

Tax Credits,
Exemptions,
Deductions

"SPECIAL" TAX CREDITS, EXEMPTIONS, DEDUCTIONS, REFUNDS
PROVIDED BY STATE STATUTES

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(i) The commissioner may provide for the establishment of an exploration incentive credit system under which a lessee of state land drilling an exploratory well on that land may earn credits based upon the footage drilled and the region in which the well is situated. The commissioner may also provide for credits to be earned by persons performing geophysical work on state land, if that work is performed during the two seasons immediately preceding an announced lease sale and on land included within the sale area and the geophysical information is made public following the sale. Credits may not exceed 50 percent of the cost of the drilling or geophysical work. Credits may be used during a limited period established by the commissioner and may be assigned during that period. Credits may be applied against (1) oil and gas royalty and rental payments payable to the state or (2) taxes payable under AS 43.55. A credit may not exceed 50 percent of the payment toward which it is being applied. Amounts due the Alaska permanent fund (AS 37.13.010) shall be calculated before the application of credits under this subsection.

(j) To prolong the economic life of an oil and gas field, the commissioner shall adopt regulations for all bidding methods to allow reduction of royalty on leases within the field to compensate for increasing costs in the later stages of production decline. The commissioner may not grant a reduction of royalty until two years' initial production from the field has occurred and each lessee requesting the reduction has made a clear showing that the revenue from all hydrocarbons produced from the field is insufficient to produce a reasonable rate of return with respect to that lessee's total investment in the field.

Sec. 43.20.013. Individual tax credits. (a) A resident individual is entitled to a tax credit not to exceed \$100 for

(1) a contribution made in a calendar year to a person or organization for use exclusively

(A) for a political campaign for a candidate for

(i) President or Vice President of the United States, whether or not the candidate will be voted on in a primary election in Alaska;

(ii) United States senator from Alaska;

(iii) United States representative from Alaska;

(iv) governor or lieutenant governor of Alaska;

(v) the Alaska legislature;

(vi) delegate to an Alaska constitutional convention;

(vii) electoral confirmation as a judge or justice of a court in Alaska;

or

(viii) municipal office in Alaska; or

(B) by a group seeking to influence the outcome of a ballot proposition or question in Alaska; and

(2) dues paid in a calendar year to a nonprofit organization organized primarily for the purpose of influencing elections in Alaska.

(b) A resident individual is entitled to a tax credit equal to 16 percent of the tax credit claimed by the individual on the federal income tax return of the individual for household and dependent care services necessary for gainful employment.

(c) The commissioner of revenue shall pay the amount of a tax credit allowed by this section to a resident individual who makes a return as provided in AS 43.20.012. A credit under this section shall be paid in the manner provided in AS 43.20.030(e) for the payment of refunds and payment may not be made without an appropriation for that purpose. (§ 2 ch 1 SSSLA 1980; am § 9 ch 1 SSSLA 1980; am § 2 ch 2 SSSLA 1980)

Sec. 43.20.021. Internal Revenue Code adopted by reference.

(a) Subtitle F and chapter 1 of subtitle A of the 1954 Internal Revenue Code, Public Law 83-591, as amended, are adopted by reference as a part of this chapter, except that those provisions of the Internal Revenue Code adopted after December 31, 1975 which change or modify exemptions from tax or credits against tax are not adopted by reference as a part of this chapter until the second January 1 following the effective date of the federal law. These portions of the Internal Revenue Code have full force and effect under this chapter unless excepted to or modified by other provisions of this chapter.

(b) For purposes of calculating the federal tax payable on personal holding companies provided for in the provisions of 26 U.S.C. 541 (Internal Revenue Code), the rate is 12.6 per cent.

(c) For purposes of calculating the alternative tax on capital gains provided for in the provisions of 26 U.S.C. 1201 (Internal Revenue Code), the rate is 4.5 percent for corporations.

(d) Where a credit allowed under the Internal Revenue Code is also allowed in computing Alaska income tax, it is limited to 18 percent for corporations of the amount of credit determined for federal income tax purposes which is attributable to Alaska.

(e) *[Repealed, § 10 ch 1 SSSLA 1980.]*

(f) For the purpose of calculating the minimum tax on tax preferences provided for in 26 U.S.C. 56-58 (Internal Revenue Code), the rate is 18 percent for corporations of the applicable minimum federal tax rate.

(g) For purposes of calculating the accumulated earnings tax as provided in 26 U.S.C. 531 (Internal Revenue Code), the rate is 4.95 percent of the first \$100,000 of accumulated taxable income and 6.93 percent of accumulated taxable income in excess of \$100,000. (§ 2 ch 70 SLA 1975; am §§ 1, 2 ch 125 SLA 1976; am §§ 12, 13 ch 113 SLA 1980; am §§ 3 — 5, 10 ch 1 SSSLA 1980; am §§ 3 — 5, 9 ch 2 SSSLA 1980)

Sec. 43.20.036. Federal tax deductions and credits. (a) For purposes of calculating the income tax payable under this chapter, the taxpayer may not apply as a credit against his tax liability the foreign tax credit allowed as to federal taxes under 26 U.S.C. 33 (Internal Revenue Code).

