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Referred: Resources and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE LEGISLATIVE
COUNCIL (for the Subcommittee
on Oil and Gas Leasing and
Taxing Policies)

1 IN THE HOUSE

2 HOUSE BILL NO. 145

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 net income tax; and
7 providing for an effective date."

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

9 * Section 1. LESIGLATIVE FINDINGS AND INTENT. The legislature finds and
10 declares that the method of apportioning income for tax purposes under the
11 "Uniform Division of Income for Tax Purposes" formula embodied in the Multi-
12 State Tax Compact (AS 43.19) and AS 43.20.065 does not fairly represent the
13 extent of the business activities in this state of multi-state corporations
14 engaged in the production and pipeline transportation of crude oil and
15 natural gas in Alaska. The legislature therefore intends that the provisions
16 of section 18 of article IV of the Multi-State Tax Compact (AS 43.19) which
17 allow separate accounting of income shall be adopted for the determination of
18 corporate income tax liability on income derived from the production and
19 pipeline transportation of oil and gas and related activities. The legisla-
20 ture further intends that separate accounting shall result in the assessment
21 of tax against multi-state corporations so that the tax paid by these cor-
22 porations will be commensurate with the tax that would be paid by corporations
23 owning and operating only the Alaskan assets of these multi-state corpora-
24 tions.

25 * Sec. 2. AS 43.20.011 is amended by adding a new subsection to read:

26 (f) For purposes of determining taxable income under (e) of this
27 section that part of income of any corporation derived in Alaska from
28 oil or natural gas production or the transportation of crude oil or
29 natural gas by pipeline, including income from royalties on oil and gas

1 production, shall, notwithstanding sec. 65 of this chapter, be deter-
2 mined by separate accounting in accordance with section 18 of article IV
3 of the Multi-State Compact (AS 43.19.010) and secs. 12 - 14 of this
4 chapter.

5 * Sec. 3. AS 43.20 is amended by adding new sections to read:

6 Sec. 43.20.012. DETERMINATION OF OIL AND NATURAL GAS PRODUCTION
7 INCOME. (a) The determination of taxable income attributable to oil
8 and natural gas production, as required under secs. 11(e) and (f) of
9 this chapter, shall be based on a separate accounting of costs and
10 revenues associated with the production.

11 (b) Gross revenue from oil and gas production shall be the well-
12 head value as established for purposes of the oil and gas properties
13 production tax, in accordance with the provisions of ch. 55 of this
14 title.

15 (c) Deductions from gross revenue for the purposes of determining
16 taxable production income shall include:

17 (1) royalties actually paid whether in kind or in value;

18 (2) severance taxes actually paid;

19 (3) property taxes actually paid by the corporation taxpayer
20 on the producing property and the facilities directly associated with
21 it, including facilities for the gathering, treating and preparing of
22 the oil or gas for shipment;

23 (4) the costs incurred by the corporation taxpayer in opera-
24 ting the oil or gas field, including the costs of gathering, treating
25 and preparing the oil or gas for shipment, but net of any payments
26 received for those services;

27 (5) depreciation on investments which are associated with the
28 production, gathering, treating and preparing for shipment of the oil or
29 gas, and which are located in or adjacent to the site of production, in-

1 cluding depreciation on capitalized interest, lease acquisition payments
2 and property taxes paid before the commencement of production on the
3 leasehold, facilities or investment associated with it;

4 (6) interest expense not capitalized and capitalizable, to
5 the extent that it does not exceed a portion of total interest paid by
6 the corporation, its subsidiaries and affiliates, determined by multi-
7 plying total interest paid by a fraction, the numerator of which is the
8 book value of the corporation's fixed assets in and associated with the
9 field, and the denominator of which is the book value of all fixed
10 assets held by the corporation, its subsidiaries and affiliates;

11 (7) expenses incurred after December 31, 1976 of unsuccessful
12 exploration efforts for oil and gas in Alaska, including the acquisition
13 costs of properties abandoned, dry hole costs, and the costs of geologic
14 and geophysical exploration on or related to those properties.

15 (d) The department shall establish regulations covering the calcu-
16 lation of depreciation costs, the allocation of interest costs, the
17 definition of facilities associated with the production, gathering,
18 treating and preparing for shipment of oil and gas, and other matters
19 necessary to implement this section.

20 Sec. 43.20.013. DETERMINATION OF CRUDE OIL AND NATURAL GAS PIPE-
21 LINE TRANSPORTATION INCOME. (a) Except as provided in (b) and (c) of
22 this section, annual taxable income from the pipeline transportation of
23 crude oil in Alaska in interstate commerce in facilities devoted wholly
24 to interstate commerce shall be eight per cent of the valuation of the
25 pipeline facility as determined by or in accordance with principles
26 established by the Interstate Commerce Commission (ICC).

