



Overview of Alaska's Oil & Gas Tax Structure



*Presentation to the
House Resources Committee
March 21, 2012
Alaska Department of Revenue*



Overview



- This presentation will be separated into two parts:
 - An ACES “101” Overview; and
 - A Statutory Review of Alaska’s Oil and Gas Tax Structure



An ACES “101” Overview?



- There is no such thing as a simple “101” overview of Alaska’s tax structure
- Investors consider several issues when deciding where to invest, two of which are:
 - Simplicity
 - Stability
- ACES is certainly not simple
- Stability has certainly come into question over the past several years



Alaska Oil and Gas Revenue Sources

- **Production Tax**

Tax rate varies with value of production after expenses are deducted

- **Royalty**

Straight percentage assessed on most oil and gas production, based on lease terms

- **Corporate Income Tax**

Up to 9.4% of net profits of oil and gas production as apportioned to Alaska

- **Property Tax**

Statewide property tax (20 mills or 2%) assessed on value of oil and gas property



FY 11 & FY 12 General Fund Unrestricted Revenue



Revenue Type	FY 11 (\$M)	% Total	FY 12 (\$ M)	% Total
Royalty - Net PF / SF	\$ 1,843.3	24.0%	\$ 2,085.2	23.4%
Production Tax	\$ 4,552.9	59.3%	\$ 5,376.4	60.2%
Corp Income Tax	\$ 542.1	7.1%	\$ 662.1	7.4%
Property Tax	<u>\$ 110.7</u>	<u>1.4%</u>	<u>\$ 91.7</u>	<u>1.0%</u>
Subtotal Oil Revenue	\$ 7,049.0	91.9%	\$ 8,215.3	92.0%
Non-Oil Revenue	<u>\$ 624.0</u>	<u>8.1%</u>	<u>\$ 712.6</u>	<u>8%</u>
Total Revenue	\$ 7,673.0	100.0%	\$ 8,927.9	100.0%



Production Tax



- A tax on producing or severing a non-renewable resource (oil or gas) from the state.
- Authorized in AS 43.55, and administered by the Department of Revenue.
- Applies to all production in the state, including 3 miles off-shore, and federal on-shore acreage.
- Not payable on public (state/federal) royalty production.



Current Production Tax System



- **ACES Overview:**
 - **Production Tax Value (PTV)** is the market price less transportation costs and allowable lease expenditures
 - **Base tax rate** of 25% on PTV
 - **Progressive Surcharge Rate**
 - **Credits**
 - **ACES is a company specific tax**



Alaska Oil & Gas Production Tax 101



Basic Tax Calculation:

$$\begin{array}{rcl} \text{Production Tax Value (PTV) X Base Tax Rate} & = & \text{Base Tax} \\ & & + \\ \text{PTV X Progressive Surcharge Rate} & = & \text{Progressive Surcharge} \end{array}$$

$$\begin{array}{rcl} \text{Pre-Credit Tax Bill} & & \text{Total Taxes Before Credits} \\ & & - \\ \text{Credits} & & \text{Credits Applied Against Taxes} \end{array}$$

$$\begin{array}{rcl} \text{Final Tax Bill} & & \text{Total Production Taxes Owed} \end{array}$$



Components of Production Tax Calculation

- Production
- Price
- Lease Expenditures
- Tax Credits



FY 11 Production Tax Calculation



	Per Barrel	Barrels	Value (\$ million)
Avg ANS Oil Price (\$/bbl) & Daily Production (bbls)	\$94.49	602,723	\$56.9 /day
Annual Production (bbl)			
Total Annual Production/Value		219,993,895	\$20,786.7
Royalty and Federal barrels		(29,505,505)	(\$2,787.9)
Taxable barrels		190,488,390	\$17,998.8
Downstream (Transportation) Costs (\$/bbl)			
ANS Marine Transportation	(\$2.45)		
TAPS Tariff	(\$4.02)		
Other	(\$0.70)		
Total Transportation Costs	(\$7.17)	190,488,390	(\$1,365.8)
Lease Expenditures			
Deductible Operating Expenditures	(\$13.22)		(\$2,517.4)
Deductible Capital Expenditures	(\$8.52)		(\$1,622.9)
Total Lease Expenditures	(\$21.74)	190,488,390	(\$4,140.3)
Production Tax Value (PTV)	\$65.58	190,488,390	\$12,492.6
Production Tax			
Base Tax (25%*PTV)			\$3,123
Progressive Tax Rate = (\$65.58-\$30) * 0.4% = 14.2%			
Progressive Tax = (14.2% * PTV)			\$1,778.1
Total Tax Due before credits			\$4,901.2
Credits Applied Against Taxes			(\$400.0)
Total Tax after credits			\$4,501.2



Production Tax Value



- Taxable value is derived via a “netback” calculation (AS 43.55.150 calculation of GVPP):
- Destination Value (both base/minimum tax)
 - Less Marine Transportation
 - Less TAPS Transportation
- = Gross Value at the Point of Production “GVPP”
 - Less Adjusted Lease Expenditures (AS 43.55.165 - AS 43.55.170)
- = Production Tax Value (AS 43.55.160) – “PTV”



Credits



TAX CREDITS

- **Qualified Capital Expenditure Credit** – 20% credit for qualified capital expenditures (40% for well lease expenditures outside North Slope).
- **Carried-Forward Annual Loss Credit** – 25% credit for carried-forward annual loss.
- **Small Producer / New Area Development Credit** – Up to \$12 million per year for small producers and up to \$6 million per year for production outside North Slope and Cook Inlet.
- **Alternative Credit for Exploration** – 30% or 40% of eligible exploration expenditures if certain criteria are met.
- **Cook Inlet Jack-Up Rig Credit** – 80% to 100% credit for first three exploration wells drilled using jack-up rig in Cook Inlet.



