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Referred: Resources and
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 CS HOUSE BILL NO. 56
3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Mining License Tax;
7 and providing for an effective date."

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

9 * Section 1. AS 43.65.010 is repealed and re-enacted to read:

10 Sec. 43.65.010. MINING LICENSE AND TAX. (a) For the privilege
11 of engaging in the business of mining in the state, a person shall
12 first apply for and obtain a license from the department. The license
13 fee is \$25, which must accompany the application for a license.

14 (b) There is also levied an annual license tax on each person
15 engaging in the business of mining in the state computed on the net
16 proceeds of the taxpayer from the mining business. The license tax
17 shall be computed according to the following table:

18 If the net proceeds are:	Then the tax is:
19 Over \$40,000 but not over	3 per cent of the excess over
20 \$50,000	\$40,000
21 Over \$50,000 but not over	\$300 plus 5 per cent of the
22 \$100,000	excess over \$50,000
23 Over \$100,000	\$2,800 plus 7 per cent of the
24	excess over \$100,000

25 (c) Upon application and receipt of an exemption certificate, a
26 new mining business operation is exempt from the license tax levied by
27 this chapter for three and one-half years after production from the
28 mining business operation begins. The tax exemption granted to new
29 mining business operations does not apply to the business of mining

1 the department the date upon which production began from the mining
2 business operation, and the department shall issue a certificate of
3 exemption to the applicant after this certification. A person must
4 apply for an exemption certificate in the first year of production
5 from the mining business operation in order to qualify for the exemption
6 under this section.

7 (d) If mining business operations are conducted in two or more
8 places within the state by one person, those operations are considered
9 as one mining business, and the tax shall be computed upon the net
10 proceeds of all those mining business operations.

11 * Sec. 2. AS 43.65 is amended by adding new sections to read:

12 Sec. 43.65.015. NET PROCEEDS. (a) In this chapter, "net pro-
13 ceeds" means the total gross receipts from the mining business less
14 the following deductions incurred during the taxable year:

15 (1) all expenses incurred directly in the extraction of
16 minerals in the state;

17 (2) all expenses incurred in transporting the minerals from
18 the point of extraction to any further processing plant where only
19 necessary treatment processes are applied to obtain a commercially
20 marketable product;

21 (3) all expenses directly related to the production, re-
22 fining, crushing, screening or other necessary process incurred to
23 make a commercially marketable product;

24 (4) the actual selling expenses incurred in marketing the
25 product;

26 (5) all expenses incurred in transporting the marketable
27 product to a buyer;

28 (6) depreciation of the mining business equipment, works,
29 plant and facilities used directly in the extraction, transportation

1 and processing phases of the mining business, in accordance with sec.
2 167 of the Internal Revenue Code (26 U.S.C. sec. 1976);

3 (7) amortization of mining development costs not included
4 in (6) of this subsection;

5 (8) an allowance for depletion on a cost or percentage
6 basis at the rates set out in secs. 611 - 614 of the Internal Revenue
7 Code as amended (26 U.S.C. secs. 611 - 614) except that the allowance
8 for depletion may not exceed 50 per cent of the taxpayer's net proceeds
9 calculated before the allowance for depletion.

10 (b) If the taxpayer has expenses within the state other than
11 those specified in (a) of this section, such as general overhead
12 expenses, relating to the business of mining or to the business of
13 mining and other business activities, the deductions shall be appor-
14 tioned in the ratio which the direct expenses of the mining business
15 within the state under (a) of this section bear to the total direct
16 expenses of all business activities of that taxpayer in the state.

17 (c) Except for wages paid during temporary travel out of the
18 state by an employee who is domiciled in the state, the deductions
19 allowed in (a) and (b) of this section do not include wages or other
20 payments for services not performed in the state.

21 (d) If a person is engaged in the business of mining and the
22 only receipts from the business are royalties, the net proceeds of the
23 mining business are the royalties received less the depletion allowance
24 under sec. 15(a)(8) of this chapter.

25 Sec. 43.65.017. GROSS RECEIPTS. (a) In this chapter, "gross
26 receipts" means all revenue received, including royalties, rental pay-
27 ments, and all other compensation from the business of mining. Gross
28 receipts include the actual amount received during the year for the
29 sale of minerals whether or not the minerals were actually extracted

1 during that year.

