or pooling under the

1 provisions of sec. 614(b)(3) of the Internal Revenue Code of 1954
2 as defined on the effective date of this paragraph;

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

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

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

13 (7) "proven reserves" means the volumes of oil and gas in a
14 known deposit which geological and engineering information indicate to
15 be recoverable if it is economically feasible to market it in the future
16 under reasonably foreseeable conditions;

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

19 Sec. 43.58.200. PAYMENT TO ALASKA NATIVE FUND. When the tax levied
20 under this chapter is payable an amount equivalent to not less than two
21 per cent of the tax shall be paid by the state from oil and gas royal-
22 ties, bonuses and rentals into the Alaska Native Fund established by
23 sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85
24 Stat. 688, 43 U.S.C. 1601 et seq.) until all payments paid into the fund
25 equal \$500,000,000.

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

27 (b) Except as provided in ch. 58 of this title, the [THE] tax
28 imposed by this chapter is in place of all taxes now imposed by the
29 state or any of its municipalities, and neither the state nor a municipi-

1 pality may impose a tax upon

2 (1) [deleted]

3 (2) producing oil or gas leases;

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

5 (4) [deleted]

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

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

8 Sec. 43.55.018. CREDIT AGAINST TAX. (a) There shall be allowed
9 as a credit against the taxes levied under this chapter for a lease or
10 property the early development incentive credit accrued for that lease
11 or property under AS 43.58.180. In no event may the credit allowed for
12 a lease or property exceed 50 per cent of the taxes levied under this
13 chapter for that lease or property.

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

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

16 (8) "lease or property" means

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

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

20 (C) a working interest, royalty interest, overriding
21 royalty interest, net profit interest or any other interest in a
22 lease, concession, joint venture or other agreement for oil and gas
23 exploration, development or production,

24 (D) a working interest, royalty interest, overriding
25 royalty interest, net profit interest or any other interest in an
26 agreement for unitization or pooling under the provisions of sec.
27 614(b)(3) of the Internal Revenue Code of 1954 as defined on the
28 effective date of this paragraph;

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

1 (b) No municipality, or combination of municipalities occupying
2 the same geographical area, in whole or in part, may levy taxes which
3 result in tax revenues from all sources exceeding either (1) \$1,000 a
4 year for each person residing within their boundaries or (2) when com-
5 bined with the value of property otherwise taxable by the municipality,
6 the product of 225 per cent of the average per capita assessed full and
7 true value in the state multiplied by the number of residents of the
8 taxing municipality. If two or more municipalities occupying the same
9 geographical area, in whole or in part, attempt to levy a tax the
10 combined levy of which would result in tax revenues from all sources
11 exceeding either (1) \$1,000 a year for each person residing within their
12 boundaries or (2) when combined with the value of property otherwise
13 taxable by the municipality, the product of 225 per cent of the average
14 per capita assessed full and true value of property in the state multi-
15 plied by the number of residents of the taxing municipality, the commis-
16 sioner of community and regional affairs shall apportion the lawful levy
17 and equitably divide these revenues on the basis of need, services
18 performed and other considerations in the public interest. For the
19 purpose of this subsection population shall be determined by the commis-
20 sioner of community and regional affairs based on the latest statistics
21 of the United States Bureau of the Census or on other reliable population
22 data. For purposes of this subsection the average per capita assessed
23 full and true value of property in the state shall be calculated without
24 regard to the assessed value of taxable property under AS 43.58.

25 * Sec. 6. Sec. 43.56.010(c) is amended to read:
26

27 (c) If the total value of assessed property of a municipality
28 taxing under AS 29.53.045(c) exceeds the product of 225 per cent of the
29 average per capita assessed full and true value of property in the state
(to be determined by the department and reported to each municipality by

1 January 15 of each year) multiplied by the number of residents of the
2 taxing municipality, the department shall designate the portion of the
3 tax base against which the local tax may be applied. For purposes of
4 this subsection the average per capita assessed full and true value of
5 property in the state shall be calculated without regard to the assessed
6 value of taxable property under ch. 58 of this title.

7 * Sec. 7. Except as provided in this section, if a provision of this Act
8 for any reason is invalid or unenforceable, the invalidity or unenforce-
9 ability of that provision shall not affect the remainder of this Act or any
10 of the other provisions of this Act. However, if AS 43.58.020(2), (3) or
11 (4), or any of those paragraphs, should be for any reason held invalid or
12 unenforceable, this Act shall be void in its entirety and of no effect
13 whatsoever.

14 * Sec. 8. This Act takes effect immediately in accordance with AS 01.10.-
15 070(c).
16
17
18
19
20
21
22
23
24
25
26
27
28
29