



# LAWS OF ALASKA

1973

Source

Chapter No.

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## AN ACT

Providing for taxes on property used in the exploration for, production of, or pipeline transportation of gas or unrefined oil; and providing for an effective date.

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

\* Section 1. AS 43 is amended by adding a new chapter to read:

#### CHAPTER 56. OIL AND GAS EXPLORATION, PRODUCTION AND PIPELINE TRANSPORTATION PROPERTY TAXES.

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. A tax collected by a municipality as authorized by AS 29.53.045 shall be credited against the tax levied under (a) of this section and 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 and 29.53.025 and sec. 20 of this chapter.

(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.

Sec. 43.56.020. EXEMPTIONS. (a) The following are exempt from local taxes levied or authorized under sec. 10(b) of this chapter:

(1) property rights attached to or inherent in the right to explore for or produce oil or gas;

(2) oil or gas leases or properties, whether producing or not;

(3) oil or gas in place;

(4) oil or gas produced or extracted in the state;

(5) the value of intangible drilling expenses and exploration expenses;

(6) an interest in property described in AS 43.55.010(b);

(7) before the construction commencement date, property taxed under sec. 10(a) of this chapter which is committed by contract or other agreement for use in this state primarily for pipeline transportation of gas or unrefined oil or for the production of gas or unrefined oil to be transported by that pipeline;

(8) before the construction commencement date, property taxed under sec. 10(a) of this chapter which is committed by contract or other agreement for use in this state primarily in the operation or maintenance of facilities for pipeline transportation of gas or unrefined oil, or facilities for production of gas or unrefined oil to be transported by that pipeline.

(b) In (a)(2) of this section, "properties" means mineral interests in oil and gas and working interests, royalty interests, and overriding royalty interests in oil and gas leases.

Sec. 43.56.030. IN PLACE OF OTHER TAXES. Except for those taxes imposed under ch. 55 and ch. 57 of this title, the taxes levied or authorized under sec. 10(b) of this chapter are in place of

(1) all other ad valorem taxes or other taxes imposed by a municipality on property subject to tax under this chapter or exempted from taxation by sec. 20 of this chapter, and

(2) all other taxes imposed by a municipality on or with respect to the property subject to tax under this chapter or exempted from taxation by sec. 20 of this chapter, including, but not limited to,

(A) taxes on the retail sale or use of the property except for the retail sales tax on the first \$1,000 of each sale;

(B) taxes on the sale or use of gas or unrefined oil;

(C) taxes on the sale or use of services used in or associated with the property or in its erection, construction, maintenance or operation except for the sales tax on the first \$1,000 of each sale;

(D) taxes on or measured by gross or net income from the property, including income from the exploration for, production of, or pipeline transportation of gas or unrefined oil or property; and

(E) any license, excise, fee, charge or other tax on or pertaining to the property or services.

Sec. 43.56.040. STATE ASSESSMENT REVIEW BOARD. The State Assessment Review Board is created within the Department of Revenue. The board consists of five persons appointed by the governor to serve at his pleasure, each of whom must be knowledgeable of assessment procedures. Each board member is subject to confirmation by a majority of the members of the legislature in joint session.

Sec. 43.56.050. PER DIEM AND EXPENSES. Members of the board shall receive per diem and expenses authorized by law for boards and commissions.

Sec. 43.56.060. ASSESSMENT. (a) The department shall assess property for the tax levied under sec. 10(b) of this chapter and AS 29.53.045 on property used or committed by contract or other agreement for use for the pipeline transportation of gas or unrefined oil or for the production of gas or unrefined oil at its full and true value as of January 1 of the assessment year.

(b) The department shall assess property for the taxes levied under sec. 10(a) of this chapter at its full and true value as of January 1 of the assessment year except that in the case of taxable property used or committed by contract or other agreement for the pipeline transportation of gas or unrefined oil or for the production of gas or unrefined oil to be transported by that pipeline, the first assessment date shall be the construction commencement date. If the construction commencement date is used as the assessment date, the tax payable shall be prorated on the basis of the assessment year remaining.

