

Introduced: 2/19/79
Referred: Resources and
Finance

1 IN THE HOUSE

BY ROGERS

2 HOUSE BILL NO. 247

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL.

6 For an Act entitled: "An Act levying a tax on gas reserves in the state; and
7 providing for an effective date."

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

9 * Section 1. AS 43 is amended by adding a new chapter to read:

10 CHAPTER 59. GAS RESERVES AD VALOREM TAX.

11 Sec. 43.59.010. AD VALOREM TAX. (a) An annual tax is levied each
12 tax year beginning January 1, 1979, on the full and true value of tax-
13 able property under this chapter.

14 (b) The rate of levy is 20 mills.

15 Sec. 43.59.020. EXEMPTIONS. The following property that would
16 otherwise be taxable property is exempt from taxation under this chap-
17 ter:

18 (1) property of the United States or the state;

19 (2) any property for the period of five years beginning on
20 the date of the completion, suspension, or abandonment, whichever occurs
21 first, of a discovery well in a gas field or pool which in whole or in
22 part underlies or comprises the lease or property;

23 (3) any property from which gas was produced for at least six
24 months of the preceding year;

25 (4) any property from which the Alaska Oil and Gas Conserva-
26 tion Commission (AS 31.05) has determined that production of gas would
27 result in waste as defined in AS 31.05.170(11).

28 Sec. 43.59.030. CREDIT AGAINST TAX. There is allowed, as a credit
29 against the tax levied under this chapter for a lease or property, 25

1 per cent of the amount paid during the tax year by the owner or lessee
2 as debt or equity investment in a transmission facility to transport gas
3 that may be produced from the lease or property.

4 Sec. 43.59.040. ASSESSMENT. (a) The department shall assess
5 taxable property under this chapter to the owner of it at its full and
6 true value as of January 1 of each year.

7 (b) The full and true value of taxable property under this chapter
8 is the estimated price which the property would bring in an open market
9 and under the then prevailing market conditions in a sale between a
10 willing seller and a willing buyer both conversant with the property and
11 with prevailing values. In determining this value, the department shall
12 consider all factors which may be known by the department to affect the
13 value of taxable property, including but not limited to the discounted
14 present value of the expected future net income from the taxable pro-
15 perty.

16 Sec. 43.59.050. ASSESSMENT ROLL. The department shall prepare
17 annually the assessment roll for taxation under this chapter. The roll
18 shall contain:

- 19 (1) a description of all taxable property;
20 (2) the full and true assessed value of all taxable property;
21 and
22 (3) the names and addresses of persons owning or otherwise
23 holding an interest in taxable property.

24 Sec. 43.59.060. ASSESSMENT NOTICE. On or before April 15 of each
25 year, the department shall send to every owner of taxable property named
26 in the assessment roll a notice of assessment showing the assessed value
27 of the property. The notice of assessment is effective on the date of
28 its mailing.

29 Sec. 43.59.070. APPEAL. (a) A person aggrieved by the action of

1 the department in making an assessment may appeal that action and obtain
2 a hearing upon its validity before the department by filing written
3 objections to the assessment not later than 20 days after the effective
4 date of the assessment notice.

5 (b) The procedures for conduct of the hearing and preliminary
6 activities to it shall be in accordance with AS 44.62.350, 44.62.430,
7 44.62.450 - 44.62.460, 44.62.480, 44.62.500 - 44.62.550, 44.62.590, and
8 44.62.610 - 44.62.640. The term "respondent" used in those sections of
9 AS 44.62 (Administrative Procedure Act) include for the purposes of this
10 section, the person aggrieved by action of the department. The depart-
11 ment shall provide by regulation for notices of hearing under this
12 section to interested persons. At the hearing the appellant bears the
13 burden of proof. In the absence of this proof, the assessment shall be
14 upheld by the department. If the department, after hearing, determines
15 that a correction of the assessment is warranted, the department shall
16 correct the assessment and the assessment roll.

17 (c) Within 30 days after the decision by the department following
18 the hearing, a person aggrieved by that decision may appeal to the
19 superior court. The superior court shall grant priority on its dockets
20 for the appeal over all civil cases then pending.

