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Referred: Resources and  
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 321

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 oil and gas properties pro-  
7 duction tax; and providing for an effective date."

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

9 \* Section 1. AS 43.55 is amended by adding new sections to read:

10 Sec. 43.55.011. OIL PRODUCTION TAX. (a) There is levied upon  
11 the producer of oil a tax for all oil produced from each lease or  
12 property in the state, less any oil the ownership or right to which is  
13 exempt from taxation. The tax is equal to either the percentage-of-  
14 value amount calculated under (b) of this section or the cents-per-  
15 barrel amount calculated under (c) of this section, whichever is  
16 greater, multiplied by the economic limit factor determined for the  
17 oil production of the lease or property under sec. 13 of this chapter.  
18 If the amounts calculated under (b) and (c) of this section are equal,  
19 the amount calculated under (b) of this section shall be treated as if  
20 it were the greater for purposes of this section.

21 (b) The percentage-of-value amount equals 10 per cent of the  
22 gross value at the point of production of taxable oil produced from  
23 the lease or property.

24 (c) The cents-per-barrel amount equals \$.75 per barrel of taxable  
25 oil produced from the lease or property, as adjusted by sec. 12 of  
26 this chapter.

27 (d) When the cents-per-barrel amount calculated under (c) of  
28 this section is greater than the percentage-of-value amount calculated  
29 under (b) of this section, an amount not less than \$.05 for each

1 barrel of taxable oil produced shall be paid by the state out of its  
2 royalties from the oil whenever payment by the state is required under  
3 the revenue sharing provisions of sec. 9 of the Alaska Native Claims  
4 Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.)  
5 into the Alaska Native Fund, until all amounts paid in the fund equal  
6 \$500,000,000.

7 Sec. 43.55.012. ADJUSTMENTS IN TAX RATES. (a) The amounts set  
8 out in sec. 11(c) and sec. 16(c) of this chapter shall be increased or  
9 decreased by a percentage equal to the percentage of change in the  
10 Gross National Product Deflator published by Bureau of Economic Analysis  
11 of the United States Department of Commerce. Changes in tax rates  
12 will be computed based on changes in the Gross National Product Deflator  
13 from that of the First Quarter 1977 Gross National Product Deflator.  
14 The department shall post the changes in the tax rates periodically  
15 and shall notify every person producing oil within the state of the  
16 changes.

17 (b) The cents-per-barrel amount set out in sec. 11(c) of this  
18 chapter as adjusted by (a) of this section applies to oil of 27  
19 degrees API gravity. For each degree of API gravity less than 27  
20 degrees the cents-per-barrel amount shall be reduced by \$.005 and for  
21 each degree of API gravity greater than 27 degrees the cents-per-  
22 barrel amount shall be increased by \$.005 except that oil above 40  
23 degrees API gravity shall be taxed as 40 degree oil. In applying the  
24 gravity adjustment under this subsection, fractional degrees of API  
25 gravity shall be disregarded.

26 Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit  
27 factor for oil production of a lease or property equals one minus the  
28 ratio of the monthly production rate at the economic limit to the  
29 production during the month for which the tax is to be paid.

1 (b) Before February 15 of each year or within six months after  
2 commencement of production for a lease or property, the department  
3 shall notify the taxpayer of the monthly production rate at the  
4 economic limit for each lease or property within the state for that  
5 year. The monthly production rate at the economic limit for a lease  
6 or property is presumed to be 100 barrels times the number of well-  
7 days for the lease or property during December of the preceding year,  
8 unless the taxpayer at a formal hearing under AS 43.05.240 provides  
9 clear and convincing evidence of a different monthly production rate  
10 at the economic limit for the lease or property. The monthly produc-  
11 tion rate at the economic limit for the lease or property based upon  
12 the clear and convincing evidence of the taxpayer shall be calculated  
13 by dividing the value determined under (d) of this section into the  
14 average monthly direct operating cost determined under (c) of this  
15 section.

16 (c) The average monthly direct operating cost for oil production  
17 operations of the lease or property shall be determined based on a  
18 period of not less than four consecutive months. The direct operating  
19 costs include drilling supplies, fuel, routine maintenance, and wages  
20 and benefits of employees working on the production operations. The  
21 direct operating costs do not include capital expenditures, tangible  
22 or intangible drilling expenses, costs of well workovers, costs for  
23 replacement or repairs (other than routine maintenance), depreciation  
24 or amortization, taxes, insurance, overhead, money paid or set aside  
25 (or booked as being paid or set aside) to cover the cost of terminating  
26 the oil production operations of the lease or property, or any other  
27 cost not directly related to the oil production operations of the  
28 lease or property.

