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Key Terms Used in HB 247 Sectional Analysis
Oil and Gas Tax Credits

Carried-Forward Annual Loss Credit (also called the Net Operating Loss Credit)

Under AS 43.55.023(b), this credit allows companies to carry forward 35% of their North Slope annual loss or 25% of their loss in other areas of the state to apply against a future tax liability. This credit is transferable and refundable and can reduce tax liability below the minimum tax in annual tax calculations. In practice, most companies receive cash refunds from the state for these credits. Companies with greater than 50,000 BTU-equivalent barrels of production are not eligible for refunds and instead must carry the credits forward to a future liability.

Confidential Information Held by Department of Natural Resources

Under AS 43.55.025(f)(2)(C), the Department of Natural Resources keeps well data confidential for two years and seismic or geophysical data confidential or 10 years, at which point the data can be released to the public.

Confidentiality statutes

Currently under AS 40.25.100, any “particulars of the business or affairs of a taxpayer or other person” are confidential, which include the amounts, recipients, and types of credits issued by the department.

Credits used against tax liability/Refundable credits/Transferable credits

Depending on the credit, production tax credits can be applied against a tax liabilities, “refunded” via cash purchase by the state, or transferred to another company. Only companies with fewer than 50,000 BOE per day of production are eligible for refunded credits, and only certain credits are eligible for refund. In particular, the small producer credit and per-taxable-barrel credits can only be used against a tax liability; any unused amount is forfeited.

Exploration Credits under AS 43.55.025

These include:

Alternative Credit for Exploration

- For 30% or 40% for certain seismic or drilling costs based on the location of the unit.
- Expires 7/1/2016 for North Slope and Cook Inlet and 1/1/2022 everywhere else,

Frontier Basin Credit

- The lesser of 80% of qualified exploration or drilling expenses or $25 million per well, or

- The lesser of 75% of seismic exploration expenditures or $7.5 million
- For areas other than the North Slope and Cook Inlet
- Expires 7/2/2016

Cook Inlet Jack-Up Rig Credit

- A credit for exploration expenses for the first three wells drilled by the first jack-up rig brought to Cook Inlet
- Ranges from up to 100% of expenses for the first well, 90% for the second, 80% for the third
- If wells are brought into production, operators must repay 50% of the credit
- Expires 7/1/2016.

These credits can reduce tax liability below the minimum tax in annual tax calculations and can be refunded as cash. These credits also can be transferred to another company.

Exploration Incentive Credit under AS 41.09

- This credit is up to 50% of drilling or seismic work, not to exceed 50% of tax liability.
- This credit must be pre-approved by the Commissioner of the Department of Natural Resources
- This credit has not been utilized in recent years

Gas Storage Facility Credit/LNG Facility Credit/In-State Refinery Credit

These credits can be applied against Corporate Income Tax or refunded through the Oil and Gas Tax Credit Fund.

The Gas Storage Facility Credit

- $1.50 per thousand cubic feet for the costs incurred to establish a natural gas storage facility
- Must be for a facility used by public utilities
- Maximum credit was the lesser of $15 million or 25% of the costs to establish the facility
- Was taken in 2014 and is no longer available

The LNG facility Credit

- Non-transferable and refundable
- For the costs incurred to establish a storage facility for liquefied natural gas
- Is the lesser of $15 million or 50% of costs incurred to establish the facility

The In-State Refinery Tax Credit

- Can be applied to tax liability or purchased by the state
- For qualified infrastructure expenditures for in-state refineries
- For costs incurred between December 31, 2014 and January 1, 2020
- May not exceed 40% of total qualifying expenditures or $10 million per tax year per refinery

Gross Minimum Tax

The gross minimum tax (AS 43.55.011(f)) was first established with the 2006 switch to a net profits-based tax under the Petroleum Profits Tax (PPT) and was based on a percentage of gross value at the point of production (GVPP). A minimum tax of 4% of gross wellhead value was imposed if the ANS oil

price was greater than $25 per barrel and the minimum tax was greater than the calculated tax liability. When oil prices are lower than $25, the minimum taxes are as follows:

- 3% when price is between $20 but less than $25
- 2% when price is between $17.50 but less than $20
- 1% when price is between $15 but less than $17.50
- 0% when the price is $15 or less

Under PPT, the primary tax credit, for qualified capital expenditures, could not be used to reduce a tax liability below the minimum tax. With the switch to the Alaska's Clear and Equitable Share (ACES) tax in 2007, the minimum tax was not changed, but tax credits could reduce the minimum tax to zero. Under SB 21, taking effect in 2014, the minimum tax remained the same. However it was partially "hardened," in that some of the new per-taxable-barrel credits, added by SB 21, could not reduce liability below the minimum tax. Only per-taxable-barrel credits from GVR-eligible oil can reduce the minimum tax to zero in the monthly calculations. In contrast, per-taxable-barrel credits for non-GVR eligible oil, which represent the vast majority of such credits, cannot reduce a liability below the minimum tax.