Credits (cont.)



- For credits, the state can purchase the tax credit certificate (from someone without a tax liability) or reduce tax revenue (for a taxpayer with a tax liability).
- In both cases, the state is an investor, sharing in the risk borne by the active investor.
- ACES credit system aims to incentivize investment because the state bears some risk, and reduces explorers/producers costs.
- Tax credits, along with the net-based structure, make the state an investor in exploration and new development activities in the state.



Credits (cont.)



- 15 AAC 55.375 prescribes the order in which tax credits should be applied against a producer's tax liability
- The order was derived in order to provide the maximum benefit of the credits
- Credits can be applied in any order that a taxpayer chooses
 - However, if an order other than that shown in 15 AAC 55.375 is used the taxpayer must submit a separate schedule setting out the order in which the tax credits are applied



Credits (cont.)



- There are limits for which the application of certain tax credits cannot exceed:
- Only 50% of a tax credit for which a transferable tax credit certificate has been received may be applied in a single year
 - Includes AS 43.55.023(a) credits
 - This limitation does not exist for AS 43.55.023(l)
- A holder of a transferable tax credit certificate may not use the credit to reduce the transferee's tax liability under AS 43.55.011(e) to less than 80% of the tax that would otherwise be due without applying the credit



Order of Applying Credits



- 1st – any credit under AS 43.55.024(a)
- 2nd – any credit under AS 43.55.024(c)
- 3rd – any credit under AS 43.55.019
- 4th – any credit under AS 43.55.025
- 5th – any credit under AS 43.55.023(i)
- 6th – any credit under AS 43.55.023(a)
- 7th – any credit under AS 43.55.023(l)
- 8th – any credit under AS 43.55.023(b)
- 9th – any credit under AS 41.09.010
- 10th – any credit under AS 38.05.180(i)
- 11th – any credit under AS 43.55.023(e)



Royalties

- Currently, almost all oil and gas production in Alaska comes from state lands leased for exploration and development.
- Leases issued by the DNR are legal contracts and cannot be altered or amended without the consent of all parties to the contract
- As the landowner, the state earns revenue from leasing as:
 - Upfront bonuses;
 - Annual rent; and
 - A royalty interest in oil and gas production.



Royalties (cont.)



- Typically, state leases are issued based on a competitive bonus bid system.
- The state generally retains a royalty interest of 12.5% (however some leases carry rates as high as 27%, and some leases also have a net profit-share production agreement).
- Currently, the vast majority of production comes from leases where the state retains a 12.5% royalty interest.



Petroleum Corporate Income Tax



- An oil and gas company's corporate income tax liability in Alaska depends on the relative size of its Alaska and worldwide activities, and the corporations total worldwide net earnings.
- The company's "taxable income" in Alaska is derived by apportioning its worldwide taxable income to the state based on three factors as they pertain to the corporation's Alaska operations:
 - 1) tariffs and sales;
 - 2) oil and gas production; and
 - 3) oil and gas property.



Petroleum Corporate Income Tax (cont.)



- Similar to the production tax, corporate income tax collections vary greatly along with oil prices and oil industry profits.
- In FY 1994, the oil and gas corporate income tax generated \$17.8 million.
- For the past few years, revenues from the oil and gas corporate income tax have benefited from high oil prices, and high oil industry profits.
- FY 2010 revenue collections from this tax totaled \$446.1 million, and in FY 2011, revenue collections from this tax totaled \$542.1 million.



