Original sponsor: Rules Committee by request of the Governor

Offered: 5/7/77
For Today's Calendar

IN THE SENATE BY THE FINANCE COMMITTEE

HOUSE CS FOR CS FOR SENATE BILL NO. 238

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the oil and gas properties production tax; and providing for an effective date."

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

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

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

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

(c) The cents-per-barrel amount equals $.9375 per barrel of taxable oil produced from the lease or property, as adjusted by sec. 12 of this chapter.

(d) When the cents-per-barrel amount calculated under (c) of this section is greater than the percentage-of-value amount calculated under (b) of this section, and payment by the state to the Alaska Native fund out of the state's royalties on that oil is required under the revenue sharing provisions of sec. 9 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.), that payment shall be not less than \$.05 for each taxable barrel of oil produced until all amounts paid in the fund equal \$500,000,000.

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

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

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

(1-[PEL/TP]) exp ([300 X WD]/PEL)

where: PEL = the production rate at the economic limit;

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

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

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

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

(c) The monthly production rate at the economic limit for a lease or property is presumed to be 300 barrels times the number of well days for the lease or property during the month for which the tax is to be paid. The taxpayer may rebut this presumption at a formal hearing under AS 43.05.240 by providing clear and convincing evidence of a different monthly production rate at the economic limit for the lease or property. The hearing shall be held before February 15 of the year or within six months after commencement of oil production for a lease or property. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (e) of this section into the average monthly direct operating cost determined under (d) of this section and shall be used for purposes of this section for all oil production during that calendar year from the lease or property.

(d) The average monthly direct operating cost for oil production operations of the lease or property shall be determined based on a period of not less than four consecutive months. The direct operating costs include only royalty, production supplies, purchased fuel, routine maintenance, and wages and benefits of employees working on the production operations. Additional direct operating costs not listed in this section may be included only after their inclusion in a regulation adopted by the department. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, money paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the oil production operations of the lease or property, or any other cost not directly related to the oil production operations of the lease or property.

(e) For the purpose of calculating the economic limit, the value at the point of production of oil produced from the lease or property shall be determined on the basis of the acquisition cost C.I.F. at West Coast refineries for imported oil of like quality, minus the reasonable cost of transportation between the point of production of the oil from the lease or property and those West Coast refineries.

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

(g) The average monthly direct operating cost for gas production operations of the lease or property shall be determined based on a period of not less than four consecutive months. The direct operating costs include only royalty, production supplies, purchased fuel, routine maintenance, and wages and benefits of employees working on the production operations. Additional direct operating costs not listed in this section may be included only after their inclusion in a regulation adopted by the department. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, monies paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the gas production operations of the lease or property, or any other cost not directly related to the gas production operations of the lease or property.

(h) For the purpose of calculating the economic limit, the value at the point of production of gas produced from the lease or property shall be determined on the basis of the highest price paid for gas of like quality and pressure in the same field or some other field within 100 miles in the state.

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

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

Sec. 43.55.016. GAS PRODUCTION TAX. (a) There is levied upon the producer of gas a tax for all gas produced from each lease or property in the state, less any gas the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-Mcf amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for gas production of the lease or property under sec. 13 of this chapter. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

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

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

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

(1) producing oil or gas leases;

(2) oil or gas produced or extracted in the state;

(3) the value of intangible drilling and exploration expenses.

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

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

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

(a) The gross production tax on oil or gas shall be paid monthly. The tax is due on the 20th [LAST] day of each calendar month on oil or gas produced [REMOVED OR SOLD] from each lease or property during the preceding month. If the tax is not paid before the end of the month in which it becomes due, the tax becomes delinquent.

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

(e) Gas produced in excess of that needed for safety purposes [AND USED], except gas used in the operation of a lease or property in drilling for or producing oil or gas, or for repressuring, is considered, for the purpose of this chapter and in the amount used, as gas produced [REMOVED OR SOLD] from a lease or property. Gas flared beyond the amount authorized for safety by the Department of Natural Resources under AS 31.05.170(11)(H) is considered as gas produced, except that it is subject to a penalty equal to the tax computed under sec. 16 of this chapter as adjusted by sec. 12 of this chapter per thousand cubic feet of gas for the month in which the gas was flared.

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

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

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

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

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

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

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

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

(A) for oil, the value of the oil at the point where it is metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) in a condition of pipeline quality on the premises of the lease or property from which it is recovered; however, if the oil is not of pipeline quality when it is removed from the premises of the lease or property from which it is recovered, or if the oil recovered from a lease or property is not metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) on the premises of the lease or property from which it is recovered, then the gross value at the point of production is the value of that oil at the off-premises location where the oil is first metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) in a condition of pipeline quality;

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

(C) for gas not recovered from or in association with oil, the value of the gas at the point where it is accurately metered or measured or the value of the gas at the point of sale, if any, on the premises of the lease or property from which the gas is recovered, whichever is the higher value; for gas run through a gas processing plant, the gross value at the point of production is the full consideration received by the producer for the gas if sold in an arm's length transaction or, in the absence of an arm's length transaction, is the sum of the value of the liquids extracted from the gas at the plant and the value of the residue gas, less a reasonable allowance for processing the gas at the plant and for transporting the gas to the plant from the point where it was accurately metered or measured;

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

(14) "pipeline quality" means good and merchantable condition;

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

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

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