

# The Alaska Gasline Now Act

1 **AN ACT ENTITLED**

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3 **“An Act levying a tax on certain gas reserves; providing for a conditional repeal of**  
4 **the tax on certain gas reserves; relating to a credit against the oil and gas**  
5 **production tax attributable to the production of gas; relating to expenses that are**  
6 **not lease expenditures for the purpose of the oil and gas production tax; and**  
7 **providing for an effective date.”**

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

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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.

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15 **\*Section 2.** AS 43.58 is amended by adding new sections to read:

16       **Sec. 43.58.210. Levy of tax on certain gas reserves.** An annual tax of three  
17 cents for each 1,000 cubic feet of natural gas is levied each year on taxable gas.

18       **Sec. 43.58.220. Taxable gas.** (a) Except as provided in (b) of this section, gas  
19 that is subject to the tax under this chapter is gas that, on January 1 of the tax year,

20               (1) is within a lease or property that is within a unit if the unit contains  
21 1,000,000,000,000 cubic feet of gas or more; and

22               (2) is within a lease or property that has been in continual existence since  
23 January 1, 1990.

24       (b) Gas is not subject to the tax under this chapter if the gas

25               (1) is nonconventional gas;

26               (2) does not contain hydrocarbons;

27               (3) within seven years after January 1 of the tax year,

28                       (A) will be consumed as fuel in the unit in which it is located; or

29                       (B) is gas liquids to be blended with oil and transported by oil  
30 pipeline to market for sale;

31               (4) is the state's royalty share of gas;

1 (5) was first discovered after December 31, 2005; or

2 (6) is within a lease or property on the North Slope and the person  
3 holding the right to produce gas from the lease or property has demonstrated to the  
4 satisfaction of the commissioner that the person holding the right to produce gas or a  
5 person who has purchased gas to be produced from the lease or property has committed  
6 to acquiring firm transportation capacity for transporting the gas from the lease or  
7 property in a binding open season of

8 (A) the project authorized under a license issued under AS 43.90;

9 (B) a gas pipeline project for transporting gas from the North  
10 Slope to market other than the project in (A) of this paragraph that is developed  
11 by a person that has made the commitments to the state that are required by a  
12 licensee under AS 43.90.130(5) – (8), (10) – (15), and (17); or

13 (C) a gas pipeline project for transporting gas from the lease or  
14 property to market designed to accommodate throughput of no more than  
15 500,000,000 cubic feet a day.

16 (c) The volume of gas exempted by the firm transportation commitments  
17 described in (b)(6) of this section shall be equal to the volume of the daily commitment,  
18 times 365, times the length of the commitment in years up to a maximum of 25 years.

19 (d) In this section,

20 (1) “nonconventional gas” has the meaning given in AS 38.05.965;

21 (2) “North Slope” has the meaning given in AS 43.90.900;

22 (3) “open season” has the meaning given in AS 43.90.900;

23 (4) “right to produce gas” means the right to a working interest in a  
24 mineral interest in gas.

25 **Sec. 43.58.230. Determination of volume of taxable gas.** (a) The department,  
26 after consultation with the Department of Natural Resources and the Alaska Oil and Gas  
27 Conservation Commission, shall determine the volume of taxable gas in each state-  
28 approved oil and gas unit on the date this Act becomes effective. The estimate of gas  
29 reserves in the 2006 Annual Report of the Department of Natural Resources, Division of  
30 Oil and Gas shall be relied upon for this determination absent clear and convincing  
31 evidence to the contrary.

1 (b) For a unit where each person having an interest in a lease or property in that  
2 unit has agreed to a formula or formulas for the allocation of hydrocarbons, the  
3 department shall use that formula or those formulas in allocating taxable gas among the  
4 persons holding an interest in the taxable gas for purposes of assessing and collecting the  
5 tax due under this chapter.

