

# LEGISLATIVE RESEARCH SERVICES

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(907) 465-3991 phone  
(907) 465-3908 fax  
[research@akleg.gov](mailto:research@akleg.gov)

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## Tax Credits and Public Disclosure Requirements

Susan Haymes, Manager

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***You asked if Alaska requires companies or individuals applying for tax credits to provide supporting data and whether that information is subject to public disclosure.***

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Alaska's Public Record Act makes information held by government agencies accessible to citizens by default. This policy is made explicit in AS 40.25.110(a), which reads, "Unless specifically provided otherwise, the public records of all public agencies are open to inspection." There are, however, various exemptions to the Public Records Act, such as records pertaining to juveniles and healthcare. Also, a number of other laws specifically exempt certain records from public disclosure. For example, information in the possession of the Department of Revenue (DOR) that discloses the particulars of the business or affairs of a taxpayer or other person except when the information may be required for an official investigation or administrative adjudication is exempt from the Public Records Act (AS 40.25.100).<sup>1</sup>

Alaska allows a number of tax credits, which are described in the Tax Division's *Revenue Sources Book*.<sup>2</sup> For most of the credits, the applicant is required to submit information supporting the request for the credit. For many of the credits the data are confidential and may not be released. For other credits, for example, production tax credits allowed under AS 43.55.025, the supporting data may be disclosed after a certain period of time. With certain exceptions, petroleum well data can be disclosed after a 30-days public notice following a 24-month time period. Seismic or other geophysical data remains confidential for ten years after the completion date, at which time the Department of Natural Resources may release the information after a 30 day public notice period. Additionally, exploration activity data submitted in support of the mineral exploration incentive credit is confidential for 36 months after receipt by the department. Cost data and other information submitted in support of the film production tax credit becomes public once the tax credit is approved.<sup>3</sup> Generally, information that appears in a tax return is confidential under AS 40.25.100 and AS 43.05.230.

In Table 1 we provide for each tax credit the authorizing statute and a description of any disclosure requirements. The Tax Division groups the credits according to those that are applicable to oil and gas production, corporate income tax, fisheries taxes, and those that apply to multiple activities.

We hope this is helpful. If you have questions or need additional information, please let us know.

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<sup>1</sup> AS 43.05.230 further describes the confidentiality requirements for the disclosure of information on tax returns and tax reports. The DOR may release tax information in aggregated form that prevents the identification of a particular taxpayer.

<sup>2</sup> The *Revenue Sources Book Fall 2016* can be accessed at <http://www.tax.alaska.gov/programs/documentviewer/viewer.aspx?1295r>.

<sup>3</sup> The film tax credit was repealed in 2015, but prequalified projects are eligible to receive a credit until January 1, 2019.

Table 1: Disclosure Requirements for Tax Credits in Alaska		
Tax Credit Program	Statute for Credit	Disclosure Requirements
<b>Credits Applicable to Oil and Gas Production</b>		
Alternative Credit for Exploration	AS 43.55.025(a)(1) - (a)(4)	The producer or explorer must submit supporting documentation as required by the department (Form 310). The data is held confidential as follows: well data is confidential for 24 months (AS 31.05.035[c]), unless the Department of Natural Resources (DNR) commissioner determines the information relates to the valuation of unleased acreage or the well is on private land; seismic or other geophysical data is confidential for ten years and will be released after a 30-day public notice period; seismic data obtained by seismic exploration under (k) is confidential only until the 30-day public comment period expires (AS 43.55.025[f][2]).
Carried Forward Annual Loss Credit	AS 43.55.023(b)	The producer or explorer must submit supporting documentation as required by the department (Form 330). The calculations and amounts claimed must be substantiated by the schedules from the applicant's annual tax return. The information on the taxpayer's tax return is confidential subject to AS 40.25.100 and AS 43.05.230.
Cook Inlet Jack-Up Rig Credit	AS 43.55.025(a)(5) and (l)	Producer or explorer must submit supporting documentation as required by the department (Form 310). The data are subject to disclosure requirements under AS 43.55.025(f)(2).
Exploration Incentive Credit	AS 38.05.180(i)	This credit was repealed in HB 247 in 2016 and had not been used for many years. Under the law, the lessee was required to submit supporting data, which stays confidential at the request of the lessee under AS 38.05.035(a)(8); however, confidential data could have been released to legislators, legislative auditor, director of Legislative Finance, and state employees who evaluate royalty reductions.
Frontier Basin Credit	AS 43.55.025(a)(6) - (a)(7)	For credits taken under (a)(7), seismic data may be made public two years after the credit was received. A person planning to conduct seismic activities on private land must get agreement from the landowner allowing the data to be released.
Per-Taxable-Barrel Credit	AS 43.55.024(i)-(j)	This credit is an integral part of the production tax calculation; the credit is applied directly to the tax and may not be carried forward or transferred. No data requirements.
Qualified Capital Expenditure and Well Lease Expenditure Credit	AS 43.55.023(a) and (l)	Producer or explorer must submit supporting documentation as required by the department (Form 330). Both qualified capital expenditures and well lease expenditure credits are subject to disclosure requirements under AS 43.55.025(f)(2).
Small Producer/New Area Development Credit	AS 43.55.024(a) and (c)	Producer or explorer must submit supporting documentation as required by the department.