(b) For purposes of calculating the income tax payable under this chapter, the taxpayer may apply as a credit against tax liability the investment credit allowed as to federal taxes under 26 U.S.C. 38 (Internal Revenue Code) upon only the first \$20,000,000 of qualified investment put into use in the state for each taxable year. This limitation does not apply to the amounts invested in equipment which meets the definition of a certified pollution control facility as defined under 26 U.S.C. 169 (Internal Revenue Code) as in effect on June 19, 1975, except that the date specified in 26 U.S.C. 169(d) (Internal Revenue Code) as a condition of qualifying a certified pollution control facility for a deduction does not apply.

(c) For purposes of calculating the income tax payable under this chapter, the taxpayer may apply as an exemption from his tax liability the tax exemption for domestic international sales corporations under 26 U.S.C. 991 (Internal Revenue Code), except those taxpayers who are engaged in the exportation of nonrenewable resources.

(d) *[Repealed, § 10 ch 1 SSSLA 1980.]*

(e) *[Repealed, § 10 ch 1 SSSLA 1980.]*

(f) *[Repealed, § 10 ch 1 SSSLA 1980.]*

(g) *[Repealed, § 10 ch 1 SSSLA 1980.]*

(h) *[Repealed, § 10 ch 1 SSSLA 1980.]*

(i) *[Repealed, § 10 ch 1 SSSLA 1980.]* (§ 1 ch 153 SLA 1975; § 1 ch 171 SLA 1975; am § 3 ch 22 SLA 1980; am § 10 ch 1 SSSLA 1980; am § 9 ch 2 SSSLA 1980; am § 1 ch 117 SLA 1981)

Sec. 43.20.042. Special industrial incentive investment tax credits. (a) Subject to (c) of this section, for purposes of calculating eligible taxes the taxpayer may apply as a credit against eligible taxes the following percentage of the investment credit allowed as to federal taxes under 26 U.S.C. 38 (Internal Revenue Code) on only the first \$250,000,000 of qualified investment in the state for each taxable year after December 31, 1984, for a gas processing project: (1) 100 percent on the first \$50,000,000 of qualified investment; (2) 80 percent on qualified investment over \$50,000,000 but not exceeding \$100,000,000; (3) 70 percent on qualified investment over \$100,000,000 but not exceeding \$150,000,000; (4) 60 percent on qualified investment over \$150,000,000 but not exceeding \$200,000,000; and (5) 40 percent on qualified investment over \$200,000,000 but not exceeding \$250,000,000. A credit may not be allowed under this subsection for an investment credit that is allowed as to federal taxes for leased property by reason of 26 U.S.C. 168(f)(8) (Internal Revenue Code). In this subsection, "gas processing project" means the integrated plant, facilities, and equipment, including pollution control equipment, used for (1) preparation of consumer or transportation gas, or (2) conditioning, fractionation, storage, handling or processing of a product, other than crude oil, of an oil or gas well, into liquefied natural gas, methanol, ammonia, urea, olefins, propanes, butanes, polymers and intermediate hydrocarbon products; it does not include a pipeline from oil and gas wells to or from a plant and facilities.

(b) Subject to (c) of this section, for purposes of calculating eligible taxes the taxpayer may apply as a credit against eligible taxes the following percentage of the investment credit allowed as to federal taxes under 26 U.S.C. 38 (Internal Revenue Code) on only the first \$250,000,000 of qualified investment in the state for each taxable year after December 31, 1984, for exploration, drilling of wells, development, or mining of the minerals and other natural deposits listed in 26 U.S.C. 613(b) (Internal Revenue Code) other than sand or gravel unless the mining of sand or gravel is ancillary to a mining development involving a qualified natural deposit other than sand or gravel: (1) 100 percent on the first \$50,000,000 of qualified investment; (2) 80 percent on qualified investment over \$50,000,000 but not exceeding \$100,000,000; (3) 70 percent on qualified investment over \$100,000,000 but not exceeding \$150,000,000; (4) 60 percent on qualified investment over \$150,000,000 but not exceeding \$200,000,000; and (5) 40 percent on qualified investment over \$200,000,000 but not exceeding \$250,000,000. A credit may not be allowed under this subsection for any investment credit that is allowed as to federal taxes for leased property by reason of 26 U.S.C. 168(f)(8) (Internal Revenue Code). In this subsection, "mining" has the meaning given in 26 U.S.C. 613(c)(2) (Internal Revenue Code).

(c) A taxpayer may not claim an investment tax credit under (a) or (b) of this section unless the gas processing project or mining project began operation and production after December 31, 1984. A gas processing or mining project is considered to have begun operation and production when the first product or mineral is produced that is ultimately either sold or transferred for further processing or ultimate use.

(d) A taxpayer may not claim an additional investment tax credit under AS 43.20.036(b) for an investment for which a special industrial incentive investment tax credit is claimed under (a) or (b) of this section.

(e) If a taxpayer making an investment that qualifies for the investment tax credit under this section is a member of a group of affiliated corporations filing a consolidated return under the provisions of this chapter, the amount of the investment tax credit that may be claimed on the consolidated return is limited to the amount the taxpayer making the qualified investment would have been eligible to claim had a consolidated return not been filed.

