**Chapter 27.30 EXPLORATION INCENTIVE CREDITS**

**Sec. 27.30.010. Exploration incentive credits authorized.**    (a) The commissioner shall grant to a person described in (d) of this section an exploration incentive credit for the eligible costs of each of the following exploration activities that are performed on or for the benefit of land in the state for the purpose of determining the existence, location, extent, or quality of a locatable or leasable mineral or coal deposit, regardless of whether the land is state-owned land:
        (1) surveying by geophysical or geochemical methods;
        (2) drilling exploration holes;
        (3) conducting underground exploration;
        (4) surface trenching and bulk sampling; or
        (5) performing other exploratory work, including aerial photographs, geological and geophysical logging, sample analysis, and metallurgical testing.
   (b) Except as provided in (c) of this section, an exploration incentive credit may not be granted under (a) of this section for exploration activity described in that subsection that occurs after the mine construction commencement date of a new mine. In this subsection, "mine construction commencement date of a new mine" means the date no later than which all of the following have occurred:
        (1) there has been issued to the owner or an agent of the owner permits, leases, and title and other rights in land, and other approvals, permits, licenses, and certificates, by federal, state, and local agencies that a reasonable and prudent person would consider adequate to commence construction of a mine in the expectation that all other approvals, permits, licenses, and certificates necessary for the completion of the facilities will be obtained;
        (2) all approvals, permits, licenses, and certificates are in full force and effect, unrevoked and without any modification that might jeopardize the completion or continued construction of the mine; and
        (3) an order, judgment, decree, determination, or award of a court or administrative or regulatory agency enjoining, either temporarily or permanently, the construction or the continuation of construction of the mine is not in effect.
   (c) In addition to the grant of an exploration incentive credit for a new mine under (b) of this section, an exploration incentive credit may be granted under (a) of this section for exploration activity described in that subsection for a mine that had previously operated, has ceased to operate, and for which all previous mining approvals, permits, licenses, and certificates that allowed the previous operation are no longer in effect. However, under this subsection, an exploration incentive credit may not be granted under (a) of this section for exploration activity that occurs after the mine reopening date. In this subsection, "mine reopening date" means the date not later than which all of the following have occurred:
        (1) there has been issued to the owner or an agent of the owner permits, leases, and title and other rights in land, and other approvals, permits, licenses, and certificates, by federal, state, and local agencies that a reasonable and prudent person would consider adequate to commence operation of the former mine in the expectation that all other approvals, permits, licenses, and certificates necessary for the completion of the facilities will be obtained;
        (2) all approvals, permits, licenses, and certificates for the reopened mine are in full force and effect, unrevoked, and without any modification that might jeopardize the reopening of the former mine; and
        (3) an order, judgment, decree, determination, or award of a court or administrative or regulatory agency enjoining, either temporarily or permanently, the reopening of the former mine is not in effect.
   (d) An exploration incentive credit may be granted under this chapter only to
        (1) a natural person who is at least 18 years of age;
        (2) a partnership qualified to do business in the state;
        (3) a corporation qualified to do business in the state;
        (4) a limited liability company qualified to do business in the state;
        (5) a legal guardian or trustee of a qualified natural person described in (1) of this subsection; or
        (6) any association of persons listed in (1) - (5) of this subsection.

