

The Alaska Gasline Now Act

1 AN ACT ENTITLED

2
3 “An Act levying a tax on certain leases having known resources of natural gas,
4 conditionally repealing the levy of that tax, and authorizing a credit for payments of
5 that tax against amounts due under the oil and gas properties production
6 (severance) tax if requirements relating to the sale or shipment of the natural gas
7 are met; and providing for an effective date.”

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9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF ALASKA:

10
11 *Section 1. The uncodified law of the State of Alaska is amended by adding a new
12 section to read:

13 SHORT TITLE. This Act shall be known as the Alaska Gasline Now! Act.

14
15 *Sec. 2. AS 43.58 is amended by adding new sections to read:

16 Sec. 43.58.210. Tax on certain leases having known gas resources. (a) An
17 annual tax is levied each calendar year on leases having taxable gas.

18 (b) The tax shall be paid by the lessee.

19 (c) The annual rate of levy is three cents for each 1,000 cubic feet of taxable gas
20 under lease.

21 Sec. 43.58.220. Property subject to tax. (a) The property subject to tax under
22 this chapter is leases having taxable gas. Taxable gas is known gas resources in the state,
23 excepting gas described in (b) and (c) of this section.

24 (b) Gas is not taxable gas under this chapter if it is

25 (1) a gas hydrate;

26 (2) coal bed methane;

27 (3) any other nonconventional gas resource;

28 (4) nonhydrocarbon gas;

29 (5) an unknown gas resource;

30 (6) gas to be consumed as fuel in a state-approved oil and gas unit of
31 origin within five years of January 1 of the tax year;

1 (7) natural gas liquids to be blended with oil and transported by oil
2 pipeline to market for sale as oil within five years of January 1 of the
3 tax year; or

4 (8) the state's royalty share of gas.

5 (c) Gas is not taxable gas under this chapter if the gas is

6 (1) not subject to a state-approved oil and gas unit; or

7 (2) subject to a state oil and gas lease, but that lease

8 (A) has not been in existence throughout the 10 years
9 immediately preceding the tax year;

10 (B) was not in a state-approved oil and gas unit as of
11 January 1, 2002, and January 1, of the tax year; or

12 (C) is in a state-approved oil and gas unit that has less
13 than 1,000,000,000,000 cubic feet of known gas
14 resources.

15 **Sec. 43.58.230. Determination of volume of taxable gas.** (a) The department,
16 after consultation with the Department of Natural Resources and the Alaska Oil and Gas
17 Conservation Commission, shall determine the volume of taxable gas in each state-
18 approved oil and gas unit as of January 1 of each year.

19 (b) For a state-approved oil and gas unit in which all lessees have agreed
20 to a formula or formulas for the allocation of hydrocarbons among lessees, the
21 department shall use that formula or those formulas in allocating taxable gas among the
22 lessees for purposes of assessing and collecting the tax due under this chapter.

23 (c) For a state-approved oil and gas unit in which all lessees have not
24 agreed to a formula for the allocation of hydrocarbons among lessees, the department
25 may allocate taxable gas among the lessees in any manner it considers reasonable,
26 including, without limitation,

27 (1) by agreement of the department and all lessees;

28 (2) based on original or remaining gas in place;

29 (3) based on remaining recoverable gas reserves or resources; or

30 (4) based on surface acreage.

1 (d) To facilitate the use of confidential information available to the
2 Department of Natural Resources and the Alaska Oil and Gas Conservation Commission,
3 the department may delegate the allocation of taxable gas under (c) of this section among
4 lessees to the Department of Natural Resources or the Alaska Oil and Gas Conservation
5 Commission.

6 **Sec. 43.58.240. Returns and payment of tax.** (a) A lessee holding an interest in
7 property taxable under this chapter shall submit a return setting out known gas resources
8 subject to the tax. The lessee shall submit the return on or before February 1 on the form
9 prescribed by the department based on volumes of taxable gas existing on January 1 of
10 each calendar year, except as otherwise provided in this chapter.

11 (b) With the written approval of the department, an operator of a lease
12 holding an interest in property taxable under this chapter may submit returns or make
13 payment of the tax levied under this chapter on behalf of the lessee.

14 (c) The tax levied under this chapter is payable to the department on or
15 before June 30 of each year or in installments at the times and under the conditions that
16 the department may by regulation require.

