

Original sponsor: Rules/Governor

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Referred: Finance

1 IN THE HOUSE

BY THE SPECIAL GAS
PIPELINE COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 200 (Gas Pipeline)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to oil and gas taxes; and providing
7 for an effective date."

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

9 * Section 1. AS 43.20.011(e) is amended to read:

10 (e) There is imposed for each taxable year upon the entire tax-
11 able income of every corporation derived from sources within the state
12 a tax consisting of a normal tax equal to 5.4 percent of taxable in-
13 come, and a surtax which is equal to 4.0 percent of taxable income, ex-
14 cept that the tax on a corporation doing business in the state which
15 derives income from [ENGAGED IN] the production or pipeline transporta-
16 tion of crude oil or natural gas in the state shall be determined and
17 paid in accordance with AS 43.21. Income from sharing in a regional
18 Native corporation's revenue that is required to be divided under
19 sec. 7(i) and sec. 7(j) of the Alaska Native Claims Settlement Act
20 (P.L. 92-203) is taxable income of the recipient under this chapter,
21 except that a recipient who is subject to AS 43.21 shall treat the
22 income as taxable under AS 43.21.040. For tax years beginning after
23 December 31, 1979, the surtax exemption is \$50,000. For controlled
24 corporations described in secs. 1561 - 1563 of the Internal Revenue
25 Code only one surtax exemption may be allowed for the controlled group.

26 * Sec. 2. AS 43.21.010 is amended to read:

27 Sec. 43.21.010. APPLICATION. This chapter applies to every cor-
28 poration doing business in the state which derives income from the pro-
29 duction of oil or gas from a lease or property in the state [,] or from

1 the pipeline transportation of oil or gas in the state. The tax calcu-
2 lated under this chapter is measured by the total taxable income of the
3 corporation during the tax period as determined under [DEFINED IN]
4 AS 43.21.020 - 43.21.040 and is calculated [DETERMINED] at the rates
5 established under AS 43.20.011(e).

6 * Sec. 3. AS 43.21.020(c) is amended to read:

7 (c) Net income from oil and gas production shall be determined by
8 the department by deducting from gross income the following:

9 (1) royalties paid in kind or in value;

10 (2) taxes imposed under AS 43.55 and AS 43.57 which are ac-
11 tually paid or incurred by the corporation on the production from a
12 lease or property in the state;

13 (3) taxes imposed under AS 43.56 and AS 29.53 which are ac-
14 tually paid or incurred by the corporation on property used directly in
15 the production of oil or gas from a lease or property in the state, in-
16 cluding property used in production, gathering, treatment, or prepara-
17 tion of the oil or gas for pipeline transportation, but only if those
18 property tax payments were due and payable only after the date of com-
19 mercial production from the lease or property with which the property
20 was associated;

21 (4) the direct costs incurred by or for the corporation in
22 operating the lease or property, including the direct costs of produc-
23 ing, gathering, treating, or preparing the oil or gas for pipeline
24 transportation, but not of any payments received for those activities
25 and not including any indirect cost or overhead expense;

26 (5) depreciation (using the unit of production method or
27 such other reasonable methods as the department may by regulation es-
28 tablish) on property used directly in the production, gathering, treat-
29 ment, or preparation of the oil or gas for pipeline transportation in-

1 cluding amortization of capitalized interest for investments in this
2 property at a rate not to exceed the average cost of borrowed capital
3 to the taxpayer during the year in which it is capitalized;

4 (6) the amortization of lease acquisition payments and taxes
5 paid or incurred under AS 43.56 and AS 29.53 (including capitalized in-
6 terest on both) for or on producing properties before the commencement
7 of commercial production from the lease or property for which the prop-
8 erty is being used;