27 (b) If no ICC valuation has been made of an interstate oil pipe-
28 line facility or if the oil pipeline facilities are engaged wholly or
29 partially in intrastate commerce, net income shall be determined in

1 accordance with regulations established by the Alaska Pipeline Commis-
2 sion under AS 42.06.041. A tax return reporting this income shall be
3 accompanied by a certification from the Alaska Pipeline Commission to
4 the effect that to the best of the commission's knowledge and belief the
5 income calculation has been made in accordance with the principles
6 established in regulations adopted by the commission, or, if the income
7 is not, in the opinion of the commission, reported in accordance with
8 its regulations, then a statement to that effect, identifying the
9 deficiencies in the report and, if possible, providing a reporting of
10 the true and correct income.

11 (c) A corporation operating an oil pipeline facility engaged
12 solely in interstate commerce may elect to have the taxable income from
13 that facility determined in accordance with (b) of this section, rather
14 than (a) of this section if it complies with all applicable regulations
15 and orders of the Alaska Pipeline Commission concerning accounting
16 methods and reports, and properly files all reports or other information
17 required by Alaska Pipeline Commission regulations.

18 (d) A corporation's taxable income from the transportation of
19 natural gas shall be determined for interstate natural gas pipelines in
20 conformance with the reporting procedures established by the Federal
21 Power Commission, and for intrastate pipelines in conformance with pro-
22 cedures established by the Alaska Public Utilities Commission. A tax
23 return reporting income from the intrastate transportation of natural
24 gas by pipeline shall be accompanied by a certification from the Alaska
25 Public Utilities Commission to the effect that to the best of the com-
26 mission's knowledge and belief the income calculation has been made in
27 accordance with the principles established in regulations adopted by the
28 commission, or, if the income is not, in the opinion of the commission,
29 reported in accordance with its regulations, then a statement to that

1 effect, identifying the deficiencies in the report and, if possible,
2 providing a reporting of the true and correct income.

3 (e) The certifications of the Alaska Pipeline Commission and the
4 Alaska Public Utilities Commission submitted in accordance with this
5 section shall not prejudice any future action by the respective commis-
6 sion nor shall it prevent the respective commission from submitting a
7 revised certification within three years of the due date of the tax
8 return in support of which it was originally filed.

9 (f) Nothing in this section or in sec. 12 of this chapter shall
10 limit a corporate taxpayer's right to appeal or the taxpayer remedies
11 provided under ch. 5 of this title.

12 Sec. 43.20.014. DETERMINATION OF INCOME FROM OTHER ACTIVITIES OF
13 CORPORATIONS ENGAGED IN OIL OR NATURAL GAS PRODUCTION OR TRANSPORTATION.
14 Taxable income from activities other than oil or natural gas production
15 or pipeline transportation shall be determined by subtracting the income
16 as determined under secs. 12 and 13 of this chapter from the corpora-
17 tion's consolidated net income and applying the allocation formula
18 required under the provisions of sec. 65 of this chapter, except that
19 the property factor and the payroll factor shall be calculated without
20 reference to payroll or property related to production or pipeline
21 transportation activity the income from which is taxable in accordance
22 with secs. 12 and 13 of this chapter.

23 Sec. 43.20.015. PUBLIC REPORTING. Notwithstanding the provisions
24 of AS 43.05.230, the commissioner of revenue shall compile and transmit
25 to the legislature an annual consolidated report of state revenues and
26 taxation policies under this chapter. This report shall include total
27 Alaska income tax paid by firms and individuals covered under this
28 chapter, itemized deductions by category and the tax cost of these de-
29 ductions. For purposes of this section, "tax cost" means the amount of

1 r revenue which the state would have collected had not a specific deduc-
2 tion been allowed. Also included in the report shall be a summary of
3 each corporate tax return filed which shows income from the production
4 of oil or natural gas, showing the total amount of oil and gas produced
5 by or for each taxpayer, the taxable income of the corporation from
6 production as reported in accordance with sec. 12 of this chapter, from
7 pipeline transportation as reported in accordance with sec. 13 of this
8 chapter, from other income allocated to the state under sec. 14 of this
9 chapter, and the tax due.

10 * Sec. 4. AS 43.20.330 is amended by adding new subsections to read:

11 (f) Any person who improperly influences, or attempts to improper-
12 ly influence, by means of payment or offer of payment or other valuable
13 consideration, any state official in his determination of values and
14 apportionments under this chapter shall be guilty of bribery and punish-
15 able under AS 11.30.040.