(f) The investment tax credit per taxable year allowed by (a) and (b) of this section may not exceed 60 percent of the eligible tax liability. Any unused portion of the investment tax credit shall be subject to the

carry forward provisions in 26 U.S.C. 46(b)(3) (Internal Revenue Code) except that the unused credit may not be carried forward to tax years beginning after December 31, 1999.

(g) Except as provided in (f) of this section, a tax credit under this section may not be claimed on investments made after December 31, 1994.

(h) In this section "eligible taxes" means the total tax liability of a taxpayer for the annual taxes due under the provisions of this chapter and AS 43.65. (§ 4 ch 60 SLA 1984)

Sec. 43.31.011. Tax upon estates of resident decedents. A tax is imposed upon the transfer of the estate of a person who, at the time of death, was a resident of this state, the amount of which shall be computed as follows:

(1) Determine the amount of the credit allowable under the applicable federal revenue Act for estate, inheritance, legacy and succession taxes actually paid to the several states.

(2) Determine for each of the other states the amount of all constitutionally valid estate, inheritance, legacy and succession taxes, actually paid to each of the other states in respect to property owned by the decedent or subject to these taxes as a part of or in connection with the decedent's estate.

(3) Determine for each other state in which property is located that is owned by the decedent or subject to estate, inheritance, legacy or succession taxes as a part of or in connection with the decedent's estate the proportion of the amount of the credit allowable under the applicable federal revenue Act for estate, inheritance, legacy and succession taxes actually paid to the several states, as the value of the property taxable in that state bears to the value of the entire gross estate wherever situated.

(4) The amount of the tax is the amount of the allowable credit as determined in (1) of this section less the sum of the smaller figures of (2) or (3) of this section for each of the other states in which the decedent's property is situated. For example: The amount of allowable credit under the federal Act is \$10,000 (relating to (1) in this section)

	Amount of Tax Actually Paid (relating to (2) of this section)	Proportion of Credit from Situs of Property (relating to (3) of this section)	Smaller of (2) and (3) of this section
State X	\$3,000	10%—\$1,000	\$1,000
State Y	\$1,000	15%—\$1,500	\$1,000
			\$2,000

The Alaska estate tax is \$10,000 minus \$2,000 equalling \$8,000. (§ 2 ch 24 SLA 1970)

AS 43.40.010 (c)

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect the tax at the time of sale, and remit the total tax collected during each calendar month of each year to the department by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by the user during each month. If the monthly tax return is timely filed, one percent of the total monthly tax due, limited to a maximum of \$100, may be deducted and retained to cover the expense of accounting and filing the monthly tax return. At the time the remittance is made, each dealer or user shall submit a statement to the department showing all fuel which the dealer or user has distributed or used during the month.

Sec. 43.40.030. Refund for nonhighway use. (a) Except as specified in AS 43.40.010(j), a person who uses motor fuel to operate an internal combustion engine is entitled to a refund of six cents a gallon if

- (1) the tax on the motor fuel has been paid;
- (2) the motor fuel is not aviation fuel, or motor fuel used in or on watercraft; and
- (3) the internal combustion engine is not used in or in conjunction with a motor vehicle licensed to be operated on public ways.

(b) The entire tax levied by this chapter shall be refunded to the purchaser on that part of the motor fuel used in a foreign country on which the tax has been paid when the fuel is sold and delivered in the state for non-highway use in a foreign country.

Sec. 43.40.035. Other refunds and credits. (a) A person who resells fuel on which the tax under AS 43.40.010(a) or (b) was previously paid is entitled to a credit or refund of the tax if (1) the resold fuel is not motor fuel and the requirements of AS 43.40.010(l) have been fulfilled; or (2) the amount of tax previously paid exceeds the tax due on the resale. The amount of the credit or refund under this section is equal to the amount of tax previously paid on the resold fuel less the amount of tax prescribed by AS 43.40.010(a) or (b).

(b) A reseller may elect, with the express written consent of the supplier of the resaler, to receive the credit or refund under this section directly from the supplier rather than by filing a claim for the credit or refund with the department. When an election is properly made under this subsection, the supplier may claim the credit or refund from the department. To be effective an election under this subsection must be signed in quadruplicate by the reseller and by the supplier. The reseller and the supplier shall each file one copy of the election, with original signatures, with the department. The reseller and supplier shall each retain a copy of the election with original signatures for audit review by the department. If an election is made under this subsection, it may not be revoked without the express written consent of the supplier. (§ 6 ch 82 SLA 1982; am § 3 ch 87 SLA 1983)

Sec. 43.40.100. Definitions. In this chapter

(1) "dealer" means a person who sells or otherwise transfers in this state motor fuel upon which the taxes imposed by this chapter have not been paid;

(2) "motor fuel" means fuel used in an engine for the propulsion of a motor vehicle or aircraft, and fuel used in and on watercraft for any purpose, or in a stationary engine, machine or mechanical contrivance which is run by an internal combustion motor; "motor fuel" does not include

