

Original sponsor: Rules Committee
by request of the Legislative Council
(for the Subcommittee on Oil and Gas
Leasing and Taxing Policies)

Offered: 4/27/77
Referred: Finance

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 105

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. LEGISLATIVE 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 corpora-
23 tions owning and operating only the Alaskan assets of these multi-state
24 corporations.

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 under the authority of section 18 of
3 article IV of the Multi-State Compact (AS 43.19.010) and in accordance
4 with secs. 67 - 69 of this chapter.

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

6 Sec. 43.20.067. DETERMINATION OF OIL AND NATURAL GAS PRODUCTION
7 INCOME. (a) The determination of taxable income attributable to oil
8 and natural gas production in Alaska, as required under sec. 11(f) of
9 this chapter, shall be calculated using gross income and deductions from
10 gross income as defined in this section.

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

15 (c) Deductions from gross income 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 for which no prior deduc-
19 tion has been claimed for income tax purposes;
- 20 (3) property taxes actually paid by the corporation taxpayer
21 on producing property and facilities directly associated with producing
22 property, including facilities for the gathering, treating and preparing
23 of the oil or gas for shipment, provided the payments are made after the
24 date of initial production of the property with which they are associated;
- 25 (4) the direct costs incurred by the corporation taxpayer in
26 operating oil or gas fields, including the costs of gathering, treating
27 and preparing oil or gas for shipment, but net of any payments received
28 for those services and not including indirect costs and overhead except
29 as provided in (6) of this subsection;

1 (5) depreciation on investments which are associated with the
2 production, gathering, treating and preparing for shipment of the oil or
3 gas, and which are located in or adjacent to the site of production,
4 including depreciation on interest capitalized at a rate not to exceed
5 the average cost of borrowed capital to the corporation taxpayer during
6 the year in which it is capitalized and also including the amortization
7 of lease acquisition payments and property taxes paid for or on pro-
8 ducing properties before the commencement of production on the lease-
9 hold, facilities or investment associated with it;

10 (6) interest expense not capitalized, to the extent that it
11 does not exceed a portion of total interest paid by the corporation, its
12 subsidiaries and affiliates, determined by multiplying total interest
13 paid by a fraction, the numerator of which is the book value of the
14 corporation's fixed assets in and associated with the producing proper-
15 ties in Alaska and the denominator of which is the book value of all
16 fixed assets held by the corporation, its subsidiaries and affiliates;

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

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

26 (e) Deductions from gross income under this section shall not
27 include expenses previously deducted on a return filed under this
28 chapter.

29 Sec. 43.20.068. DETERMINATION OF CRUDE OIL AND NATURAL GAS

1 PIPELINE TRANSPORTATION INCOME. (a) Taxable income attributable to the
2 transportation of crude oil in interstate commerce in Alaska shall be
3 the sum of the amount reported to the Interstate Commerce Commission
4 under the category "net balance transferred from income" as specified as
5 of January 1, 1977 in 49 CFR 10 Part 1204, account 700 and of federal
6 income taxes paid as specified as of January 1, 1977 in 49 CFR 10 Part
7 1204, accounts 670 and 695, and of taxes actually paid under sec. 11(e)
8 of this chapter. A tax return reporting that income shall be accompanied
9 by a certification from the Alaska Pipeline Commission to the effect
10 that to the best of the commission's knowledge and belief the income
11 calculation has been made in accordance with the principles established
12 by the Interstate Commerce Commission, or, if in the opinion of the
13 commission, the income is not reported in accordance with the regulations
14 of the Interstate Commerce Commission, then a statement to that effect,
15 identifying the deficiencies of the report and, if possible, providing a
16 reporting of the true and correct income.

17 (b) Taxable income attributable to the transportation of natural
18 gas in interstate commerce in Alaska shall be the sum of the amount
19 reported to the Federal Power Commission under the category "balance
20 transferred from income" as specified in 18 CFR 1, Part 201, account
21 433 and of federal income taxes paid as specified as of January 1, 1977
22 in 18 CFR 1, Part 201, accounts 409, 409.1, 409.2 and 409.3, and of
23 taxes actually paid under sec. 11(e) of this chapter. A tax return
24 reporting that income shall be accompanied by a certification from the
25 Alaska Public Utilities Commission to the effect that to the best of the
26 commission's knowledge and belief the income calculation has been made
27 in accordance with the principles established by the Federal Power
28 Commission, or, if in the opinion of the commission, the income is not
29 reported in accordance with the regulations of the Federal Power

1 Commission, then a statement to that effect, identifying the deficiencies
2 of the report and, if possible, providing a reporting of the true and
3 correct income.

4 (c) Taxable income attributable to the transportation of crude oil
5 in Alaska of any corporation not under Interstate Commerce Commission
6 jurisdiction, or of a corporation under the Interstate Commerce Commis-
7 sion but not reporting the operation of pipelines in Alaska separately
8 from the operation of pipelines elsewhere, shall be an amount equal to
9 that which would have been reported to the Interstate Commerce Commission
10 under (a) of this section had the corporation been, in fact, under
11 Interstate Commerce Commission jurisdiction for the taxable year and
12 required to report on the operation of Alaska pipelines separately from
13 the operation of pipelines elsewhere. A tax return reporting that
14 income shall be accompanied by a certification from the Alaska Pipeline
15 Commission to the effect that to the best of the commission's knowledge
16 and belief the income calculation has been made in accordance with the
17 principles established by the Interstate Commerce Commission, or, if in
18 the opinion of the commission, the income is not reported in accordance
19 with the regulations of the Interstate Commerce Commission, then a
20 statement to that effect, identifying the deficiencies of the report
21 and, if possible, providing a reporting of the true and correct income.

