

Original sponsor: Finance Committee

Offered: 6/8/81
For Today's Calendar

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 524 (Finance)

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 taxes, and providing for an effective date."
7

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 taxable
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 income,
13 and a surtax which is equal to 4.0 percent of taxable income, except
14 that the tax on a corporation doing business in the state which
15 derives income from [ENGAGED IN] the production or pipeline transportation
16 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 43.20.036(b) is amended to read:

27 (b) For purposes of calculating the income tax payable under this
28 chapter, the taxpayer may apply as a credit against his tax liability
29 the [JOB DEVELOPMENT] investment credit allowed as to federal taxes

1 under Internal Revenue Code sec. 38 (26 U.S.C. 38) [50] upon only the
2 first \$20,000,000 [\$500,000] of qualified investment put into use in
3 the state for each taxable year [(26 U.S.C. SEC. 50)]. This limitation
4 does not apply to the amounts invested in equipment which meets the
5 definition of a certified pollution control facility as defined under
6 Internal Revenue Code sec. 169 (26 U.S.C. sec. 169) as in effect on
7 June 19, 1975 [THE EFFECTIVE DATE OF THIS ACT] except that the date
8 specified in Internal Revenue Code [THAT] section 169(d) as a condition
9 of qualifying a certified pollution control facility for a deduction
10 does not apply.

11 * Sec. 3. AS 43.21.010 is amended to read:

12 Sec. 43.21.010. APPLICATION. This chapter applies to every cor-
13 poration doing business in the state which derives income from the pro-
14 duction of oil or gas from a lease or property in the state [,] or from
15 the pipeline transportation of oil or gas in the state. The tax calcu-
16 lated under this chapter is measured by the total taxable income of the
17 corporation during the tax period as determined under [DEFINED IN]
18 AS 43.21.020 - 43.21.040 and is calculated [DETERMINED] at the rates
19 established under AS 43.20.011(e).

20 * Sec. 4. AS 43.21.020(c) is amended to read:

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

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

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

27 (3) taxes imposed under AS 43.56 and AS 29.53 which are ac-
28 tually paid or incurred by the corporation on property used directly in
29 the production of oil or gas from a lease or property in the state, in-

1 cluding property used in production, gathering, treatment, or prepara-
2 tion of the oil or gas for pipeline transportation, but only if those
3 property tax payments were due and payable only after the date of com-
4 mercial production from the lease or property with which the property
5 was associated;

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

11 (5) depreciation (using the unit of production method or
12 such other reasonable methods as the department may by regulation es-
13 tablish) on property used directly in the production, gathering, treat-
14 ment, or preparation of the oil or gas for pipeline transportation in-
15 cluding amortization of capitalized interest for investments in this
16 property at a rate not to exceed the average cost of borrowed capital
17 to the taxpayer during the year in which it is capitalized;

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

23 (7) interest expense of the corporation, not capitalized
24 during construction, that was paid or incurred in connection with prop-
25 erty in Alaska; however, unless (f) of this section applies, the inter-
26 est expense may [TO THE EXTENT THAT IT DOES] not exceed that portion of
27 the total interest paid by the consolidated business of which the cor-
28 poration is a part, determined by multiplying the total interest [(RE-
29 DUCED BY INTERCOMPANY TRANSACTIONS WITHIN THE CONSOLIDATED BUSINESS)]

1 by a fraction, the numerator of which is the value of the corporation's
2 real and tangible personal property used directly in the production of
3 oil or gas from a lease or property in the state and the denominator of
4 which is the value of all real and tangible personal property of the
5 consolidated business; in this subsection, "total interest paid by
6 the consolidated business" does not include interest expense arising
7 from intercompany obligations within the consolidated business except
8 to the extent that the interest expense reflects a pass-through of in-
9 terest on a third-party borrowing by the parent or other member of the
10 consolidated business with the purpose, expressed at the time of the
11 third-party borrowing, of financing Alaska business activity of the
12 taxpayer corporation;

13 (8) expenses incurred by the corporation after December 31,
14 1977, of unsuccessful exploration of oil or gas in the state including
15 the acquisition costs of abandoned properties, dry hole costs, and the
16 costs of geologic and geophysical exploration related to those aban-
17 doned properties;

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

23 (A)] that portion of the total general overhead or ad-
24 ministrative expense incurred by the consolidated business of
25 which the corporation is a part, determined by multiplying the
26 total general overhead or administrative expense by a fraction,
27 the numerator of which is the value of the corporation's real and
28 tangible personal property used directly in the production of oil
29 or gas from a lease or property in the state and the denominator

1 of which is the value of all real and tangible personal property
2 of the consolidated business;

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

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

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

13 (B) THE SUM OF \$0.12 FOR EACH BARREL OF OIL AND \$0.02
14 FOR EACH THOUSAND CUBIC FEET OF GAS PRODUCED FROM A LEASE OR PROP-
15 ERTY IN THE STATE].