(A) fuel consigned to foreign countries;

(B) fuel sold for use in jet propulsion aircraft operating in flights to foreign countries;

(C) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public;

(D) fuel used by nonprofit power associations or corporations for generating electric energy for resale;

(E) fuel used by charitable institutions;

(F) fuel which is at least 10 percent alcohol by volume;

(G) fuel sold or transferred between qualified dealers;

(H) fuel sold to federal, state, and local government agencies for official use;

(I) fuel used in stationary power plants that generate electrical energy for private residential consumption;

(J) fuel used to heat private or commercial buildings or facilities;

(K) fuel used for other nontaxable purposes as prescribed by regulations adopted by the department; or

(L) fuel used in stationary power plants of 100 kw or less that generate electrical power for commercial enterprises not for resale;

(3) "qualified dealer" means a person who (A) refines, (B) imports, (C) manufactures, (D) produces, (E) compounds, or (F) wholesales motor fuel, who satisfies criteria for qualified dealers established by the department by regulation and who obtains a qualified dealer's license from the department;

(4) "user" means a person consuming or using motor fuel, who either

(A) purchases the fuel out of the state and ships it into the state for personal use in the state;

(B) manufactures the fuel in the state; or

(C) purchases or receives fuel in the state that is not taxed at the time of purchase or receipt or is taxed at a rate that is less than the rate prescribed by AS 43.40.010. (§ 48-5-1 ACLA 1949; am § 1 ch 56 SLA 1949; am § 9 ch 47 SLA 1955; am § 26 ch 70 SLA 1964; am §§ 6, 7 ch 158 SLA 1970; am § 1 ch 74 SLA 1972; am § 5 ch 116 SLA 1977; am § 10 ch 83 SLA 1980; am §§ 10 — 12 ch 82 SLA 1982; am § 4 ch 87 SLA 1983)

Sec. 43.50.090. Tax imposed. (a) There is levied an excise tax of two and one-half mills on each cigarette imported or acquired in the state. Each licensee shall, at the time of filing the return required by AS 43.50.080, pay to the department the excise for the calendar month covered by the return, deducting one per cent of the total tax due, which the licensee shall retain to cover the expense of accounting and filing returns. Cigarettes upon which the excise is imposed are not again subject to the excise when acquired by another person.

(b) It is the intent and purpose of this section to provide for the collection of this excise from the person who first acquires the cigarettes in this state.

(c) The tax imposed under (a) of this section does not apply to cigarettes imported or acquired in the state by an exchange, commissary, or ship's stores operated by one of the uniformed services of the United States as defined in 5 U.S.C. 2101. (§ 11 ch 187 SLA 1955; am § 5 ch 94 SLA 1977)

Sec. 43.55.011. Oil production tax. (a) There is levied upon the producer of oil a tax for all oil produced from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-barrel amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for the oil production of the lease or property under AS 43.55.013. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

Sec. 43.55.012. Adjustment in tax rates. (a) *[Repealed, § 18 ch 116 SLA 1981.]*

(b) The cents-per-barrel amount set out in AS 43.55.011(c) as adjusted by (a) of this section applies to oil of 27 degrees API gravity. For each degree of API gravity less than 27 degrees the cents-per-barrel amount shall be reduced by \$.005 and for each degree of API gravity greater than 27 degrees the cents-per-barrel amount shall be increased by \$.005 except that oil above 40 degrees API gravity shall be taxed as 40 degree oil. In applying the gravity adjustment under this subsection, fractional degrees of API gravity shall be disregarded. (§ 1 ch 136 SLA 1977; am § 18 ch 116 SLA 1981)

Effect of amendments. — The 1981 amendment repealed the former subsection (a) which provided for a review of the prices received for crude oil or gas pro-

duced in Alaska and a report by the department to the governor concerning proposed changes.

Sec. 43.55.013. Economic limit factor. (a) *[Repealed, § 18 ch 116 SLA 1981.]*

(b)(1) The economic limit factor for oil production of a lease or property shall be computed according to the following formula:

$$(1 - [PEL/TP]) \exp ([460 \times WD]/PEL)$$

where: PEL = the monthly production rate at the economic limit;
TP = the total production during the month for which the tax is to be paid;
WD = the total number of well days in the month for which the tax is to be paid; and

Where "exp" indicates that the expression following it is an exponent.

(2) If, for any month during the first 10 years following the commencement of commercial oil production of a lease or property, the

economic limit factor for oil production of that lease or property computed under (1) of this subsection is 0.7 or less, then that factor shall be applied.

(3) If, for any month during the first 10 years following the commencement of commercial oil production of a lease or property, the economic limit factor for oil production of that lease or property computed under (1) of this subsection is greater than 0.7, then the economic limit factor is one.

(4) The economic limit factor for oil production of a lease or property after the first 10 years following the commencement of commercial oil production shall be computed and applied under (1) of this subsection.

(c) The economic limit factor for gas production of a lease or property equals one minus the ratio of the monthly production rate at the economic limit to the production during the month for which the tax is to be paid.