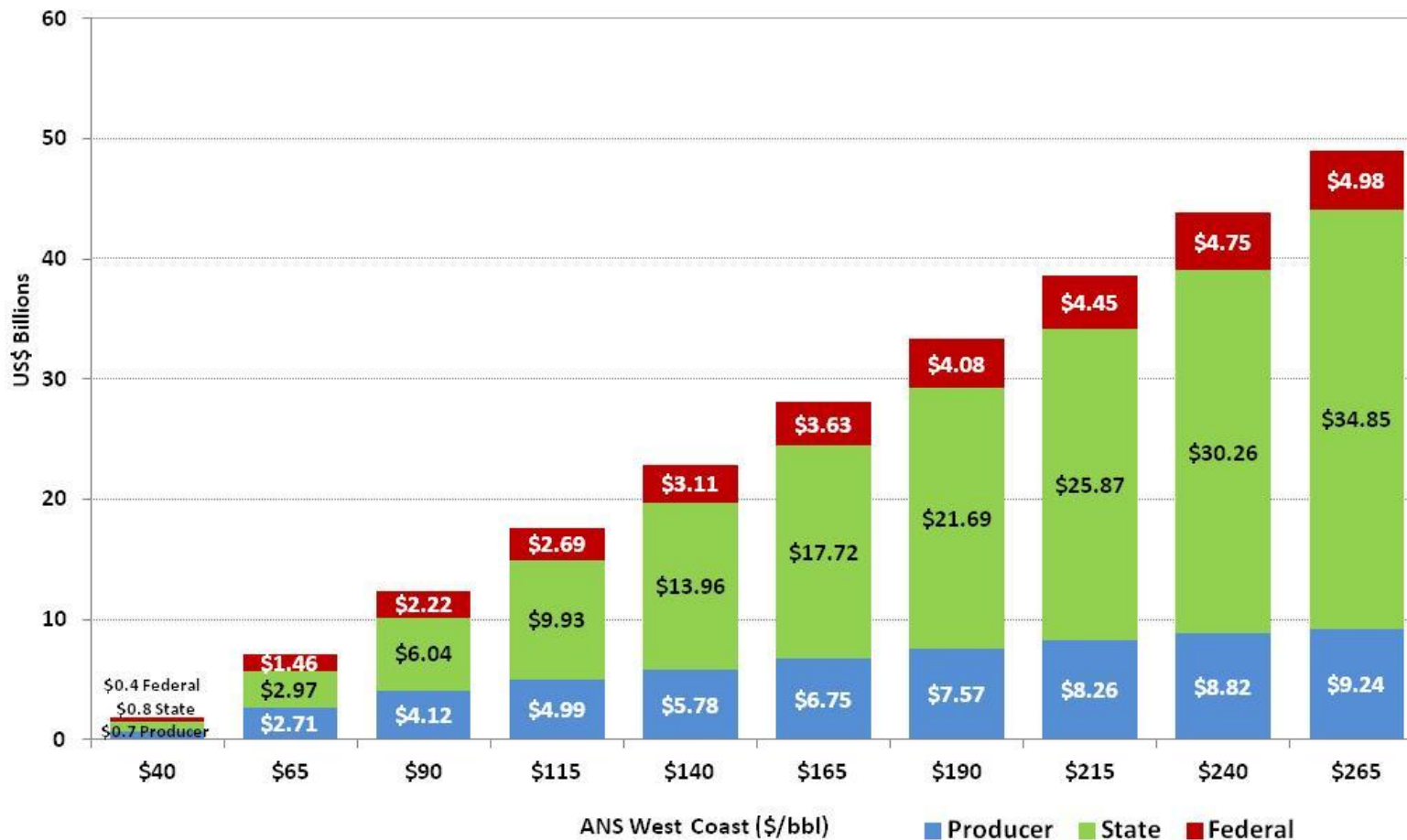
Petroleum Property Tax



- The only statewide property tax.
 - Annually levied on the full and true value of property taxable under AS 43.56.
 - Three classes of property that are valued and taxed for property tax purposes:
 - Exploration Property
 - Production Property
 - Pipeline Transportation Property
- (see pages 41-42 of the Departments Fall 2011 RSB for more details).



