

The Gasline Now Act

1 AN ACT ENTITLED

2
3 “An Act levying a tax on certain known resources of natural gas, conditionally
4 repealing the levy of that tax, and authorizing a credit for payments of that tax
5 against amounts due under the oil and gas properties production (severance) tax if
6 requirements relating to the sale and delivery of the natural gas are met; and
7 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 may be known as the 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 known gas resources.** (a) An annual tax is
17 levied on each calendar year on known gas resources subject to tax under this chapter.

18 (b) The annual rate of levy is two cents for each 1,000 cubic feet of taxable gas.

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

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

- 23 (1) a gas hydrate;
- 24 (2) coal bed methane;
- 25 (3) any other nonconventional gas resource;
- 26 (4) nonhydrocarbon gas;
- 27 (5) an unknown gas resource;
- 28 (6) gas to be consumed as fuel in its state-approved oil and gas unit of
29 origin within five years of January 1 of the tax year; or
- 30 (7) natural gas liquids to be blended with oil and transported by oil
31 pipeline to market for sale as oil within five years of January 1 of the
32 tax year.

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

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

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

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

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

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

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

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

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

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

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

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

26 (4) based on surface acreage.

27 (d) To facilitate the use of confidential information available to the
28 Department of Natural Resources and the Alaska Oil and Gas Conservation Commission,
29 the department may delegate the allocation of taxable gas under (c) of this section among
30 lessees to the Department of Natural Resources or the Alaska Oil and Gas Conservation
31 Commission.

1 **Sec. 43.58.240. Returns and payment of tax.** (a) A lessee having gas taxable
2 under this chapter shall submit a return setting out known gas resources subject to the tax.
3 The lessee shall submit the return on or before February 1 on the form prescribed by the
4 department based on volumes of taxable gas existing on January 1 of each calendar year,
5 except as otherwise provided in this chapter.

6 (b) With the written approval of the department, an operator of a lease
7 having gas taxable under this chapter may submit returns or make payment of the tax
8 levied under this chapter on behalf of the lessee.

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

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

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

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

- 21 (1) annual preparation of the tax roll of property that includes taxable gas;
22 (2) provision for notice to operators or lessees of leases having gas subject
23 to tax under this chapter of the volume of taxable gas for each lease or
24 unit;
25 (3) procedures by which a person aggrieved by an action of the
26 department may appeal that action and obtain a hearing; under the
27 procedures to be adopted,

- 28 (A) conduct of the hearing and activities preliminary to it shall be
29 in accordance with AS 44.62.350, 44.62.430,
30 44.62.450, 44.62.460, 44.62.480, 44.62.500-44.62.550,
31 44.62.590, and 44.62.610-44.62.640; for the purposes

1 of this subparagraph, the term “respondent” used in
2 those sections shall be considered to include the person
3 aggrieved by the action of the department;

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

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

8 (4) certification of a final taxation roll and the manner of preparation of a
9 supplemental roll using procedures applicable to the preparation of the
10 original tax roll.

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

12 (1) “gas” and “natural gas” have the meanings given to “gas” in AS
13 43.55.900;

14 (2) “known gas resources” means the volume of gas that geological and
15 engineering information indicates is recoverable in the future under
16 existing technology, without regard to the current lack of a means of
17 its transportation to markets;

18 (3) “lease” means an oil and gas lease issued by the state;

19 (4) “lessee” means the lessee of record with the state as of January 1 of the
20 tax year;

21 (5) “operator” means the party approved by the Department of Natural
22 Resources or Alaska Oil and Gas Conservation Commission as the
23 unit operator for a state-approved unit.

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

25 **Sec. 43.55.027. Credit against tax as it applies to certain natural gas**
26 **production.** (a) In addition to other credits authorized by this chapter, there is allowed a
27 credit against the tax due under this chapter for a lessee having gas that was subject to the
28 tax imposed under AS 43.58.210-43.58.295.

29 (b) A lessee having gas that is subject to the tax imposed under AS 43.58 may
30 claim and take the credit against tax due under this chapter.

1 (c) On and after the date that natural gas committed by contract for sale and
2 delivery as commercially marketable gas is first delivered to tidewater for transshipment
3 or to the domestic North American natural gas pipeline system and the delivery is by a
4 pipeline or combination of pipelines having a minimum delivery capacity of
5 2,000,000,000 cubic feet of gas per day, a lessee holding an interest in the taxable
6 property may apply for and obtain a credit calculated in accordance with this section. A
7 credit allowed under this section may not be allowed unless

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

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

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

16 (i) an open season for Alaska natural gas
17 transportation projects conducted under 15
18 U.S.C. 720a(e) and related regulations
19 governing the initial capacity of the pipeline
20 transportation project described in 15 U.S.C.
21 717-717w; or

22 (ii) an open season with a methodology
23 substantially similar to that described in (i)
24 of this paragraph for determining capacity
25 on other Alaska natural gas transportation
26 pipeline projects;

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

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

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

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

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

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

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

24 (f) In this section,

25 (1) "binding transportation service agreement" means a binding
26 commitment to subscribe for firm transportation capacity that
27 conforms to a tariff that has been approved by the Federal Energy
28 Regulatory Commission or that has been otherwise approved by the
29 commission;

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

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

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

9 LESSEE AUTHORIZED TO SURRENDER LEASE. To avoid liability under
10 AS 43.58, added by sec. 2 of this Act, for payment of the tax on leases or properties
11 having known gas resources, a person subject to AS 43.58 may surrender the person's
12 rights under the lease to the Department of Natural Resources if the person surrenders the
13 rights not later than December 31, 2006, and complies with all applicable requirements of

14 (1) the department's regulations adopted under authority of AS 38.05.020

15 relating to surrenders of rights in land held under lease; and

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

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

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

23 * **Sec. 7.** EFFECTIVE DATE OF REPEAL AND NOTICE. Section 4 of this Act takes
24 effect on the date the contingency described in sec. 4 of this Act occurs. The
25 commissioner of natural resources shall certify to the commissioner of revenue and to the
26 revisor of statutes when the contingency described in sec. 4 of this Act has occurred and
27 the date on which that contingency occurred.

28 * **Sec. 8.** Section 5 of this Act take effect immediately under AS 01.10.070(c).

29 * **Sec. 9.** Except as provided in secs. 7 and 8 of this Act, this Act takes effect January 1,
30 2007.

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