21 Sec. 43.59.080. CERTIFICATION. On or before June 15 of each year,
22 the department shall certify the final assessment roll and mail to the
23 owner, operator or other person filing a return and paying tax on the
24 taxable property a statement of the amount of tax due.

25 Sec. 43.59.090. SUPPLEMENTAL ASSESSMENT ROLLS. The department
26 shall include property omitted from the assessment roll on a supple-
27 mental roll, using the procedures set out in this chapter for the
28 original roll.

29 Sec. 43.59.100. INVESTIGATION. (a) The department may make an

1 investigation of property on which a return has been filed or of pro-
2 perty for which no return has been filed. In either case, the depart-
3 ment shall make its own valuation of the taxable property, which is
4 prima facie evidence of full and true value.

5 (b) An employee or agent of the department may enter any premises
6 necessary for the investigation during reasonable hours and may examine
7 property and other appropriate records. The owner of taxable property,
8 upon request, shall furnish to the employee or agent of the department
9 reasonable assistance required for the investigation. If an employee or
10 agent of the department seeking to enter any premises necessary for an
11 investigation under this section or to obtain reasonable assistance
12 required for an investigation under this section is refused that entry
13 or assistance, the superior court may, after reasonable notice to and
14 hearing of the owner, order the owner to allow the entry or to furnish
15 the assistance.

16 (c) For the purpose of the investigation, the owner, operator or
17 other person filing a return and paying the tax on the taxable property
18 or his representative may be required to present himself for examination
19 under oath by the department.

20 Sec. 43.59.110. RETURNS AND PAYMENT OF TAX. (a) A return of
21 taxable property shall be submitted on or before February 1 on the form
22 prescribed by the department based on property values existing on
23 January 1 of each year, except as otherwise provided in this chapter,

24 (1) by a person who is the owner of the property, or who
25 controls that property as agent, or on account of any other person;

26 (2) by a guardian or other person who has charge of taxable
27 property belonging to a minor or other person;

28 (3) by the trustee of a trust estate holding taxable property
29 in trust for the benefit of another person;

1 (4) by the executor or administrator of a deceased person's
2 estate which includes taxable property;

3 (5) by the receiver of a corporation who has its assets in
4 his hands.

5 (b) The person required to submit the return specified under (a)
6 of this section is primarily liable for payment of the tax levied by
7 this chapter. The persons or estates specified in (a)(2) - (5) of this
8 section in whose behalf the tax levied by this chapter is to be paid are
9 secondarily liable for payment of the tax. With the written approval of
10 the department, an operator or nonoperator of the lease or property may
11 submit returns or make payment of the tax levied under this chapter on
12 behalf of himself and such other persons as the department may approve.

13 (c) The tax levied under this chapter is payable to the department
14 on or before June 30 of each year or in installments at the times and
15 under the conditions the department may by regulation require. This tax
16 is payable on the due date set out in this subsection even though the
17 assessment is under appeal or the validity, enforceability or applica-
18 tion of this chapter or any provision of this chapter is challenged
19 before the department or in the courts.

20 (d) With the prior written approval of the department, a person
21 submitting returns or making payments as required under this chapter for
22 more than one taxable property may regard those leases or properties as
23 a single taxable property for purposes of submitting those reports or
24 making those payments.

25 (e) A person making payment of the tax levied under this chapter
26 on behalf of one or more other persons owning or otherwise holding an
27 interest in a taxable property may withhold a proportionate share of the
28 payment from any proceeds or other benefits from the taxable property
29 owed to any person on whose behalf the payment is made. Unless other-

1 wise specifically provided by written contract or agreement, the person
2 so withholding a proportionate share of the tax levied under this chap-
3 ter incurs no liability to those from whom it is withheld by virtue of
4 having made the withholding.

5 (f) By written notice the department may require a person filing a
6 return to submit additional information to the department no later than
7 30 days after the notice.

8 Sec. 43.59.120. CIVIL PENALTY. Five per cent shall be added to
9 the tax for each 30-day period or fraction of that period during which
10 the taxpayer fails to file a return or pay the full amount of the tax,
11 or a portion or a deficiency of the tax due and payable as finally
12 determined by the department and required by this chapter, unless it is
13 shown that the failure is due to a reasonable cause and not to wilful
14 neglect. The penalty may not exceed 25 per cent in the aggregate. The
15 penalty shall be collected at the same time, in the same manner and as a
16 part of the original tax, but if the original tax is paid before the
17 neglect is discovered, the penalty shall be collected in the same manner
18 as the original tax. The department shall describe by regulation cir-
19 cumstances which constitute reasonable cause for purposes of this sec-
20 tion.

