



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Revenue

TAX DIVISION

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February 26, 2018

Senator Bert Stedman, Chair
Legislative Budget & Audit Joint Committee
State Capitol Room 30
Juneau, AK 99801

Dear Senator Stedman:

The Division of Legislative Audit (DLA) conducted a special audit of the Tax Division, Oil and Gas Production Tax Audit Group (OGP) and issued its report June 20, 2014. The Legislative Budget & Audit Joint Committee recently requested follow up information regarding the current level of backlog for tax return audits and credit audits; the status of related appeals cases; and the success of the tax revenue management system (TRMS) in addressing issues identified in DLA's June 20, 2014 report.

We appreciate the opportunity to respond to the Committee's questions. To assist in gathering and presenting data, the Legislative Auditor provided tables for the DOR to provide information. For several of the tables, DOR added columns and modified column headings. These edits are explained in the notes for each table.

Information for 2006 through 2008 was time-consuming to gather because it spans several legacy systems. When the tax division's comprehensive tax software system, known as the Tax Revenue Management System (TRMS) was implemented for the Production Audit group, the 2008 audits were being finalized. Those audits were the first posted in the new system in March 2015. Information prior to 2009 was not converted into TRMS and is not in a reportable format: it was gleaned from spreadsheets and audit assessment letters. Data that is native in the system is easily reported and accurate.

We believe we have addressed all of the questions you asked. If you or the Committee have additional comments or questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "K. Alper".

Ken Alper
Director

1. In the table below, please provide the dollar amount of tax return audit assessments. The assessments should be presented by tax year and should be categorized by account (columns C-F) and by payment type (columns G-J). The total assessments in columns F and J should equal. If additional categories that comprise the total (accounts or payment status) exist, please add them as extra columns.

Table 1 Tax Return Revenues and Audit Assessments for Tax Years 2006 through 2017													
Amount of Taxes Assessed by Account													
(A)	(B)	(Added by DOR)	Tax Revenue Audited	(Added by DOR)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	
Tax Year	Tax Revenue Filed by All Taxpayers			Additional Tax Assessed	Installment Interest Increase	Tax Due	Interest	Penalty	Total Equals to (J) [C+D+E]	Paid under protest	Paid final (after settlement or not appealed)	Not yet resolved	Total All Payment Status [G+H+I]
2006	\$ 2,001,815,419	\$ 1,896,292,691		\$ 60,270,499	\$ 0	\$ 60,270,499	\$ 31,123,893	\$ -	\$ 91,394,392	\$ 35,922,401	\$ 27,730,473	\$ 0	\$ 63,652,874
2007	3,476,535,942	3,476,535,942		200,329,234	0	200,329,234	187,161,624	-	387,490,858	75,391,076	167,376,312	9,153,545	251,920,933
2008	7,132,582,848	7,132,582,848		145,491,245	0	145,491,245	112,884,120	-	258,375,365	-	84,511,964	170,085,453	254,597,417
2009	2,034,600,383	2,020,134,580		78,478,727	3,838,197	82,316,924	48,259,887	-	130,576,811	-	38,549,642	44,572,555	83,122,197
2010	3,105,939,796	3,078,326,487		122,777,652	5,791,760	128,569,412	60,677,441	-	189,246,853	-	28,688,931	165,675,554	194,364,485
2011	6,115,571,666	6,114,627,023		165,013,470	6,195,130	171,208,600	72,677,102	-	243,885,702	-	-	-	-
2012	5,311,152,662	5,261,161,108		-	-	-	-	-	-	-	-	-	-
2013	3,419,300,268	3,388,137,380		-	-	-	-	-	-	-	-	-	-
2014	1,434,224,635	-		-	-	-	-	-	-	-	-	-	-
2015	230,674,669	-		-	-	-	-	-	-	-	-	-	-
2016	166,949,412	-		-	-	-	-	-	-	-	-	-	-
2017	257,333,324	-		-	-	-	-	-	-	-	-	-	-