(c) The full and true value of taxable property used or committed by contract or other agreement for use in the exploration for gas or unrefined oil, or in the operation or maintenance of facilities for the exploration for gas or unrefined oil, is the estimated price which the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels.

(d) The full and true value of taxable property used or committed by contract or other agreement for the production of gas or unrefined oil or in the operation or maintenance of facilities for the production of gas or unrefined oil is:

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(1) on the construction commencement date the actual cost incurred or accrued with respect to the property as of the date of assessment;

(2) determined on each January 1 thereafter on the basis of replacement cost less depreciation based on the economic life of proven reserves.

(e) The full and true value of taxable property used or committed by contract or other agreement for pipeline transportation of gas or unrefined oil or in the operation or maintenance of facilities for the pipeline transportation of gas or unrefined oil is:

(1) on the construction commencement date and until January 1 following the date the pipeline begins to transport gas or unrefined oil, the actual cost incurred or accrued with respect to the property as of the date of assessment;

(2) determined on each January 1 thereafter with due regard to the economic value of the property based on the estimated life of the proven reserves of gas or unrefined oil then technically, economically and legally deliverable into the transportation facility; however, if the proven reserves of gas or unrefined oil then technically, economically and legally deliverable indicate an economic life materially shorter than the estimated physical life of the transportation facility, the full and true value is the actual cost reduced by an annual allowance for depreciation on a straight line basis over an economic life based on the actual elapsed life from the commencement of full operation to the date of assessment plus the estimated remaining life of the proven reserves of gas and unrefined oil then technically, economically and legally deliverable into the transportation facility as of the date of the assessment;

(3) on the assessment date next following inability to use or construct all or a substantial part of the facility for a period of 90 or more consecutive days because of natural disaster or legal prohibition, or other events beyond the control of a person having ownership or control of the property, adjusted to take into account any diminution in value.

(f) For purposes of this section, "actual cost" and "replacement cost" do not include interest capitalized before or during the period of construction nor the value of intangible drilling expenses. In the case of taxable property under construction, "actual cost" for purposes of this section means the costs incurred or accrued with respect to the property as of the date of assessment.

(g) The department may enter into agreements with a municipality for the cooperative or joint administration of the assessing authority conferred on the department by this section.

Sec. 43.56.070. RETURNS. (a) The department may require by notice every person having ownership or control of an interest in property taxable under this chapter to

submit a return in the form prescribed by the department, based on property values existing on January 1 of each year, except as otherwise provided in this chapter.

(b) The department by written notice may require a person to provide additional information within 30 days of the notice.

Sec. 43.56.080. INVESTIGATION. (a) The department may make an investigation of property on which a return has been filed or of taxable property upon which no return has been filed. In either case, the department may 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 premise necessary for the investigation during reasonable hours and may examine property and appropriate records. The owner of the taxable property upon request shall furnish to the employee or agent of the department reasonable assistance required for the investigation. If refused entry, the department may seek a court order to compel entry.

(c) For the purpose of the investigation the owner of the taxable property or his representative may be required to present himself for examination under oath by the department.

Sec. 43.56.090. ASSESSMENT ROLL. The department shall prepare annually the assessment roll for taxation under this chapter. The roll shall contain:

- (1) a description of all taxable property;
- (2) the assessed value of all taxable property;
- (3) the names and addresses of persons owning property subject to assessment and taxation.

Sec. 43.56.100. ASSESSMENT NOTICE. (a) On or before March 1 of each year, the department shall send to every owner of taxable property named in the assessment roll a notice of assessment, showing the assessed value of the property. Notice of assessment is effective on the date of mailing.

(b) The department shall send to a municipality a copy of the notice of assessment on any taxable property which is assessed under the provisions of this chapter and which is located in the municipality and on which a tax is authorized under sec. 10(b) of this chapter.

Sec. 43.56.110. APPEAL TO THE DEPARTMENT. (a) An owner of taxable property or a municipality receiving an assessment notice may object to the assessment by advising the department in writing of the objections to the assessment within 20 days of the effective date of the notice.