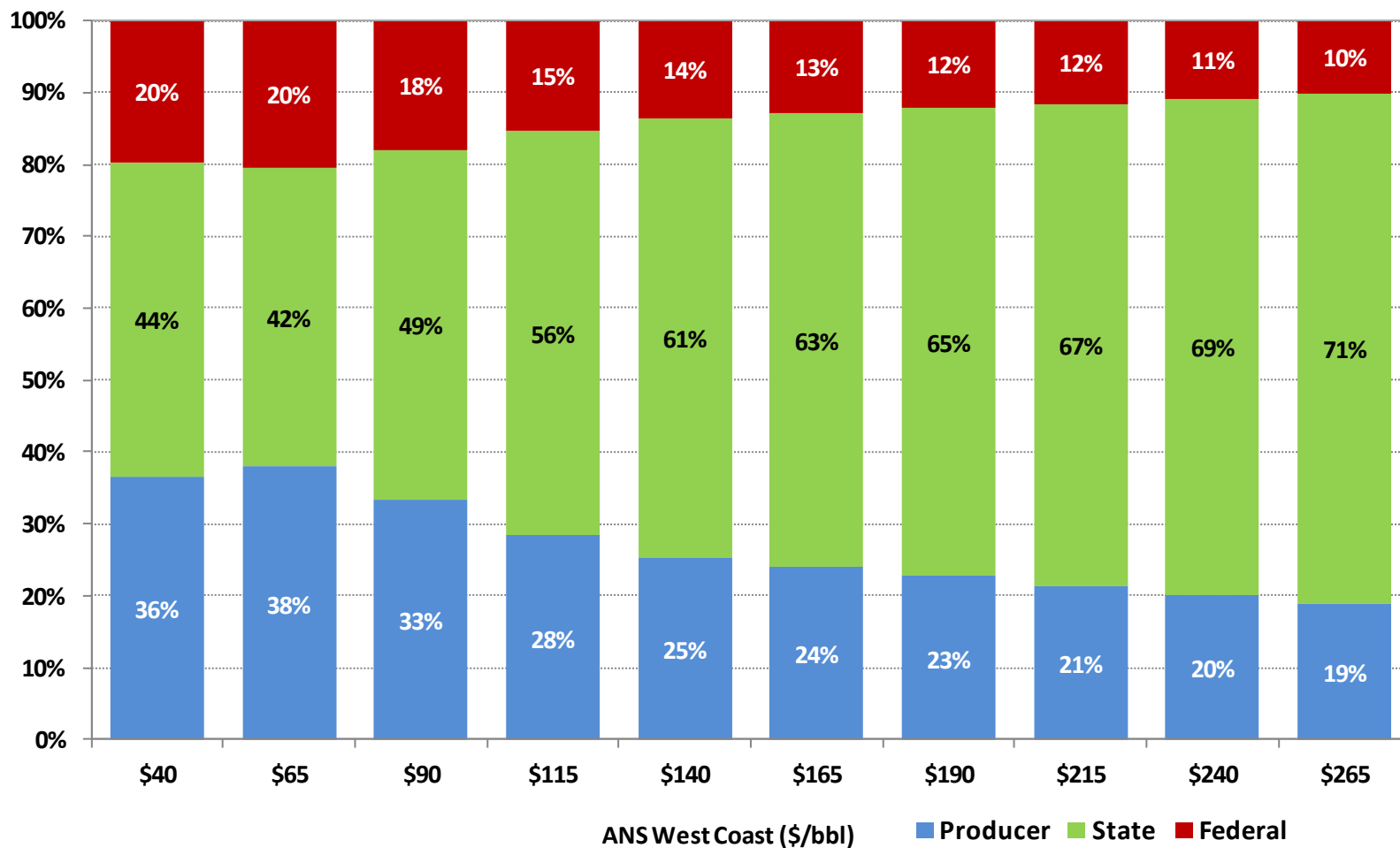
Absolute Profit Split under ACES



Profit defined as total gross value of all oil produced, less transportation costs and lease expenditures. Assumes FY 2012 production of .574 mmb/d, transport costs of \$8.72/bbl, opex of \$14.03 per taxable barrel, and capex of \$10.25 per taxable bbl.



Share of Profit under ACES



Profit defined as total gross value of all oil produced, less transportation costs and lease expenditures.
Assumes FY 2012 Transport costs of \$8.72/ bbl, Opex of \$14.03 per taxable barrel, and Capex of \$10.25 per taxable bbl.

3/21/2021

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Statutory Review of Alaska's Oil and Gas Tax Structure



Statutory Review of Alaska's Oil and Gas Tax Structure



- Oil & Gas production tax is levied by AS 43.55.011(e)
- All lands within State of Alaska are subject to Oil and Gas production tax under AS 43.55.011(e)
 - State lands
 - Federal lands
 - Private lands



AS 43.55.011(e)

- There is levied on the producer of oil or gas a tax for all oil and gas produced each calendar year from each lease or property in the state, less any oil and gas the ownership or right to which is exempt from taxation or constitutes a landowner's royalty interest. Except as otherwise provided under (f), (j), (k), and (o) of this section, the tax is equal to the sum of
 - (1) the annual production tax value of the taxable oil and gas as calculated under AS 43.55.160(a)(1) multiplied by 25 percent; and
 - (2) the sum, over all months of the calendar year, of the tax amounts determined under (g) of this section.



Tax on Royalties



- Tax on royalties:
 - Royalties from private land within the state are taxed at a reduced rate under AS 43.55.011(i)
 - There is no tax on royalties from state or federal production



AS 43.55.011(i)



- There is levied on the producer of oil or gas a tax for all oil and gas produced each calendar year from each lease or property in the state the ownership or right to which constitutes a landowner's royalty interest, except for oil and gas the ownership or right to which is exempt from taxation. The provisions of this subsection apply to a landowner's royalty interest as follows:
 - (1) the tax levied for oil is equal to five percent of the gross value at the point of production of the oil;
 - (2) the tax levied for gas is equal to 1.667 percent of the gross value at the point of production of the gas;



AS 43.55.011(f)



- The levy of tax under this section for oil and gas produced north of 68 degrees North latitude, other than oil and gas production subject to (i) of this section and gas subject to (o) of this section, may not be less than
- (1) four percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due is more than \$25;
- (2) three percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due is over \$20 but not over \$25;
- (3) two percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due is over \$17.50 but not over \$20;
- (4) one percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due is over \$15 but not over \$17.50; or
- (5) zero percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due is \$15 or less.



Progressivity

- Applies whenever the PTV under AS 43.55.160(a)(2) is greater than \$30/Bbl
- If: $\$30/\text{Bbl} < \text{PTV} < \$92.51/\text{Bbl}$
 - Progressivity = .4% for each \$1 increase in PTV
- If: $\$92.50/\text{Bbl} < \text{PTV}$
 - Progressivity = .1% for each \$1 increase in PTV
 - Is not “bracketed”
- Maximum progressivity tax is up to 50% of PTV
- Combined with 25% Base tax under (e) means tax is capped at 75% before application of credits
- A progressivity calculation must be performed for all leases or properties in the state
- Progressivity is a statewide calculation – “If you have progressivity anywhere you have progressivity everywhere”



Progressivity (cont.)