**Sec. 27.30.020. Procedure for requesting and taking the credit.** To obtain the credit authorized by this chapter,
        (1) a person shall submit a request for the credit as follows:
             (A) the person may submit a request and a statement of expenditures
                  (i) whenever the amount of credit certified in the request totals at least $250,000 and the period covered is at least one year; or
                  (ii) when the person is ready to take the entire balance of the credit, regardless of the total amount of the credit;
             (B) the request must be on a form provided by the department and
                  (i) describe the work accomplished during each year of the period covered by the request, the number of employees, and the names and number of consultants;
                  (ii) provide a detailed list or ledger of expenditures of the accomplishments described in (i) of this subparagraph and a list of exploration activity data that will be provided to the department; and
                  (iii) provide a statement by a certified public accountant that expenditures are supported by receipts for all activities eligible for the credit under [AS 27.30.010](http://www.legis.state.ak.us/basis/statutes.asp#27.30.010)(a) for each calendar year that these expenditures for a single mining operation equal or exceed $40,000;
             (C) the person submitting the request is not required to transmit copies of receipts with the request, but the statement of expenditures is subject to audit in the discretion of the commissioner;
             (D) if the commissioner determines to audit the statement of expenditures, the commissioner may require the person submitting the request to justify claims of expenditures with receipts and other reliable information;
             (E) the commissioner shall respond to the request within six months of the date of submission of the request by certifying or not certifying the person's expenditures; if the commissioner
                  (i) does not certify all of the expenditures, the commissioner shall state the reasons for denial of certification of the expenditures not certified and give the person making the request an opportunity to correct any problems or to provide additional information;
                  (ii) certifies expenditures, the commissioner shall specify the exploration activity data requirements that must be presented to the department at the time of the taking of the credit;
             (F) if the commissioner neither certifies nor denies certification of expenditures within six months of the date of submission of the request, the expenditures are certified as submitted;
        (2) the person whose expenditures have been certified under (1) of this subsection may thereafter request the taking of the credit for the certified expenditures as follows:
             (A) the person shall deliver to the commissioner the exploration activity data identified by the commissioner under (1)(E)(ii) of this section and shall request the commissioner's approval of the taking of the credit;
             (B) the commissioner shall approve or disapprove the taking of the credit within 60 days after receipt of the request for taking of the credit; if the
                  (i) exploration activity data complies with the requirements identified by the commissioner under (1)(E)(ii) of this section, the commissioner shall approve the taking of the credit and shall, within 30 days, notify the Department of Revenue that the taking of the credit has been approved;
                  (ii) request is disapproved, the commissioner shall state the reasons for disapproval and offer the person seeking to take the credit an opportunity to correct any problems or to provide additional exploration activity data or other information;
             (C) if the commissioner neither approves nor disapproves the request to take the credit within 60 days after submission of the request, the taking of the credit is approved; the commissioner shall, within 30 days, notify the Department of Revenue that the taking of the credit has been approved under this subparagraph.

**Sec. 27.30.025. Conditional certification.**    (a) A person may submit a request for conditional certification for the credit when
        (1) the person has conducted or intends to conduct exploration activities using an innovative technique;
        (2) there exists a substantial question regarding the nature of the exploration data that will be delivered to the department; or
        (3) the person contemplates assigning a credit under [AS 27.30.060](http://www.legis.state.ak.us/basis/statutes.asp#27.30.060) and there exists a substantial question regarding whether the expenditures will be certified.
   (b) A person shall submit a request for conditional certification on a form provided by the department.
   (c) The commissioner shall respond to the request within six months from the date of the submission of the request for conditional certification by issuing a letter stating that
        (1) under the specific facts and circumstances proposed by the person, the proposed expenditures and data appear eligible for a credit;
        (2) there is not adequate information to determine whether the proposed expenditures and data appear to be eligible for a credit; or
        (3) the expenditures and data as presented do not appear to be eligible for a credit.
   (d) Approval of conditional certification under (c)(1) of this section does not relieve a person from obtaining certification of the credit under [AS 27.30.020](http://www.legis.state.ak.us/basis/statutes.asp#27.30.020).

