

HOUSE CS FOR CS FOR SENATE BILL NO. 377(STA) am H(fld H)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SPECIAL SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Amended: 5/15/94

Offered: 5/15/94

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to state agency fiscal procedures, including procedures related
2 to the assessment and collection of certain taxes; and providing for an effective
3 date."

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

5 * Section 1. AS 43.05.260(a) is amended to read:

6 (a) Except as provided in (c) of this section and AS 43.20.200(b), the amount
7 of a tax imposed by this title must be assessed

8 (1) for tax periods ending before January 1, 1994, within three years
9 after the return was filed, whether or not a return was filed on or after the date
10 prescribed by law; however, at any time during the administrative consideration
11 of a taxpayer grievance or of a claim for credit or refund, based upon a tax
12 imposed by former AS 43.21 or by AS 43.55, the department may increase or
13 decrease the amount of tax due by issuing or amending an assessment;

1 **(2) for tax periods beginning after December 31, 1993, within five**
2 **years after the return was filed, whether or not a return was filed on or after the**
3 **date prescribed by law; the department may increase the amount of tax due by**
4 **issuing or amending an assessment within the five-year period; after that five-year**
5 **period, the department may not increase an assessment or issue an additional**
6 **assessment under this subsection; the department may decrease an assessment at**
7 **any time.** [IF THE TAX IS NOT ASSESSED BEFORE THE EXPIRATION OF THE
8 THREE-YEAR PERIOD, PROCEEDINGS MAY NOT BE INSTITUTED IN COURT
9 FOR THE COLLECTION OF THE TAX.]

10 * Sec. 2. AS 43.05.270(a) is amended to read:

11 (a) When the assessment of a tax imposed by this title has been made within
12 the period of limitation under AS 43.05.260, the tax may be collected by levy or by
13 a proceeding in court [, BUT ONLY] if the levy is made or the proceeding is begun:

14 (1) within six years after **the latest of any of the following:**

15 **(A) the assessment of the tax;**

16 **(B) the final administrative determination of the grievance,**
17 **if the taxpayer files a grievance from an assessment; or**

18 **(C) the final judicial resolution of an appeal, if the taxpayer**
19 **appeals from a final adjudicative determination of a grievance; or**

20 (2) before the expiration of a period for collection agreed upon in
21 writing by the department and the taxpayer before the expiration of the six-year period;
22 a period agreed upon may be extended by subsequent agreements in writing made
23 before the expiration of the period previously agreed upon [; THE PERIOD
24 PROVIDED BY THIS PARAGRAPH DURING WHICH A TAX MAY BE
25 COLLECTED BY LEVY MAY NOT BE EXTENDED OR CURTAILED BECAUSE
26 OF A JUDGMENT AGAINST THE TAXPAYER].

27 * Sec. 3. AS 43.55 is amended by adding a new section to read:

28 Sec. 43.55.145. PREVALING VALUE FOR OIL. (a) The department shall
29 adopt regulations to determine a methodology for calculating the prevailing value of
30 oil produced in each field or area of the state for each destination area to which the
31 oil is delivered. Before each October 30, the department shall annually review and

1 determine if any prospective adjustments are necessary to the methodology established
2 by regulation under this section.

3 (b) The regulations adopted by the department under (a) of this section shall
4 determine the prevailing value of oil using the

5 (1) current value or average of current values for oil of like kind,
6 character, and quality produced from each field or area in the state;

7 (2) current values or average of current values for two or more types
8 of domestic or foreign oil selected by the department that are not produced in the state;
9 or

10 (3) any combination of the methods set out in this subsection.

11 (c) The department shall assign percentage weights to the oils selected under
12 (b) of this section. The department shall adjust the amounts calculated under (b) of
13 this section to account for differences in oil types and destination areas.

14 (d) For purposes of this section, "current value" includes spot or other current
15 prices or market assessments publicly reported.

