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Referred: Resources and
Finance

BY THE RULES COMMITTEE BY REQUEST
OF THE SPECIAL COMMITTEE ON
TAXATION AND REVENUE

1 IN THE SENATE

2 SENATE BILL NO. 374

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. An annual tax of 20 mills is
13 levied each tax year beginning January 1, 1976, on the full and true
14 value of taxable property under this chapter.

15 Sec. 43.58.020. EXEMPTIONS. The following interests in the proven
16 reserves of a lease or property are exempt from taxation under this
17 chapter:

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

19 (2) any interest of a Native individual, Native group or
20 village, or regional corporation in property conveyed pursuant to the
21 Alaska Native Claims Settlement Act (P.L. 92-203) or other federal
22 Native land conveyance;

23 (3) all other interests in the proven reserves of a lease or
24 property during a five-year period beginning with the date of the first
25 lease, concession, joint venture, contract or any other agreement that
26 is made for the oil and gas development of a part or all of the land
27 subject to that lease or property;

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

29 Sec. 43.58.030. CREDIT AGAINST TAX. There shall be allowed as a

1 credit against the tax levied under this chapter for a lease or property
2 the amount of oil and gas properties production taxes paid under ch. 55
3 of this title for that lease or property for the 12 months before the
4 tax payment date under this chapter as determined without reference to
5 interest or penalties. The credit may not exceed the amount of tax due
6 under this chapter as determined without reference to interest or
7 penalties and without regard to any credit.

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

11 (b) The full and true value of taxable property under this chapter
12 is the estimated price which the property would bring in an open market
13 and under the then prevailing market conditions in a sale between a
14 willing seller and a willing buyer both conversant with the property and
15 with general price levels. In determining this value, the department
16 shall consider all factors which may be known by the department to
17 affect the value of the proven reserves of the lease or property,
18 including but not limited to the discounted present value of the ex-
19 pected future net income from the lease or property.

20 Sec. 43.58.050. ASSESSMENT ROLL. The department shall prepare
21 annually the assessment roll for taxation under this chapter. The roll
22 shall contain:

- 23 (1) a description of all taxable property;
24 (2) the assessed value of all taxable property;
25 (3) the names and addresses of persons owning property
26 subject to assessment and taxation.

27 Sec. 43.58.060. RETURNS. (a) The department may require by
28 notice every person having ownership or control of an interest in
29 property taxable under this chapter to submit a return in the form

1 prescribed by the department, based on property values existing on
2 January 1 of each year, except as otherwise provided in this chapter.

3 (b) The department by written notice may require a person filing a
4 return to provide additional information within 30 days of the notice.

5 Sec. 43.58.070. INVESTIGATION. (a) The department may make an
6 investigation of property on which a return has been filed or of taxable
7 property upon which no return has been filed. In either case, the
8 department may make its own valuation of the taxable property, which is
9 prima 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 the taxable property
13 upon request shall furnish to the employee or agent of the department
14 reasonable assistance required for the investigation. If refused entry,
15 the department may seek a court order to compel entry.

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

19 Sec. 43.58.080. ASSESSMENT NOTICE. By March 15 of each year, the
20 department shall send to every owner of taxable property named in the
21 assessment roll a notice of assessment showing the assessed value of the
22 property. The notice of assessment is effective on the date of its
23 mailing.

24 Sec. 43.58.090. APPEAL TO THE DEPARTMENT. (a) An owner of
25 taxable property receiving an assessment notice may object to the
26 assessment by advising the department in writing of the objections to
27 the assessment within 20 days of the effective date of the notice.

28 (b) The department shall provide by regulation for notices of
29 appeals to interested persons.

1 (c) Following an objection the department may adjust the assessment
2 and the assessment roll. An adjustment based on an objection from an
3 owner of taxable property shall be made within 30 days of the effective
4 date of the notice of assessment.

5 Sec. 43.58.100. APPEAL TO THE STATE ASSESSMENT REVIEW BOARD. (a)
6 After a ruling by the department on an appeal made under sec. 90 of this
7 chapter, the owner may further appeal to the board. The appeal must
8 be filed in writing within 50 days of the effective date of the notice
9 of assessment.

10 (b) The board shall provide by regulation for notices of appeals
11 to interested persons.