2 (b) If minerals are sold or transferred at a price other than
3 the true market price, such as when a wholly owned subsidiary transfers
4 or sells the mineral to its parent at a price less than market value,
5 gross receipts are the true market price or average market price per
6 ton or other measurable unit of the mineral multiplied by the total
7 units of the mineral sold or transferred during the year.

8 (c) Gross receipts from the business of mining sand and gravel
9 include:

10 (1) receipts from the sale to customers directly from the
11 pit or mine;

12 (2) receipts from the sale to customers at their place of
13 business or their business site, including receipts relating to the
14 delivery of the sand and gravel; and

15 (3) the average market value of sand and gravel from inter-
16 company transfers of the minerals calculated immediately before the
17 transfer, including intercompany transfers of sand and gravel to a
18 ready-mix or concrete plant.

19 * Sec. 3. AS 43.65.020 is amended to read:

20 Sec. 43.65.020. TAXPAYER'S DUTIES. (a) A person subject to tax
21 under this chapter shall make a return stating specifically the items
22 of gross receipts [INCOME] from the business [PROPERTY], including
23 royalty received and the deductions [AND CREDITS] allowed by this
24 chapter, and other information for carrying out this chapter which the
25 department [DEPARTMENT OF REVENUE] prescribes. The return shall show
26 the mining license number and shall be signed by the taxpayer or his
27 authorized agent, under penalty of perjury. If receivers, trustees,
28 or assigns are operating the mining [PROPERTY OR] business, they shall
29 make returns for the person engaged in the mining business [, OR THE

1 RECIPIENT OF ROYALTY IN CONNECTION WITH MINING PROPERTY]. The tax due
2 on the basis of the returns shall be collected in the same manner as
3 if collected from the person of whose business they have custody and
4 control.

5 (b) A return made on the basis of the calendar year shall be
6 filed [MADE] before March 15 [MAY 1] of the next year. A return made
7 on the basis of a fiscal year shall be filed [MADE] before the fif-
8 teenth [FIRST] day of the third [FIFTH] month of the next fiscal year.

9 (c) The department [DEPARTMENT OF REVENUE] may grant a reasonable
10 extension of time for filing returns, under regulations adopted
11 [PRESCRIBED] by it. Except in the case of a taxpayer going abroad, no
12 extension may be granted [MADE] for more than six months.

13 (d) A [TAXPAYER'S] return shall be filed with [MADE TO] the
14 department [DEPARTMENT OF REVENUE AT JUNEAU] using the same tax year
15 as the person uses in filing his federal income tax return. [A TAX-
16 PAYER SHALL MAKE HIS RETURN EITHER ON A CALENDAR YEAR OR FISCAL YEAR
17 BASIS, IN CONFORMANCE WITH THE BASIS USED IN MAKING HIS RETURN FOR
18 FEDERAL INCOME TAX PURPOSES.]

19 (e) The total amount of tax imposed by this chapter shall be
20 paid on or before the due date of the tax return required under this
21 section [THE 30TH DAY OF APRIL OF THE NEXT CALENDAR YEAR, OR, IF THE
22 RETURN IS MADE ON THE BASIS OF THE FISCAL YEAR, THEN ON THE LAST DAY
23 OF THE FOURTH MONTH OF THE NEXT FISCAL YEAR].

24 (f) [EVERY PERSON PROSECUTING OR ATTEMPTING TO PROSECUTE OR
25 ENGAGING IN THE BUSINESS OF MINING IN THE STATE SHALL COMPLY WITH THE
26 DEPARTMENT'S REGULATIONS AND SHALL KEEP SUCH RECORDS, GIVE SUCH STATE-
27 MENTS UNDER OATH, AND MAKE SUCH RETURNS AS THE DEPARTMENT OF REVENUE
28 PRESCRIBES.]

29 (g) When the department considers it necessary, it may require a

1 person, by notice served upon him, to make a return, give statements
2 under oath, or keep records as it considers sufficient to show whether
3 or not the person is liable for the [TO] tax under this chapter. If a
4 person fails to file a return at the time prescribed by law or regula-
5 tion, or makes, wilfully or otherwise, a false or fraudulent return,
6 the department shall make the return from its own knowledge and from
7 such information as it can obtain [THROUGH TESTIMONY OR OTHERWISE]. A
8 return so made and subscribed by the department is prima facie good
9 and sufficient for all legal purposes.

10 * Sec. 4. AS 43.65.030 is amended to read:

11 Sec. 43.65.030. APPLICATION FOR RENEWALS. A person engaged in
12 the business of mining shall apply [APPLICATION] for a renewal of a
13 mining license each year [SHALL BE MADE] before the 30th day of the
14 first month of the person's tax year [MAY 1 OF EACH YEAR].