TABLE 1 NOTES

Column (A)	Tax Year is the year for which tax returns were filed (calendar year).
Column (B)	Total Oil and Gas Production Taxes as filed (reported) under AS 43.55.011 for each calendar year. The 2017 annual returns are due on March 31, 2018. The amount of tax for 2017 is an estimate based on installment payments remitted during 2017 as of February 1, 2018. This figure differs from reported revenue figures in the Revenue Sources Book, which looks at the fiscal year in which the revenue is received (cash basis) rather than the tax year for which the liability originated.
(Added by DOR)	"Tax Revenue Audited" is the amount of Production Taxes subject to audit for that calendar year. The amounts for 2012 and 2013 includes audits that have been opened as of February 1, 2018.
(Added by DOR)	"Additional Tax Assessed" is the amount of additional production taxes assessed under AS 43.55.011 for each year. The amounts for 2011 are preliminary as not all audits have been finalized. These audits are scheduled to be assessed prior to March 31, 2018. Audits for 2012 are scheduled for completion in summer 2018, and 2013 by the end of 2018.
(Added by DOR)	"Installment Interest Increase," sometimes referred to as "over / under interest," is the amount of additional interest assessed under AS 43.55.020(g) for each year. For the purposes of AS 43.05, this interest is treated as an addition to tax after March 31 of the year in which the tax is due. These amounts were not consistently reported or captured until the implementation of the tax system with the 2014 annual return. The amount for 2011 is an estimate based on preliminary audit information. These audits are scheduled to be assessed prior to March 31, 2018.
Column (C)	This is the sum of "Additional Tax Assessed" and "Installment Interest Increase"
Column (D)	This is the amount of interest assessed under AS 43.05.
Column (E)	In any year there is not enough data to report under the provisions of AS 43.55.890. There have been taxpayers assessed penalties for failing to file returns.
Column (F)	The sum of tax, penalty and interest due. Although the LB&A and form intended for this column to equal Column J, it does not precisely do so. See note on Column J.
Column (I)	This is the amount of tax and interest not yet paid on appealed audits that are still pending. These amounts are still in dispute and may not be paid if the taxpayer prevails on appeal.
Column (J)	Column F and Column J do not agree for the following reasons: a) Column F includes interest through the date of assessment or shortly thereafter, while column J includes interest through the date of payment or the current date if the appeal has not yet been resolved. b) Column I and Column J includes additional tax and interest that was assessed during the appeal process. Column F does not include these amounts. c) Column F includes tax and interest for audit issues that were subsequently dropped during the appeals process. Column J does not include tax and interest for issues that were dropped during the appeal process.
Years 2012-16	2012 through 2016 do not yet include enough audit data to report under 43.55.890. The 2017 annual returns are due on or before March 31, 2018.

2. In the table below, please provide the dollar amount of tax assessments contested at each level of appeal as of December 15, 2017 (columns B-E), and the portion of that amount paid or not paid by taxpayers (columns F-H). The amounts in the column F should match to the column G in the table 1.

Table 2 *									
Tax Return Appeals for Tax Years 2006 through 2017									
Contested Amounts At Each Appeal Level					Contested Amounts Paid				
(A) Tax Year	(B) Tax Assessed	(C) Tax Appealed to Informal Conference	(D) Tax Upheld at Informal Conference	(E) Tax Currently Pending at Informal Conference	(F) Tax Appealed to OAH	(G) Tax Currently Pending at OAH	(H) Tax Paid	(I) Interest Paid	(J) Total Tax & Interest Paid
2006	\$ 60,270,499	\$ 25,600,152	\$ 20,417,720	\$ 0	\$ 11,158,363	\$ 0	\$ 46,819,134	\$ 16,833,740	\$ 63,652,874
2007	200,329,234	174,204,717	52,186,445	0	38,491,888	38,491,888	129,010,990	113,756,398	242,767,388
2008	145,491,245	134,401,975	32,908,651	88,315,595	10,674,670	10,674,670	46,002,370	38,509,594	84,511,964
2009	82,316,924	78,484,917	10,891,636	43,367,794	-	-	10,891,636	6,908,364	17,800,000
2010	128,569,412	120,885,096	-	120,885,096	-	-	1,974,538	1,261,684	3,236,222
2011	171,208,600	-	-	-	-	-	-	-	-