6 (c) For a unit in which all persons having an interest in a lease or property have  
7 not agreed to a formula for the allocation of hydrocarbons, the department may allocate  
8 taxable gas among the persons holding an interest in each lease or property in any manner  
9 it considers reasonable, including a means of allocation that takes into consideration one  
10 or more of the following:

11 (1) an agreement between the department and all persons holding an  
12 interest in leases or properties in the unit regarding the allocation of taxable gas;

13 (2) the amount of gas initially determined within a lease or property and  
14 the amount of gas remaining;

15 (3) the amount of recoverable gas reserves or resources within the lease or  
16 property; or

17 (4) the surface acreage of the lease or property.

18 (d) To facilitate the use of confidential information available to the Department of  
19 Natural Resources and the Alaska Oil and Gas Conservation Commission, the department  
20 may delegate the authority to determine the allocation of taxable gas under (c) of this  
21 section to the Department of Natural Resources or the Alaska Oil and Gas Conservation  
22 Commission. In a protest of an allocation determined under this subsection, the  
23 Department of Natural Resources or the Alaska Oil and Gas Conservation Commission,  
24 as appropriate, shall participate as necessary to assist the department in determining the  
25 proper allocation for tax purposes.

26 **Sec. 43.58.240. Returns and payment of tax.** (a) A person holding an interest  
27 in a lease or property that includes gas taxable under this chapter shall submit a return  
28 setting out the location and volume of taxable gas existing on January 1 of the tax year.  
29 The return must be filed before February 1 of the tax year on a form prescribed by the  
30 department.

1 (b) An operator of a unit having taxable gas may, with the written approval of the  
2 department, submit returns or pay the tax levied under this chapter on behalf of each  
3 person having an interest in a lease or property in the unit.

4 (c) The annual tax levied under this chapter is payable to the department on or  
5 before June 30 of each year or in installments at the times and under the conditions that  
6 the department may establish by regulation.

7 (d) If directed or approved by the department, a person submitting a return under  
8 this section or making a payment required under this chapter may file a single return for  
9 all of the person's leases or properties within a unit and may pay the tax due for all of the  
10 person's leases or properties within a unit in a single payment.

11 (e) The department may, by written notice, require a person filing a return under  
12 this section to submit to the department additional information relating to the assessment  
13 of the tax within 30 days after providing notice to the person.

14 **Sec. 43.58.250. Regulations.** The department shall adopt regulations relating to  
15 making and filing returns and paying the tax required by this chapter and that are  
16 otherwise necessary for the enforcement of this chapter. The regulations must address  
17 the

18 (1) annual preparation of the tax roll of property that includes each lease  
19 or property with taxable gas;

20 (2) means for providing notice to operators and persons having an interest  
21 in a lease or property having taxable gas of the volume of taxable gas for each lease or  
22 property;

23 (3) procedure by which a person aggrieved by an action of the department  
24 may appeal that action and obtain a hearing; and

25 (4) preparation of the final taxation roll and a supplemental tax roll to be  
26 certified using the procedures applicable to the preparation of the original tax roll.

27 **Sec. 43.58.900 Definitions.** In this chapter,

28 (1) "gas" has the meaning given in AS 43.55.900;

29 (2) "lease or property" has the meaning given in AS 43.55.900;

30 (3) "tax year" means a calendar year;

31 (4) "unit" has the meaning given in AS 43.55.900.

1    \*Section 3. AS 43.55 is amended by adding a new section to read:

2           **Sec. 43.55.027. Credit against tax attributable to gas production.** (a) In  
3 addition to other credits authorized by this chapter, a person may take a credit equal to  
4 the total amount of tax paid under AS 43.58.210 - 43.58.900 as provided in this section.

5           (b) A person producing gas taxable under AS 43.58.210 – 43.58.900 may apply  
6 for and receive a credit calculated under this section after the date the first flow of gas in  
7 a pipeline transporting North Slope gas to market with a minimum delivery capacity of  
8 2,000,000,000 cubic feet a day generates revenue to its owners.