21 Sec. 43.59.130. INTEREST. When the tax levied in this chapter
22 becomes delinquent it bears interest at the rate of eight per cent a
23 year.

24 Sec. 43.59.140. REMEDY. The remedy of distraint of property set
25 out in AS 43.20.270 applies to the tax, penalty and interest levied by
26 this chapter.

27 Sec. 43.59.150. REGULATIONS. The department may adopt regulations
28 in accordance with the Administrative Procedure Act (AS 44.62) as appro-
29 priate to administer and enforce this chapter.

1 Sec. 43.59.160. DEFINITIONS. In this chapter:

2 (1) "department" means the Department of Revenue;

3 (2) "discovery well" means a well the discovery of which is
4 the basis, either of itself or in conjunction with other information,
5 for a determination by the department that a field or pool, as these
6 terms are defined in AS 31.05.170(4) and (9), exists and that at least a
7 portion of it has been defined or determined to be productive of gas in
8 commercial quantities by actual drilling operation; the department, in
9 determining whether a well is a discovery well, shall first consult with
10 the Department of Natural Resources;

11 (3) "gas" means all hydrocarbon substances not defined as oil
12 in this chapter;

13 (4) "lease or property" means any right, title or interest in
14 or the right to produce or recover gas including

15 (A) a mineral interest,

16 (B) a leasehold interest,

17 (C) a working interest, royalty interest, overriding
18 royalty interest, production payment, net profit interest or any
19 other interest in a lease, concession, joint venture or other
20 agreement for gas exploration, development or production,

21 (D) a working interest, royalty interest, overriding
22 royalty interest, production payment, net profit interest or any
23 other interest in an agreement for unitization or pooling under the
24 provisions of sec. 614(b)(3) of the Internal Revenue Code of 1954
25 as defined on the effective date of this paragraph;

26 (5) "oil" means crude petroleum and other hydrocarbons re-
27 gardless of gravity which, when recovered, are recovered at the wellhead
28 in liquid form, and the liquid hydrocarbons known as distillate or
29 condensate that are recovered by separation from gas other than at a gas

1 processing plant;

2 (6) "operator" means the person conducting the exploration,
3 development or production operation for a lease or property;

4 (7) "proven reserves" means the volume of gas in a known
5 deposit which geological and engineering information indicate to be
6 recoverable in the future under prevailing economic conditions and
7 technology;

8 (8) "taxable property" means any lease or property having
9 proven reserves;

10 (9) "transmission facility" means any means or system for
11 transporting gas that may be produced from a lease or property, either
12 by itself or as a part of or in connection with any other means or
13 system for sale or use of the lease or property including, but not
14 limited to, transmission pipelines, common or private carriers, trucks
15 and barges, although not including gathering lines, field conditioning
16 plants, and other personal property and equipment utilized by the owner
17 or operator in developing the lease or property.

18 Sec. 43.59.170. PAYMENT TO ALASKA NATIVE FUND. When the tax
19 levied under this chapter is payable, an amount equivalent to not less
20 than two per cent of the tax shall be paid by the state from oil and gas
21 royalties, bonuses and rentals into the Alaska Native Fund established
22 by sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85
23 Stat. 688, 43 U.S.C. 1601 et seq.) until all payments paid into the fund
24 equal \$500,000,000.

25 * Sec. 2. Notwithstanding the provisions of sec. 1 of this Act, for the
26 tax year beginning January 1, 1979 only, the assessment notices under AS 43.-
27 59.060 shall be sent on or before August 15, 1979; the final assessment roll
28 shall be certified, and statements of the amount of tax due shall be sent
29 under AS 43.59.080, on or before October 15, 1979; the return required under

1 AS 43.59.110(a) shall be submitted to the Department of Revenue on or before
2 June 1, 1979; and the tax payable to the Department of Revenue under AS
3 43.59.110(c) is due on or before October 30, 1979. For tax years beginning
4 after December 31, 1979 all due dates shall be as specified in AS 43.59.

5 * Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-
6 070(c).

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