9 (7) interest expense of the corporation, not capitalized
10 during construction, that was paid or incurred in connection with prop-
11 erty in Alaska; however, unless (f) of this section applies, the inter-
12 est expense may [TO THE EXTENT THAT IT DOES] not exceed that portion of
13 the total interest paid by the consolidated business of which the cor-
14 poration is a part, determined by multiplying the total interest [(RE-
15 DUCED BY INTERCOMPANY TRANSACTIONS WITHIN THE CONSOLIDATED BUSINESS)]
16 by a fraction, the numerator of which is the value of the corpora-
17 tion's real and tangible personal property used directly in the produc-
18 tion of oil or gas from a lease or property in the state and the denom-
19 inator of which is the value of all real and tangible personal property
20 of the consolidated business; in this subsection, "total interest paid
21 by the consolidated business" does not include interest expense arising
22 from intercompany obligations within the consolidated business except
23 to the extent that the interest expense reflects a pass-through of in-
24 terest on a third-party borrowing by the parent or other member of the
25 consolidated business with the purpose, expressed at the time of the
26 third-party borrowing, of financing Alaska business activity of the
27 taxpayer corporation;

28 (8) expenses incurred by the corporation after December 31,
29 1977, of unsuccessful exploration of oil or gas in the state including

1 the acquisition costs of abandoned properties, dry hole costs, and the
2 costs of geologic and geophysical exploration related to those aban-
3 doned properties;

4 (9) general overhead or administrative expense incurred by
5 the corporation attributable to deriving income from the production of
6 oil or gas from a lease or property in the state to the extent, except
7 as provided in (f) of this section, that it does not exceed [THE LESSER
8 OF:

9 (A)] that portion of the total general overhead or ad-
10 ministrative expense incurred by the consolidated business of
11 which the corporation is a part, determined by multiplying the
12 total general overhead or administrative expense by a fraction,
13 the numerator of which is the value of the corporation's real and
14 tangible personal property used directly in the production of oil
15 or gas from a lease or property in the state and the denominator
16 of which is the value of all real and tangible personal property
17 of the consolidated business;

18 (10) the amount of income from the production of oil and gas
19 from a lease or property that is divided among the regional Native
20 corporations under sec. 7(i) of the Alaska Native Claims Settlement
21 Act (P.L. 92-203);

22 (11) the amount by which the total tax paid or incurred by
23 the taxpayer under AS 43.58 for leases or properties in the state ex-
24 ceeds the amount of credit allowed to the taxpayer under AS 43.58.041;

25 (12) the tax imposed by sec. 4986 of the Internal Revenue
26 Code that is paid or incurred by the taxpayer for oil production from
27 leases or properties in the state [, OR

28 (B) THE SUM OF \$0.12 FOR EACH BARREL OF OIL AND \$0.02
29 FOR EACH THOUSAND CUBIC FEET OF GAS PRODUCED FROM A LEASE OR PROP-

1 ERTY IN THE STATE].

2 * Sec. 4. AS 43.21.020 is amended by adding a new subsection to read:

3 (f) If a corporation demonstrates to the satisfaction of the de-
4 partment that it paid or incurred actual expenses for interest or for
5 general overhead or administration attributable to deriving income from
6 the production of oil or gas from a lease or property in the state in
7 an amount greater than the amount determined under (c)(7) or (c)(9) of
8 this section, the department may allow the corporation to deduct the
9 greater amount.

10 * Sec. 5. AS 43.21.040(b) is repealed and reenacted to read:

11 (b) The total taxable income of the consolidated business is its
12 entire income less the portion of that entire income attributable to
13 worldwide production and pipeline transportation of oil and gas. In
14 this section,

15 (1) for a member of a consolidated business who is required
16 to file under the Internal Revenue Code, "entire income" means taxable
17 income under Subtitle F and chapter 1 of Subtitle A of the Internal
18 Revenue Code of 1954, as amended, except that those provisions adopted
19 after December 31, 1975, which change or modify exemptions from tax are
20 not adopted by reference as a part of this section until the second
21 January 1 following the effective date of the federal law;

22 (2) for a member of a consolidated business who is not
23 required to file under the Internal Revenue Code, "entire income" means
24 book income, except that a taxpayer may elect to report his income as
25 the income would be determined under (1) of this subsection.