(d) The monthly production rate at the economic limit for a lease or property is presumed to be 300 barrels times the number of well days for the lease or property during the month for which the tax is to be paid. The taxpayer may rebut this presumption at a formal hearing under AS 43.05.240 by providing clear and convincing evidence of a different monthly production rate at the economic limit for the lease or property. The hearing shall be held before February 15 of the year or within six months after commencement of oil production for a lease or property. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (f) of this section into the average monthly direct operating cost determined under (e) of this section and shall be used for purposes of this section for all oil production during that calendar year from the lease or property.

(e) The average monthly direct operating cost for oil production operations of the lease or property shall be determined based on a period of not less than four consecutive months. The direct operating costs include only royalty, production supplies, purchased fuel, routine maintenance, and wages and benefits of employees working on the production operations. Additional direct operating costs not listed in this section may be included only after their inclusion in a regulation adopted by the department. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, money paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the oil production operations of the lease or property, or any other cost not directly related to the oil production operations of the lease or property.

(f) For the purpose of calculating the economic limit, the value at the point of production of oil produced from the lease or property shall be determined on the basis of the acquisition cost C.I.F. at West Coast refineries for imported oil of like quality, minus the reasonable cost of transportation between the point of production of the oil from the lease or property and those West Coast refineries.

(g) The monthly production at the economic limit for a lease or property is presumed to be 3,000 Mcf times the number of well days for the lease or property during that month for which the tax is to be paid. The taxpayer may rebut this presumption at a formal hearing under AS 43.05.240 by providing clear and convincing evidence of a different monthly production rate at the economic limit for the lease or property. The hearing shall be held before February 15 of the year or within six months after commencement of gas production for a lease or property. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (i) of this section into the average monthly direct operating cost determined under (h) of this section.

(h) The average monthly direct operating cost for gas production operations of the lease or property shall be determined based on a period of not less than four consecutive months. The direct operating costs include only royalty actually and currently paid, production supplies, purchased fuel, routine maintenance, and wages and benefits of employees working on the production operations. Additional direct operating costs not listed in this section may be included only after their inclusion in a regulation adopted by the department. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, money paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the gas production operations of the lease or property, or any other cost not directly related to the gas production operations of the lease or property.

(i) For the purpose of calculating the economic limit, the value at the point of production of gas produced from the lease or property shall be determined on the basis of the volume weighted average price paid for gas of like quality and pressure in the same field.

(j) The department may aggregate two or more leases or properties (or portions of them), for purposes of determining economic limit factors under this section and applying them to AS 43.55.011 or AS 43.55.016, when economically interdependent oil or gas production operations are not confined to a single lease or property. The department may also segregate a lease or property into two or more parts, for purposes of determining economic limit factors under this section and

applying them under AS 43.55.011 or AS 43.55.016, when two or more economically independent oil or gas production operations are being conducted on it, or when old crude oil is produced from the same lease or property as other oil.

(k) A determination of the monthly production rate at the economic limit for a lease or property is retroactive to January 1 of the current year. For production of a lease or property commencing after January 1, the determination of the monthly production rate at the economic limit for that lease or property made within six months after the commencement of production is retroactive to the commencement of production. (§ 1 ch 136 SLA 1977; am §§ 13 — 16, 18 ch 116 SLA 1981)

Effect of amendments. — The 1981 amendment rewrote subsection (b) and repealed former subsection (a) which read "The economic limit factor for old crude oil production of a lease or property equals 1 minus the ratio of the monthly production rate at the economic limit to the production during the month for which the tax is

to be paid." The amendment also rewrote subsection (g) and in subsection (h), added "actually and currently paid" following "only royalty" in the second sentence and substituted "volume weighted average" for "highest" preceding "price paid" in subsection (i).

Sec. 43.55.016. Gas production tax. (a) There is levied upon the producer of gas a tax for all gas produced from each lease or property in the state, less any gas the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-Mcf amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for gas production of the lease or property under AS 43.55.013. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 10 per cent of the gross value at the point of production of the taxable gas produced from the lease or property.

(c) The cents-per-Mcf amount equals \$.064 per thousand cubic feet of taxable gas produced from the lease or property as adjusted by AS 43.55.012. (§ 1 ch 136 SLA 1977)

Sec. 43.55.017. Relation to other taxes. (a) Except as provided in this chapter and in AS 43.58, the taxes imposed by this chapter are in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax upon

- (1) producing oil or gas leases;
- (2) oil or gas produced or extracted in the state;
- (3) the value of intangible drilling and exploration expenses.

(b) The taxes imposed by this chapter are in place of all taxes imposed by a municipality upon oil or gas in place or nonproducing oil or gas leases or properties.

(c) The taxes imposed by this chapter are not in place of the tax imposed by AS 43.57 or income taxes, franchise taxes or taxes upon the retail sale of oil or gas products. (§ 1 ch 136 SLA 1977)

Sec. 43.56.010. Levy of tax. (a) An annual tax of 20 mills is levied each tax year beginning January 1, 1974, on the full and true value of taxable property taxable under this chapter.

