

Municipal Advisory Group Resolution 2004-02 Final

A resolution outlining parameters for Payment in Lieu of Taxes to Municipalities:

- A. Whereas the Stranded Gas Development Act anticipates a negotiated contract between the State of Alaska Department of Revenue and revenue impacted municipalities in lieu of traditional property taxes under AS 43.56;
- B. Whereas the Municipal Advisory Group, established under the auspices of the SGDA, has met regularly to discuss and review issues relating to revenue and socio-economic impacts of a gasline on municipalities;
- C. Whereas it is not the intent of the SGDA to exempt or modify property taxes currently being assessed and collected under 43.56 but to modify the shape of future property taxes to be assessed and collected for the Alaska Natural Gas Pipeline;
- D. Whereas the definition of taxable property under 15 AAC 56.075 is confusing in terms of defining dual use property for purposes of taxation under 43.56;
- E. Whereas “stranded gas” defined in AS 43.82.900 means gas that is not being marketed due to prevailing costs or price conditions, as determined by an economic analysis by the commissioner for a particular project;
- F. Whereas real and personal property that is 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, or for the operations and maintenance of such facilities, is taxed under AS 43.56 rather than under AS 29.45;
- G. Whereas an exception to the definition of taxable property under AS 43.56 is “for property used solely for the retail distribution or liquefaction of natural gas”;
- H. Whereas the Municipal Advisory Group has not come to agreement on the shape, length or allocation methodology of a Payment in Lieu of Taxes to revenue impacted communities;
- I. Whereas the Municipal Advisory Group has come to consensus on the general parameters in which a PILT should be negotiated;
- J. Whereas a number of factors argue against sales tax exemptions, including:
 - a. Complexity of administering sales tax exemptions;
 - b. Onus on vendors collecting sales taxes;
 - c. Difficulties of determining who is an exempt entity;
 - d. The determination of exempt items;
 - e. Competitive advantage/disadvantage based on entities exempted;
 - f. Cost/benefit of exemption – especially given per transaction caps;
 - g. Cost of sales taxes not material to the project;

Be it therefore resolved that the Municipal Advisory Group recommends the following parameters be utilized in future PILT negotiations:

1. No property that is taxed under AS29.45 or AS 43.56 prior to the start of construction of an Alaska Natural Gas Pipeline should receive a tax deferral/exemption under a SGDA contract;
2. A contract developed under the SGDA should clarify the conditions under which dual use facilities are to be taxed in order to protect municipalities' tax bases in existence prior to the start of construction;
3. No tax exemption under the SGDA should apply to a gas pipeline or gas distribution infrastructure in existence prior to the start of construction of an Alaska Natural Gas Pipeline.
4. No tax exemption under the SGDA for municipal sales and use taxes.
5. SGDA contract may include provisions to ensure sales taxes are not targeted to gas pipeline construction and operations.
6. No exemption under SGDA contract for the Alaska Natural Gas Pipeline for property that under current tax law would be taxable under AS 29.45.
7. SGDA contract may include provisions to ensure municipal severance taxes are not targeted to gas pipeline construction.