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Sectional Analysis, CS SB 130(RES) \ H

Oil and Gas Tax Credit Reform Bill

April 13, 2016

Sec. 1-5. Conforming language related to the repeal of AS 41.09, an old DNR exploration incentive credit program, in Sec. 45 of the bill.

Sec. 6. Changes interest rates on delinquent taxes. The current rate is 3% above the Federal Reserve rate, with simple interest only. This is amended to 7% above the Fed rate, compounding quarterly, but for only the first three years after a tax becomes delinquent. After three years, a delinquent tax does not bear interest.

Sec. 7-9. Amends the Gas Storage Facility, LNG Facility, and In-State Refinery Tax Credits so that these cannot be paid if the taxpayer has any outstanding liability to the state. Currently this is restricted to only a tax liability. Conforms with new language in Sec. 28.

Sec. 10. Conforming language related to the zero tax rate and elimination of all credits in Cook Inlet, in Sec. 12 of the bill.

Sec. 11. Conforming language related to elimination of the "Gas Used in the State" (GUIS) tax cap on the North Slope, in Sec. 46 of the bill.

Sec. 12. Establishes that no tax is levied on oil and gas produced in Cook Inlet, and that no credits may be earned in Cook Inlet under this chapter, beginning in 2018.

Sec. 13. Conforming language related to elimination of the Cook Inlet and "Gas Used in the State" tax caps, in Sec. 46 of the bill.

Sec. 14-16. Conforming language related to the elimination of the Cook Inlet and "Gas Used in the State" in Sec. 46 and the associated changes in Sec. 13 of the bill.

Sec. 17. Reduces the Qualified Capital Expenditure (QCE) credit from 20% to 10% in 2017.

Sec. 18. Eliminates the Qualified Capital Expenditure (QCE) in Cook Inlet in 2018. Middle Earth QCE remains 10% until 2022.

Sec. 19. Reduces the carried-forward annual loss credit (also known as the NOL credit) for areas outside the North Slope from 25% to 15% in 2017. Modifies the NOL credit so that, for "new" oil production eligible to receive the Gross Value Reduction (GVR), the GVR cannot be used to increase the size of an annual loss.

Sec. 20. Eliminates the carried-forward annual loss credit (NOL) in Cook Inlet in 2018. Middle Earth NOL remains 15%.

Sec. 21-22. Effective in 2022, conforming language related to the repeal of AS 43.55.023(a), the Qualified Capital Expenditure Credit, in Sec. 47 of the bill.

Sec. 23. Reduces the Well Lease Expenditure (WLE) credit from 40% to 20% in 2017.

Sec. 24. Eliminates the Well Lease Expenditure (WLE) in Cook Inlet in 2018. Middle Earth WLE remains 20% until 2022.

Sec. 25. Extends the Frontier Basin 80% credit so that expenditures to complete a well spudded before the 7/1/16 expiration date are eligible for the credit.

Sec. 26. Amends AS 43.55.028(e) to add a limitation of $85 million per company per year to state repurchase of credit certificates. Provides that a company cannot artificially divide themselves into multiple entities to receive more than the $85 million cap.

Sec. 27. In the case where funds available to purchase credits are inadequate to meet the full demand, DOR must grant a priority preference to applicants with a workforce that is at least 75% state residents.

Sec. 28. Ensures the state cannot repurchase a credit certificate if the company has an outstanding liability to the state related to their oil and gas activity. The Department may use the withheld amount to satisfy the liability, with the applicant's consent. Adds a definition of "outstanding liability."

Sec. 29-31. Effective in 2022, conforming language related to the repeal of AS 43.55.023(a), the Qualified Capital Expenditure Credit, in Sec. 47 of the bill.

Sec. 32-33. Effective in 2018, conforming language related to the repeal of AS 43.55.011(j) and (k), and (o), the Cook Inlet and Gas Used in the State tax caps, in Sec. 46 of the bill.

Sec. 34-35. Establishes that North Slope oil production eligible for the Gross Value Reduction (GVR) reverts to the full "legacy" tax rate after five years. Oil and gas receiving the GVR benefit before the effective date shall revert to "legacy" in 2021.

Sec. 36. Effective in 2022, conforming language related to the repeal of the Standard Deduction in AS 43.55.165(j) and (k) in Sec. 47 of the bill.

Sec. 37-38. Effective in 2022, conforming language related to the repeal of AS 43.55.023(a), the Qualified Capital Expenditure Credit, in Sec. 47 of the bill.

Sec. 39. Effective in 2018, conforming language related to the repeal of the Gas Used in the State tax cap, in Sec. 46 of the bill.

Sec. 40-41. Effective in 2022, conforming language related to the repeal of AS 43.55.023(a), the Qualified Capital Expenditure Credit, in Sec. 47 of the bill.

Sec. 42. In the case where a municipal entity has an interest in oil and gas production, and sells only a portion of that production to an outside party, its ability to deduct lease expenditures and claim credits is limited in proportion to its taxable production.

Sec. 43. Effective in 2022, adds a definition for "qualified capital expenditure" to the general definitions section of AS 43.55. This replicates the definition that was in AS 43.55.023 which is repealed because the .023 "qualified capital expenditure" credit is also being repealed in Sec. 47. Most of the conforming sections that currently reference AS 43.55.023 use this definition.

Sec. 44. Adds a requirement that persons engaged in exploring for and developing oil or gas file a surety bond of $250,000. The bond is intended to protect various unsecured creditors. The bond requirement is waived once the person produces oil or gas in commercial quantities.

Sec. 45. Repeals two unused DNR exploration incentive credit programs, AS 38.05.180(i) and AS 41.09 as well as other conforming and obsolete sections, in 2017.

Sec. 46. Repeals the Cook Inlet Oil and Gas, and Gas Used in the State tax caps in 2018.

Sec. 47. Repeals the QCE and WLE programs in AS 43.55.023(a) and (l), as well as the Standard Deduction provisions in AS 43.55.165(j) and (k), with related sections, in 2022.

Sec. 48. Applicability language related to the new requirements for purchasing transferable tax credit certificate through the Oil and Gas Tax Credit Fund.

Sec. 49. Transition language for the 2022 repeal of the QCE and WLE credits in Sec. 47; ensures that expenditures incurred before the repeal date are eligible for the credits.

Sec. 50. Transition language for the 2022 repeal of the former Standard Deduction provisions in Sec. 47.

Sec. 51. Transition language related to tax payment requirements and how they are changed by the repeal of the Cook Inlet and Gas Used in the State tax caps in the bill.

Sec. 52. Transition language related to tax calculations as impacted by the amendments related to the repeal of the Cook Inlet and Gas Used in the State tax caps.

Sec. 53-54. Transition language enabling DOR and DNR to draft regulations to implement the changes in this Act, and establishing that regulations may be retroactive to the effective date if they are finalized after the effective date.

Sec. 55. Immediate effective date for the extension of the Frontier Basin credit and the authority for DOR and DNR to write regulations for this bill.

Sec. 56. Effective date in 2018 for the repeal of the Cook Inlet taxes, tax caps, and credits.

Sec. 57. Delayed effective date of 2022 for the repeal of the QCE and WLE credits, the Standard Deduction, and various conforming sections related to these repeals.

Sec. 58. Effective date of January 1, 2017 for the remaining sections of the bill.