29 (d) The value at the point of production of oil produced from

1 the lease or property shall be determined on the basis of the acquisi-  
2 tion cost C.I.F. at West Coast refineries for imported oil of like  
3 quality, minus the reasonable cost of transportation between the point  
4 of production of the oil from the lease or property and those West  
5 Coast refineries.

6 (e) Before February 15 of each year or within six months after  
7 commencement of production for a lease or property the department  
8 shall notify the producer of gas of the monthly production rate at the  
9 economic limit for each lease or property within the state for that  
10 year. The monthly production rate at the economic limit for a lease  
11 or property shall be determined at a formal hearing under AS 43.05.240  
12 and must be established by clear and convincing evidence presented by  
13 the taxpayer at that hearing. The monthly production rate at the  
14 economic limit for the lease or property based upon the clear and  
15 convincing evidence of the taxpayer shall be calculated by dividing  
16 the value determined under (g) of this section into the average monthly  
17 direct operating cost determined under (f) of this section.

18 (f) The average monthly direct operating cost for gas production  
19 operations of the lease or property shall be determined based on a  
20 period of not less than four consecutive months. The direct operating  
21 costs include drilling supplies, fuel, routine maintenance, and wages  
22 and benefits of employees working on the production operations. The  
23 direct operating costs do not include capital expenditures, tangible  
24 or intangible drilling expenses, costs of well workovers, costs for  
25 replacement or repairs (other than routine maintenance), depreciation  
26 or amortization, taxes, insurance, overhead, monies paid or set aside  
27 (or booked as being paid or set aside) to cover the cost of terminating  
28 the gas production operations of the lease or property, or any other  
29 cost not directly related to the gas production operations of the

1 lease or property.

2 (g) The value at the point of production of gas produced from  
3 the lease or property shall be determined on the basis of the highest  
4 price paid for gas of like quality and pressure in the same field or  
5 some other field within 100 miles in the state.

6 (h) The department may aggregate two or more leases or properties  
7 (or portions of them), for purposes of determining economic limit  
8 factors under this section and applying them to sec. 11 of this chapter,  
9 when economically interdependent oil or gas production operations are  
10 not confined to a single lease or property. The department may also  
11 segregate a lease or property into two or more parts, for purposes of  
12 determining economic limit factors under this section and applying  
13 them under sec. 11 of this chapter, when two or more economically  
14 independent oil or gas production operations are being conducted on  
15 it.

16 (i) A determination of the monthly production rate at the economic  
17 limit for a lease or property is retroactive to January 1 of the  
18 current year. For production of a lease or property commencing after  
19 January 1, the determination of the monthly production rate at the  
20 economic limit for that lease or property made within six months after  
21 the commencement of production is retroactive to the commencement of  
22 production.

23 Sec. 43.55.016. GAS PRODUCTION TAX. (a) There is levied upon  
24 the producer of gas a tax for all gas produced from each lease or  
25 property in the state, less any gas the ownership or right to which is  
26 exempt from taxation. The tax is equal to either the percentage-of-  
27 value amount calculated under (b) of this section or the cents-per-Mcf  
28 amount calculated under (c) of this section, whichever is greater,  
29 multiplied by the economic limit factor determined for gas production

1 of the lease or property under sec. 13 of this chapter. If the amounts  
2 calculated under (b) and (c) of this section are equal, the amount  
3 calculated under (b) of this section shall be treated as if it were  
4 the greater for purposes of this section.

5 (b) The percentage-of-value amount equals 10 per cent of the  
6 gross value at the point of production of the taxable gas produced  
7 from the lease or property.

8 (c) The cents-per-Mcf amount equals \$.064 per thousand cubic  
9 feet of taxable gas produced from the lease or property as adjusted by  
10 sec. 12 of this chapter.

11 Sec. 43.55.017. RELATION TO OTHER TAXES. (a) Except as provided  
12 in this chapter and in ch. 58 of this title, the taxes imposed by this  
13 chapter are in place of all taxes now imposed by the state or any of  
14 its municipalities, and neither the state nor a municipality may  
15 impose a tax upon

16 (1) producing oil or gas leases;  
17 (2) oil or gas produced or extracted in the state;  
18 (3) the value of intangible drilling and exploration  
19 expenses.

20 (b) The taxes imposed by this chapter are in place of all taxes  
21 imposed by a municipality upon oil or gas in place or nonproducing oil  
22 or gas leases or properties.

23 (c) The taxes imposed by this chapter are not in place of the  
24 tax imposed by ch. 57 of this title or income taxes, franchise taxes  
25 or taxes upon the retail sale of oil or gas products.