16 * Sec. 5. AS 43.21.020 is amended by adding a new subsection to read:

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

24 * Sec. 6. AS 43.21.040(b) is repealed and reenacted to read:

25 (b) The total taxable income of the consolidated business is its
26 entire income less the portion of that entire income attributable to
27 worldwide production and pipeline transportation of oil and gas. In
28 this section,

29 (1) for a member of a consolidated business who is required

1 to file under the Internal Revenue Code, "entire income" means taxable
2 income under Subtitle F and chapter 1 of Subtitle A of the Internal
3 Revenue Code of 1954, as amended, except that those provisions adopted
4 after December 31, 1975, that change or modify exemptions from tax are
5 not adopted by reference as a part of this section until the second
6 January 1 following the effective date of the federal law;

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

11 * Sec. 7. AS 43.21 is amended by adding a new section to read:

12 Sec. 43.21.045. CREDITS. For purposes of calculating the tax
13 payable under this chapter, the taxpayer may apply as a credit against
14 his tax liability the investment credit allowed under AS 43.20.036(b)
15 and AS 43.20.021(d).

16 * Sec. 8. AS 43.21.050 is amended by adding a new subsection to read:

17 (d) If the methods of allocation and apportionment provided in
18 this chapter do not fairly represent the extent of a corporation's
19 business activity in the state, the corporation may petition for or the
20 department may require, in respect to all or any part of the corpora-
21 tion's business activity, if reasonable, the employment of any method
22 authorized under art. IV, sec. 18, of the multistate tax compact
23 (AS 43.19.010) to effectuate an equitable allocation and apportionment
24 of the corporation's income. The commissioner shall include in his
25 annual report required in AS 43.21.110 a report on all relief granted
26 under this subsection, including for each case a statement of the
27 changes in tax liability resulting from the granting of relief, the tax
28 years involved, and a description of the method of determining taxable
29 income that was substituted for those provided in this chapter.

1 * Sec. 9. AS 43.21.070 is amended to read:

2 Sec. 43.21.070. PAYMENT OF TAX. The tax levied under this chap-
3 ter is payable to the department on or before September 30 of each year
4 or in installments, including prepayments of estimated tax, at the
5 times and under the conditions the department may by regulation re-
6 quire. This tax is payable on the due date set out in this section
7 even though the assessment is under appeal or the validity, enforce-
8 ability or application of this chapter or any provision of this chapter
9 is challenged before the department or in the courts.

10 * Sec. 10. AS 43.58 is amended by adding new sections to read:

11 Sec. 43.58.011. FINDINGS AND PURPOSES. (a) The legislature
12 finds that

13 (1) since statehood the level of public services and public
14 facilities provided by the state government to its citizens has been
15 much below the level provided by other states to their citizens, and
16 this inadequacy has been the result of insufficient state revenues;

17 (2) there exists in Alaska today a level of public services
18 and public facilities far below that which Alaskans are reasonably
19 entitled to expect, and these unmet needs include inadequate public
20 transportation facilities, inadequate public health care facilities and
21 programs, inadequate communications facilities, inadequate public
22 education facilities, inadequate levels of police protection, over-
23 burdened justice facilities, and inadequate energy facilities, and an
24 economy overly dependent on nonrenewable resource development;

25 (3) with the increased revenues that have resulted from
26 increased development of oil resources in Alaska, this legislature,
27 acting on behalf of all the people of Alaska, has embarked upon a leg-
28 islative program intended to begin fulfilling some of the unmet public
29 needs described in (2) of this subsection, and it will take many years

1 of expenditures at current or increased levels to meet these needs;

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

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

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

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

20 (8) the level of taxation currently imposed by the state on
21 the oil industry does not impose an undue burden on that industry and
22 has not discouraged exploration and development of oil resources in
23 Alaska;

24 (9) development of natural gas resources in Alaska has
25 lagged behind oil development in the state and additional or alterna-
26 tive taxes on the natural gas industry may discourage future natural
27 gas development;