17 (d) If directed or approved by the department, a person submitting returns
18 under this section or making payments as required under this chapter for more than one
19 lease may regard taxable gas attributable to leases within a state-approved unit as if it
20 were a single lease for purposes of submitting those returns or making those payments.

21 (e) The department may, by written notice, require a person filing a return
22 to submit additional information to the department not later than 30 days after the notice.

23 **Sec. 43.58.250. Regulations.** The department shall adopt regulations in
24 accordance with AS 44.62 (Administrative Procedure Act) as appropriate to administer
25 and enforce this chapter. The regulations must include provisions that address

- 26 (1) annual preparation of the tax roll of property that includes taxable gas;
27 (2) provision for notice to operators or lessees of leases having gas subject
28 to tax under this chapter of the volume of taxable gas for each lease or
29 unit;

1 (3) procedures by which a person aggrieved by an action of the
2 department may appeal that action and obtain a hearing; under the
3 procedures to be adopted,

4 (A) conduct of the hearing and activities preliminary to it shall be
5 in accordance with AS 44.62.350, 44.62.430, 44.62.450,
6 44.62.460, 44.62.480, 44.62.500 - 44.62.550, 44.62.590, and
7 44.62.610 - 44.62.640; for the purposes of this subparagraph,
8 the term "respondent" used in those sections shall be
9 considered to include the person aggrieved by the action of
10 the department;

11 (B) at the hearing, the appellant bears the burden of proof; and

12 (C) within 30 days after the decision by the department following
13 the hearing, a person aggrieved by that decision may appeal
14 to the superior court; and

15 (4) certification of a final taxation roll and the manner of preparation of a
16 supplemental roll using procedures applicable to the preparation of the
17 original tax roll.

18 **Sec. 43.58.295. Definitions.** In this chapter,

19 (1) "gas" and "natural gas" have the meanings given to "gas" in AS
20 43.55.900;

21 (2) "known gas resources" means the volume of gas that geological and
22 engineering information indicates is recoverable in the future under
23 existing technology, without regard to the current lack of a means of
24 its transportation to markets;

25 (3) "lease" means an oil and gas lease issued by the state;

26 (4) "lessee" means the lessee of record with the state as of January 1 of the
27 tax year;

28 (5) "operator" means the party approved by the Department of Natural
29 Resources or Alaska Oil and Gas Conservation Commission as the
30 unit operator for a state-approved unit.

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

1 **Sec. 43.55.027. Credit against tax as it applies to certain natural gas**
2 **production.** (a) In addition to other credits authorized by this chapter, there is allowed a
3 credit against the tax due under this chapter for a lessee holding an interest in property
4 subject to the tax imposed under AS 43.58.210 - 43.58.295.

5 (b) A lessee holding an interest in property subject to the tax imposed under AS
6 43.58 may claim and take the credit against tax due under this chapter.

7 (c) On and after the date that natural gas committed by contract for sale and
8 delivery as commercially marketable gas is first delivered to tidewater for transshipment
9 or to the domestic North American natural gas pipeline system and the delivery is by a
10 pipeline or combination of pipelines having a minimum delivery capacity of
11 2,000,000,000 cubic feet of gas per day, a lessee holding an interest in property subject to
12 the tax imposed under AS 43.58 may apply for and obtain a credit calculated in
13 accordance with this section. A credit allowed under this section may not be allowed
14 unless

15 (1) the lessee who holds an interest in the taxable property has entered into

16 (A) an irrevocable agreement to sell the lessee's gas taxable
17 under AS 43.48.210 - AS 43.58.295; or

18 (B) a binding transportation service agreement to ship the
19 lessee's gas taxable under AS 43.58.210 - AS
20 43.58.295 that results from an open season or from a
21 pre-subscription agreement made public within 10 days
22 of execution; in this subparagraph, "open season"
23 means

24 (i) an open season for Alaska natural gas
25 transportation projects conducted under 15
26 U.S.C. 720a(e) and related regulations
27 governing the initial capacity of the pipeline
28 transportation project described in 15 U.S.C.
29 717 - 717w; or

30 (ii) an open season with a methodology
31 substantially similar to that described in (i)

1 of this paragraph for determining capacity
2 on other Alaska natural gas transportation
3 pipeline projects;

4 (2) the natural gas pipeline described in this subsection is in service and is
5 transporting the gas that is the subject of an irrevocable agreement of
6 sale under (1)(A) of this subsection or a binding transportation service
7 agreement to ship under (1)(B) of this subsection; and

8 (3) the lessee who holds an interest in the taxable property is actually
9 engaged in selling the gas under an agreement described in (1)(A) of
10 this subsection or in shipping the gas described under the
11 transportation service agreement described in (1)(B) of this subsection.