- Based on the “BTU equivalent barrel”
 - For oil: 1 Barrel = 1 Barrel
 - For gas: the amount of gas that has a heating value of 6,000,000 British thermal units
- The base tax (25%) is an annual tax
- The oil and gas production tax is an annual tax
- Progressivity, however, is calculated on a monthly basis



Progressivity Calculation



- For ALL leases or properties (segments) on a monthly basis:
- Step 1: Enter the Gross Value at the Point of Production
- Step 2: Enter 1/12 of the annual lease expenditures for the year
- Step 3: Subtract the lease expenditures from GVPP to determine if the gross Production Tax Value is greater than zero
- Step 4: Enter the amount of BTU equivalent barrels for taxable production of oil and gas



Progressivity Calculation (cont'd)



- Step 5: If the production tax value in Step 3 is greater than zero, divide the (gross) PTV by the total amount of taxable BTU equivalent barrels (Step 4) to derive a per barrel production tax value
- Step 6: Determine the percent of taxable volume on BTU equivalent barrels by dividing the amount of BTU equivalent barrels (Step 4) for each lease or property by the total amount of BTU equivalent barrels for a producer for all taxable barrels produced in all areas of the state (Step 4)



Progressivity Calculation (cont'd)



- Step 7: Determine the volume weighted average production tax values
- Step 8: Determine the progressivity tax rate by calculating the amount by which the per barrel production tax value exceeds \$30 and \$92.50.
- Step 9: To determine the progressivity tax, by segment, multiply the combined progressivity rate (Step 8) by the gross production tax value to each lease or property from step 3



AS 43.55.011(g)

- For each month of the calendar year for which the producer's average monthly production tax value under AS 43.55.160(a)(2) per BTU equivalent barrel of the taxable oil and gas is more than \$30, the amount of tax for purposes of (e)(2) of this section is determined by multiplying the monthly production tax value of the taxable oil and gas produced during the month by the tax rate calculated as follows:
- (1) if the producer's average monthly production tax value per BTU equivalent barrel of the taxable oil and gas for the month is not more than \$92.50, the tax rate is 0.4 percent multiplied by the number that represents the difference between that average monthly production tax value per BTU equivalent barrel and \$30; or
- (2) if the producer's average monthly production tax value per BTU equivalent barrel of the taxable oil and gas for the month is more than \$92.50, the tax rate is the sum of 25 percent and the product of 0.1 percent multiplied by the number that represents the difference between the average monthly production tax value per BTU equivalent barrel and \$92.50, except that the sum determined under this paragraph may not exceed 50 percent.



Limitations under AS 43.55.011(e)



- Cook Inlet **gas** – AS 43.55.011(j)(1) & (2)
 - If lease or property had commercial production prior to April 1, 2006 the tax is based on the rates in effect for that lease or property under ELF during the period April 1, 2005 – March 31, 2006
 - For a lease or property entering commercial production after March 31, 2006 the tax for those leases or properties is \$.177/mcf
 - These rates are in effect through 12/31/2021



Limitations under AS 43.55.011(e)



- Cook Inlet **oil** – AS 43.55.011(k)(1) & (2)
 - If a lease or property had commercial production prior to April 1, 2006 the tax rate is zero
 - For a lease or property entering commercial production after March 31, 2006 the tax rate is zero based on ELF tax rates during the period April 1, 2005 – March 31, 2006
 - These rates remain in effect until December 31, 2021



Limitations under AS 43.55.011(e)



- “Gas Used in State”
 - Also known as “(o)” gas – AS 43.55.011(o)
- Has the same ceiling as gas subject to AS 43.55.011(j)(2) [i.e., Cook Inlet Gas]
- \$.177/mcf



Excess Lease Expenditures/Tax Credits



- In 2010 AS 43.55.011(m) was amended to allow that credits no longer had to be recalculated and applied as if there were no tax ceilings for Cook Inlet oil & gas and for gas used in-state.
- In other words, beginning in 2011 any tax credits remaining after application against the tax ceilings of AS 43.55.011(j), (k), & (o) could be applied against any tax obligation in the state
- However, for the period 2007 – 2010, the tax credits must first be applied as if no ceilings existed before any “excess tax credits” can be determined



AS 43.55.011(m)



- Notwithstanding any contrary provision of AS 38.05.180(i), AS 41.09.010, AS 43.55.024, or 43.55.025, the department shall provide by regulation a method to ensure that, for a calendar year for which a producer's tax liability is limited by (j), (k), or (o) of this section, tax credits ***based on a lease expenditure incurred before January 1, 2011, that are*** otherwise available under AS 38.05.180(i), AS 41.09.010, AS 43.55.024, or 43.55.025 and allocated to gas subject to the limitations in (j), (k), and (o) of this section are accounted for as though the credits had been applied first against a tax liability calculated without regard to the limitations under (j), (k), and (o) of this section so as to reduce the tax liability to the maximum amount provided for under (j) or (o) of this section for the production of gas or (k) of this section for the production of oil. The regulation must provide for a reasonable method to allocate tax credits to gas subject to (j) and (o) of this section. Only the amount of a tax credit remaining after the accounting provided for under this subsection may be used for a later calendar year, transferred to another person, or applied against a tax levied on the production of oil or gas not subject to (j), (k), or (o) of this section to the extent otherwise allowed. [Changes bold/italic]