TABLE 2 NOTES

Column (A)	This is the year for which tax returns were filed (calendar year).
Column (B)	This is the amount of additional production taxes assessed under AS 43.55.011 for each year. This amount includes installment interest assessed under AS 43.55.020(g) and agrees with the Column (C) in Table 1. There is not enough data to report information for audits of 2012 through 2016 under the provisions of AS 43.55.890. The 2017 annual oil and gas production tax returns are due March 31, 2018.
Column (C)	This is the amount of additional production taxes assessed and appealed to the DOR Appeals Section.
Column (D)	This is the amount of additional production taxes assessed, appealed and upheld by the DOR Appeals Section in the DOR informal conference process.
Column (E)	This amount is the additional production taxes assessed, appealed by taxpayers, and currently being considered by the DOR Appeals Section in the DOR informal conference process.
Column (F)	This is the amount of additional tax upheld by the DOR Appeals Section that taxpayers appealed to the next level: Office of Administrative Hearings (OAH).
Column (G)	This is the amount of additional tax pending decisions by the Office of Administrative Hearings (OAH). As originally formatted, the table asked for contested amounts at the Alaska Supreme Court. There are no cases currently pending beyond the OAH.
Column (H)	This is the amount of additional tax that was paid on appealed audit assessments during the appeals process.
Column (I)	This is the amount of additional interest that was paid on appealed audit assessments during the appeals process.
Column (J)	This is the total amount of additional tax and interest that was paid on appealed audit assessments during the appeals process.
*	DOR reorganized this table to add slightly more information and to reflect the amounts upheld and/or pending at the various levels of appeal.

3. In the table below, please provide the number of tax returns filed, audits completed, and assessments appealed at each level of appeal.

Table 3 Number of Tax Returns Audited and Appealed											
(A) Tax Year	Number of Tax Returns Filed by Audit Status						Number of Appeals by Level				
	(Added by DOR) Number of Tax Returns Filed	(Added by DOR) Number of Producers Filing Returns	(Added by DOR) Number of Producers Who Qualified for 024(c) credit	(B) Tax Returns with Completed Audits	(C) Tax Returns Not Yet Audited	(D) Awaiting Assessment	(E) Tax Returns Filed by Producers [B+C+D]	(F) DOR Appeals Section	(G) Office of Administrative Hearings	(H) Alaska Courts	(I) Total Number of Appeals [F+G+H]
2006	14	14	11	8	6	0	14	4	2	0	6
2007	17	15	12	12	3	0	15	4	2	0	6
2008	17	17	14	7	10	0	17	4	1	0	5
2009	17	17	14	10	7	0	17	5	0	0	5
2010	55	19	16	8	11	0	19	4	0	0	4
2011	58	21	18	10	11	0	21	0	0	0	0
2012	60	24	21	0	15	9	24	0	0	0	0
2013	60	25	22	0	18	7	25	0	0	0	0
2014	63	22	19	0	17	5	22	0	0	0	0
2015	58	24	21	0	20	4	24	0	0	0	0
2016	58	40	37	0	36	4	40	0	0	0	0
2017	0	0	0	0	0	0	0	0	0	0	0

TABLE 3 NOTES

Column (A)	Tax Year is the year for which tax returns were filed (calendar year)
(Added by DOR)	"Number of Tax Returns Filed" is the number of annual tax returns filed by taxpayers who produce oil & gas; pay tax on private landowner royalty (43.55.011(i)); and incur lease expenditures for credits under AS 43.55. Those who incurred lease expenditures for credit and were audited are in Tables 4 and 5. The "Number of Tax Returns Filed" also includes producers whose 43.55.011(e) tax was reduced to zero by application of the 43.55.024(c) (small producer) credit.
(Added by DOR)	"Number of Producers Filing Returns" is the number of returns filed by those who actually produced oil and gas. Note: the large increase in the number of producers from 2015 to 2016 is largely attributable to the commencement of production from Pt. Thomson. There are a substantial number of very small (<0.1%) working interest partners within the Pt. Thomson Unit.
(Added by DOR)	"Number of Producers Who Qualified for 024(c) Credit" is the number of producers who qualified for the "small producer" credit under AS 43.55.024(c). The credit reduced most taxpayers' production tax liability to zero. Some of these taxpayers were audited to confirm that conservation surcharges (43.55.201 and 300) and tax on private landowner royalty (AS 43.55.011(i)) were correctly filed and paid.
Column (B)	This is the number of tax return audits completed by calendar year.
Column (C)	This is the number of annual tax returns filed by producers that were not audited. Audits of explorers' returns are reflected in Tables 4 and 5. The return audits for 2012 through 2016 are not complete, so these figures are subject to change. It is possible that more returns will be audited than are in Column D, thereby reducing the number of "Tax Returns Not Audited."
Column (D)	This number for 2012 are audits that are currently open. Some of the 2013 audits are also open. The numbers of audits expected for 2014 through 2016 are estimates subject to change.
Column (E)	Changed the title of this column to reflect that it's the sum of annual production tax returns filed by producers. Non-producing taxpayers' ("Explorers") returns are reflected in Tables 4 and 5.
Column (F)	This is the number of cases at the DOR Informal Conference level ("Appeals").
Column (G)	This is the number of cases before the Office of Administrative Hearings.
Column (H)	Currently there are no cases before the Superior or Supreme Courts.
2017	Annual oil and gas production tax returns are due March 31, 2018.