12 Sec. 43.58.110. HEARINGS OF STATE ASSESSMENT REVIEW BOARD. (a)
13 The board shall hear appeals filed under sec. 100(a) of this chapter.

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

16 (c) The board shall provide by regulation for notices of hearings
17 to interested persons.

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

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

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

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

27 (h) By June 15 of each year the department shall enter the changes
28 and certify the final assessment and mail to the owner of taxable
29 property or his authorized agent a statement of the amount of tax due.

1 (i) An owner of taxable property may appeal the board's action
2 to the superior court in accordance with and subject to the provisions
3 of AS 43.56.130(i).

4 Sec. 43.58.120. SUPPLEMENTARY ASSESSMENT ROLLS. The department
5 shall include property omitted from the assessment roll on a supple-
6 mentary roll, using the procedures set out in this chapter for the
7 original roll.

8 Sec. 43.58.130. COLLECTION AND DEPOSIT. (a) The tax levied by
9 sec. 10(a) of this chapter is payable to the department by June 30 of
10 the taxable year.

11 (b) The department may provide for voluntary prepayment and for
12 payment by installments.

13 (c) The tax levied under sec. 10(a) of this chapter, interest and
14 penalties collected with respect to this levy shall be deposited in the
15 general fund.

16 Sec. 43.58.140. CIVIL PENALTY. Five per cent shall be added to
17 the tax for each 30-day period or fraction of that period during which
18 the taxpayer fails to file a return or pay the full amount of the tax,
19 or a portion or a deficiency of the tax due and payable as finally
20 determined by the department and required by this chapter, unless it is
21 shown that the failure is due to a reasonable cause and not to wilful
22 neglect. The penalty may not exceed 25 per cent in the aggregate. The
23 penalty shall be collected at the same time, in the same manner and as
24 a part of the original tax, but if the original tax is paid before the
25 neglect is discovered the penalty shall be collected in the same manner
26 as the original tax. The department shall describe by regulation cir-
27 cumstances which constitute reasonable cause for purposes of this
28 section.

29 Sec. 43.58.150. INTEREST. When the tax levied in this chapter

1 becomes delinquent it bears interest at the rate of eight per cent a
2 year.

3 Sec. 43.58.160. LIEN. The tax, penalty and interest payable under
4 this chapter are first and paramount liens on the property subject to
5 tax under this chapter.

6 Sec. 43.58.170. REMEDY. The remedy of distraint of property set
7 out in AS 43.20.270 applies to the tax, penalty and interest levied by
8 this chapter. However, only property subject to the tax may be dis-
9 trained.

10 Sec. 43.58.180. REGULATIONS. (a) The board and the department
11 may adopt regulations in accordance with the Administrative Procedure
12 Act (AS 44.62) as appropriate to carry out their respective duties under
13 this chapter.

14 (b) The department may allow an operator or other person to file
15 returns and make payment of the tax levied under this chapter on behalf
16 of one or more other persons owning or otherwise holding an interest in
17 a lease or property taxable under this chapter.

18 Sec. 43.58.185. TERMINATION OF TAX. The tax imposed by this
19 chapter terminates on December 31, 1978.

20 Sec. 43.58.190. DEFINITIONS. In this chapter:

21 (1) "board" means the state Assessment Review Board created
22 under AS 43.56.040;

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

24 (3) "gas" means all hydrocarbon substances not defined as oil
25 in this chapter;

26 (4) "lease or property" means

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

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

1 (C) a working interest, royalty interest, overriding
2 royalty interest, production payment, net profit interest or any
3 other interest in a lease, concession, joint venture or other
4 agreement for oil and gas exploration, development or production,

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

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

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

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

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

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

24 (b) Except as provided in this chapter and in AS 43.58, the [THE]
25 tax imposed by this chapter is in place of all taxes now imposed by the
26 state or any of its municipalities, and neither the state nor a munici-
27 pality may impose a tax upon

28 (1) [deleted]

29 (2) producing oil or gas leases;

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

2 (4) [deleted]

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

4 * Sec. 3. 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, production payment, net profit interest or any
11 other interest in a lease, concession, joint venture or other
12 agreement for oil and gas exploration, development or production,