Payment of Tax



- A producer subject to tax under AS 43.55.011 must make a monthly estimated payment of tax.
- Any under or overpayment amount of an installment payment bears interest at the rate provided for underpayment under 26 U.S.C. 6621 (Internal Revenue Code), compounded daily.



AS 43.55.020 – Payment of Tax

- Statute text
- (a) For a calendar year, a producer subject to tax under AS 43.55.011(e) - (i) shall pay the tax as follows:
 - (1) an installment payment of the estimated tax levied by AS 43.55.011(e), net of any tax credits applied as allowed by law, is due for each month of the calendar year on the last day of the following month; except as otherwise provided under (2) of this subsection, the amount of the installment payment is the sum of the following amounts, less 1/12 of the tax credits that are allowed by law to be applied against the tax levied by AS 43.55.011(e) for the calendar year, but the amount of the installment payment may not be less than zero:
 - (A) for oil and gas produced from leases or properties in the state outside the Cook Inlet sedimentary basin but not subject to AS 43.55.011(o), other than leases or properties subject to AS 43.55.011(f), the greater of
 - (i) zero; or
 - (ii) the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(g) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the leases or properties under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from the leases or properties during the month for which the installment payment is calculated;
 - (B) for oil and gas produced from leases or properties subject to AS 43.55.011(f), the greatest of
 - (i) zero;
 - (ii) zero percent, one percent, two percent, three percent, or four percent, as applicable, of the gross value at the point of production of the oil and gas produced from all leases or properties during the month for which the installment payment is calculated; or
 - (iii) the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(g) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for those leases or properties under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from those leases or properties during the month for which the installment payment is calculated;
 - (C) for oil and gas produced from each lease or property subject to AS 43.55.011(j), (k), or (o), the greater of
 - (i) zero; or
 - (ii) the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(g) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible under AS 43.55.160 for oil or gas, respectively, produced from the lease or property from the gross value at the point of production of the oil or gas, respectively, produced from the lease or property during the month for which the installment payment is calculated;
 - (2) an amount calculated under (1)(C) of this subsection for oil or gas produced from a lease or property subject to AS 43.55.011(j), (k), or (o) may not exceed the product obtained by carrying out the calculation set out in AS 43.55.011(j)(1) or (2) or 43.55.011(o), as applicable, for gas or set out in AS 43.55.011(k)(1) or (2), as applicable, for oil, but substituting in AS 43.55.011(j)(1)(A) or (2)(A) or 43.55.011(o), as applicable, the amount of taxable gas produced during the month for the amount of taxable gas produced during the calendar year and substituting in AS 43.55.011(k)(1)(A) or (2)(A), as applicable, the amount of taxable oil produced during the month for the amount of taxable oil produced during the calendar year;