(b) A municipality may levy and collect a tax under AS 29.53.045 at the rate of taxation that applies to other property taxed by the municipality. The tax shall be levied at a rate no higher than the rate applicable to other property taxable by the municipality. No municipality may exempt from taxation property authorized to be taxed under this chapter. Exemptions shall be limited to those in AS 29.53.020, 29.53.025 and AS 43.56.020.

(c) If the total value of assessed property of a municipality taxing under AS 29.53.045(c) exceeds the product of 225 per cent of the average per capita assessed full and true value of property in the state (to be determined by the department and reported to each municipality by January 15 of each year) multiplied by the number of residents of the taxing municipality, the department shall designate the portion of the tax base against which the local tax may be applied. For purposes of this subsection the average per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value of taxable property under AS 43.58.

(d) A tax paid to a municipality under AS 29.53.045 on or before June 30 of the tax year shall be credited against the tax levied under

(a) of this section for that tax year. If, however, a tax is not paid to a municipality until after June 30 of the taxable year, the department upon application shall refund to the taxpayer the amount of tax paid to the municipality under AS 29.53.045. The credit or refund of taxes paid to a municipality may not exceed the total amount of tax levied by the department upon the taxpayer for the tax year, under (a) of this section. (§ 1 ch 1 FSSLA 1973; am § 7 ch 159 SLA 1975; am §§ 1, 2 ch 107 SLA 1976)

AS 43.56.210 (7) (B)

transportation of gas or unrefined oil and whose operation of the aircraft or motor vehicle directly relates to the conduct of that business; and

(v) maintenance equipment and facilities, and maintenance camps and other related facilities;

(vi) communications facilities owned by a person whose principal business in the state is the exploration for, production of, or pipeline transportation of gas or unrefined oil and whose operation of the communications facilities directly relates to the conduct of that business;

(B) does not include

(i) permanent residences;

(ii) office buildings requiring substantial local government services;

(iii) oil and gas pipeline systems owned and operated by a public utility that is certificated under AS 42.05.221 and is regulated by the Alaska Public Utilities Commission;

(iv) aircraft and motor vehicles, except aircraft and motor vehicles taxable under (A) (iv) of this paragraph; and

(v) communications facilities, except communications facilities taxable under (A) (vi) of this paragraph;

(8) "unrefined oil" includes crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas other than gas produced in association with oil and commonly known as casinghead gas. (§ 1 ch 1 FSSLA 1973; am § 27 ch 208 SLA 1975; am § 8 ch 136 SLA 1977; am § 41 ch 113 SLA 1980; am § 17 ch 110 SLA 1981; am §§ 2 — 4 ch 117 SLA 1981)

Revisor's notes. — Reorganized in 1983 to alphabetize the defined terms.

Effect of amendments. — The 1980 amendment rewrote paragraph (6).

The first 1981 amendment deleted "certificated" preceding "public utility" and added "that is certificated under AS 42.05.221 and is" preceding "regulated" in paragraph (6) (B) (iii).

The second 1981 amendment added "and" preceding "air strips" and deleted "and communication equipment and facilities" following "air strips" in paragraph (6) (A) (iii). The amendment also added paragraph (6) (A) (vi) and added paragraph (6) (B) (v).

Chapter 57. Oil and Gas Regulation and Conservation Tax.

Section

10. Oil and gas regulation and conservation tax

Sec. 43.57.010. Oil and gas regulation and conservation tax. (a) There is levied upon the producer of oil a tax of one-eighth of one cent on each barrel of oil removed or sold from each lease or property in the state, less any part the ownership or right to which is exempt from taxation.

(b) The tax is in addition to and shall be administered and paid in the same manner as the taxes imposed by AS 43.55. Producers of oil are required to make reports of production in the same manner and under the same penalties as required by AS 43.55.

(c) Proceeds from the tax shall be paid into the general fund. (§ 1 ch 5 FSSLA 1973)

Sec. 43.65.010. Mining license. (a) A person prosecuting or attempting to prosecute, or engaging in the business of mining in the state shall obtain a license from the department. All new mining operations are exempt from the tax levied by this chapter for three and one-half years after production begins. The tax exemption granted to new mining operations does not extend or apply to the mining of sand and gravel.

(b) The Department of Natural Resources shall certify to the department the date upon which production begins, and the department shall issue a certificate of exemption to the producer accordingly.

(c) The license tax on mining is as follows: upon the net income of the taxpayer from the property in the state, computed with allowable depletion, plus royalty received in connection with mining property in the state

over \$40,000 and not over \$50,000	3 per cent
over \$50,000 and not over \$100,000	\$1,500 plus
	5 per cent of the excess over \$50,000
over \$100,000	\$4,000 plus
	7 per cent of the excess over \$100,000.

(d) Where mining operations are conducted in two or more places by one person the operations are considered a single mining operation and the tax under this chapter is computed upon the aggregate income derived from all the mining operations. The lessor of a mine operated under a lease is considered to be engaged in mining within this chapter, and the royalties received by the lessor are considered to be the net income of the lessor's mining operations. If the lessor receives royalties from more than one mine or mining operation, the tax payable under this chapter by the lessor is computed upon the aggregate royalties received by the lessor from all the mines or mining operations as though they were a single mining operation.