**Sec. 27.30.030. Application of the credit.**    (a) In a tax year or royalty payment period, subject to (c) of this section and the respective limitations of this subsection, the person may apply the credit, the taking of which was approved under [AS 27.30.020](http://www.legis.state.ak.us/basis/statutes.asp#27.30.020)(2), against
        (1) taxes payable by the person
             (A) under [AS 43.65](http://www.legis.state.ak.us/basis/statutes.asp#43.65); application of the credit under this subparagraph may not exceed the lesser of
                  (i) 50 percent of the person's tax liability under [AS 43.65](http://www.legis.state.ak.us/basis/statutes.asp#43.65) for the tax year that is related to production from the mining operation at which the exploration activities occurred, as shown under (b) of this section; or
                  (ii) 50 percent of the person's total tax liability under [AS 43.65](http://www.legis.state.ak.us/basis/statutes.asp#43.65) for the tax year;
             (B) under [AS 43.20](http://www.legis.state.ak.us/basis/statutes.asp#43.20); application of the credit under this subparagraph may not exceed the lesser of
                  (i) an amount equal to the amount determined under (A)(i) of this paragraph; or
                  (ii) 50 percent of the person's total tax liability under [AS 43.20](http://www.legis.state.ak.us/basis/statutes.asp#43.20) for the tax year; and
        (2) mineral production royalty payments payable by the person under [AS 38.05.135](http://www.legis.state.ak.us/basis/statutes.asp#38.05.135) - 38.05.160 and 38.05.212 for production from the mining operation at which the exploration activities occurred; application of the credit under this paragraph may not exceed 50 percent of the person's mineral production royalty payment liability from the mining operation at which the exploration activities occurred.
   (b) If the person applies the credit against the person's tax liability under (a)(1)(A)(i) or (a)(1)(B)(i) of this section, the commissioner of revenue shall disallow application of the credit under that provision unless the person files with the person's tax return an accounting of the person's mining operation activities for each mining operation that is included in the tax return and as to which the credit is being applied. The accounting of mining operation activities required by this subsection shall be made
        (1) on a form prescribed by the Department of Revenue; on the form, the person shall
             (A) identify the mining operations for which the credit is claimed; and
             (B) set out the gross income attributable to the mining operations and other information about the mining operations that the Department of Revenue may require;
        (2) without regard to an exemption to which the person may be entitled under [AS 43.65.010](http://www.legis.state.ak.us/basis/statutes.asp#43.65.010)(a).
   (c) The person may not apply the credit under this section if the application would exceed the total amount of the credits approved under [AS 27.30.020](http://www.legis.state.ak.us/basis/statutes.asp#27.30.020)(2).

**Sec. 27.30.040. Credit may be carried forward.** Except as its application is limited by [AS 27.30.030](http://www.legis.state.ak.us/basis/statutes.asp#27.30.030) and 27.30.050, a portion of a credit that is not applied under [AS 27.30.030](http://www.legis.state.ak.us/basis/statutes.asp#27.30.030) during a tax year or royalty payment period may be carried forward to and applied during a subsequent tax year or royalty payment period.

**Sec. 27.30.050. Limit on application of credit.** An exploration incentive credit for a mining operation may not exceed $20,000,000 and must be applied within 15 tax years or royalty payment periods after the taking of the credit is approved under [AS 27.30.020](http://www.legis.state.ak.us/basis/statutes.asp#27.30.020)(2), but the tax years or royalty payment periods in which the credit is applied need not be
        (1) the tax year or royalty payment period in which the person first incurs liability for payment of tax or royalty based on the person's activity that is the basis of the claim of the exploration incentive credit; or
        (2) consecutive periods.

**Sec. 27.30.060. Assignment of credit.** A person may assign an exploration incentive credit to the person's successor in interest for the mining operation at which the exploration activities occur, but only if the successor in interest is a person qualified to obtain the credit under [AS 27.30.010](http://www.legis.state.ak.us/basis/statutes.asp#27.30.010)(d). An exploration incentive credit may not be assigned except as permitted in this section.

**Sec. 27.30.070. Responsibility for record of use of credit.** For each mining operation, the commissioner may require each person who proposes to take the credit under [AS 27.30.020](http://www.legis.state.ak.us/basis/statutes.asp#27.30.020)(2) to provide with the request to take the credit a record of
        (1) the person's past use of credits taken under [AS 27.30.020](http://www.legis.state.ak.us/basis/statutes.asp#27.30.020)(2) and 27.30.030; and
        (2) other information that the commissioner requires to determine if approval of the taking of the credit by the person would exceed the limits on use of the credit under this chapter.

**Sec. 27.30.080. Relationship to other funds.** Amounts due the permanent fund under [AS 37.13.010](http://www.legis.state.ak.us/basis/statutes.asp#37.13.010) shall be calculated before the application of a credit extended under this chapter.