4. In the table below, please provide the dollar amount and number of 023 and 025 credit audit assessments for tax years 2006 – 2013 (PPT/ACES) and 2014 – 2017 (SB21).

Table 4									
023 and 025 credit audit assessments for tax years 2006 – 2013 (PPT/ACES) and 2014 – 2017 (SB21)									
	Amount of Credit Assessments				Number of Credit Assessments				
(A) Tax Years	(B) Tax Credit Disallowed	(C) Interest	(D) Total [B+C]	(E) Amount of Total Credit Allowed in Appeal	(F) Credit Audits Completed	(G) Credit Audits Still to Be Completed and Issued	(H) Credits Not Audited	(I) Total Credits Filed [F+G+H]	(J) Number of Credit Audits Appealed
2006	\$11,713,939	*	\$11,713,939	\$0	8	0	-	8	*
2007	28,993,346	*	28,993,346	4,889,934	18	0	-	18	6
2008	25,388,367	*	25,388,367	632,198	23	0	-	23	3
2009	45,023,915	*	45,023,915	5,891,454	15	0	-	15	7
2010	2,880,337	*	2,880,337	8,406	7	0	-	7	*
2011	9,773,044	*	9,773,044	(383,084)	10	0	-	10	*
2012	52,724,565	*	52,724,565	2,728,906	14	4	-	18	3
2013	7,766,777	*	7,766,777	862,673	14	4	-	18	*
2014	3,192,672	*	3,192,672	336,314	14	5	-	19	*
2015	8,057,553	*	8,057,553	-	15	*	-	*	0
2016	35,466,110	*	35,466,110	-	12	5	-	17	0
2017	-	*	-	-	-	-	-	-	-

TABLE 4 NOTES

Column (A)	Tax Year for AS 43.55.025 credits include projects that span multiple years, so for credits issued pre-2015 only one year was selected to report (the data was not split between the multiple years). For credits issued after 2014, the specific year that the credit was based on is reported in column B, but the audit is reported under 1 year for column F. A project from 2015-2016 will have amounts in both 2015 and 2016 for column B, but the "count" of audits completed in column F will only show the audit one year. There are too few companies to report audit data for 2017 (per AS 43.55.890) and 2017 returns and AS 43.55.023 credit requests have not yet been received.
Column (B)	This column is the amount that was adjusted in the AS 43.55.025 audits prior to issuance, plus the amount that was assessed (total credit issued less the total credit allowed based on an audit) after an AS 43.55.023 audit was performed. Does not include amounts disallowed during initial review of AS 43.55.023 credits prior to issuance. Reported 2016 data includes AS 43.55.025 audits that are complete, but waiting on DNR confirmation; these taxpayers are holding "conditional certificates."
Column (C)	Interest is not assessed when issuing the AS 43.55.025 credits unless the credits have already been applied against tax liability and there are too few companies in that situation to report (per AS 43.55.890). Also, interest is not assessed when issuing audits that reduce credit certificates under AS 43.55.023 if the taxpayer has other outstanding (unpaid) certificates that may be reduced to satisfy the liability pursuant to AS 43.55.023(g).
Column (E)	The name of this column was changed to reflect that appeal adjustments generally result in additional credits allowed and issued to the taxpayer.
Column (F)	In the 2016 period the amount includes AS 43.55.025 audits that are complete, but waiting on DNR confirmation. In the 2011 period, it includes audits that are complete and will be issued by March 31, 2018.
Column (G)	This is pulling the AS 43.55.025 audits that are not complete, AS 43.55.023 audits that have been opened and not complete, and AS 43.55.023 audits that are planned.
Column (H)	This field is not tracked by OGP. All AS 43.55.025 credits are audited prior to tax credit certificates being issued. AS 43.55.023 credits are basically audited and adjusted during the due diligence review and audits after the fact are only performed on credit certificates that are flagged during the due diligence review.
Column (I)	This does not include the number of AS 43.55.023 credits that were received each year. Please see table 5 for that information.
Column (J)	The name of this column was changed to reflect the number of audits appealed.