28 (10) the imposition of a property tax on oil reserves with a
29 credit for income taxes paid will best provide sufficient alternative

1 revenues without discouraging economic diversification and without
2 discouraging present or future exploration and development of oil
3 resources;

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

10 (b) The purposes of this Act are to

11 (1) enact a tax that will generate sufficient revenues to

12 (A) meet any judgment that might be rendered against
13 the state in the litigation concerning the Oil and Gas Corporate
14 Income Tax; and

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

18 (2) avoid imposing cumulative tax liability on taxpayers
19 subject to the Oil and Gas Corporate Income Tax (AS 43.21) by granting
20 a credit of taxes paid under AS 43.21 for those persons subject to the
21 oil reserves property tax;

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

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

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

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

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

7 Sec. 43.58.031. EXEMPTIONS. (a) The following property that
8 would otherwise be taxable property is exempt from taxation under this
9 chapter:

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

11 (2) property exempt from state taxation under the laws of
12 the United States including the exemption of property, whether or not
13 developed or leased to third-parties, under sec. 21(d) of the Alaska
14 Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C.
15 1601, et. seq.);

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

18 (b) Notwithstanding the exemptions from taxation authorized by
19 (a) of this section, a leasehold or similar interest held by a third
20 party in property described in (a)(1) or (a)(2) of this section is
21 taxable under this chapter to the extent of the interest.

22 Sec. 43.58.041. CREDITS. (a) The amount of tax under AS 43.21
23 paid during a tax year under this chapter by a taxpayer or the tax-
24 payer's consolidated business for tax periods under AS 43.21 beginning
25 after December 31, 1980, is allowed as a credit against the tax levied
26 under this chapter in the tax year for the taxpayer's taxable property.
27 The credit may not exceed the total amount of tax due for the tax year
28 under this chapter for all of the taxpayer's taxable properties.

29 (b) In addition to the credit allowed under (a) of this section,

1 the amount of tax paid under AS 43.21 by a taxpayer or the taxpayer's
2 consolidated business before July 1, 1981, is allowed as a credit
3 against the tax levied under this chapter for the taxpayer's taxable
4 properties.

5 (c) In applying the credits under (a) and (b) of this section,
6 the credit allowed under (a) of this section shall be applied before
7 applying any credit under (b) of this section. Credit under (b) of
8 this section shall be applied only to the extent that the combined
9 amount of applied credit under (a) and (b) of this section does not ex-
10 ceed three-quarters of the total amount of tax levied under this chap-
11 ter for all of the taxpayer's taxable properties. If the amount of the
12 credit under (b) of this section exceeds the amount that may be applied
13 for a tax year against the tax levied under this chapter, the excess
14 credit under (b) of this section may be carried forward and applied in
15 subsequent tax years until it has been exhausted.

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

21 Sec. 43.58.051. REDETERMINATION OF LIABILITY. If the income tax
22 liability of a taxpayer or the taxpayer's consolidated business under
23 AS 43.20 or AS 43.21 for a tax period is redetermined and adjusted
24 after the credit for that tax period has been applied under AS 43.58.-
25 041, or if the income tax liability of the taxpayer or the taxpayer's
26 consolidated business is redetermined under AS 43.20 and adjusted after
27 the credit for that tax period has been applied under AS 43.58.041,
28 then the taxpayer's tax liability under this chapter for the tax year
29 in which the credit was applied shall be redetermined, taking into

1 account the adjustment to the taxpayer's income tax liability.

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

5 (b) The full and true value of taxable property under this chap-
6 ter is the estimated price that the property would bring for its proven
7 reserves in an open market and under the then prevailing market con-
8 ditions in a sale between a willing seller and a willing buyer both
9 conversant with the property and with prevailing values. In determin-
10 ing this value, the department shall consider all factors that may be
11 known by the department to affect the value of taxable property, in-
12 cluding but not limited to the discounted present value of the expected
13 future net income from the proven reserves of the taxable property.

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

17 (d) In discounting the expected future net income from the tax-
18 able property to its present value under (b) of this section, the de-
19 partment shall presume that the appropriate discount rate is 11.6 per-
20 centage points above the rate of inflation implicit in the GNP deflator
21 over the five calendar years immediately preceding the assessment date.
22 A taxpayer may rebut this presumption only by proving to the department
23 by clear and convincing evidence that the use of the presumed discount
24 rate in the valuation of the property would result in constructive
25 fraud. In this subsection, "GNP deflator" means the deflator for the
26 gross national product published by the United States Department of
27 Commerce.