12 (d) A credit may be claimed and allowed under this section

13 (1) only against the tax due during the month under this chapter calculated
14 on the lessee's production of natural gas that is transported in the
15 pipeline system that is described in (c) of this section;

16 (2) against not more than 50 percent of the tax described in (1) of this
17 subsection; and

18 (3) in an amount that does not exceed the unused portion of the credit
19 based on the taxpayer's total liability for taxes levied and collected
20 under AS 43.58 incurred on and after the date of the taxpayer's
21 execution of the irrevocable agreement of sale or binding
22 transportation agreement described in (c)(1) of this section and before
23 the date that natural gas committed by contract for sale and delivery as
24 commercially marketable gas is first delivered to tidewater for
25 transshipment or to the domestic North American natural gas pipeline
26 system and the delivery is by a pipeline or combination of pipelines
27 having a minimum delivery capacity of 2,000,000,000 cubic feet of
28 gas per day.

29 (e) A credit may not be claimed and taken under the authority of this section after
30 December 31, 2030.

31 (f) In this section,

1 (1) "binding transportation service agreement" means a binding
2 commitment to subscribe for firm transportation capacity that
3 conforms to a tariff that has been approved by the Federal Energy
4 Regulatory Commission or that has been otherwise approved by the
5 commission;

6 (2) "lessee" means the lessee of record with the state as of January 1 of
7 the tax year.

8 * **Sec. 4.** AS 43.58.210, 43.58.220, 43.58.230, 43.58.240, 43.58.250, and 43.58.295 are
9 repealed on the date that natural gas committed by contract for sale and delivery as
10 commercially marketable gas is first delivered to tidewater for transshipment or to the
11 domestic North American natural gas pipeline system and the delivery is by a pipeline or
12 combination of pipelines having a minimum delivery capacity of 2,000,000,000 cubic
13 feet of gas per day.

14 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section
15 to read:

16 **THE ALL-ALASKA GAS PIPELINE ESCROW PROVISION.** In an action or
17 appeal brought on by one or more taxpayers subject to AS 43.58 to challenge the
18 constitutionality of this Act, to challenge the amount of taxes owed, to challenge the
19 applicability of the tax to that taxpayer, or any other challenge to this Act or regulations
20 adopted under this Act, an administrative or regulatory agency or a court shall direct that
21 the amount of taxes levied under AS 43.58 that are the subject of the dispute be placed
22 immediately in escrow in a financial institution approved by the Department of Revenue,
23 with accurate records kept of all amounts paid to the account. Upon final resolution of
24 the dispute, the amount in escrow, if any, owing to department, together with culminated
25 interest, shall be paid to the department and may be appropriated for any legal purpose,
26 including construction of a state-owned natural gas pipeline.

27 ***Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section
28 to read:

29 **LESSEE AUTHORIZED TO SURRENDER LEASE.** To avoid liability under
30 AS 43.58, added by sec. 2 of this Act, for payment of the tax on leases or properties
31 having known gas resources, a person subject to AS 43.58 may surrender the person's

1 rights under the lease to the Department of Natural Resources if the person surrenders the
2 rights not later than December 31, 2006, and complies with all applicable requirements of

3 (1) the department's regulations adopted under authority of AS 38.05.020
4 relating to surrenders of rights in land held under lease; and

5 (2) the applicable requirements of the lease that relate to surrender of the
6 person's rights in it.

7 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section
8 to read:

9 SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the
10 application of it to any person or circumstance, is held invalid, the remainder of this Act
11 and the application to other persons are not affected.

12 * **Sec. 8.** EFFECTIVE DATE OF REPEAL AND NOTICE. Section 4 of this Act takes
13 effect on the date the contingency described in sec. 4 of this Act occurs. The
14 commissioner of natural resources shall certify to the commissioner of revenue and to the
15 revisor of statutes when the contingency described in sec. 4 of this Act has occurred and
16 the date on which that contingency occurred.

17 * **Sec. 9.** Section 5 and 6 of this Act take effect immediately under AS 01.10.070(c).

18 * **Sec. 10.** Except as provided in secs. 8 and 9 of this Act, this Act takes effect January
19 1, 2007.

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