TAX - ALASKA

Municipality of Anchorage v. Department of Revenue

Supreme Court of Alaska - April 17, 2026 - P.3d - 2026 WL 1042357

Municipal natural gas producer brought action appealing decision of administrative law judge, which affirmed Department of Revenue's denial of producer's claim for carried forward annual loss credits and partial denial of claim for qualified capital expenditure and well lease expenditure credits related to natural gas production, and granted summary adjudication in favor of state.

The Superior Court affirmed the administrative law judge's decision. Municipal gas producer appealed.

The Supreme Court held that:

- Substitution of judgment standard, rather than reasonable basis review, would be applied to give no deference to Department's interpretation of prior versions of statutes governing carried forward annual loss, qualified capital expenditure, and well lease expenditure transferable tax credits, when determining whether municipal natural gas producer was eligible for such credits "to the same extent as any other producer" in connection with its natural gas production;
- Prior version of statutory provision governing taxation of municipal oil and gas producers, which expressly taxed only gas sold to other entities and provided such producers were eligible for tax credits "to the same extent as any other producer," was ambiguous as to whether producers' own-use gas was taxable production for purposes of calculating tax credits, thereby requiring analysis of legislative history to determine purpose of provision;
- Producers' own-use gas was properly treated as taxable for purposes of calculating applicable tax credits related to gas production and, thus, producer was not entitled to carried forward annual loss credits, and was entitled to partial claim for qualified capital expenditure and well lease expenditure credits for taxable periods at issue;
- Department's determination that municipal producers' own-use gas was properly treated as taxable for purposes of calculating applicable tax credits related to gas production did not constitute an "administrative regulation" requiring formal rulemaking under Administrative Procedure Act (APA); and
- Department's determination that municipal producers' own-use gas was properly treated as taxable for purposes of calculating applicable tax credits related to gas production did not constitute any departure from Department Director's interpretation of provisions in testimony before legislature and, thus, testimony did not amount to official interpretation of provisions the Department was bound to follow until changed through formal rulemaking under APA.

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