9           (c) The credit may be claimed and allowed under this section

10                  (1) only against 20 percent of the net amount of tax due under this  
11 chapter; in this paragraph, the net amount of tax due under this chapter is determined  
12 after the application of all credits applicable under this chapter other than the credit  
13 authorized by this section; and

14                  (2) in an amount that does not exceed the unused portion of the credit  
15 based on the taxpayer's total liability for taxes levied and collected under AS 43.58-210 –  
16 43.58.900.

17           (d) A person taking the credit under this section shall file with the department an  
18 annual statement disclosing

19                  (1) the total amount of taxes paid under AS 43.58.210 – 43.58.900;

20                  (2) the amount of credits taken under this section as of the date of the  
21 report; and

22                  (3) other information required by the department.

23           (e) The department shall adopt regulations necessary for the calculation and  
24 application of the credit authorized under this section.

25           (f) Any unused credit or portion of a credit not used under this subsection may be  
26 applied in a later calendar year.

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28    \*Section 4. AS 43.55.165(e)(14) is amended to read:

29                  (14) a tax levied under AS 43.55.011 or AS 43.58.210;

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1     **\*Section 5.** AS 43.58.210, 43.58.220, 43.58.230, 43.58.240, 43.58.250, and 43.58.900  
2 are repealed on the date on which the first flow of gas in a pipeline transporting North  
3 Slope gas to market with a minimum delivery capacity of 2,000,000,000 cubic feet a day  
4 generates revenue to its owners.

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6     **\*Section 6.** The changes made in sec. 4 of this Act are repealed on the date the  
7 contingency described in sec. 5 of this Act occurs.

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9     **\* Section 7.** The uncodified law of the State of Alaska is amended by adding a new  
10 section to read:

11           **ESCROW PROVISION.** In an action or appeal brought on by one or more  
12 taxpayers subject to AS 43.58 to challenge the constitutionality of this Act, to challenge  
13 the amount of taxes owed, to challenge the applicability of the tax to that taxpayer, or any  
14 other challenge to this Act or regulations adopted under this Act, an administrative or  
15 regulatory agency or a court shall direct that the amount of taxes levied under AS 43.58  
16 that are the subject of the dispute be placed immediately in escrow in a financial  
17 institution approved by the Department of Revenue, with accurate records kept of all  
18 amounts paid to the account. Upon final resolution of the dispute, the amount in escrow,  
19 if any, owing to department, together with culminated interest, shall be paid to the  
20 department and may be appropriated for any legal purpose.

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22     **\*Section 8.** The uncodified law of the State of Alaska is amended by adding a new  
23 section to read:

24           **LESSEE AUTHORIZED TO SURRENDER LEASE.** To avoid liability under  
25 AS 43.58.210 – 43.58.900, enacted in sec. 2 of this Act, a person subject to AS 43.58.210  
26 – 43.58.900 may surrender the person's rights under the lease to the Department of  
27 Natural Resources if the person

28                   (1) surrenders the rights not later than December 31 of the year preceding  
29 the tax year; and

30                   (2) complies with all applicable requirements of

1 (A) the regulations of the Department of Natural Resources  
2 adopted under the authority of AS 38.05.020 relating to surrenders of rights in  
3 land held under lease; and

4 (B) the lease that relate to surrender of rights held under the lease.  
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6 **\*Section 9.** The uncodified law of the State of Alaska is amended by adding a new  
7 section to read:

8 SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the  
9 application of it to any person or circumstance, is held invalid, the remainder of this Act  
10 and the application to other persons are not affected.  
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12 **\*Section 10.** The uncodified law of the State of Alaska is amended by adding a new  
13 section to read:

14 NOTICE OF DATE OF FIRST FLOW OF GAS. The commissioner of natural  
15 resources shall, as soon as practicable after the first flow of gas described in sec. 5 of this  
16 Act, certify to the commissioner of revenue and the revisor of statutes the date on which  
17 that first flow of gas occurred.  
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