

Sec. 43.20.072. Oil and gas producers and pipelines.

(a) All business income of a taxpayer engaged in the production of oil or gas from a lease or property in this state or engaged in the transportation of oil or gas by pipeline in this state shall be apportioned to this state in accordance with AS 43.19 (Multistate Tax Compact) as modified by this section.

(b) A taxpayer's business income to be apportioned under this section to the state shall be the federal taxable income of the taxpayer's consolidated business for the tax period, except that

(1) taxes based on or measured by net income that are deducted in the determination of the federal taxable income shall be added back;

(2) intangible drilling and development costs that are deducted as expenses under 26 U.S.C. 263(c) (Internal Revenue Code) in the determination of the federal taxable income shall be capitalized and depreciated as if the option to treat them as expenses under 26 U.S.C. 263(c) (Internal Revenue Code) had not been exercised;

(3) depletion deducted on the percentage depletion basis under 26 U.S.C. 613 (Internal Revenue Code) in the determination of the federal taxable income shall be recomputed and deducted on the cost depletion basis under 26 U.S.C. 612 (Internal Revenue Code) and

(4) depreciation shall be computed on the basis of 26 U.S.C. 167 (Internal Revenue Code) as that section read on June 30, 1981.

(c) A taxpayer's business income shall be apportioned to this state by multiplying the taxpayer's income determined under (b) of this section by the apportionment factor applicable to the taxpayer among the following factors:

(1) the apportionment factor of a taxpayer subject to this section but not engaged in the production of oil and gas, or of gas only, as appropriate, from a lease or property in this state during the tax period is a fraction, the numerator of which is the sum of the property factor under AS 43.19 (Multistate Tax Compact) and the sales factor under (d) of this section for the taxpayer for that tax period, and the denominator of which is two;

(2) the apportionment factor of a taxpayer subject to this section but not engaged in the pipeline transportation of oil or gas in this state during the tax period is a fraction, the numerator of which is the sum of the property factor under (e) of this section and the extraction factor under (f) of this section for the taxpayer for the tax period, and the denominator of which is two;

(3) the apportionment factor of a taxpayer engaged both in the production of oil or gas from a lease or property in this state and in the pipeline transportation of oil or gas in this state during the tax period is a fraction, the numerator of which is the sum of the sales factor under (d) of this section, the property factor under (e) of this section, and the extraction factor under (f) of this section for the taxpayer for the tax period, and the denominator of which is three.

(d) The sales factor of a taxpayer subject to this section is a fraction,

(1) the numerator of which is the sum of the following for the tax period:

(A) the tariffs allowed and received by or for the taxpayer for transporting oil or gas by pipeline in this state, regardless of whether the tariffs are paid by third parties or by entities within the taxpayer's consolidated business; and

(B) the total sales of the taxpayer in this state, determined in accordance with AS 43.19 (Multistate Tax Compact), but excluding those sales already included in the tariffs described in (A) of this paragraph; and

(2) the denominator of which is the sum of the following for the tax period:

(A) the tariffs allowed and received by or for the taxpayer's consolidated business for transporting oil or gas by pipeline everywhere, regardless of whether the tariffs are paid by third parties or by entities within the taxpayer's consolidated business; and

(B) the total sales of the taxpayer's consolidated business everywhere, determined in accordance with AS 43.19 (Multistate Tax Compact), but excluding those sales already included in the tariffs described in (A) of this paragraph.

(e) Unless otherwise specified in this section, the property factor of a taxpayer subject to this section is a fraction,

(1) the numerator of which is the sum of the following for the tax period:

(A) the average value, determined under AS 43.19 (Multistate Tax Compact), of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period; and

(B) the cumulative intangible drilling and development costs capitalized or expensed for federal income tax purposes under 26 U.S.C. 263(c) (Internal Revenue Code), for the taxpayer's producing oil and gas wells in this state; and

(2) the denominator of which is the sum of the following for the tax period:

(A) the average value, determined under AS 43.19 (Multistate Tax Compact), of the real and tangible personal property everywhere owned or rented and used by the taxpayer's consolidated business during the tax period; and

(B) the cumulative intangible drilling and development costs capitalized or expensed for federal income tax purposes under 26 U.S.C. 263(c) (Internal Revenue Code), for the producing oil and gas wells everywhere of the taxpayer's consolidated business.

(f) The extraction factor of a taxpayer subject to this section is a fraction,

(1) the numerator of which is the sum of the following for the tax period:

(A) the number of barrels of the taxpayer's oil (net of royalty to an unrelated party) produced from or allocated to leases or properties of the taxpayer in this state; and

(B) one-sixth of the number of Mcf of the taxpayer's gas (net of royalty to an unrelated party) produced from or allocated to leases or properties of the taxpayer in this state, excluding reinjected gas; and

(2) the denominator of which is the sum of the following for the tax period:

(A) the number of barrels of oil of the taxpayer's consolidated business (net of royalty to an unrelated party) produced from or allocated to leases or properties of the taxpayer's consolidated business everywhere; and

(B) one-sixth of the number of Mcf of gas of the taxpayer's consolidated business (net of royalty to an unrelated party) produced from or allocated to leases or properties of the taxpayer's consolidated business everywhere, excluding reinjected gas.

(g) A taxpayer that has signed a contract approved by the legislature as a result of submission of a proposed contract developed under AS 43.82 or as a result of acts by the legislature in implementing the purposes of AS 43.82, providing for payments in lieu of the tax under this chapter and that has nexus with the state solely as the result of the taxpayer's participation in the approved qualified project that is subject to the contract or would not, but for such participation, be engaged in the production of oil or gas from a lease or property in this state or engaged in the transportation of oil or gas by pipeline in this state, is not required to file a return under this section unless required to do so by the contract.

(h) In this section,

(1) "barrel" means the quantity of oil contained in 42 United States gallons of 231 cubic inches each, measured at a temperature of 60 degrees Fahrenheit and an absolute pressure of 14.65 pounds per square inch;

(2) "consolidated business" means a corporation or group of corporations having more than 50 percent common ownership, direct or indirect, or a group of corporations in which there is common control, either direct or indirect, as evidenced by any arrangement, contract, or agreement; the requirements of this chapter apply whether or not the taxpayer is the parent or controlling corporation;

(3) "federal taxable income" means taxable income as the term is used in AS 43.20.011 - 43.20.065;

(4) "gas" means all hydrocarbons produced that are not defined as oil, including all liquid hydrocarbons extracted at a gas processing plant;

(5) "lease or property" has the meaning given it by the department in its regulations;

(6) "Mcf " means the quantity of gas contained in 1,000 cubic feet of space, measured at a temperature of 60 degrees Fahrenheit and an absolute pressure of 14.65 pounds per square inch; and

(7) "oil" means crude petroleum oil and other hydrocarbons, regardless of API gravity, which are produced in liquid form, including the liquid hydrocarbons sometimes known as distillate or condensate which are recovered by separation from gas other than at a gas processing plant.