16 (g) Any person who knowingly and wilfully makes false statements
17 or representations, or who knowingly allows false statements or repre-
18 sentations to be made on his behalf in the case of corporations, with a
19 purpose of avoiding the corporate tax imposed under this chapter is
20 guilty of wilful tax avoidance and is punishable upon conviction by a
21 fine of three times the amount of the tax that would have been unpaid
22 had the false statement been undetected, and by imprisonment for not
23 less than 10 days nor more than one year.

24 * Sec. 5. AS 42.06.140 is amended by adding a new paragraph to read:

25 (11) shall provide all reasonable assistance to the Depart-
26 ment of Revenue in determining the net income from oil pipeline facili-
27 ties.

28 * Sec. 6. AS 42.06 is amended by adding a new section to read:

29 Sec. 42.06.041. CERTIFICATION OF INCOME TO DEPARTMENT OF REVENUE.

1 (a) Upon request of a pipeline carrier the commission shall review the
2 accounts of that carrier and provide a certification to the Department
3 of Revenue either stating that to the best of the commission's knowledge
4 and belief the report of net pipeline income submitted by the carrier
5 under AS 43.20.013 is in accordance with the commission's regulations
6 governing the accounting of income, or that it is not so in accordance,
7 in which case the commission shall identify the deficiencies in the
8 report and, if possible, provide a reporting of the true and correct in-
9 come.

10 (b) The commission shall provide the certification of compliance
11 or deficiency in reporting within 45 days of the date on which the pipe-
12 line carrier requests it, but all certifications remain subject to
13 amendment by the commission for a period of three years after the due
14 date of the tax return which they accompany.

15 (c) The commission may by regulation establish accounting pro-
16 cedures and definitions as may be necessary to define net income for tax
17 purposes, but net income so defined shall coincide as nearly as possible
18 with the net income definition used by the commission in establishing
19 rates and measuring rate of return, and shall be derived before any
20 deductions for income taxes accrued or paid.

21 * Sec. 7. AS 42.05.141 is amended to read:

22 Sec. 42.05.141. GENERAL POWERS AND DUTIES OF THE COMMISSION. The
23 Alaska Public Utilities Commission [MAY]

24 (1) may regulate every public utility engaged or proposing to
25 engage in such a business inside the state, except to the extent ex-
26 empted by sec. 711 of this chapter and the powers of the commission
27 shall be liberally construed to accomplish its stated purposes;

28 (2) may investigate, upon complaint or upon its own motion,
29 the rates, classifications, rules, regulations, practices, services and

1 facilities of a public utility and hold hearings on them;

2 (3) may make or require just, fair and reasonable rates,
3 classifications, regulations, practices, services and facilities for a
4 public utility;

5 (4) may prescribe the system of accounts and regulate the
6 service and safety of operations of a public utility;

7 (5) may require a public utility to file reports and other
8 information and data;

9 (6) may appear personally or by counsel and represent the
10 interests and welfare of the state in all matters and proceedings in-
11 volving a public utility pending before an officer, department, board,
12 commission or court of the state or of another state or the United
13 States and to intervene in, protest, resist, or advocate the granting,
14 denial or modification of any petition, application, complaint or other
15 proceeding;

16 (7) may examine witnesses and offer evidence in any proceed-
17 ing affecting the state and initiate or participate in judicial pro-
18 ceedings to the extent necessary to protect and promote the interests of
19 the state;

20 (8) shall provide all reasonable assistance to the Department
21 of Revenue in determining the net income from natural gas pipeline
22 facilities.

23 * Sec. 8. AS 42.05 is amended by adding a new section to read:

24 Sec. AS 42.05.502. CERTIFICATION OF INCOME TO DEPARTMENT OF
25 REVENUE. (a) Upon request of a pipeline carrier the commission shall
26 review the accounts of that carrier and provide a certification to the
27 Department of Revenue either stating that to the best of the commission's
28 knowledge and belief the report of net pipeline income submitted by the
29 carrier under AS 43.20.013 is in accordance with the commission's regu-

1 lations governing the accounting of income, or that it is not so in
2 accordance, in which case the commission shall identify the deficiencies
3 in the report and, if possible, provide a reporting of the true and
4 correct income.

5 (b) The commission shall provide the certification of compliance
6 or deficiency in reporting within 45 days of the date on which the pipe-
7 line carrier requests it, but all certifications remain subject to
8 amendment by the commission for a period of three years after the due
9 date of the tax return which they accompany.

10 (c) The commission may by regulation establish accounting proce-
11 dures and definitions as may be necessary to define net income for tax
12 purposes, but net income so defined shall coincide as nearly as possible
13 with the net income definition used by the commission in establishing
14 rates and measuring rate of return, and shall be derived before any
15 deductions for income taxes accrued or paid.

16 * Sec. 9. This Act relates only to income earned or received after
17 December 31, 1976.

18 * Sec. 10. This Act takes effect January 1, 1978.
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