26 * Sec. 6. AS 43.21.050 is amended by adding a new subsection to read:

27 (d) If the methods of allocation and apportionment provided in
28 this chapter do not fairly represent the extent of a corporation's
29 business activity in the state, the corporation may petition for or the

1 department may require, in respect to all or any part of the corpora-
2 tion's business activity, if reasonable, the employment of any method
3 authorized under art. IV, sec. 18, of the multistate tax compact
4 (AS 43.19.010) to effectuate an equitable allocation and apportionment
5 of the corporation's income. The commissioner shall include in his
6 annual report required in AS 43.21.110 a report on all relief granted
7 under this subsection, including for each case a statement of the
8 changes in tax liability resulting from the granting of relief, the tax
9 years involved, and a description of the method of determining taxable
10 income that was substituted for those provided in this chapter.

11 * Sec. 7. AS 43.21.070 is amended to read:

12 Sec. 43.21.070. PAYMENT OF TAX. The tax levied under this chap-
13 ter is payable to the department on or before September 30 of each year
14 or in installments, including prepayments of estimated tax, at the
15 times and under the conditions the department may by regulation re-
16 quire. This tax is payable on the due date set out in this section
17 even though the assessment is under appeal or the validity, enforce-
18 ability or application of this chapter or any provision of this chapter
19 is challenged before the department or in the courts.

20 * Sec. 8. AS 43.58 is amended by adding new sections to read:

21 Sec. 43.58.011. FINDINGS AND PURPOSES. (a) The legislature
22 finds that

23 (1) since Statehood the level of public services and public
24 facilities provided by the state government to its citizens has been
25 much below the level provided by other states to their citizens, and
26 this inadequacy has been the result of insufficient state revenues;

27 (2) there exists in Alaska today a level of public services
28 and public facilities far below that which Alaskans are reasonably
29 entitled to expect, and these unmet needs include inadequate public

1 transportation facilities, inadequate public health care facilities and
2 programs, inadequate communications facilities, inadequate public
3 education facilities, inadequate levels of police protection, over-
4 burdened justice facilities, and inadequate energy facilities, and an
5 economy overly dependent on nonrenewable resource development;

6 (3) with the increased revenues that have resulted from
7 increased development of oil resources in Alaska, this legislature,
8 acting on behalf of all the people of Alaska, has embarked upon a leg-
9 islative program intended to begin fulfilling some of the unmet public
10 needs described in (2) of this subsection, and it will take many years
11 of expenditures at current or increased levels to meet these needs;

12 (4) a part of this program includes preparing for the time
13 when the revenues derived from Alaska's nonrenewable resources begin to
14 decline and this preparation includes funding of the Alaska permanent
15 fund, encouraging development of renewable resources, and encouraging
16 economic diversification efforts;

17 (5) there is presently pending in the courts litigation
18 brought by certain taxpayers challenging the constitutionality of the
19 Oil and Gas Corporate Income Tax (AS 43.21), and if the taxpayers in
20 that litigation are successful, the future revenues available to meet
21 the important public needs described in (2) of this subsection will be
22 significantly diminished;

23 (6) it is in the public interest to provide an alternative
24 means of generating revenues sufficient to meet the state's present and
25 future needs if the constitutional challenge to AS 43.21 is successful;

26 (7) imposing additional or alternative state taxes upon
27 small businesses and newly developing industries in Alaska would have a
28 significantly adverse impact upon those businesses and would be coun-
29 terproductive to efforts to encourage economic diversification;

1 (8) the level of taxation currently imposed by the state on
2 the oil industry does not impose an undue burden on that industry and
3 has not discouraged exploration and development of oil resources in
4 Alaska;

5 (9) development of natural gas resources in Alaska has
6 lagged behind oil development in the state and additional or alterna-
7 tive taxes on the natural gas industry may discourage future natural
8 gas development;

9 (10) the imposition of a property tax on oil reserves with a
10 credit for income taxes paid will best provide sufficient alternative
11 revenues without discouraging economic diversification and without
12 discouraging present or future exploration and development of oil
13 resources;

14 (11) it appears that the Congress of the United States has
15 affirmatively granted the authority to tax developed and leased property
16 received under the Alaska Native Claims Settlement Act only to local
17 governments, for a 20-year period, and that a state tax on developed or
18 leased property received under the Alaska Native Claims Settlement Act
19 would be in conflict with the intent and purpose of that Act.