15 * Sec. 5. AS 43.65 is amended by adding a new section to read:

16 Sec. 43.65.051. PENALTIES AND INTEREST. (a) If part of a
17 deficiency in the tax is due to fraud with intent to evade the tax,
18 then 50 per cent of the total amount of the deficiency, in addition to
19 the deficiency, shall be assessed and collected. If this penalty is
20 assessed, then the penalty in AS 43.05.220 does not apply.

21 (b) A person who is required under this chapter to pay the tax,
22 make a return, keep records, or supply information who wilfully fails
23 to pay the tax, make the return, keep the records, or supply the
24 information, at the time required by law or regulations, is, in
25 addition to other penalties provided by this chapter, guilty of a
26 misdemeanor, and upon conviction is punishable by a fine of not more
27 than \$1,000, or by imprisonment for not more than one year, or by
28 both.

29 (c) In this section, "person" includes an officer or employee of

1 a corporation or a member or employee of a partnership who is under
2 duty to perform the act in respect to which the violation occurs.

3 (d) A person who wilfully attempts to evade the tax imposed by
4 this chapter is, in addition to other penalties provided by this
5 chapter, guilty of a felony and, upon conviction, shall be fined not
6 more than \$5,000, or imprisoned for not more than five years, or both.

7 (e) A person who wilfully makes and subscribes a return, state-
8 ment, or other document required under this chapter which contains or
9 is verified by a written declaration that it is made under the penal-
10 ties of perjury which he does not believe to be true and correct as to
11 every material matter is, in addition to other penalties provided by
12 this chapter, guilty of a felony and, upon conviction, shall be fined
13 not more than \$5,000, or imprisoned for not more than three years, or
14 both.

15 (f) A person who wilfully or knowingly aids, procures, or
16 counsels the preparation or presentation in connection with any
17 matter arising under this chapter of a return, affidavit, claim or
18 other document, which is fraudulent or is false as to any material
19 matter is guilty of a felony whether or not the falsity or fraud is
20 with the knowledge or consent of the person required to present the
21 return, affidavit, claim, or document, and, upon conviction, shall be
22 fined not more than \$5,000, or imprisoned for not more than three
23 years, or both.

24 (g) A person who wilfully delivers or discloses to the depart-
25 ment under this chapter any list, return, account, statement, or other
26 document, known by him to be fraudulent or to be false as to any
27 material matter shall be fined not more than \$1,000, or imprisoned for
28 not more than one year, or both.

29 * Sec. 6. AS 43.65.060(4) is amended to read:

1 (4) "new mining business operation [OPERATIONS]" means a
2 mining operation [OPERATIONS] which began production after January 1,
3 1953, and which has not acquired the ownership or property of another
4 mining business which has previously received an exemption certificate
5 under sec. 10 of this chapter [OR WHICH HAVE NOT BEEN LIABLE TO PAY A
6 MINING LICENSE TAX UNDER THIS CHAPTER ON NET INCOME SINCE JANUARY 1,
7 1948];

8 * Sec. 7. AS 43.65.060 is amended by adding new paragraphs to read:

9 (7) "business of mining" means a business operation for the
10 extraction of minerals from the earth or water of the state , operated
11 by a person

12 (A) who (i) owns and operates, (ii) works, or (iii)
13 develops a mineral property, whether or not that property is
14 currently producing a marketable product;

15 (B) who leases a mineral property and operates that
16 property, whether or not it is producing a marketable product;

17 (C) who leases a mineral property and pays royalties,
18 rents or other payments to the owner of the property; or

19 (D) who has an interest in a lease, concession, joint
20 venture, or other agreement for the exploration or development,
21 or extraction of a mineral property if royalties, rents, or other
22 payments are to be paid for that interest;

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

24 (9) "minerals" means asbestos, coal, sulphur, iron ore,
25 lead, zinc, mercury, tin, chromite, bauxite, copper, gold, silver,
26 platinum, potash, clay, stone, sand, gravel, and other valuable
27 metals, ores and marketable earth or stone but not including oil and
28 gas.

29 * Sec. 8. AS 43.65.050 and 43.65.060(1) - (3) are repealed.

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* Sec. 9. This Act is retroactive to January 1, 1977.

* Sec. 10. This Act takes effect immediately in accordance with AS 01.-
10.070(c).