16 * Sec. 4. AS 43.55.900(7) is amended to read:

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

18 (A) for oil, the value of the oil at the point where it is metered
19 or measured (by automatic custody transfer meter, tank gauge, or other method
20 approved by the commissioner) in a condition of pipeline quality on the
21 premises of the lease or property from which it is recovered; however, if the
22 oil is not of pipeline quality when it is removed from the premises of the lease
23 or property from which it is recovered, or if the oil recovered from a lease or
24 property is not metered or measured (by automatic custody transfer meter, tank
25 gauge, or other method approved by the commissioner) on the premises of the
26 lease or property from which it is recovered, then the gross value at the point
27 of production is the value of that oil at the off-premises location where the oil
28 is first metered or measured (by automatic custody transfer meter, tank gauge,
29 or other method approved by the commissioner) in a condition of pipeline
30 quality;

31 (B) for gas recovered from or in association with oil, the value

1 of the gas at the point where it is accurately metered or measured after
2 separation from the oil; for gas run through a gas processing plant, the gross
3 value at the point of production is the full consideration received by the
4 producer for the gas if sold in an arm's length transaction or, in the absence of
5 an arm's length transaction, is the sum of the value of the liquids extracted
6 from the gas at the plant and sold and the value of the residue gas sold, less
7 a reasonable allowance for processing the gas at the plant and for transporting
8 the gas to the plant from the premises upon which the oil production operation
9 is conducted; the reasonable allowance for processing and transporting the
10 gas may not exceed \$2 per barrel of plant liquid sold, adjusted annually
11 by 25 percent of the change in the Consumer Price Index; and

12 (C) for gas not recovered from or in association with oil, the
13 value of the gas at the point where it is accurately metered or measured or the
14 value of the gas at the point of sale, if any, on the premises of the lease or
15 property from which the gas is recovered, whichever is the higher value; for
16 gas run through a gas processing plant, the gross value at the point of
17 production is the full consideration received by the producer for the gas if sold
18 in an arm's length transaction or, in the absence of an arm's length transaction,
19 is the sum of the value of the liquids extracted from the gas at the plant and
20 sold and the value of the residue gas sold, less a reasonable allowance for
21 processing the gas at the plant and for transporting the gas to the plant from
22 the point where it was accurately metered or measured; the reasonable
23 allowance for processing and transporting the gas may not exceed \$2 per
24 barrel of plant liquid sold, adjusted annually by 25 percent of the change
25 in the Consumer Price Index;

26 * Sec. 5. AS 43.55.900(7), as amended by sec. 4 of this Act, is amended to read:

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

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

1 oil is not of pipeline quality when it is removed from the premises of the lease
2 or property from which it is recovered, or if the oil recovered from a lease or
3 property is not metered or measured (by automatic custody transfer meter, tank
4 gauge, or other method approved by the commissioner) on the premises of the
5 lease or property from which it is recovered, then the gross value at the point
6 of production is the value of that oil at the off-premises location where the oil
7 is first metered or measured (by automatic custody transfer meter, tank gauge,
8 or other method approved by the commissioner) in a condition of pipeline
9 quality;

10 (B) for gas recovered from or in association with oil, the value
11 of the gas at the point where it is accurately metered or measured after
12 separation from the oil; for gas run through a gas processing plant, the gross
13 value at the point of production is the full consideration received by the
14 producer for the gas if sold in an arm's length transaction or, in the absence of
15 an arm's length transaction, is the sum of the value of the liquids extracted
16 from the gas at the plant and sold and the value of the residue gas sold, less
17 a reasonable allowance for processing the gas at the plant and for transporting
18 the gas to the plant from the premises upon which the oil production operation
19 is conducted; the reasonable allowance for processing and transporting the gas
20 may not exceed \$2 per barrel of plant liquid sold, adjusted annually by 25
21 percent of the change in the Consumer Price Index; [AND]