20 (b) The purposes of this Act are to

21 (1) enact a tax which will generate sufficient revenues to

22 (A) meet any judgment that might be rendered against
23 the state in the litigation concerning the Oil and Gas Corporate
24 Income Tax; and

25 (B) provide revenue comparable to the present and
26 projected future revenues derived from AS 43.21 if the Oil and Gas
27 Corporate Income Tax is found to be unconstitutional;

28 (2) avoid imposing cumulative tax liability on taxpayers
29 subject to the Oil and Gas Corporate Income Tax (AS 43.21) by granting

1 a credit of taxes paid under AS 43.21 for those persons subject to the
2 oil reserves property tax;

3 (3) avoid discouraging future exploration and development of
4 oil resources by imposing the tax only on property having commercial
5 production;

6 (4) avoid discouraging the development of economic diver-
7 sification and the development of natural gas production in the state;

8 (5) avoid creating a conflict with federal law by exempting
9 from this tax property received under the Alaska Native Claims Set-
10 tlement Act.

11 Sec. 43.58.021. AD VALOREM TAX. (a) Beginning July 1, 1981, an
12 annual tax is levied each tax year on the full and true value of tax-
13 able property under this chapter.

14 (b) The rate of levy is 25 mills, unless a different rate is en-
15 acted for a tax year no later than the last day of February in that tax
16 year.

17 Sec. 43.58.031. EXEMPTIONS. (a) The following property that
18 would otherwise be taxable property is exempt from taxation under this
19 chapter:

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

21 (2) property exempt from state taxation under the laws of
22 the United States including the exemption of property, whether or not
23 developed or leased to third-parties, under sec. 21(d) of the Alaska
24 Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C.
25 1601, et. seq.);

26 (3) that portion of the full and true value of taxable prop-
27 erty attributable to gas reserves.

28 (b) Notwithstanding the exemptions from taxation authorized by
29 (a) of this section, a leasehold or similar interest held by a third

1 party in property described in (a)(1) or (a)(2) of this section is
2 taxable under this chapter to the extent of the interest.

3 Sec. 43.58.041. CREDITS. (a) The amount of tax under AS 43.21
4 paid during a tax year under this chapter by a taxpayer or the tax-
5 payer's consolidated business for tax periods under AS 43.21 beginning
6 after December 31, 1980, is allowed as a credit against the tax levied
7 under this chapter in the tax year for the taxpayer's taxable property.
8 The credit may not exceed the total amount of tax due for the tax year
9 under this chapter for all of the taxpayer's taxable properties.

10 (b) In addition to the credit allowed under (a) of this section,
11 the amount of tax paid under AS 43.21 by a taxpayer or the taxpayer's
12 consolidated business before July 1, 1981, is allowed as a credit
13 against the tax levied under this chapter for the taxpayer's taxable
14 properties.

15 (c) In applying the credits under (a) and (b) of this section,
16 the credit allowed under (a) of this section shall be applied before
17 applying any credit under (b) of this section. Credit under (b) of
18 this section shall be applied only to the extent that the combined
19 amount of applied credit under (a) and (b) of this section does not ex-
20 ceed three-quarters of the total amount of tax levied under this chap-
21 ter for all of the taxpayer's taxable properties. If the amount of the
22 credit under (b) of this section exceeds the amount that may be applied
23 for a tax year against the tax levied under this chapter, the excess
24 credit under (b) of this section may be carried forward and applied in
25 subsequent tax years until it has been exhausted.

26 (d) For purposes of determining and applying credits under this
27 section, tax paid by a taxpayer under AS 43.20 shall be treated the same
28 as if it had been paid under AS 43.21, but only if the taxpayer would
29 have been subject to AS 43.21 had the taxpayer been a corporation.