28 Sec. 43.58.071. ASSESSMENT ROLL. The department shall prepare
29 annually the assessment roll for taxation under this chapter. The roll

1 shall contain:

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

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

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

16 (b) The procedures for conduct of the formal hearing shall be in
17 accordance with AS 43.05.240. At the hearing the appellant bears the
18 burden of proof. In the absence of this proof the assessment is to be
19 upheld by the department. If the department, after hearing, determines
20 that a correction of the assessment is warranted, the department shall
21 correct the assessment and the assessment roll.

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

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

1 Sec. 43.58.111. SUPPLEMENTAL ASSESSMENT ROLLS. The department
2 shall, using the procedures set out in this chapter for the original
3 roll, prepare a supplemental assessment roll to include property omitted
4 from the original roll and property from which commercial production
5 commences after the beginning of the tax year. If property is included
6 on the supplemental assessment roll because commercial production from
7 it commences after the beginning of the tax year, the assessed value of
8 the property shall be reduced pro rata in proportion to the portion of
9 the tax year preceding the commencement of commercial production from
10 the property.

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

16 (b) An employee or agent of the department may enter any premises
17 necessary for the investigation during reasonable hours and may examine
18 property and other appropriate records. The owner of taxable property,
19 upon request, shall furnish to the employee or agent of the department
20 reasonable assistance required for the investigation. If an employee
21 or agent of the department seeking to enter any premises necessary for
22 an investigation under this section or to obtain reasonable assistance
23 required for an investigation under this section is refused entry or
24 assistance, the superior court may, after reasonable notice to and
25 hearing of the owner, order the owner to allow the entry or to furnish
26 the assistance.

27 (c) For the purpose of the investigation, the owner, operator, or
28 other person filing a return and paying the tax on the taxable property
29 or his representative may be required to present himself for examina-

1 tion under oath by the department.

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

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

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

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

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

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

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

20 (b) The person required to submit the return specified under (a)
21 of this section is primarily liable for payment of the tax levied by
22 this chapter. The persons or estates specified in (a)(2) - (5) of this
23 section in whose behalf the tax levied by this chapter is to be paid
24 are secondarily liable for payment of the tax. With the written ap-
25 proval of the department, an operator or nonoperator of the lease or
26 property may submit returns or make payment of the tax levied under
27 this chapter on behalf of himself and such other persons as the depart-
28 ment may approve.

29 (c) The tax levied under this chapter is payable to the depart-

1 ment on or before June 30 of each tax year or in installments, includ-
2 ing prepayments, at the times and under the conditions the department
3 may by regulation require. This tax is payable on the due date set out
4 in this subsection or at the times required by the department under its
5 regulations even though the assessment is under appeal or the validity,
6 enforceability, or application of this chapter or any provision of this
7 chapter is challenged before the department or in the courts.

8 (d) With the prior written approval of the department, a person
9 submitting returns or making payments as required under this chapter
10 for more than one taxable property may regard those properties as a
11 single taxable property for purposes of submitting those reports or
12 making those payments.

13 (e) A person making payment of the tax levied under this chapter
14 on behalf of one or more other persons owning or otherwise holding an
15 interest in a taxable property may withhold a proportionate share of
16 the payment from any proceeds or other benefits from the taxable prop-
17 erty owed to a person on whose behalf the payment is made. Unless
18 otherwise specifically provided by written contract or agreement, the
19 person so withholding a proportionate share of the tax levied under
20 this chapter incurs no liability to those from whom it is withheld by
21 virtue of having made the withholding.

22 (f) By written notice the department may require a person filing
23 a return to submit additional information to the department within 30
24 days.