26 \* Sec. 2. AS 43.55.020(a) is amended to read:

27 (a) The gross production tax on oil or gas shall be paid monthly.  
28 The tax is due on the 20th [LAST] day of each calendar month on oil or  
29 gas produced [REMOVED OR SOLD] from each lease or property during the

1 preceding month. If the tax is not paid before the end of the month in  
2 which it becomes due, the tax becomes delinquent.

3 \* Sec. 3. AS 43.55.020(e) is amended to read:

4 (e) Gas produced and used, except gas used in the operation of a  
5 lease or property in drilling for or producing oil or gas, or for  
6 repressuring, is considered, for the purpose of this chapter and in  
7 the amount used, as gas produced [REMOVED OR SOLD] from a lease or  
8 property. Gas flared under a permit granted by the Department of  
9 Natural Resources under AS 31.05.170(11)(H) is considered as gas  
10 produced, except that it is subject to a tax equal to twice the tax  
11 computed under sec. 16 of this chapter as adjusted by sec. 12 of this  
12 chapter per thousand cubic feet of gas for the month in which the gas  
13 was flared.

14 \* Sec. 4. AS 43.55.030(a)(1) is amended to read:

15 (1) a description of the lease or property from which the  
16 oil or gas was produced [REMOVED OR SOLD], by name, legal description,  
17 lease number or by accounting code numbers assigned to the department;

18 \* Sec. 5. AS 43.55.030(a)(3) is amended to read:

19 (3) the gross amount of oil or gas produced [REMOVED OR  
20 SOLD] from the lease or property, and the percentage of the gross  
21 amount owned by each producer for whom the tax is paid;

22 \* Sec. 6. AS 43.55.030(a)(4) is amended to read:

23 (4) the total value of the oil or gas produced [REMOVED OR  
24 SOLD] from the lease or property owned by each producer for whom the  
25 tax is paid; and

26 \* Sec. 7. AS 43.55.140 is amended by adding new paragraphs to read:

27 (12) "gross value at the point of production" means:

28 (A) for oil, the value of the oil at the point where it  
29 is metered or measured (by automatic custody transfer meter, tank

1 gauge, or other method approved by the commissioner) in a condition  
2 of pipeline quality on the premises of the lease or property from  
3 which it is recovered; however, if the oil is not of pipeline  
4 quality when it is removed from the premises of the lease or  
5 property from which it is recovered, or if the oil recovered from  
6 a lease or property is not metered or measured (by automatic  
7 custody transfer meter, tank gauge, or other method approved by  
8 the commissioner) on the premises of the lease or property from  
9 which it is recovered, then the gross value at the point of  
10 production is the value of that oil at the off-premises location  
11 where the oil is first metered or measured (by automatic custody  
12 transfer meter, tank gauge, or other method approved by the  
13 commissioner) in a condition of pipeline quality;

14 (B) for gas recovered from or in association with oil,  
15 the value of the gas at the point where it is accurately metered  
16 or measured after separation from the oil; for gas run through a  
17 gas processing plant, the gross value at the point of production  
18 is the full consideration received by the producer for the gas if  
19 sold in an arm's length transaction or, in the absence of an  
20 arm's length transaction, is the sum of the value of the liquids  
21 extracted from the gas at the plant and the value of the residue  
22 gas, less a reasonable allowance for processing the gas at the  
23 plant and for transporting the gas to the plant from the premises  
24 upon which the oil production operation is conducted; and

25 (C) for gas not recovered from or in association with  
26 oil, the value of the gas at the point where it is accurately  
27 metered or measured or the value of the gas at the point of sale,  
28 if any, on the premises of the lease or property from which the  
29 gas is recovered, whichever is the higher value; for gas run

1 through a gas processing plant, the gross value at the point of  
2 production is the full consideration received by the producer for  
3 the gas if sold in an arm's length transaction or, in the absence  
4 of an arm's length transaction, is the sum of the value of the  
5 liquids extracted from the gas at the plant and the value of the  
6 residue gas, less a reasonable allowance for processing the gas  
7 at the plant and for transporting the gas to the plant from the  
8 point where it was accurately metered or measured;

9 (13) "oil production operation" means the operation by  
10 which oil is recovered from a lease or property and rendered into oil  
11 of pipeline quality, and includes any gathering done before the oil is  
12 finally rendered into oil or pipeline quality;

13 (14) "pipeline quality" means good and merchantable con-  
14 dition;

15 (15) "well days" means the number of days in which a well  
16 is operating during a month.

17 \* Sec. 8. AS 43.55.010, 43.55.015 and 43.55.140(10), and (11,) are  
18 repealed.

19 \* Sec. 9. This Act takes effect July 1, 1977 and applies to production  
20 during the month of July 1977 and succeeding months.  
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