1 Sec. 43.58.051. REDETERMINATION OF LIABILITY. If the income tax
2 liability of a taxpayer or the taxpayer's consolidated business under
3 AS 43.20 or AS 43.21 for a tax period is redetermined and adjusted
4 after the credit for that tax period has been applied under AS 43.58.-
5 041, or if the income tax liability of the taxpayer or the taxpayer's
6 consolidated business is redetermined under AS 43.20 and adjusted after
7 the credit for that tax period has been applied under AS 43.58.041,
8 then the taxpayer's tax liability under this chapter for the tax year
9 in which the credit was applied shall be redetermined, taking into
10 account the adjustment to the taxpayer's income tax liability.

11 Sec. 43.58.061. ASSESSMENT. (a) The department shall assess
12 taxable property under this chapter to the owner of it at its full and
13 true value as of July 1 of each tax year.

14 (b) The full and true value of taxable property under this chap-
15 ter is the estimated price which the property would bring for its prov-
16 en reserves in an open market and under the then prevailing market con-
17 ditions in a sale between a willing seller and a willing buyer both
18 conversant with the property and with prevailing values. In determin-
19 ing this value, the department shall consider all factors which may be
20 known by the department to affect the value of taxable property, in-
21 cluding but not limited to the discounted present value of the expected
22 future net income from the proven reserves of the taxable property.

23 (c) In assessing taxable property under this chapter, the depart-
24 ment may not include the assessed value of property subject to tax un-
25 der AS 43.56.

26 (d) In discounting the expected future net income from the tax-
27 able property to its present value under (b) of this section, the de-
28 partment shall presume that the appropriate discount rate is 11.6 per-
29 centage points above the rate of inflation implicit in the GNP deflator

1 over the five calendar years immediately preceding the assessment date.
2 A taxpayer may rebut this presumption only by proving to the department
3 by clear and convincing evidence that the use of the presumed discount
4 rate in the valuation of the property would result in constructive
5 fraud. In this subsection, "GNP deflator" means the deflator for the
6 gross national product published by the United States Department of
7 Commerce.

8 Sec. 43.58.071. ASSESSMENT ROLL. The department shall prepare
9 annually the assessment roll for taxation under this chapter. The roll
10 shall contain:

- 11 (1) a description of all taxable property;
12 (2) the assessed value of all taxable property; and
13 (3) the names and addresses of persons owning or otherwise
14 holding an interest in taxable property.

15 Sec. 43.58.081. ASSESSMENT NOTICE. On or before October 15 of
16 each tax year, the department shall send to every owner of taxable
17 property named in the assessment roll a notice of assessment showing
18 the assessed value of the property. The notice of assessment is effec-
19 tive on the date of its mailing.

20 Sec. 43.58.091. APPEAL. (a) A person aggrieved by the action of
21 the department in making an assessment may appeal that action and ob-
22 tain a formal hearing upon its validity before the department by filing
23 written objections to the assessment not later than 20 days after the
24 effective date of the assessment notice.

25 (b) The procedures for conduct of the formal hearing shall be in
26 accordance with AS 43.05.240. At the hearing the appellant bears the
27 burden of proof. In the absence of this proof the assessment is to be
28 upheld by the department. If the department, after hearing, determines
29 that a correction of the assessment is warranted, the department shall

1 correct the assessment and the assessment roll.

2 (c) Within 30 days after the decision by the department following
3 the hearing, a person aggrieved by that decision may appeal to the su-
4 perior court.

5 Sec. 43.58.101. CERTIFICATION. On or before February 1 of the
6 tax year, the department shall certify the final assessment roll. The
7 department shall mail to the owner, operator, or other person filing a
8 return and paying tax on the taxable property a statement of the amount
9 of tax due no later than March 15 of the tax year.

10 Sec. 43.58.111. SUPPLEMENTAL ASSESSMENT ROLLS. The department
11 shall, using the procedures set out in this chapter for the original
12 roll, prepare a supplemental assessment roll to include property
13 omitted from the original roll and property from which commercial
14 production commences after the beginning of the tax year. If property
15 is included on the supplemental assessment roll because commercial
16 production from it commences after the beginning of the tax year, the
17 assessed value of the property shall be reduced pro rata in proportion
18 to the portion of the tax year preceding the commencement of commercial
19 production from the property.