*There are too few companies to report data for the sections indicated (per AS 43.55.890).

5. In the table below, please provide the dollar amount and number of 023 credit review assessments for tax years 2006 – 2013 (PPT/ACES) and 2014 – 2017 (SB21). Note that *reviews* are being distinguished from *audits* which are summarized in Table 4. Reviews that must be completed within 120 days may also result in assessments. A portion of these credits may later be audited.

Table 5 023 Credit Review Assessments for Tax Years 2006-2013 and 2014-2017									
Amount of Credit Assessments			Number of Credit Assessments						
(A) Tax years	(B) Tax Credit Requests DOR)	(C) Tax Credit Disallowed	(D) Amount of Additional Credit Allowed in Appeal	(E) Credit Reviews Completed	(F) Credit Reviews Still to Be Completed and Issued	(G) Credits Not Reviewed	(H) Total Credits Filed [F+G+H]	(I) Number of Credit Reviews Appealed	(J)
2006	\$85,490,257	\$ 7,520,378	\$6,266,855	14	0	0	14	3	
2007	299,412,427	29,665,978	*	59	0	0	59	*	
2008	334,494,453	45,725,797	4,211,742	67	0	0	67	7	
2009	268,078,710	15,039,467	9,248,828	74	0	0	74	10	
2010	444,535,610	6,609,401	1,362,869	73	0	0	73	5	
2011	393,576,565	28,217,239	5,058,680	65	0	0	65	7	
2012	610,144,269	111,099,520	9,880,179	81	0	0	81	8	
2013	724,710,171	148,446,444	5,906,854	89	0	0	89	4	
2014	623,979,795	29,262,225	6,852,859	109	0	0	109	7	
2015	568,746,758	70,391,549	7,131,776	82	0	0	82	6	
2016	209,333,160	29,743,889	-	50	*	0	*	3	
2017	-	-	-	-	-	-	-	-	

TABLE 5 NOTES

Column (A)

Prior to 2015, applications received for credits under AS 43.55.023(a) were allowed to be requested for multiple years in a single application and for purposes of this report DOR assigned a tax year based on the year with the largest amount of incurred costs. For credit applications received in 2015 and after (when the Tax System was implemented), all credit applications are allocated to the year that the credit is earned.

* Credit applications for 2017 have not been received (or there are too few to report under AS 43.55.890). Generally, credit applications are submitted when the Oil and Gas Production Tax annual return is due around March 31.

(Added by DOR)

These are the amounts requested for the applicable tax year (based on when the expenditures were incurred). This amount does not include credits that were withdrawn by the taxpayer, amounts issued as a result of a transfer, or amounts issued as the result of an appeal. It does include amounts that were denied in full by the audit staff.

Column (B)

The amount of credit requested by the taxpayer less what was issued as a certificate from DOR.

Column (C)

Changed the title of this column to reflect the additional amount of credit issued from an appeal.

Column (F)

This is the number of applications received and reviewed by DOR by year. Some companies submit more than one credit application for a single calendar year, therefore more than one review is performed.

Column (G)

2016 and 2017 do not include enough data to report under AS 43.55.890. Most 2017 application will be received around March 31, 2018 when the annual tax returns are due.

Column (H)

All AS 43.55.023 credit applications are reviewed before issuing a certificate.

Column (J)

Changed name to reflect the number of credit reviews that were appealed.

* There are too few to report under AS 43.55.890