(e) The allowance for depletion included as an allowable deduction from gross income is a percentage of the gross income from the property during the taxable year, excluding from the gross income an amount equal to the rents or royalties paid by the taxpayer in respect to the property, as follows: (1) coal mines: 10 per cent; (2) metal mines, fluorspar, flake graphite, vermiculite, beryl, feldspar, mica, talc, lepidolite, spodumene, varite, ball and sagger clay, or rock asphalt mines and potash mines or deposits: 15 per cent; and (3) sulphur mines or deposits: 23 per cent.

(f) The allowance for depletion may not exceed 50 per cent of the net income of the taxpayer, computed without allowance for depletion, from the property, except that in no case may the depletion allowable be less than it would be if computed on a reasonable cost basis.

(g) Deductions which are not directly attributable to particular properties or processes shall be fairly allocated. To illustrate: If the

taxpayer engages in activities in addition to mineral extraction in the state and to ordinary treatment processes, deductions for depreciation, taxes, general expenses, and overhead, which cannot be directly attributed to a specific activity, shall be fairly apportioned between (1) the mineral extraction and ordinary treatment processes, and (2) the additional activities, taking into account the ratio which the operating expenses directly attributable to the mineral extraction and ordinary treatment processes bear to the operating expenses directly attributable to the additional activities. If more than one mineral property is involved, the deductions apportioned to the mineral extraction and ordinary treatment processes shall, in turn, be fairly apportioned to the several properties taking into account their relative production.

(h) Taxes upon royalties shall be paid by the taxpayer receiving the royalties and no deduction, excepting depletion, is allowed.

(i) A license issued under this section shall include

- (1) the name and address of the licensee;
- (2) the nature or type of mining activity to be conducted; and
- (3) the year for which the license is issued. (§ 35-1-31 (a) — (c) (e))

(f) ACLA 1949; am § 1 ch 64 SLA 1951; §§ 1, 2 ch 26 SLA 1953; am § 1 ch 78 SLA 1955; am § 1 ch 14 SLA 1962; am § 43 ch 113 SLA 1980)

AS 43.75.015 (b), (c)

(b) Instead of the taxes levied by (a) of this section, a person who processes a developing commercial fish species is liable for and shall pay a tax equal to

(1) one percent of the value of the developing commercial fish species processed by a shore-based fisheries business during the year; and

(2) three percent of the value of the developing commercial fish species processed by a floating fisheries business during the year.

(c) A person engaging or attempting to engage in a fisheries business who first actually and physically processes the fishery resource, or a person who purchases a fishery resource that is frozen from a person excluded by AS 43.75.017 from liability for the tax, is liable for and shall pay to the department the entire tax imposed by this section. In determining this tax liability, the person may deduct from the value of the fishery resources processed the value of fishery resources that are canned or processed for other fisheries businesses. A person taking the deduction authorized by this subsection shall report all information relating to the deduction in accordance with regulations issued by the department. (§ 3 ch 79 SLA 1979; am §§ 5, 6 ch 117 SLA 1981)

Sec. 43.75.017. Exclusion from fisheries business tax. A person is not liable for the fisheries business tax under AS 43.75.015 when the fishery resource is frozen aboard a fishing vessel if

- (1) the vessel is operated as a commercial fishing vessel under a valid commercial fishing license;
- (2) the fishery resource is not processed beyond heading, gutting or cleaning, freezing and glazing;
- (3) the fishery resource was caught by the vessel; and
- (4) the fishery resource is sold by the person claiming an exclusion from the tax to a fisheries business licensed under this chapter. (§ 7 ch 117 SLA 1981)

Sec. 43.75.032. FISHERIES BUSINESS TAX CREDITS. (a) A fisheries business is entitled to a credit of not more than 50 percent of the business tax liability under AS 43.75.015 for capital expenditures made during the tax year that (1) increase product diversity, or production efficiency and capacity, or improve product quality, at a shore-based fisheries business facility in the state, or (2) contribute to the development of a cooperative seafood industrial park in the state, if an application for the credit is approved by the department in advance of the capital expenditure. A fisheries business may claim a credit under this subsection for a maximum period of three consecutive years. An applicant for the credit may elect to begin the three-year period with any tax year from 1987 through 1989. A tax credit under this subsection may not be approved for more than 50 percent of a capital expenditure, plus any increase required under (b) of this section.

(b) The amount of a credit under (a) of this section for a capital expenditure involving a shore-based fisheries business facility or cooperative seafood industrial park located or to be located in a municipality shall be increased by the amount by which the municipality's fisheries business tax refund is reduced under AS 43.75.-130(c). The total amount of a credit increase under this subsection during a three-year period may not exceed 25 percent of the amount of the capital expenditure.

(c) The portion of a capital expenditure that is eligible for a credit under this section but is not claimed during a single tax year may not be carried back to a prior tax year but is available for the computation as a credit under this section for a subsequent tax year within the three-year period elected under (a) of this section.

(d) Within 10 days after submitting an application for a credit under (a) of this section the applicant shall send a copy of the application to the municipality, if any, in which the shore-based fisheries business facility or cooperative seafood industrial park for which the expenditure is to be made is located or is to be located.