22 (d) Taxable income attributable to the transportation of natural
23 gas in Alaska by any corporation not under the jurisdiction of the
24 Federal Power Commission, or of a corporation under Federal Power Commis-
25 sion jurisdiction but not reporting the operation of Alaska pipelines
26 separately from the operation of pipelines elsewhere, shall be an amount
27 equal to that which would have been reported to the Federal Power Commis-
28 sion under (b) of this section had the corporation been, in fact, under
29 Federal Power Commission jurisdiction for the taxable year and required

1 to report on the operation of Alaska pipelines separately from the opera-
2 tion of pipelines elsewhere. A tax return reporting that income shall
3 be accompanied by a certification from the Alaska Public Utility Commis-
4 sion to the effect that to the best of the commission's knowledge and
5 belief the income calculation has been made in accordance with the
6 principles established by the Federal Power Commission, or, if in the
7 opinion of the commission, the income is not reported in accordance with
8 the regulations of the Federal Power Commission, then a statement to
9 that effect, identifying the deficiencies of the report and, if possible,
10 providing a reporting of the true and correct income.

11 (e) The certifications of the Alaska Pipeline Commission and the
12 Alaska Public Utilities Commission submitted in accordance with this
13 section do not prejudice any future action by the respective commission
14 nor prevent the respective commission from submitting a revised certi-
15 fication within three years of the due date of the tax return in support
16 of which it was originally filed.

17 (f) Nothing in this section or in sec. 67 of this chapter limits a
18 corporate taxpayer's right to appeal or the taxpayer remedies provided
19 under ch. 5 of this title.

20 Sec. 43.20.069. DETERMINATION OF INCOME FROM OTHER ACTIVITIES OF
21 CORPORATIONS ENGAGED IN OIL OR NATURAL GAS PRODUCTION OR TRANSPORTATION.
22 Taxable income from activities other than oil or natural gas production
23 or pipeline transportation shall be determined by subtracting the income
24 as determined under secs. 67 and 68 of this chapter from the corpora-
25 tion's combined net income and applying the apportionment formula
26 required under the provisions of sec. 65 of this chapter, except that
27 both the numerator and the denominator of the property factor and the
28 payroll factor shall be calculated without reference to payroll or
29 property related to crude oil or natural gas production or pipeline

1 transportation activity in Alaska, and the sales factor shall not be
2 used in the calculation.

3 Sec. 43.20.070. PUBLIC REPORTING. Notwithstanding the provisions
4 of AS 43.05.230, the commissioner of revenue shall compile and transmit
5 to the legislature an annual consolidated report of state revenues and
6 taxation policies under this chapter. This report shall include total
7 Alaska income tax paid by firms and individuals covered under this
8 chapter and itemized deductions by category.

9 * Sec. 4. AS 43.20 is amended by adding a new section to read:

10 Sec. 43.20.075. BOOKS AND RECORDS. The department may provide by
11 regulation the manner in which books and records must be kept and main-
12 tained for purposes of determining gross income and deductions from
13 gross income under secs. 67 - 69 of this chapter.

14 * Sec. 5. AS 43.20.335 is amended by adding new subsections to read:

15 (k) Any person who improperly influences, or attempts to improper-
16 ly influence, by means of payment or offer of payment or other valuable
17 consideration, any state official in his determination of values and
18 apportionments under this chapter is guilty of bribery and punishable
19 under AS 11.30.040.

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

28 * Sec. 6. AS 42.06.140 is amended by adding a new paragraph to read:

29 (11) shall provide all reasonable assistance to the

1 Department of Revenue in determining the net income from oil pipeline
2 facilities.

3 * Sec. 7. AS 42.06 is amended by adding a new section to read:

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

5 (a) Upon request of a pipeline carrier the commission shall review the
6 accounts of that carrier and provide a certification to the Department
7 of Revenue either stating that to the best of the commission's knowledge
8 and belief the report of net pipeline income submitted by the carrier
9 under AS 43.20.069 is in accordance with the commission's regulations
10 governing the accounting of income, or that it is not so in accordance,
11 in which case the commission shall identify the deficiencies in the
12 report and, if possible, provide a reporting of the true and correct in-
13 come.

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

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

25 * Sec. 8. AS 42.05.141 is amended to read:

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

28 (1) may regulate every public utility engaged or proposing to
29 engage in such a business inside the state, except to the extent

1 exempted by sec. 711 of this chapter and the powers of the commission
2 shall be liberally construed to accomplish its stated purposes;

3 (2) may investigate, upon complaint or upon its own motion,
4 the rates, classifications, rules, regulations, practices, services and
5 facilities of a public utility and hold hearings on them;

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

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

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

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

20 (7) may examine witnesses and offer evidence in any proceed-
21 ing affecting the state and initiate or participate in judicial pro-
22 ceedings to the extent necessary to protect and promote the interests of
23 the state;

24 (8) shall provide all reasonable assistance to the Department
25 of Revenue in determining the net income from natural gas pipeline
26 facilities.

27 * Sec. 9. AS 42.05 is amended by adding a new section to read:

28 Sec. 42.05.502. CERTIFICATION OF INCOME TO DEPARTMENT OF REVENUE.

29 (a) Upon request of a pipeline carrier the commission shall review the

1 accounts of that carrier and provide a certification to the Department
2 of Revenue either stating that to the best of the commission's knowledge
3 and belief the report of net pipeline income submitted by the carrier
4 under AS 43.20.069 is in accordance with the commission's regulations
5 governing the accounting of income, or that it is not so in accordance,
6 in which case the commission shall identify the deficiencies in the
7 report and, if possible, provide a reporting of the true and correct
8 income.

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

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

20 * Sec. 10. This Act relates only to income earned or received after
21 December 31, 1976.

22 * Sec. 11. This Act takes effect January 1, 1978.