(b) The department shall provide by regulation for notices of appeals to interested persons and municipalities.

(c) Following an objection the department may adjust the assessment and the assessment roll. An adjustment based on an objection from an owner of taxable property or a municipality shall be made within 30 days of the effective date of the notice of assessment.

Sec. 43.56.120. APPEAL TO THE STATE ASSESSMENT REVIEW BOARD. (a) After a ruling by the department on an appeal made under sec. 110 of this chapter, the owner or a municipality may further appeal to the board. The appeal must be filed in writing within 50 days of the effective date of the notice of assessment.

(b) The board shall provide by regulation for notices of appeals to interested persons and municipalities.

Sec. 43.56.130. HEARINGS OF STATE ASSESSMENT REVIEW BOARD. (a) The board shall hear appeals filed under sec. 120(a) of this chapter.

(b) A majority of the board constitutes a quorum required to transact business.

(c) The board shall provide by regulation for notices of hearings to interested persons and municipalities.

(d) If an appellant fails to appear at the hearing, the board may proceed with the hearing in his absence.

(e) The appellant bears the burden of proof at the hearing.

(f) The only grounds for adjustment of assessed value is proof of unequal, excessive or improper valuation or valuation not determined in accordance with the standards set out in this chapter, based on facts stated in a written appeal timely filed or proved at the hearing.

(g) The board shall certify its determinations to the department within seven days of the hearing.

(h) The department shall enter the changes and certify the final assessment roll on or before June 1 of each year and by July 1 shall mail to the owner of taxable property or his authorized agent a statement of the amount of tax due.

(i) An owner or municipality may appeal to the superior court for, and is entitled to, trial de novo of the board's action.

Sec. 43.56.140. SUPPLEMENTARY ASSESSMENT ROLLS. The department shall include property omitted from the assessment roll on a supplementary roll, using the procedures set out in this chapter for the original roll.

Sec. 43.56.150. COLLECTION AND DEPOSIT. (a) The tax levied by sec. 10(a) of this chapter is payable to the department on or before September 30 of the taxable year.

(b) The department may provide for voluntary prepayment and for payment by installments.

(c) The tax levied under sec. 10(a) of this chapter, interest and penalties collected with respect to this levy shall be deposited in the general fund.

Sec. 43.56.160. INTEREST AND PENALTY. When the tax levied by sec. 10(a) of this chapter becomes delinquent, a penalty of 10 per cent shall be added. Interest on the delinquent taxes, exclusive of penalty, shall be assessed at a rate of eight per cent a year.

Sec. 43.56.170. LIEN FOR TAX. The tax levied under sec. 10(a) of this chapter and the interest and penalty provided in sec. 160 of this chapter are first and paramount liens on the property subject to tax under this chapter.

Sec. 43.56.180. REMEDY. The remedy of distraint of property set out in AS 43.20.270 applies to the tax levied by sec. 10(a) of this chapter. However, only property subject to the tax may be distrained.

Sec. 43.56.190. PENALTIES. A person who knowingly fails to file a return when due or who makes a false statement in a return required under this chapter with intent to evade taxation is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000, or by imprisonment for not more than six months, or by both, together with the costs of prosecution, notwithstanding the provisions of AS 12.80.030.

Sec. 43.56.200. REGULATIONS. The board and the department may adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) as appropriate to carry out their respective duties under this chapter.

Sec. 43.56.210. DEFINITIONS. In this chapter

(1) "board" means State Assessment Review Board;

(2) "construction commencement date" means the earlier of April 1, 1974 or the date the following occur:

(A) there has been issued to the owner or his agent right-of-way permits, leases, and title and other rights in lands, and other approvals, permits, licenses and certificates, by federal, state and local agencies that a reasonable and prudent person would consider adequate to commence construction of the facilities in the expectation that all other approvals, permits, licenses and certificates necessary for the completion of facilities will be obtained;

(B) all approvals, permits, licenses and certificates are in full force and effect, unrevoked and without any modification, which might jeopardize the completion or continued construction of the facilities; and