20 Sec. 43.58.121. INVESTIGATION. (a) The department may make an
21 investigation of property on which a return has been filed or on prop-
22 erty for which no return has been filed. In either case, the depart-
23 ment shall make its own valuation of the taxable property, which is
24 prima facie evidence of full and true value.

25 (b) An employee or agent of the department may enter any premises
26 necessary for the investigation during reasonable hours and may examine
27 property and other appropriate records. The owner of taxable property,
28 upon request, shall furnish to the employee or agent of the department
29 reasonable assistance required for the investigation. If an employee

1 or agent of the department seeking to enter any premises necessary for
2 an investigation under this section or to obtain reasonable assistance
3 required for an investigation under this section is refused entry or
4 assistance, the superior court may, after reasonable notice to and
5 hearing of the owner, order the owner to allow the entry or to furnish
6 the assistance.

7 (c) For the purpose of the investigation, the owner, operator, or
8 other person filing a return and paying the tax on the taxable property
9 or his representative may be required to present himself for examina-
10 tion under oath by the department.

11 Sec. 43.58.131. LIMITATIONS ON ASSESSMENT, COLLECTION, AND REFUND
12 OF TAXES. The limitations on assessment, collection, and refund of
13 taxes under AS 43.05.260, 43.05.270, and 43.05.275 apply to the tax
14 levied under this chapter except that a redetermination of tax under
15 AS 43.58.041(d) is not subject to these limitations.

16 Sec. 43.58.141. RETURNS AND PAYMENT OF TAX. (a) A return of
17 taxable property shall be submitted no later than August 1 on the form
18 prescribed by the department based on property values existing on
19 July 1 of each tax year

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

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

24 (3) by the trustee of a trust estate holding taxable proper-
25 ty in trust for the benefit of another person;

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

28 (5) by the receiver of a corporation having taxable property.

29 (b) The person required to submit the return specified under (a)

1 of this section is primarily liable for payment of the tax levied by
2 this chapter. The persons or estates specified in (a)(2) - (5) of this
3 section in whose behalf the tax levied by this chapter is to be paid
4 are secondarily liable for payment of the tax. With the written ap-
5 proval of the department, an operator or nonoperator of the lease or
6 property may submit returns or make payment of the tax levied under
7 this chapter on behalf of himself and such other persons as the depart-
8 ment may approve.

9 (c) The tax levied under this chapter is payable to the depart-
10 ment on or before June 30 of each tax year or in installments, includ-
11 ing prepayments, at the times and under the conditions the department
12 may by regulation require. This tax is payable on the due date set out
13 in this subsection or at the times required by the department under its
14 regulations even though the assessment is under appeal or the validity,
15 enforceability, or application of this chapter or any provision of this
16 chapter is challenged before the department or in the courts.

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

22 (e) A person making payment of the tax levied under this chapter
23 on behalf of one or more other persons owning or otherwise holding an
24 interest in a taxable property may withhold a proportionate share of
25 the payment from any proceeds or other benefits from the taxable prop-
26 erty owed to a person on whose behalf the payment is made. Unless
27 otherwise specifically provided by written contract or agreement, the
28 person so withholding a proportionate share of the tax levied under
29 this chapter incurs no liability to those from whom it is withheld by

1 virtue of having made the withholding.

2 (f) By written notice the department may require a person filing
3 a return to submit additional information to the department within 30
4 days.

5 Sec. 43.58.151. REGULATIONS. The department may adopt regula-
6 tions in accordance with the Administrative Procedure Act (AS 44.62) as
7 appropriate to administer and enforce this chapter.

8 Sec. 43.58.161. DEFINITIONS. In this chapter

9 (1) "commercial production" means the production of oil or
10 gas for purposes of sale or other beneficial use, except when the sale
11 or beneficial use is incidental to the testing of an unproven well or
12 unproved completion interval;

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

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

16 (4) "oil" means crude petroleum and other hydrocarbons re-
17 gardless of gravity which, when recovered, are recovered at the well-
18 head in liquid form, and the liquid hydrocarbons known as distillate or
19 condensate that are recovered by separation from gas other than at a
20 gas processing plant;

21 (5) "operator" means the person conducting the exploration,
22 development, or production operation for a property;