AS 43.55.020 – Payment of Tax



- (3) an installment payment of the estimated tax levied by AS 43.55.011(i) for each lease or property is due for each month of the calendar year on the last day of the following month; the amount of the installment payment is the sum of
 - (A) the applicable tax rate for oil provided under AS 43.55.011(i), multiplied by the gross value at the point of production of the oil taxable under AS 43.55.011(i) and produced from the lease or property during the month; and
 - (B) the applicable tax rate for gas provided under AS 43.55.011(i), multiplied by the gross value at the point of production of the gas taxable under AS 43.55.011(i) and produced from the lease or property during the month;
 - (4) any amount of tax levied by AS 43.55.011(e) or (i), net of any credits applied as allowed by law, that exceeds the total of the amounts due as installment payments of estimated tax is due on March 31 of the year following the calendar year of production.
- (b) The production tax on oil and gas shall be paid to the department by or on behalf of the producer.
- (c) [Repealed, § 7 ch 101 SLA 1972.]
- (d) In making settlement with the royalty owner for oil and gas that is taxable under AS 43.55.011, the producer may deduct the amount of the tax paid on taxable royalty oil and gas, or may deduct taxable royalty oil or gas equivalent in value at the time the tax becomes due to the amount of the tax paid. If the total deductions of installment payments of estimated tax for a calendar year exceed the actual tax for that calendar year, the producer shall, before April 1 of the following year, refund the excess to the royalty owner. Unless otherwise agreed between the producer and the royalty owner, the amount of the tax paid under AS 43.55.011(e) - (g) on taxable royalty oil and gas for a calendar year, other than oil and gas the ownership or right to which constitutes a landowner's royalty interest, is considered to be the gross value at the point of production of the taxable royalty oil and gas produced during the calendar year multiplied by a figure that is a quotient, in which
 - (1) the numerator is the producer's total tax liability under AS 43.55.011(e) - (g) for the calendar year of production; and
 - (2) the denominator is the total gross value at the point of production of the oil and gas taxable under AS 43.55.011(e) - (g) produced by the producer from all leases and properties in the state during the calendar year.
- (e) Gas flared, released, or allowed to escape in excess of the amount authorized by the Alaska Oil and Gas Conservation Commission is considered, for the purpose of AS 43.55.011 - 43.55.180, as gas produced from a lease or property. Oil or gas used in the operation of a lease or property in the state in drilling for or producing oil or gas, or for repressuring, except to the extent determined by the Alaska Oil and Gas Conservation Commission to be waste, is not considered, for the purpose of AS 43.55.011 - 43.55.180, as oil or gas produced from a lease or property.
- (f) If oil or gas is produced but not sold, gas is produced but is stored in a gas storage facility, or oil or gas is produced and sold under circumstances where the sale price does not represent the prevailing value for oil or gas of like kind, character, or quality in the field or area from which the product is produced, the department may require the tax to be paid upon the basis of the value of oil or gas of the same kind, quality, and character prevailing for that field or area during the calendar month of production or sale.
- (g) Notwithstanding any contrary provision of AS 43.05.225, an unpaid amount of an installment payment required under (a)(1) - (3) of this section that is not paid when due bears interest (1) at the rate provided for an underpayment under 26 U.S.C. 6621 (Internal Revenue Code), as amended, compounded daily, from the date the installment payment is due until March 31 following the calendar year of production, and (2) as provided for a delinquent tax under AS 43.05.225 after that March 31. Interest accrued under (1) of this subsection that remains unpaid after that March 31 is treated as an addition to tax that bears interest under (2) of this subsection. An unpaid amount of tax due under (a)(4) of this section that is not paid when due bears interest as provided for a delinquent tax under AS 43.05.225.



AS 43.55.020 – Payment of Tax

- (h) Notwithstanding any contrary provision of AS 43.05.280,
 - (1) an overpayment of an installment payment required under (a)(1) - (3) of this section bears interest at the rate provided for an overpayment under 26 U.S.C. 6621 (Internal Revenue Code), as amended, compounded daily, from the later of the date the installment payment is due or the date the overpayment is made, until the earlier of
 - (A) the date it is refunded or is applied to an underpayment; or
 - (B) March 31 following the calendar year of production;
 - (2) except as provided under (1) of this subsection, interest with respect to an overpayment is allowed only on any net overpayment of the payments required under (a) of this section that remains after the later of March 31 following the calendar year of production or the date that the statement required under AS 43.55.030(a) is filed;
 - (3) interest is allowed under (2) of this subsection only from a date that is 90 days after the later of March 31 following the calendar year of production or the date that the statement required under AS 43.55.030(a) is filed; interest is not allowed if the overpayment was refunded within the 90-day period;
 - (4) interest under (2) and (3) of this subsection is paid at the rate and in the manner provided in AS 43.05.225(1).
- (i) Notwithstanding any contrary provision of AS 43.05.225 or (g) or (h) of this section, if the amount of a tax payment, including an installment payment, due under (a)(1) - (4) of this section is affected by the retroactive application of a regulation adopted under this chapter, the department shall determine whether the retroactive application of the regulation caused an underpayment or an overpayment of the amount due and adjust the interest due on the affected payment as follows:
 - (1) if an underpayment of the amount due occurred, the department shall waive interest that would otherwise accrue for the underpayment before the first day of the second month following the month in which the regulation became effective, if
 - (A) the department determines that the producer's underpayment resulted because the regulation was not in effect when the payment was due; and
 - (B) the producer demonstrates that it made a good faith estimate of its tax obligation in light of the regulations then in effect when the payment was due and paid the estimated tax;
 - (2) if an overpayment of the amount due occurred and the department determines that the producer's overpayment resulted because the regulation was not in effect when the payment was due, the obligation for a refund for the overpayment does not begin to accrue interest earlier than the following, as applicable:
 - (A) except as otherwise provided under (B) of this paragraph, the first day of the second month following the month in which the regulation became effective;
 - (B) 90 days after an amended statement under AS 43.55.030(a) and an application to request a refund of production tax paid is filed, if the overpayment was for a period for which an amended statement under AS 43.55.030(a) was required to be filed before the regulation became effective.
- (j) Cushion gas in a gas storage facility is not considered to be gas used in the operation of a lease or property or gas used for repressuring as described in (e) of this section. Gas withdrawn from a gas storage facility regulated under AS 42.05 is considered to be non-native gas until all non-native gas injected into the gas storage facility has been withdrawn from the gas storage facility. Non-native gas withdrawn from a gas storage facility is not considered to be gas produced for the purposes of AS 43.55.011 - 43.55.180. Gas withdrawn from a gas storage facility after all non-native gas previously injected into the gas storage facility has been withdrawn is gas considered to be produced from the lease or property for the purposes of AS 43.55.011 - 43.55.180. In this subsection, "native gas" and "non-native gas" have the meanings given in AS 31.05.032.
- (k) In this section, "gas storage facility" has the meaning given in AS 31.05.032.