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

18 * Sec. 4. AS 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 will result in (1) tax revenues from all sources exceeding [EITHER (1)]
22 \$1,000 a year for each person residing within their boundaries or (2)
23 upon values which, when combined with the value of property otherwise
24 taxable by the municipality, exceed the product of 225 per cent of the
25 average per capita assessed full and true value of property in the state
26 multiplied by the number of residents of the taxing municipality. If
27 two or more municipalities occupying the same geographical area, in
28 whole or in part, attempt to levy a tax the combined levy of which would
29 (1) result in tax revenues from all sources exceeding [EITHER (1)]

1 \$1,000 a year for each person residing within their boundaries or (2)
2 upon values which when combined with the value of property otherwise
3 taxable by the municipality, exceed the product of 225 per cent of the
4 average per capita assessed full and true value of property in the state
5 multiplied by the number of residents of the taxing municipality, the
6 commissioner of community and regional affairs shall apportion the
7 lawful levy and equitably divide these revenues on the basis of need,
8 services performed and other considerations in the public interest. For
9 the purpose of this subsection, population shall be determined by the
10 commissioner of community and regional affairs based on the latest
11 statistics of the United States Bureau of the Census or on other reliable
12 population data. For purposes of this subsection the average per capita
13 assessed full and true value of property in the state shall be calcu-
14 lated without regard to the assessed value of taxable property under
15 AS 43.58.

16 * Sec. 5. AS 43.56.040 is amended to read:

17 Sec. 43.56.040. STATE ASSESSMENT REVIEW BOARD. The State Assess-
18 ment Review Board is created within the Department of Revenue. The
19 board consists of the commissioners of natural resources, commerce and
20 revenue; however, each commissioner may designate his deputy commissioner
21 to act in his stead [FIVE PERSONS APPOINTED BY THE GOVERNOR TO SERVE AT
22 HIS PLEASURE, EACH OF WHOM MUST BE KNOWLEDGEABLE OF ASSESSMENT PRO-
23 CEDURES. EACH BOARD MEMBER IS SUBJECT TO CONFIRMATION BY A MAJORITY OF
24 THE MEMBERS OF THE LEGISLATURE IN JOINT SESSION].

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

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

1 by 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 AS 43.58.

7 * Sec. 7. AS 29.53.045(c) is amended to read:

8 (c) A municipality may levy and collect a tax on the full and
9 true value of that portion of taxable property taxable under AS 43.56
10 as assessed by the Department of Revenue which value, when combined with
11 the value of property otherwise taxable by the municipality, does not
12 exceed the product of 225 per cent of the average per capita assessed
13 full and true value of property in the state multiplied by the number
14 of residents of the taxing municipality. For purposes of this sub-
15 section the average per capita assessed full and true value of property
16 in the state shall be calculated without regard to the assessed value of
17 taxable property under AS 43.58.

18 * Sec. 8. AS 43.56.030 is amended to read:

19 Sec. 43.56.030. IN PLACE OF OTHER TAXES. Except for those taxes
20 imposed under ch. 55, [AND] ch. 57 and ch. 58 of this title, the taxes
21 levied or authorized under sec. 10(b) of this chapter are in place of

22 (1) all other ad valorem taxes or other taxes imposed by a
23 municipality on property subject to tax under this chapter or exempted
24 from taxation by sec. 20 of this chapter, and

25 (2) all other taxes imposed by a municipality on or with
26 respect to the property subject to tax under this chapter or exempted
27 from taxation by sec. 20 of this chapter, including, but not limited to,

28 (A) taxes on the retail sale or use of the property
29 except for the retail sales tax on the first \$1,000 of each sale;

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

(C) taxes on the sale or use of services used in or associated with the property or in its maintenance or operation except for the sales tax on the first \$1,000 of each sale;

(D) taxes on or measured by gross or net income from the property, including income from the exploration for, production of, or pipeline transportation of gas or unrefined oil or property; and

(E) any license, excise, fee, charge or other tax on or pertaining to the property or service.

* Sec. 9. AS 43.56.130(1) is repealed and re-enacted to read:

(i) An owner or municipality may appeal the board's action to the superior court upon the record of the board's action.

* Sec. 10. This Act takes effect immediately in accordance with AS 01.10.070(c).

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