**Sec. 27.30.090. Confidentiality of data.**    (a) The commissioner shall keep the exploration activity data provided under [AS 27.30.020](http://www.legis.state.ak.us/basis/statutes.asp#27.30.020) confidential for 36 months after receipt by the department.
   (b) The department is liable in damages to a person who provided the exploration activity data under [AS 27.30.020](http://www.legis.state.ak.us/basis/statutes.asp#27.30.020) if the data is disclosed in violation of (a) of this section.

**Sec. 27.30.095. Fees.** The commissioner may charge a fee for the direct costs incurred by the department and the Department of Revenue for evaluating or auditing an application to certify the credit authorized under [AS 27.30.010](http://www.legis.state.ak.us/basis/statutes.asp#27.30.010), including the cost of contractors selected by the commissioner to assist in the evaluation or audit. The fee may not exceed
        (1) $500 for each application covering one or more years if the amount claimed in the application is $1,000,000 or less;
        (2) $1,000 for each application covering one or more years if the amount claimed is more than $1,000,000.

**Sec. 27.30.099. Definitions.** In this chapter,
        (1) "credit" means the exploration incentive credit for activities involving locatable and leasable mineral and coal deposits authorized by this chapter;
        (2) "eligible costs" means the costs incurred for activities in direct support of exploration activity conducted at the mining operation of the exploration activity for the purpose of determining the existence, location, extent, or quality of a mineral or coal deposit; the term
             (A) includes
                  (i) the costs of obtaining the approvals, permits, licenses, and certificates for an exploration activity set out in [AS 27.30.010](http://www.legis.state.ak.us/basis/statutes.asp#27.30.010)(a)(1) - (5);
                  (ii) direct labor costs and the cost of benefits for employees directly associated with work described in [AS 27.30.010](http://www.legis.state.ak.us/basis/statutes.asp#27.30.010)(a)(1) - (5);
                  (iii) the cost of renting or leasing equipment from parties not affiliated with the person requesting and taking the credit;
                  (iv) the reasonable costs of owning, maintaining, and operating equipment;
                  (v) insurance and bond premiums associated with the activities set out in (i) - (iv) of this subparagraph;
                  (vi) payments to consultants and independent contractors; and
                  (vii) the general expense of operating the person's business, including the costs of materials and supplies, if those expenses and costs are directly attributable to the work described in [AS 27.30.010](http://www.legis.state.ak.us/basis/statutes.asp#27.30.010)(a)(1) - (5);
             (B) does not include return on investment, insurance or bond premiums not covered under (A)(v) of this paragraph, or any other expense that the person has not incurred to complete work described in [AS 27.30.010](http://www.legis.state.ak.us/basis/statutes.asp#27.30.010)(a)(1) - (5);
        (3) "exploration activity data" includes, as applicable,
             (A) a representative skeleton core for each hole cored or a representative set of cuttings for each hole rotary drilled;
             (B) chemical analytical data and noninterpretive geophysical data;
             (C) aerial photographs or a topographic or geologic map showing the location of the drill holes, sample locations, or the other exploration activities undertaken;
        (4) "geochemical methods" means soil, rock, water, air, vegetation, and similar samples collected and their chemical analyses;
        (5) "geophysical methods" means all geophysical data gathering methods used in mineral or coal exploration, including seismic, gravity, magnetic, radiometric, radar, and electromagnetic and other remote sensing measurements;
        (6) "mining operation" includes all operating and nonoperating activities related to a mineral deposit interest, and may be comprised of one or more mining properties; in determining whether mining properties are part of the same mining operation, the commissioner may consider whether the operation, in conducting mining activities on several mining properties, uses common personnel, supply, and maintenance facilities, mining-related treatment processes, storage facilities, roads, pipelines and transportation equipment, and mining techniques and technology, and may also consider the extent to which the mineral deposit interest comprises a common mining property;
        (7) "person" means only those persons listed in [AS 27.30.010](http://www.legis.state.ak.us/basis/statutes.asp#27.30.010)(d).