

Introduced: 2/19/81  
Referred: Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 192

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 the oil and gas corporate income  
7 tax; and providing for an effective date."

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

9 \* Section 1. AS 43.21.020(c) is amended to read:

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

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

13 (2) taxes imposed under AS 43.55 and AS 43.57 which are act-  
14 ually paid or incurred by the corporation on the production from a  
15 lease or property in the state;

16 (3) taxes imposed under AS 43.56 and AS 29.53 which are act-  
17 ually paid or incurred by the corporation on property used directly in  
18 the production of oil or gas from a lease or property in the state, in-  
19 cluding property used in production, gathering, treatment or preparation  
20 of the oil or gas for pipeline transportation, but only if those pro-  
21 perty tax payments were due and payable only after the date of commer-  
22 cial roduction from the lease or property with which the property was  
23 associated;

24 (4) the direct costs incurred by or for the corporation in  
25 operating the lease or property, including the direct costs of producing  
26 gathering, treating or preparing the oil or gas for pipeline transporta-  
27 tion, but not of any payments received for those activities and not in-  
28 cluding any indirect costs or overhead expense;

29 (5) depreciation (using the unit of production method or

1 such other reasonable methods as the department may by regulation est-  
2 ablish) on property used directly in the production, gathering, treat-  
3 ment or preparation of the oil or gas for pipeline transportation in-  
4 cluding amortization of capitalized interest for investments in this  
5 property at a rate not to exceed the average cost of borrowed capital  
6 to the taxpayer during the year in which it is capitalized;

7 (6) the amortization of lease acquisition payments and taxes  
8 paid or incurred under AS 43.56 and AS 29.53 (including capitalized  
9 interest on both) for or on producing properties before the commencement  
10 of commercial production from the lease or property for which the pro-  
11 perty is being used;

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

1 of the taxpayer corporation;

2 (8) expenses incurred by the corporation after December 31,  
3 1977 of unsuccessful exploration of oil or gas in the state including  
4 the acquisition costs of abandoned properties, dry hole costs and the  
5 costs of geologic and geophysical exploration related to those abandoned  
6 properties;

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

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

20 (B) THE SUM OF \$0.12 FOR EACH BARREL OF OIL AND \$0.02  
21 FOR EACH THOUSAND CUBIC FEET OF GAS PRODUCED FROM A LEASE OR PRO-  
22 PERTY IN THE STATE].

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

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

1 \* Sec. 3. AS 43.21.040(b) is amended to read:

2 (b) The total taxable income of the consolidated business is  
3 its entire taxable income less the portion of that taxable income attri-  
4 butable to worldwide production and pipeline transportation of oil and  
5 gas. In this subsection, "taxable income" is taxable income under Sub-  
6 title F and chapter 1 of Subtitle A of the Internal Revenue Code of 1954  
7 as amended, except that those provisions adopted after December 31, 1975  
8 which change or modify exemptions from tax are not adopted by reference  
9 as a part of this section until the second January 1 following the  
10 effective date of the federal law. In computing taxable income under  
11 this section, the taxpayer is not entitled to deduct any taxes based on  
12 or measured by net income [SHALL BE THE NET INCOME DETERMINED AND  
13 CERTIFIED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT FOR THE PURPOSES  
14 OF A REPORT TO SHAREHOLDERS COVERING ITS EARNINGS AND PROFITS FOR THE  
15 TAXABLE YEAR (CALCULATED WITHOUT REGARD TO ANY TAXES ON OR MEASURED BY  
16 NET INCOME), LESS THE EARNINGS AND PROFITS OF THE CONSOLIDATED BUSINESS  
17 GAINED DIRECTLY FROM OIL AND GAS PRODUCTION AND PIPELINE TRANSPORTATION]

18 \* Sec. 4. AS 43.21.040(d) and (e) are repealed.

19 \* Sec. 5. AS 43.21.050 is amended by adding a new subsection to read:

20 (d) If the methods of allocation and apportionment provided in  
21 this chapter do not fairly represent the extent of a corporation's  
22 business activity in the state, the corporation may petition for or the  
23 department may require, in respect to all or any part of the corpora-  
24 tion's business activity, if reasonable, the employment of any method  
25 authorized under art. IV, sec. 18, of the multistate tax compact (AS  
26 43.19.010) to effectuate an equitable allocation and apportionment of  
27 the corporation's income.

28 \* Sec. 6. AS 43.21.070 is amended to read:

29 Sec. 43.21.070. PAYMENT OF TAX. The tax levied under this chapter

1 is payable to the department on or before September 30 of each year or  
2 in installments, including prepayments of estimated tax, at the times  
3 and under the conditions the department may by regulation require.  
4 This tax is payable on the due date set out in this section even though  
5 the assessment is under appeal or the validity, enforceability or  
6 application of this chapter or any provision of this chapter is chal-  
7 lenged before the department or in the courts.

8 \* Sec. 7. If the method of determining taxable income under either AS  
9 43.21.020 or AS 43.21.030 is held invalid by a final judgment of a court  
10 from which an appeal is not taken, and if as a result of that judgment a  
11 corporation, whether or not a party named in that judgment, receives a  
12 refund of taxes or estimated taxes paid under AS 43.21, then the provisions  
13 of AS 43.20 apply to that corporation for the entire period for which it  
14 receives the refund.

15 \* Sec. 8. This Act is retroactive to January 1, 1978, and applies to tax  
16 years beginning after December 31, 1977.

17 \* Sec. 9. This Act takes effect immediately in accordance with AS 01.10.-  
18 070(c).