

HOUSE BILL NO. 547
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Introduced: 4/22/94
Referred: Finance

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to the manner of calculating the taxable value of oil and gas
2 for purposes of levy and collection of the oil and gas properties production tax;
3 and providing for an effective date."

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

5 * Section 1. AS 43.55.020(e) is amended to read:

6 (e) Gas produced in excess of that needed for safety purposes, except gas used
7 in the operation of a lease or property in drilling for or producing oil or gas, or for
8 repressuring, is considered, for the purpose of AS 43.55.011 - 43.55.160 [AS 43.55.011
9 - 43.55.150] and in the amount used, as gas produced from a lease or property. Gas
10 flared beyond the amount authorized for safety by the Alaska Oil and Gas
11 Conservation Commission under AS 31.05 is considered as gas produced, except that
12 it is subject to a penalty equal to the tax computed under AS 43.55.016 per 1,000
13 cubic feet of gas for the month in which the gas was flared.

14 * Sec. 2. AS 43.55.080 is amended to read:

1 **Sec. 43.55.080. COLLECTION AND DEPOSIT OF REVENUE.** The
2 department shall deposit in the general fund the money collected by it under
3 AS 43.55.011 - 43.55.160 [AS 43.55.011 - 43.55.150].

4 * **Sec. 3.** AS 43.55.135 is amended to read:

5 **Sec. 43.55.135. MEASUREMENT.** For the purposes of AS 43.55.011 -
6 43.55.160 [AS 43.55.011 - 43.55.150], oil shall be measured in terms of a "barrel of
7 oil" and gas shall be measured in terms of a "cubic foot of gas."

8 * **Sec. 4.** AS 43.55.150(a) is amended to read:

9 (a) For the purposes of AS 43.55.011 - 43.55.160 [AS 43.55.011 - 43.55.150],
10 the gross value shall be calculated using the reasonable costs of transportation of the
11 oil or gas. The reasonable costs of transportation shall be the actual costs, except
12 (1) when the parties to the transportation of oil or gas are affiliated;
13 (2) when the contract for the transportation of oil or gas is not an arm's
14 length transaction or is not representative of the market value of that transportation;
15 (3) when the method of transportation of oil or gas is not reasonable
16 in view of existing alternative methods of transportation.

17 * **Sec. 5.** AS 43.55 is amended by adding a new section to article 1 to read:

18 **Sec. 43.55.160. DETERMINATION OF GROSS VALUE FOR OIL AND**
19 **GAS AFFECTED BY A ROYALTY SETTLEMENT.** (a) If oil or gas from or
20 allocated to a lease or property is subject to a royalty settlement, a taxpayer may elect
21 to use as the gross value at the point of production of each barrel or Mcf of taxable
22 production from that lease or property the amount per barrel or per Mcf under the
23 royalty settlement for royalty production from that lease or property, to which amount
24 shall be

25 (1) added all field handling charges and similar charges against the
26 amount per barrel or per Mcf allowable under the royalty settlement for operations and
27 handling occurring before the point of production under AS 43.55.011 - 43.55.160; and

28 (2) subtracted, if the amount per barrel or Mcf under the royalty
29 settlement is effective at a point after the point of production under AS 43.55.011 -
30 43.55.160,

31 (A) the costs determined under the royalty settlement for

1 transportation and handling between the point of production and the point
2 where the royalty settlement amount is effective; or

3 (B) the costs of transportation under AS 43.55.150 between the
4 point of production and the point where the royalty settlement amount is
5 effective, if the costs for transportation and handling are not determined under
6 the royalty settlement.

7 (b) An election under (a) of this section is irrevocable, but may be set aside
8 by the taxpayer if the royalty agreement

9 (1) is no longer in force; or

10 (2) no longer applies to the production for which the election was
11 made.

12 * Sec. 6. AS 43.55.200(b) is amended to read:

13 (b) The surcharge imposed by (a) of this section is in addition to and shall be
14 paid in the same manner as the tax imposed by AS 43.55.011 - 43.55.160
15 [AS 43.55.011 - 43.55.150].

16 * Sec. 7. AS 43.55.200(c) is amended to read:

17 (c) A producer of oil shall make reports of production in the same manner and
18 under the same penalties as required under AS 43.55.011 - 43.55.160 [AS 43.55.011
19 - 43.55.150].

