

Original sponsor: Rules Committee by
request of the Governor

Offered: 3/7/77
Referred: Finance

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR 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 AS 43.65.010 is repealed and re-enacted to read: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 first
12 apply for and obtain a license from the department. The license fee is
13 \$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 \$50,000 but not over 3 per cent of the excess over

20 \$100,000 \$50,000

21 Over \$100,000 \$1,500 plus 5 per cent of the
22 excess over \$100,000

23 (c) Upon application and receipt of an exemption certificate, a
24 new mining business operation is exempt from the license tax levied by
25 this chapter for three and one-half years after production from the
26 mining business operation begins. The tax exemption granted to new
27 mining business operations does not apply to the business of mining
28 sand and gravel. The Department of Natural Resources shall certify to
29 the department the date upon which production began from the mining

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

6 (d) If mining business operations not qualifying for tax exemption
7 under sec. 10(c) of this chapter are conducted in two or more places in
8 the state by one person, those operations may, at the person's option,
9 be considered as one mining business, and the tax shall be computed upon
10 the net 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 proceeds"
13 means the total gross receipts from the mining business less the following
14 deductions:

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, smelting
22 and refining, crushing, screening or other necessary process incurred
23 to 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 exploration and mining development costs
4 not included in (6) of this subsection;

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

10 (9) net operating losses allowable under the Internal Revenue
11 Code.

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

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

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

27 Sec. 43.65.017. GROSS RECEIPTS. (a) In this chapter, "gross
28 receipts" means all revenue received, including royalties, rental pay-
29 ments, and all other compensation from the business of mining. Gross

1 receipts include the actual amount received during the year for the
2 sale of minerals whether or not the minerals were actually extracted
3 during that year.

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

10 (c) Gross receipts from the business of mining sand and gravel
11 include:

12 (1) receipts from the sale to customers directly from the
13 pit or mine;

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

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

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

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

1 operating the mining [PROPERTY OR] business, they shall make returns for
2 the person engaged in the mining business [, OR THE RECIPIENT OF ROYALTY
3 IN CONNECTION WITH MINING PROPERTY]. The tax due on the basis of the
4 returns shall be collected in the same manner as if collected from the
5 person of whose business they have custody and control.

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

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

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

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

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

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

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

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

16 * Sec. 5. AS 43.65 is amended by adding new sections to read:

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

22 (b) A person who is required under this chapter to pay the tax,
23 make a return, keep records, or supply information who wilfully fails
24 to pay the tax, make the return, keep the records, or supply the infor-
25 mation, at the time required by law or regulations, is, in addition to
26 other penalties provided by this chapter, guilty of a misdemeanor and
27 upon conviction is punishable by a fine of not more than \$1,000, or by
28 imprisonment for not more than one year, or by 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 duty
2 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 chapter,
5 guilty of a felony and upon conviction is punishable by a fine of not
6 more than \$5,000, or by imprisonment for not more than five years, or
7 by both.

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

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

25 (g) A person who wilfully delivers or discloses to the department
26 under this chapter any list, return, account, statement, or other docu-
27 ment, known by him to be fraudulent or to be false as to any material
28 matter, upon conviction is punishable by a fine of not more than \$1,000,
29 or by imprisonment for not more than one year, or by both.

1 Sec. 43.65.055. REFERENCES TO INTERNAL REVENUE CODE. When the
2 Internal Revenue Code is referred to in this chapter the reference is to
3 the Internal Revenue Code in effect on the effective date of this Act,
4 and as subsequently amended.

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

6 (4) "new mining business operation [OPERATIONS]" means a
7 mining operation [OPERATIONS] which began production after January 1,
8 1953, and which has not acquired the ownership or property of another
9 mining business which has previously received an exemption certificate
10 under sec. 10 of this chapter [OR WHICH HAVE NOT BEEN LIABLE TO PAY A
11 MINING LICENSE TAX UNDER THIS CHAPTER ON NET INCOME SINCE JANUARY 1,
12 1948];

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

14 (7) "business of mining" means a business operation for the
15 extraction of minerals from the earth or water of the state, operated by
16 a person

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

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

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

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

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

29 (9) "minerals" means asbestos, coal, sulphur, iron ore, lead,

1 zinc, mercury, tin, chromite, bauxite, copper, gold, silver, platinum,
2 potash, clay, stone, sand, gravel, and other valuable metals, ores and
3 marketable earth or stone but not including oil and gas.

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

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

6 * Sec. 10. This Act takes effect immediately in accordance with AS 01.10.
7 070(c).

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