(C) no order, judgment, decree, determination or award of a federal, state or local court or administrative or regulatory agency enjoining, either temporarily or permanently, the construction or the continuation of construction of the facilities is in effect;

(3) "department" means the Department of Revenue;

(4) "gas" includes all natural gas and all hydrocarbons produced at the wellhead not defined as oil;

(5) "intangible drilling expenses" means those expenses defined in sec. 263(c) of the United States Internal Revenue Code as defined on the effective date of this paragraph;

(6) "taxable property" means real and tangible personal property used or committed by contract or other agreement for use within this state primarily in the exploration for, production of, or pipeline transportation of gas or unrefined oil (except for property used solely for the retail distribution or liquefaction of natural gas), or in the operation or maintenance of facilities used in the exploration for, production of, or pipeline transportation of gas or unrefined oil, including machinery, appliances, supplies, equipment, drilling rigs, wells (whether producing or not), gathering lines and transmission lines, pumping stations, compressor stations, power plants, topping plants, processing units, roads, tank farms, tanker terminals, docks and other port facilities, air strips and communication equipment and facilities, maintenance equipment and facilities, and maintenance camps and other related facilities; "taxable property" does not include permanent residences, office buildings requiring substantial local government services, or gas pipeline systems operated as utilities and regulated by the Alaska Public Utilities Commission;

(7) "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.

\* Sec. 2. AS 29.53.025(a) is amended to read:

(a) Municipalities may exclude or exempt or partially exempt residential property from taxation by ordinance ratified by the voters at a regular or special election. An exclusion or exemption authorized by this section may not exceed \$10,000 for any one residence.

\* Sec. 3. AS 29.53 is amended by adding a new section to read:

Sec. 29.53.045. TAX ON OIL AND GAS PRODUCTION AND PIPELINE PROPERTY. (a) A municipality may levy and collect taxes on taxable property taxable under AS 43.56 only by using one of the methods set out in (b) or (c) of this section.

(b) A municipality may levy and collect a tax on the full and true value of taxable property taxable under AS 43.56 as valued by the Department of Revenue at a rate not to exceed that which produces an amount of revenue from the total municipal property tax equivalent to \$1,000 a year for each person residing within its boundaries.

(c) A municipality may levy and collect a tax on the full and true value of that portion of taxable property taxable under AS 43.56 as assessed by the Department of Revenue which, when combined with the value of property otherwise taxable by the municipality, does not exceed the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality.

(d) By February 1 of each assessment year a taxing municipality must inform the Department of Revenue which method of taxation the municipality will use.

(e) For purposes of this section, population shall be determined by the commissioner of community and regional affairs based on the latest statistics of the United States Bureau of the Census or on other reliable population data, and shall advise each municipality of its population as so determined by January 15 of each year.

\* Sec. 4. AS 29.53.050 is amended by adding a new subsection to read:

(b) No municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may levy taxes which will result in tax revenues from all sources exceeding either (1) \$1,000 a year for each person residing within their boundaries or (2) when combined with the value of property otherwise taxable by the municipality, the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality. If two or more municipalities occupying the same geographical area, in whole or in part, attempt to levy a tax the combined levy of which would result in tax revenues from all sources exceeding either (1) \$1,000 a year for each person residing within their boundaries or (2) when combined with the value of property otherwise taxable by the municipality, the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality, the commissioner of community and regional affairs shall apportion the lawful levy and equitably divide these revenues on the basis of need, services performed and other considerations in the public interest. For the purpose of this subsection, population shall be determined by the commissioner of community and regional affairs based on the latest statistics of the United States Bureau of the Census or on other reliable population data.

\* Sec. 5. AS 29.53.055 is amended to read:

Sec. 29.53.055. NO LIMITATION ON TAXES TO PAY BONDS. The limitations provided for in secs. 45 or 50 of this chapter do not apply to taxes levied or pledged to pay or secure the payment of the principal and interest on bonds. Taxes to pay or secure the payment of principal and interest on bonds may be levied without limitation as to rate or amount.

\* Sec. 6. This Act takes effect on January 1, 1974.