20 * Sec. 8. AS 43.55.900(7) is amended to read:

21 (7) "gross value at the point of production" means

22 (A) for oil, the value of the oil at the point where it is metered
23 or measured (by automatic custody transfer meter, tank gauge, or other method
24 approved by the commissioner) in a condition of pipeline quality on the
25 premises of the lease or property from which it is recovered; however,

26 (i) if the oil is not of pipeline quality when it is removed
27 from the premises of the lease or property from which it is recovered,
28 or if the oil recovered from a lease or property is not metered or
29 measured (by automatic custody transfer meter, tank gauge, or other
30 method approved by the commissioner) on the premises of the lease or
31 property from which it is recovered, then the gross value at the point

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of production is the value of that oil at the off-premises location where the oil is first metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) in a condition of pipeline quality;

(ii) if the oil is subject to a determination of value under AS 43.55.160, the gross value at the point of production of that oil is the value as determined under that section:

(B) for gas recovered from or in association with oil, except when the value of the gas is determined under AS 43.55.160, the value of the gas at the point where it is accurately metered or measured after separation from the oil; for gas run through a gas processing plant, the gross value at the point of production is the full consideration received by the producer for the gas if sold in an arm's length transaction or, in the absence of an arm's length transaction, is the sum of the value of the liquids extracted from the gas at the plant and the value of the residue gas, less a reasonable allowance for processing the gas at the plant and for transporting the gas to the plant from the premises upon which the oil production operation is conducted; and

(C) for gas not recovered from or in association with oil, except when the value of the gas is determined under AS 43.55.160, the value of the gas at the point where it is accurately metered or measured or the value of the gas at the point of sale, if any, on the premises of the lease or property from which the gas is recovered, whichever is the higher value; for gas run through a gas processing plant, the gross value at the point of production is the full consideration received by the producer for the gas if sold in an arm's length transaction or, in the absence of an arm's length transaction, is the sum of the value of the liquids extracted from the gas at the plant and the value of the residue gas, less a reasonable allowance for processing the gas at the plant and for transporting the gas to the plant from the point where it was accurately metered or measured;

* Sec. 9. AS 43.55.900 is amended by adding a new paragraph to read:

(17) "royalty settlement" means an agreement between the state and a

1 lessee of a state oil and gas lease that prescribes a method for determining the price
2 of state royalty taken in value, whether or not entered into the course of settling actual
3 litigation, and whether or not applicable to a lease or property that was not subject to
4 litigation; for purposes of this paragraph, the provisions of a state oil and gas lease do
5 not, by themselves, constitute a royalty settlement.

6 * **Sec. 10. APPLICATION TO PAST TAX PERIODS.** (a) For production occurring
7 before the effective date of this Act, a taxpayer may elect to report and pay the tax and
8 surcharge levied by AS 43.55.011 - 43.55.160 under AS 43.55.160, enacted by sec. 5 of this
9 Act. A taxpayer making an election under this subsection must do so for all prior tax periods
10 and all production to which the royalty settlement applies.

11 (b) A taxpayer making an election under (a) of this section

12 (1) shall pay interest under AS 43.05 for all additional taxes owed as a result
13 of the election and shall be credited for interest under AS 43.05 for any tax overpayments
14 resulting from the election;

15 (2) is not subject to any penalties with respect to any additional tax that the
16 taxpayer pays.

17 (c) Within six months of a taxpayer's filing of amended tax returns under this section,
18 the Department of Revenue shall verify that the taxpayer has reported and paid tax on the
19 basis of the royalty settlement information, but the Department of Revenue may not modify
20 any royalty settlement information. When the Department of Revenue has completed its
21 verification, the taxpayer's liability under AS 43.55.011 - 43.55.160 with respect to that
22 production is fully discharged. If the Department of Revenue fails to complete its verification
23 within six months of the taxpayer's filing of amended returns under this section, the burden
24 of proof for all adjustments that the Department of Revenue may thereafter attempt to make
25 to the taxpayer's amended returns and to any penalty that the department may assess is on the
26 Department of Revenue.

27 * **Sec. 11.** This Act is retroactive to January 1, 1976, and applies to taxes levied under
28 AS 43.55.011 - 43.55.160 after December 31, 1975.

29 * **Sec. 12.** This Act takes effect immediately under AS 01.10.070(c).