Gross Value at the Point of Production (GVPP)

The Gross Value at the Point of Production (AS 43.55.150) is calculated by taking the West Coast oil price for Alaska oil and subtracting transportation costs (such as pipeline tariffs, marine costs, and quality adjustments) to arrive at a value at the unit boundary.

Gross Value Reduction (GVR)

For oil that qualifies as "new oil" under AS 43.55.160(f), a 20% reduction of GVPP is allowed in the tax calculation. "New oil" is oil from either a new unit, a new participating area in an existing unit, or oil from certain acreage added to a participating area, as defined in statute.

Interest rate for delinquent taxes

Pre-SB 21 delinquent taxes, assessments, and refunds (from before January 1, 2014) are charged an interest rate of either five percentage points above the Federal Reserve Discount Rate or 11%, whichever is greater. Post SB-21 (after January 1, 2014) interest rates for delinquent taxes are three percentage points above the Federal Reserve Discount Rate. The interest rate specified in AS 43.05.225 applies to most tax types, including production taxes. These rates apply not only to delinquent taxes, but the same rates apply to the state's refunds to these taxpayers. Most interest for oil and gas taxes accrues to the Constitutional Budget Reserve Fund; the General Fund also receives some oil and gas interest as well as interest for non-minerals taxes.

Lease Expenditures

Lease expenditures are defined under statute in AS 43.55.165. They are costs incurred by a producer to explore for, develop, or produce oil or gas deposits located within the producer's leases or properties in the state or costs for costs to explore for oil or gas in other areas of the state. They must be upstream costs, they must be considered "ordinary and necessary" costs of exploring, developing, or producing oil and gas, and they must be a "direct" cost.

Monthly Installment Payments

Monthly installed payments are established under AS 43.55.020 and require producers to pay monthly estimated taxes by the last day of the month following the tax period month. The estimated tax is net of allowable tax credits. Monthly payments cannot be below zero. Per-taxable-barrel credits are calculated on a monthly basis and only per-taxable-barrel GVR-eligible credits may reduce payments past the minimum tax. However, any unused per-taxable-barrel credits in a given month can potentially be applied against other month's liability when filling the annual tax return (sometimes referred to as the "annual true up.")

Oil & Gas Tax Credit Fund

The Oil and Gas Tax Credit Fund was established under AS 43.55.028 by the ACES bill, and it allows the state to buy certain tax credits subject to availability of funds. The legislature has customarily appropriated money into this fund every year.

Per-Taxable-Barrel Credit

The per-taxable-barrel credits, though referred to as "credits," differ from other tax credits as they are actually a component of the tax structure. They are a step in the calculation that determine tax payments. AS 43.55.024(i) is a $5 per-taxable-barrel credit for oil that qualifies as "new" oil or oil eligible for the GVR, which can reduce tax liability below the minimum tax, and AS 43.55.024(j) is a sliding $0 to $8 per barrel credit for oil that is not classified as "new." During FY 2016, approximately 7% of oil production is expected to qualify as "new" oil.

Production Tax Value

Production tax value is the gross value at the point of production minus deductible lease expenditures, which include operating expenditures and capital expenditures with certain adjustments. All capital expenditures can be deducted in the year they were earned.

Qualified Capital Expenditure Credit/Well Lease Expenditure Credit

These credits are for 20% of qualified capital expenditures or 40% of well lease expenditures in areas other than the North Slope. These credits are transferable and refundable and can essentially be "stacked" with other credits. These credits can currently reduce tax liability below the minimum tax in annual tax calculations. Beginning with 2014, the 20% capital expenditure credit was eliminated for the North Slope and replaced with the per-taxable-barrel credit as part of the SB 21 tax change.

Small Producer Credit

This credit is up to $12 million per year for producers with less than 50,000 BTU-equivalent barrels per day of production, and phases out from $12 million to zero between 50,000 and 100,000 BTU-equivalent barrels of production. Qualified companies who have oil production before May 1, 2016 can receive the credit for up to nine years after their first production of oil or gas. This credit is not transferable or refundable, but can be used to reduce tax liability below the minimum tax in annual tax calculations.