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

28 Sec. 43.58.161. DEFINITIONS. In this chapter

29 (1) "commercial production" means the production of oil or

1 gas for purposes of sale or other beneficial use, except when the sale
2 or beneficial use is incidental to the testing of an unproven well or
3 unproved completion interval;

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

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

7 (4) "oil" means crude petroleum and other hydrocarbons re-
8 gardless of gravity that, when recovered, are recovered at the wellhead
9 in liquid form, and the liquid hydrocarbons known as distillate or
10 condensate that are recovered by separation from gas other than at a
11 gas processing plant;

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

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

16 (A) a mineral interest;

17 (B) a leasehold interest;

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

22 (D) a working interest, royalty interest, overriding
23 royalty interest, production payment, net profit interest, or any
24 other interest in an agreement for unitization or pooling under
25 the provision of sec. 614(b)(3) of the Internal Revenue Code of
26 1954 as defined on the effective date of this paragraph;

27 (7) "proven reserves" means the volumes of oil and gas in a
28 known deposit which geological and engineering information indicate to
29 be recoverable in the future under prevailing economic conditions and

1 technology;

2 (8) "tax year" means a calendar period beginning on July 1
3 of one calendar year and ending on June 30 of the following calendar
4 year;

5 (9) "taxable property" means a property having commercial
6 production.

7 * Sec. 11. AS 43.58.041 has been included in sec. 10 of this Act so that
8 persons subject to the tax under AS 43.21 will not bear the cumulative bur-
9 den of both the tax under AS 43.21 and AS 43.58. It is the intent of the
10 legislature that the inclusion of this section granting tax credits does not
11 in any manner change the intent, validity, or enforceability of the basic ad
12 valorem tax imposed by this Act. If the inclusion of AS 43.58.041, or any
13 portion of it, results in a judicial decision that the ad valorem tax im-
14 posed by this Act is invalid, then AS 43.58.041, or that portion of it that
15 causes the invalidity, is void and of no effect, and AS 43.58, enacted in
16 sec. 10 of this Act, shall be read as if that section or that portion of it
17 had never been included.

18 * Sec. 12. If an exemption under AS 43.58.031(1), (2), or (3) is held
19 invalid by a final judgment of a court from which an appeal is not taken,
20 then that exemption is void, and AS 43.58, enacted in sec. 10 of this Act,
21 shall be read as if that exemption had never been included.

22 * Sec. 13. If the method of determining taxable income under either
23 AS 43.21.020 or 43.21.030 is held invalid by a final judgment of a court
24 from which an appeal is not taken, and if as a result of that judgment a
25 corporation, whether or not a party named in that judgment, receives a re-
26 fund of taxes or estimated taxes paid under AS 43.21, then the provisions of
27 AS 43.20 apply to that corporation for the entire period for which it re-
28 ceives the refund.

29 * Sec. 14. (a) Notwithstanding the provisions of AS 43.58.021(b), en-

1 acted in sec. 10 of this Act, the rate of levy under AS 43.58 for the tax
2 year beginning July 1, 1981, is 30 mills.

3 (b) Notwithstanding the provisions of AS 43.58.041(c), enacted in
4 sec. 10 of this Act, for the tax year beginning July 1, 1981, credit under
5 AS 43.58.041(b) shall be applied only to the extent that the combined amount
6 of applied credit under AS 43.58.041(a) and (b) does not exceed two-thirds
7 of the total amount of tax levied under AS 43.58 for all of the taxpayer's
8 taxable properties.

9 * Sec. 15. TRANSITION. During the first year of the annual tax levied
10 under AS 43.58.021, the value of taxable property shall be assessed as of
11 the effective date of sec. 10 of this Act. During the first year of the tax
12 levied under AS 43.58.021, the return required under AS 43.58.141 shall be
13 submitted no later than 30 days after the effective date of sec. 10 of this
14 Act, and the Department of Revenue shall send the notice of assessment
15 required under AS 43.58.081 no later than 60 days after the effective date
16 of sec. 10 of this Act.

17 * Sec. 16. AS 43.21.040(d) and (e) are repealed.

18 * Sec. 17. AS 43.55.011(d), 43.55.012(a), 43.55.018; AS 43.58.010,
19 43.58.020, 43.58.030, 43.58.040, 43.58.050, 43.58.060, 43.58.070, 43.58.080,
20 43.58.090, 43.58.100, 43.58.110, 43.58.150, 43.58.160, 43.58.170, 43.58.180,
21 43.58.190, and 43.58.200 are repealed.

22 * Sec. 18. Sections 1, 3 - 6, 8, 9, 13, and 16 of this Act are retro-
23 active to January 1, 1978, and apply to tax years beginning after
24 December 31, 1977.

25 * Sec. 19. Sections 11, 12, and 18 of this Act take effect immediately
26 in accordance with AS 01.10.070(c).

27 * Sec. 20. Sections 2 and 7 of this Act take effect September 1, 1981,
28 and apply to expenditures that qualify for the investment credit that are
29 made on or after that date.