(e) A fisheries business is entitled to a credit of not more than five percent of the business tax liability under AS 43.75.015 for contributions made during the tax year to the A. W. "Winn" Brindle

memorial scholarship account (AS 14.43.250). A fisheries business may claim a credit under this subsection for the 1987 tax year and subsequent tax years. A tax credit under this subsection may not be approved for more than 100 percent of a scholarship contribution.

(f) The total tax credits that may be claimed under this section for a tax year for capital expenditures and scholarship contributions combined may not exceed 50 percent of the taxpayer's business tax liability under AS 43.75.015 for that tax year.

(g) The department may not approve a tax credit under this section if

(1) the property for which the capital expenditure was made was the subject of a previous capital expenditure by another taxpayer for whom a corresponding tax credit under this section has been approved;

(2) the property for which the capital expenditure was made was sold or transferred between fisheries businesses having substantial common ownership; or

(3) the fisheries business claiming the credit is in arrears in the payment of a fisheries business tax under AS 43.75.015; for purposes of this paragraph, a taxpayer is not in arrears if the payment is under administrative or judicial appeal.

(h) The department shall prepare an application form for a credit under this section.

(i) The department shall approve or disapprove an application for a credit under this section not later than 60 days after receiving the application.

(j) In this section

(1) "cooperative" has the meaning given in AS 10.15.595.

(2) "seafood industrial park" means a seafood processing

center with facilities to land, handle, and process or to ship or transship to any location all marketable species of seafood; a seafood industrial park may contain commercial facilities to support the activities of the park, and the labor force and vessels that operate at or from the park;

Sec. 43.75.032. TAX CREDIT FOR SCHOLARSHIP CONTRIBUTIONS. (a)

A fisheries business is entitled to a credit of not more than five percent of the business tax liability under AS 47.75.015 for contributions made during the tax year to the A. W. "Winn" Brindle memorial scholarship account (AS 14.43.250). A tax credit under this section may not be approved for more than 100 percent of a scholarship contribution.

(b) The department may not approve a tax credit under this section if the fisheries business claiming the credit is in arrears in the payment of a fisheries business tax under AS 43.75.015; for purposes of this subsection, a taxpayer is not in arrears if the payment is under administrative or judicial appeal.

(c) The department shall prepare an application form for a credit under this section.

(d) The department shall approve or disapprove an application for a credit under this section not later than 60 days after receiving the application.

* Sec. 4. AS 43.75.130 is amended by adding new subsections to read:

(b) For purposes of this section, tax revenue collected under AS 43.75.015 from a person entitled to a credit under AS 43.75.032 shall be calculated as if the person's tax had been collected without applying the credit.

(c) Within 60 days after a credit is approved under AS 43.75.032 for a capital expenditure involving a shore-based fisheries business facility or cooperative seafood industrial park located or to be located in a municipality, the municipality may adopt an ordinance directing the department to reduce the municipality's refund under this section over a period of not more than three years by an amount not exceeding 25 percent of the capital expenditure.

Sec. 43.80.015. Taxation under P.L. 92-203. (a) The receipt of the original issue of shares of stock in a corporation organized under Alaska law pursuant to the federal Alaska Native Claims Settlement Act (P.L. 92-203; 85 Stat. 688; 43 U.S.C. 1601 et seq.) by or on behalf of a native (as defined in the federal Act) is not subject to any form of state or local taxation.

(b) The receipt of land or an interest in it under the federal Act or of cash in order to equalize the values of property exchanged under § 22(f) of that Act or AS 38.95.060 is not subject to any form of state or local taxation. The basis for computing gain or loss on subsequent sale or other disposition of this land or interest in land for purposes of a state or local tax imposed on or measured by income is the fair value of the land or interest in land at the time of receipt.

(c) A real property interest conveyed under the federal Act or AS 38.95.050 or 38.95.060, including land received in an exchange under sec. 22(f) of the federal Act or AS 38.95.060, to a Native individual or corporation incorporated under Alaska law pursuant to the federal Act, which interest is not developed or leased to third parties, is exempt from state and local real property taxes and local assessments until December 18, 1991. However, municipal taxes, local real property taxes, or local assessments may, under the laws of the state, be imposed upon leased or developed real property within the jurisdiction of any governmental unit organized under the laws of the state. Easements, rights-of-way, leaseholds, and similar interests in real property may be taxed in accordance with state or local law. All rents, royalties, profits, and other revenues or proceeds derived from property interests are taxable to the same extent as these revenues or proceeds are taxable when received by a non-native individual or corporation. In § 21(d) of the federal Act, the exemption of real property interests from local real property taxes includes exemption from local assessments and extends to land received in an exchange under § 22(f) of the federal Act or AS 38.95.060.

(d) Use of the terms "corporate funds" and "dividends", in § 7(j) and (m) of the federal Act, does not determine whether the money is a dividend, distribution to shareholders, funds which are property, surplus or capital of a regional corporation for the purposes of this title or AS 10.05 or other applicable state law, the provisions of § 8, ch 70, SLA 1972 notwithstanding. (§ 5 ch 70 SLA 1972)