Determination of GVPP

AS 43.55.150



- GVPP – is determined at the point where the oil or gas first enters into the transportation system and does not include any cost upstream of the point of production [lifting/processing costs]
- For Prudhoe, this would be Pump Station 1
- For Kuparuk, this would be entry into the Kuparuk Pipeline
- Generally, the first point of entry into a common carrier pipeline is considered to be the “point of production”



Determination of GVPP

AS 43.55.150



- For “netback” purposes begins with the destination value at the sales point of the oil or gas
- Allows for the actual cost of transportation EXCEPT when:
 - The shipper is affiliated with the transportation carrier
 - Contract for transportation is not an arms length transaction
 - Method of transportation is not “reasonable” in view of existing alternatives



AS 43.55.150



- (a) For the purposes of AS 43.55.011 - 43.55.180, the gross value at the point of production is calculated using the actual costs of transportation of the oil or gas, except when the
 - (1) shipper of oil or gas is affiliated with the transportation carrier or with a person that owns an interest in the transportation facility;
 - (2) contract for the transportation of oil or gas is not an arm's length transaction; or
 - (3) method or terms of transportation of oil or gas are not reasonable in view of existing alternative transportation options.
- (b) If the department finds that a condition in (a)(1), (2), or (3) of this section is present, the gross value at the point of production is calculated using the actual costs of transportation, or the reasonable costs of transportation as determined under this subsection, whichever is lower. The department shall determine the reasonable costs of transportation, using the fair market value of like transportation, the fair market value of equally efficient and available alternative modes of transportation, or other reasonable methods. Transportation costs fixed by tariff rates that have been adjudicated as just and reasonable by the Regulatory Commission of Alaska or another regulatory agency and transportation costs in an arm's length transaction paid by parties not affiliated with an owner of the method of transportation shall be considered prima facie reasonable.
- (c) In determining the gross value of oil under this section, the department may not allow as reasonable costs of transportation
 - (1) the amount of loss of or damage to, or of expense incurred due to the loss of or damage to, a vessel used to transport oil if the loss, damage, or expense is incurred in connection with a catastrophic oil discharge from the vessel into the marine or inland waters of the state;
 - (2) the incremental costs of transportation of the oil that are attributable to temporary use of or chartered or substituted service provided by another vessel due to the loss of or damage to a vessel regularly used to transport oil and that are incurred in connection with a catastrophic oil discharge into the marine or inland waters of the state; and
 - (3) the costs incurred to charter, contract, or hire vessels and equipment used to contain or clean up a catastrophic oil discharge.



Determination of Production Tax Value of Oil and Gas



- Lease expenditures under AS 43.55.165
 - Must be upstream of the point of production
 - Must be ordinary and necessary costs of exploring for, developing, or producing, oil or gas
 - Must be direct costs of exploring for, developing, or producing, oil or gas
- Adjusted by reimbursements or similar payments under AS 43.55.170
- “A production tax value calculated under this section may not be less than zero.”
 - AS 43.55.160(b)



Lease Expenditures (cont'd)



- Direct costs include charges for both capital and operating expenses
- “Qualified Capital Expenditures” are defined under AS 43.55.023(o) as:
 - An expenditure that is a lease expenditure under AS 43.55.165, AND
 - Is a capitalized expenditure under 26 U.S.C. (Internal Revenue Code)
 - There are no other objective or defining criteria to be a “qualified capital expenditure”



Lease Expenditures (cont'd)



- Exclusions from lease expenditures are provided for under AS 43.55.165(e)
- Includes an exclusion for “that portion of expenditures that would otherwise be qualified capital expenditures”
- Reduces deduction for capital expenditures by \$.30 x total taxable production from each lease or property, in BTU equivalent barrels



Lease Expenditures (cont'd)



- “Leases or Properties”
 - In Cook Inlet each LOP = a “segment”
 - The North Slope all LOPs are a segment
- Both statute and regulation require that costs are ring-fenced to each segment
 - A single production tax value must be calculated for each segment within the state
 - “The provision of AS 43.55.160(b) that a production tax value may not be less than zero applies to each production tax value calculated for each segment.” – 15 AAC 55.206(b)



Lease Expenditures (cont'd)



- Segments as identified by 15 AAC 55.206(c):
 - North Slope oil and “export” gas
 - North Slope Gas Used in State
 - Currently, these are the only two North Slope segments for determining production tax value of ANS oil and gas
 - Cook Inlet Oil
 - Cook Inlet Gas
 - Because “leases or properties” are based on status during ELF tax there are over 50 segments in Cook Inlet
- A separate tax calculation must be performed for each “lease or property” (segment)



Surcharges



- In addition to the oil and gas production tax under AS 43.55.011(e) a producer must also pay the following surcharges:
- \$.01 per taxable barrel of oil from each lease or property in the state (AS 43.55.201)
- \$.04 per taxable barrel of oil from each lease or property in the state (AS 43.55.300)
- The legislature may appropriate these funds to the response account in the oil and gas hazardous substance release prevention and response fund established by AS 46.08.010



Conclusion



Questions?