**Table 1: Disclosure Requirements for Tax Credits in Alaska (cont.)**

Tax Credit Program	Statute for Credit	Disclosure Requirements
<b>Credits Applicable to Corporate Income Tax</b>		
Gas Storage Facility Credit	AS 43.20.046	To claim the credit, the person must submit certification of working gas storage capacity and withdrawal capability, the date the facility started commercial operations, and any other required information. The information on the taxpayer's tax return is confidential subject to AS 40.25.100 and AS 43.05.230.
In-State Refinery Tax Credit	AS 43.20.053	The information on the taxpayer's tax return is confidential subject to AS 40.25.100 and AS 43.05.230.
Internal Revenue Code Credits Adopted by Reference	AS 43.20.021	The information on the taxpayer's tax return is confidential subject to AS 40.25.100 and AS 43.05.230.
LNG Storage Facility Credit	AS 43.20.047	To determine the amount of credit, the taxpayer must submit the costs to establish or to expand the LNG facility certified by an independent certified public accountant. The information on the taxpayer's tax return is confidential subject to AS 40.25.100 and AS 43.05.230.
Oil and Gas Industry Service Expenditures Credit	AS 43.20.049	Under (d), for a year in which three or more taxpayers claim a tax credit, the department may publish the aggregated amount of tax credits claimed under this section and a description of the expenditures that were the basis of the tax credit.
Urea/Ammonia/Gas to Liquid Facility Credit	AS 43.20.052	To claim a credit, the taxpayer must submit to the department the name of each lessee delivering natural gas for use at the facility, the identification and quantity of natural gas from each state lease, the ownership percentage of the taxpayer in the facility, and the price for the natural gas. The information on the taxpayer's tax return is confidential under AS 40.25.100 and AS 43.05.230.
Veteran Employment Tax Credit	AS 43.20.048	Employer is required to submit a Form 6325 to claim an income tax credit, which includes the name of the veteran employee, the employee's supporting documentation (Certificate of Qualifying Veteran), the hours employed, and the period of time employed. The taxpayer's information is confidential under AS 40.25.100 and AS 43.05.230.
<b>Credits Applicable to Fisheries Taxes</b>		
Community Development Quota Credit	AS 43.77.040	The taxpayer must submit supporting documentation as required by the department with the application for the credit.
Other Taxes Credit	AS 43.77.030	The information on the taxpayer's tax return is confidential subject to AS 40.25.100 and AS 43.05.230.
Salmon and Herring Product Development Credit	AS 43.75.035	The taxpayer must submit supporting documentation for the credit. The taxpayer may submit supporting documentation to pre-qualify for the tax credit (Form 575). The information on the taxpayer's tax return is confidential subject to AS 40.25.100 and AS 43.05.230.
Winn Brindle Scholarship Contributions Credit	AS 43.75.032, AS 43.77.035	The taxpayer must submit supporting documentation as required by the department with the application for the credit. The information on the taxpayer's tax return is confidential subject to AS 40.25.100 and AS 43.05.230.

**Table 1: Disclosure Requirements for Tax Credits in Alaska (cont.)**

Tax Credit Program	Statute for Credit	Disclosure Requirements
<b>Credits Applicable to Multiple Tax Credits</b>		
Education Credit	AS 21.96.070, AS 43.20.014, AS 43.55.019, AS 43.56.018, AS 43.65.018, AS 43.75.018, AS 43.77.045	The Education Credit applies to the corporate income tax, fisheries business tax, fishery resource landing tax, insurance premium tax, title insurance premium tax, mining license tax, oil and gas production tax, and oil and gas property tax. Taxpayers are required to submit a form describing the recipient and the amount of the credit. For example, oil and gas producers must fill out Form 308 to receive the production tax education credit.
Film Production Credit	AS 43.98.030	The film tax credit was repealed in 2015, but prequalified film projects are still eligible to receive a credit until January 1, 2019. The law required the department to publish the name and contact information for each person issued a credit. The information in the original application is confidential; however, once the tax credit is finally approved, the cost report and other data are public and subject to disclosure under the Alaska Public Records Act (AS 40.25.120).
Mineral Exploration Incentive Credit	AS 27.30, AS 43.20.044	The taxpayer must submit an accounting of mining operations activities. The exploration activity data are confidential for 36 months after receipt by the department (AS 27.30.090).
<b>Sources:</b> Tax Division, DOR, <i>Revenue Sources Book Fall 2016</i> , at <a href="http://www.tax.alaska.gov/programs/documentviewer/viewer.aspx?1295r">http://www.tax.alaska.gov/programs/documentviewer/viewer.aspx?1295r</a> ; Alaska Statutes.		