THE STATE of ALASKA
GOVERNOR SEAN PARNELL

Department of Natural Resources
Joe Balash, Commissioner
Department of Revenue
Angela M. Rodell, Commissioner

March 10, 2014

The Honorable Pete Kelly, Co-Chair
The Honorable Kevin Meyer, Co-Chair
Senate Finance Committee
Alaska State Capitol, Room 532
Juneau, AK 99801

Dear Senators Kelly and Meyer:

Please find the following responses to questions, which were asked by committee members during the February 27th hearing on SB 138. Please see questions in italics and our responses immediately below the questions.

Question from Senator Meyer: *What federal taxes would apply to the producers from the gas project and at what rates? What would the total federal take be?*

Federal corporate income tax of 35% would apply to the producers from the AKLNG project. The total federal take is expected to be around 25% under baseline assumptions.

Question from Senator Fairclough: *Sen Fairclough had specific questions on Section 13 of the bill relating to AS 38.05.180(i). Can we confirm that no one had taken advantage of these credits recently? What is the maximum amount of credits obtainable under this particular provision?*

AS 38.05.180(i) established the authority for the DNR commissioner to provide for an exploration incentive credit (EIC) based on footage drilled or geophysical work in certain regions that was in effect from the early 1980s until 1994. The AS 38.05.180(i) statute and the relevant regulations linked the EIC program to specific lease sales, and when the next EIC program under AS 41.09.010 was implemented, the older AS 38.05.180(i) provisions were no longer offered as terms of the lease sales. Some 22 wells qualified for the AS 38.05.180(i) EIC, all between 1983 and 1994. The maximum eligible costs were 50% of the drilling or geophysical costs. The statute is still available, but the Commissioner of Natural Resources would have to reinstitute it as a program tied to specific lease sales. Attached is a list of approved credits.

Question from Senator Fairclough: *What is the maximum amount of credits that can be taken against oil and gas revenues?*

Each of the different tax credits available against the production tax has its own limitations and provisions, which include various limits on the value of the credits. There is no single limit that applies to all credits, and some credits can exceed a company's tax liability and issued as a tax credit certificate which may be eligible for a refund from the oil and gas tax credit fund, AS 43.55 028. Please find below an explanation of tax credits available to producers of oil and gas in 2024 with the passage of SB 138. Also attached is a summary of the available production tax credits and their specific provisions.

Production Tax credits that may be available to producer of oil and gas in 2024 with the passage of SB 138.

With the passage of SB 138 the following production tax credits may be available to a producer or explorer of oil and gas, north of 68 degrees North latitude.

AS 43.55.019 Oil and gas producer education credit

A producer of oil and gas is allowed a credit against a production tax liability resulting from cash contributions for educational, research, intercollegiate sporting events and certain cultural activities. The amount of the credit is 1) 50% of cash contributions up to $100,000, 2)100% of the next $200,000 of contributions; and 3) 50% of the amount of contributions that exceed $300,000. The credit may not reduce a person's tax liability below zero for any tax year. A credit or portion of a credit not used under this section may **not** be sold, traded, transferred, or applied in a subsequent year.

AS 43.55.023(b) Carried forward annual loss credit

A producer or explorer may take a tax credit in the amount of 35% of a carried forward annual loss. A carried forward annual loss occurs when the producer's or explorer's annual adjusted lease expenditures exceed the gross revenue at the point of production of oil or gas produced or if the lease expenditures were incurred without any revenue. The earliest that a production tax credit resulting from a carried forward annual loss can be applied against a production tax liability or converted to a transferable tax credit certificate and sold to the state for cash, if the producer or explorer qualifies under AS 43.55.028, is the year following the tax year that the loss was incurred. The credit does not expire and unused portions of the credit amounts can be used to reduce production tax liabilities in subsequent tax years.

AS 43.55.024(c) – Small Producer Credit

If the producer did not have commercial production from a lease or property before April 1, 2006, and first has commercial production in 2015 or 2016 (before May 1), the producer may take a tax credit of up to $12 million per year, if the producer's daily average production does not exceed 100,000 BTU equivalent barrels per day. (In this scenario, 2024 would fall within the nine calendar years after the calendar year during which the producer first had commercial oil and gas production). The credit is prorated from $12 million to zero between 50,000 to 100,000 BTU equivalent barrels per day. The credit can only be used against a producer's production tax liability and may **not** :

1) reduce the production tax liability below zero,
2) be carried forward for use in a succeeding year, or
3) be converted to a transferable tax credit certificate and sold to the state under AS 43.55.028.

AS 43.55.024(i) Per barrel credit for oil production qualifying for a gross revenue exclusion under AS 43.55.160(f) and (g).

A producer may apply against a production tax liability under AS 43.55.011(e) a tax credit of $5 for each barrel of oil taxable under AS 43.55.011(e) that meets on of the criteria of AS 43.55.160(f) or (g), gross revenue exclusion. A tax credit under this section may **not**:

1) reduce the production tax liability below zero,
2) be carried forward for use in a succeeding year, or
3) be converted to a transferable tax credit certificate and sold to the state under AS 43.55.028.

AS 43.55.024(j) Sliding Scale per barrel credit for oil production not qualifying for a gross revenue exclusion under AS 43.55.160(f) and (g).

A producer may apply against a production tax liability under AS 43.55.011(e) a tax credit for each barrel of oil taxable under AS 43.55.011(e) that does not meets on of the criteria of AS 43.55.160(f) or (g), gross revenue exclusion. The amount of the per barrel credit ranges from $8.00 per barrel to $0 per barrel based on the average gross value at the point of production per barrel. The credit is a sliding scale which amounts to $8 per barrel when the average gross value per barrel is less that $80 and decreases by a dollar increment for each $10 increase in the average gross value at the point of production. The per barrel credit reaches zero when the average gross values at the point of production per barrel equals or exceeds $150 per barrel. A tax credit under this section may **not**:

1) reduce the production tax liability below the amount calculated under AS 43.55.011(f) (the minimum tax),
2) be carried forward for use in a succeeding year, or
3) be converted to a transferable tax credit certificate and sold to the state under AS 43.55.028.

Question from Senator Fairclough: *What is the case for allowing TC to partner with the State on the Midstream?*

The State is preparing a white paper to supplement the testimony that has been provided in committee.

We hope the Senate Finance Committee finds this information to be useful. Please do not hesitate to contact either of us if you have further questions.

Sincerely,

Joe Balash, Commissioner
Department of Natural Resources

Angela M. Rodell, Commissioner
Department of Revenue

Attachments