

Original sponsor: Rules Committee by
request of the Governor

Offered: 5/2/77
Referred: Finance

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 238

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

21 (b) The percentage-of-value amount equals 12.5 per cent of the
22 gross value at the point of production of taxable oil produced from the
23 lease or property.

24 (c) The cents-per-barrel amount equals \$.65 per barrel of taxable
25 oil produced from the lease or property, as adjusted by sec. 12 of this
26 chapter.

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

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

6 Sec. 43.55.012. ADJUSTMENTS IN TAX RATES. (a) The amounts set
7 out in sec. 11(c) and sec. 16(c) of this chapter shall be increased or
8 decreased by a percentage equal to the percentage of change in the Gross
9 National Product Deflator published by the Bureau of Economic Analysis
10 of the United States Department of Commerce, or 7.5 per cent per year,
11 whichever is the lesser of the two. Changes in tax rates will be com-
12 puted based on changes in the Gross National Product Deflator from that
13 of the First Quarter 1977 Gross National Product Deflator. The depart-
14 ment shall post the changes in the tax rates periodically and shall
15 notify every person producing oil in the state of the changes.

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

24 Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit
25 factor for oil production of a lease or property equals

$$26 \quad (1 - [\text{PEL}/\text{TP}]) \exp ([300 \times \text{WD}]/\text{PEL})$$

27 Where: PEL = the production rate at the economic limit;

28 TP = total production during the month for which the tax
29 is to be paid;

1 WD = the total number of well days in the month for which
2 the tax is to be paid; and

3 Where "exp" indicates that the expression following it is an exponent.

4 (b) The economic limit factor for gas production of a lease or
5 property equals one minus the ratio of the monthly production rate at
6 the economic limit to the production during the month for which the tax
7 is to be paid.

8 (c) The monthly production rate at the economic limit for a lease
9 or property is presumed to be 100 barrels times the number of well days
10 for the lease or property during the month for which the tax is to be
11 paid. The taxpayer may rebut this presumption at a formal hearing
12 under AS 43.05.420 by providing clear and convincing evidence of a
13 different monthly production rate at the economic limit for the lease or
14 property. The hearing shall be held before February 15 of the year or
15 within six months after commencement of oil production for a lease or
16 property. The monthly production rate at the economic limit for the
17 lease or property based upon the clear and convincing evidence of the
18 taxpayer shall be calculated by dividing the value determined under (e)
19 of this section into the average monthly direct operating cost deter-
20 mined under (d) of this section and shall be used for purposes of this
21 section for all oil production during that calendar year from the lease
22 or property.

23 (d) The average monthly direct operating cost for oil production
24 operations of the lease or property shall be determined based on the
25 number of months operated during the preceding 12-month period. The
26 direct operating costs include production supplies, purchased fuel,
27 routine maintenance, and wages and benefits of employees working on the
28 production operations. The direct operating costs do not include
29 capital expenditures, tangible or intangible drilling expenses, costs of

1 well workovers, costs for replacement or repairs (other than routine
2 maintenance), depreciation or amortization, taxes, insurance, overhead,
3 money paid or set aside (or booked as being paid or set aside) to cover
4 the cost of terminating the oil production operations of the lease or
5 property, or any other cost not directly related to the oil production
6 operations of the lease or property.

7 (e) For the purposes of this chapter, the gross value of oil shall
8 be calculated as provided in sec. 150 of this chapter, and the gross
9 value of gas shall be calculated as provided in (h) of this section.

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

22 (g) The average monthly direct operating cost for gas production
23 operations of the lease or property shall be determined based on the
24 number of months operated during the preceding 12-month period. The
25 direct operating costs include drilling supplies, fuel, routine mainte-
26 nance, and wages and benefits of employees working on the production
27 operations. The direct operating costs do not include capital expendi-
28 tures, tangible or intangible drilling expenses, costs of well work-
29 overs, costs for replacement or repairs (other than routine maintenance),

1 depreciation or amortization, taxes, insurance, overhead, money paid or
2 set aside (or booked as being paid or set aside) to cover the cost of
3 terminating the gas production operations of the lease or property, or
4 any other cost not directly related to the gas production operations of
5 the lease or property.

6 (h) The value at the point of production of gas produced from the
7 lease or property shall be determined on the basis of the highest price
8 paid for gas of like quality and pressure in the same field.

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

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

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

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

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

9 (c) The cents-per-Mcf amount equals \$.064 per thousand cubic feet
10 of taxable gas produced from the lease or property as adjusted by sec.
11 12 of this chapter.

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

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

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

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

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

28 (a) The gross production tax on oil or gas shall be paid monthly.
29 The tax is due on the 20th [LAST] day of each calendar month on oil or

1 gas produced [REMOVED OR SOLD] from each lease or property during the
2 preceding month. If the tax is not paid before the end of the month in
3 which it becomes due, the tax becomes delinquent.

4 * Sec. 3. AS 43.55.030(a)(1) is amended to read:

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

8 * Sec. 4. AS 43.55.030(a)(3) is amended to read:

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

12 * Sec. 5. AS 43.55.030(a)(4) is amended to read:

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

16 * Sec. 6. AS 43.55.140 is amended by adding a new paragraph to read:

17 (12) "well days" means the number of days in which a well is
18 operating during a month.

19 * Sec. 7. AS 43.55.010, 43.55.015 and 43.55.140(10) and (11) are re-
20 pealed.

21 * Sec. 8. This Act takes effect July 1, 1977 and applies to production
22 during the month of July, 1977, and succeeding months.