23 (6) "property" means any right, title, or interest in or the
24 right to produce or recover oil or gas including:

25 (A) a mineral interest;

26 (B) a leasehold interest;

27 (C) a working interest, royalty interest, overriding
28 royalty interest, production payment, net profit interest, or any
29 other interest in a lease, concession, joint venture, or other

1 agreement for oil and gas exploration, development, or production;

2 (D) a working interest, royalty interest, overriding
3 royalty interest, production payment, net profit interest, or any
4 other interest in an agreement for unitization or pooling under
5 the provision of sec. 614(b)(3) of the Internal Revenue Code of
6 1954 as defined on the effective date of this paragraph;

7 (7) "proven reserves" means the volumes of oil and gas in a
8 known deposit which geological and engineering information indicate to
9 be recoverable in the future under prevailing economic conditions and
10 technology;

11 (8) "tax year" means a calendar period beginning on July 1
12 of one calendar year and ending on June 30 of the following calendar
13 year;

14 (9) "taxable property" means a property having commercial
15 production.

16 * Sec. 9. AS 43.58.041 has been included in sec. 8 of this Act so that
17 persons subject to the tax under AS 43.21 will not bear the cumulative bur-
18 den of both the tax under AS 43.21 and AS 43.58. It is the intent of the
19 legislature that the inclusion of this section granting tax credits does not
20 in any manner change the intent, validity, or enforceability of the basic ad
21 valorem tax imposed by this Act. If the inclusion of AS 43.58.041, or any
22 portion of it, results in a judicial decision that the ad valorem tax im-
23 posed by this Act is invalid, then AS 43.58.041, or that portion of it that
24 causes the invalidity, is void and of no effect, and AS 43.58, enacted in
25 sec. 8 of this Act, shall be read as if that section or that portion of it
26 had never been included.

27 * Sec. 10. If an exemption under AS 43.58.031(1), (2), or (3) is held
28 invalid by a final judgment of a court from which an appeal is not taken,
29 then that exemption is void, and AS 43.58, enacted in sec. 8 of this Act,

1 shall be read as if that exemption had never been included.

2 * Sec. 11. If the method of determining taxable income under either
3 AS 43.21.020 or 43.21.030 is held invalid by a final judgment of a court
4 from which an appeal is not taken, and if as a result of that judgment a
5 corporation, whether or not a party named in that judgment, receives a re-
6 fund of taxes or estimated taxes paid under AS 43.21, then the provisions of
7 AS 43.20 apply to that corporation for the entire period for which it re-
8 ceives the refund.

9 * Sec. 12. (a) Notwithstanding the provisions of AS 43.58.021(b), en-
10 acted in sec. 8 of this Act, the rate of levy under AS 43.58 for the tax
11 year beginning July 1, 1981, is 30 mills.

12 (b) Notwithstanding the provisions of AS 43.58.041(c), enacted in
13 sec. 8 of this Act, for the tax year beginning July 1, 1981, credit under
14 AS 43.58.041(b) shall be applied only to the extent that the combined amount
15 of applied credit under AS 43.58.041(a) and (b) does not exceed two-thirds
16 of the total amount of tax levied under AS 43.58 for all of the taxpayer's
17 taxable properties.

18 * Sec. 13. AS 43.21.040(d) and (e) are repealed.

19 * Sec. 14. AS 43.55.011(d), 43.55.012(a), 43.55.018; AS 43.58.010,
20 43.58.020, 43.58.030, 43.58.040, 43.58.050, 43.58.060, 43.58.070, 43.58.080,
21 43.58.090, 43.58.100, 43.58.110, 43.58.150, 43.58.160, 43.58.170, 43.58.180,
22 43.58.190, and 43.58.200 are repealed.

23 * Sec. 15. Sections 1 - 7, 11, and 13 of this Act are retroactive to
24 January 1, 1978, and apply to tax years beginning after December 31, 1977.

25 * Sec. 16. Sections 8, 12, and 14 of this Act take effect July 1, 1981.

26 * Sec. 17. Sections 9, 10, and 15 of this Act take effect immediately in
27 accordance with AS 01.10.070(c).

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