

Original sponsor: Finance Committee

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For Today's Calendar

1 IN THE SENATE

BY THE FINANCE COMMITTEE

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HOUSE CS FOR SENATE BILL NO. 524 (Finance) am H

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."

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

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

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

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

Sec. 43.21.010. APPLICATION. This chapter applies to every corporation doing business in the state which derives income from the production of oil or gas from a lease or property in the state [,] or from the pipeline transportation of oil or gas in the state. The tax calcu-

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

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

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

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

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

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

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

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

1 property at a rate not to exceed the average cost of borrowed capital  
2 to the taxpayer during the year in which it is capitalized;

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

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

27 (8) expenses incurred by the corporation after December 31,  
28 1977, of unsuccessful exploration of oil or gas in the state including  
29 the acquisition costs of abandoned properties, dry hole costs, and the

1 costs of geologic and geophysical exploration related to those aban-  
2 doned properties;

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

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

17 (10) the amount of income from the production of oil and gas  
18 from a lease or property that is divided among the regional Native  
19 corporations under sec. 7(1) of the Alaska Native Claims Settlement  
20 Act (P.L. 92-203);

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

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

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

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

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

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

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

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

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

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

26 (d) If the methods of allocation and apportionment provided in  
27 this chapter do not fairly represent the extent of a corporation's  
28 business activity in the state, the corporation may petition for or the  
29 department may require, in respect to all or any part of the corpora-

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

10 \* Sec. 7. AS 43.21.070 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

29 (8) the level of taxation currently imposed by the state on

1 the oil industry does not impose an undue burden on that industry and  
2 has not discouraged exploration and development of oil resources in  
3 Alaska;

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

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

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

20 (b) The purposes of this Act are to

21 (1) enact a tax that 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 (a)  
27 and (b) of this section, tax paid by a taxpayer under AS 43.20 shall be  
28 treated the same as if it had been paid under AS 43.21, but only if the  
29 taxpayer would have been subject to AS 43.21 had the taxpayer been a

1 corporation.

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

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

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

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

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

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

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

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

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

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

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

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that a correction of the assessment is warranted, the department shall correct the assessment and the assessment roll.

(c) Within 30 days after the decision by the department following the hearing, a person aggrieved by that decision may appeal to the superior court.

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

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

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

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

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

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

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

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

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

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

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

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

29 (5) by the receiver of a corporation having taxable

1 property.

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

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

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

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

1 person so withholding a proportionate share of the tax levied under  
2 this chapter incurs no liability to those from whom it is withheld by  
3 virtue of having made the withholding.

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

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

10 Sec. 43.58.161. DEFINITIONS. In this chapter

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

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

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

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

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

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

27 (A) a mineral interest;

28 (B) a leasehold interest;

29 (C) a working interest, royalty interest, overriding

1 royalty interest, production payment, net profit interest, or any  
2 other interest in a lease, concession, joint venture, or other  
3 agreement for oil and gas exploration, development, or production;

4 (D) a working interest, royalty interest, overriding  
5 royalty interest, production payment, net profit interest, or any  
6 other interest in an agreement for unitization or pooling under  
7 the provision of sec. 614(b)(3) of the Internal Revenue Code of  
8 1954 as defined on the effective date of this paragraph;

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

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

16 (9) "taxable property" means a property having commercial  
17 production.

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

29 \* Sec. 10. If an exemption under AS 43.58.031(1), (2), or (3) is held

1 invalid by a final judgment of a court from which an appeal is not taken,  
2 then that exemption is void, and AS 43.58, enacted in sec. 8 of this Act,  
3 shall be read as if that exemption had never been included.

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

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

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

20 \* Sec. 13. TRANSITION. During the first year of the annual tax levied  
21 under AS 43.58.021, the value of taxable property shall be assessed as of  
22 the effective date of sec. 8 of this Act. During the first year of the tax  
23 levied under AS 43.58.021, the return required under AS 43.58.141 shall be  
24 submitted no later than 30 days after the effective date of sec. 8 of this  
25 Act, and the Department of Revenue shall send the notice of assessment  
26 required under AS 43.58.081 no later than 60 days after the effective date  
27 of sec. 8 of this Act.

28 \* Sec. 14. AS 43.21.040(d) and (e) are repealed.

29 \* Sec. 15. AS 43.55.011(d), 43.55.012(a), 43.55.018; AS 43.58.010,

1 43.58.020, 43.58.030, 43.58.040, 43.58.050, 43.58.060, 43.58.070, 43.58.080,  
2 43.58.090, 43.58.100, 43.58.110, 43.58.150, 43.58.160, 43.58.170, 43.58.180,  
3 43.58.190, and 43.58.200 are repealed.

4 \* Sec. 16. Sections 1 - 7, 11, and 14 of this Act are retroactive to  
5 January 1, 1978, and apply to tax years beginning after December 31, 1977.

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