22 (C) for gas not recovered from or in association with oil, the
23 value of the gas at the point where it is accurately metered or measured or the
24 value of the gas at the point of sale, if any, on the premises of the lease or
25 property from which the gas is recovered, whichever is the higher value; for
26 gas run through a gas processing plant, the gross value at the point of
27 production is the full consideration received by the producer for the gas if sold
28 in an arm's length transaction or, in the absence of an arm's length transaction,
29 is the sum of the value of the liquids extracted from the gas at the plant and
30 sold and the value of the residue gas sold, less a reasonable allowance for
31 processing the gas at the plant and for transporting the gas to the plant from

1 the point where it was accurately metered or measured; the reasonable
2 allowance for processing and transporting the gas may not exceed \$2 per barrel
3 of plant liquid sold, adjusted annually by 25 percent of the change in the
4 Consumer Price Index; and

5 (D) for taxable gas produced and used as a fuel or feedstock
6 in the production of urea or ammonia, notwithstanding (B) and (C) of this
7 paragraph and AS 43.55.020(f), the gross value at the point of production
8 for each lease or property is the amount per Mcf under a royalty
9 settlement agreement to which the state is a party and that was in effect
10 on January 1, 1994, for royalty gas from that lease or property; if taxable
11 gas is produced and exchanged for other gas on a volumetric basis, and the
12 gas received in that exchange transaction is used as a fuel or feedstock in
13 the production of urea or ammonia, the gross value at the point of
14 production for each lease or property is the amount per Mcf under a
15 royalty settlement agreement to which the state is a party and which was
16 in effect on January 1, 1994, for royalty gas from the lease or property
17 from which the producer's taxable gas was produced;

18 * Sec. 6. AS 43.55.900 is amended by adding new paragraphs to read:

19 (17) "condensate" means all hydrocarbons, including scrubber liquids,
20 recovered in liquid form from a gaseous stream by mechanical separation without
21 resort to extraneous refrigeration, adiabatic expansion through a Joule-Thompson valve
22 following artificial compression, turbo-expansion, aerial cooling below the temperature
23 at which hydrates or ice would form in the gas stream, osmosis, adsorption, or
24 absorption; if a gas stream moves to a gas processing plant without having passed
25 through a prudently operated mechanical separation unit, that portion of the liquid
26 hydrocarbons extracted at the gas plant that could have been extracted through a
27 mechanical separation unit by a prudent operator will be treated as condensate;

28 (18) "Consumer Price Index" means the Consumer Price Index for all
29 urban consumers for the Anchorage Metropolitan Area compiled by the Bureau of
30 Labor Statistics, United States Department of Labor;

31 (19) "distillate" has the meaning given the term "condensate" in this

1 section;

2 (20) "gas processing plant" means a facility, other than a liquified
3 natural gas plant, in which liquid hydrocarbons are extracted and separated from a
4 stream of gas by one or more of the following means: refrigeration, adiabatic
5 expansion through a Joule-Thompson valve following artificial compression, turbo-
6 expansion, osmosis, adsorption, or absorption.

7 * Sec. 7. The provisions of AS 43.05.260(a)(1), as amended by sec. 1 of this Act, and of
8 AS 43.05.270(a), as amended by sec. 2 of this Act, are declaratory of existing law as
9 originally enacted in AS 43.05.260 and 43.05.270 by sec. 1, ch. 94, SLA 1976.

10 * Sec. 8. Notwithstanding the provisions of AS 01.10.100(a), the provisions of
11 AS 43.05.260(a)(1), as amended by sec. 1 of this Act, and AS 43.05.270(a), as amended by
12 sec. 2 of this Act, apply to a grievance pending under AS 43.05.240 and to an action or appeal
13 pending before a court on the effective date of secs. 1 and 2 of this Act.

14 * Sec. 9. Section 4 of this Act and sec. 6 of this Act, are retroactive to January 1, 1985.

15 * Sec. 10. Except as provided in sec. 11 of this Act, this Act takes effect immediately under
16 AS 01.10.070(c).