

**3/21 &  
3/23/12  
OVERVIEW:  
OIL AND  
GAS TAXES  
AND  
CREDITS**

<TARGET><BILL></BILL><SUBJECT>3-21 and 3-23-12 OVERVIEW  
OIL AND GAS TAXES AND  
CREDITS</SUBJECT><COMM>HRES27</COMM></TARGET>



# 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





# 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:

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

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

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$$\begin{array}{r} \text{Final Tax Bill} \qquad \qquad \qquad \text{Total Production Taxes Owed} \end{array}$$





# 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
<b>Annual Production (bbl)</b>			
<b>Total Annual Production/Value</b>		<b>219,993,895</b>	<b>\$20,786.7</b>
Royalty and Federal barrels		(29,505,505)	(\$2,787.9)
<b>Taxable barrels</b>		<b>190,488,390</b>	<b>\$17,998.8</b>
<b>Downstream (Transportation) Costs (\$/bbl)</b>			
ANS Marine Transportation	(\$2.45)		
TAPS Tariff	(\$4.02)		
Other	(\$0.70)		
<b>Total Transportation Costs</b>	<b>(\$7.17)</b>	<b>190,488,390</b>	<b>(\$1,365.8)</b>
<i>GUPP</i>			
<b>Lease Expenditures</b>			
Deductible Operating Expenditures	(\$13.22)		(\$2,517.4)
Deductible Capital Expenditures	(\$8.52)		(\$1,622.9)
<b>Total Lease Expenditures</b>	<b>(\$21.74)</b>	<b>190,488,390</b>	<b>(\$4,140.3)</b>
<b>Production Tax Value (PTV)</b>	<b>\$65.58</b>	<b>190,488,390</b>	<b>\$12,492.6</b>
<b>Production Tax</b>			
Base Tax (25%*PTV)			\$3,123
Progressive Tax Rate = $(\$49.69 - \$30) * 0.4\% = 7.9\%$			
Progressive Tax = $(7.9\% * PTV)$			\$1,778.1
<b>Total Tax Due before credits</b>			<b>\$4,901.2</b>
<b>Credits Applied Against Taxes</b>			(\$400.0)
<b>Total Tax after credits</b>			<b>\$4,501.2</b>



# 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) *40% will leave exp.*
- 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



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



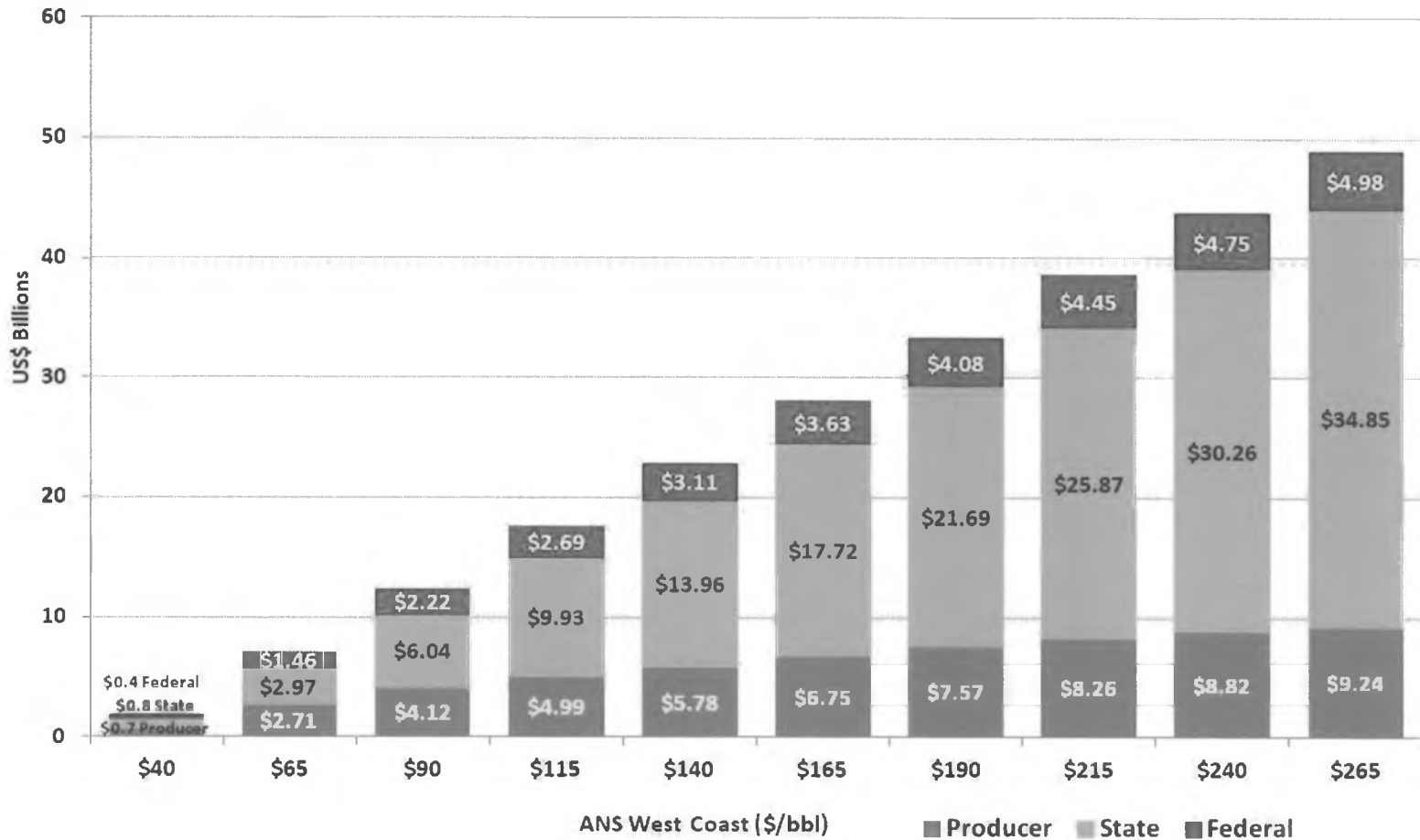
# Petroleum Property Tax



- 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).



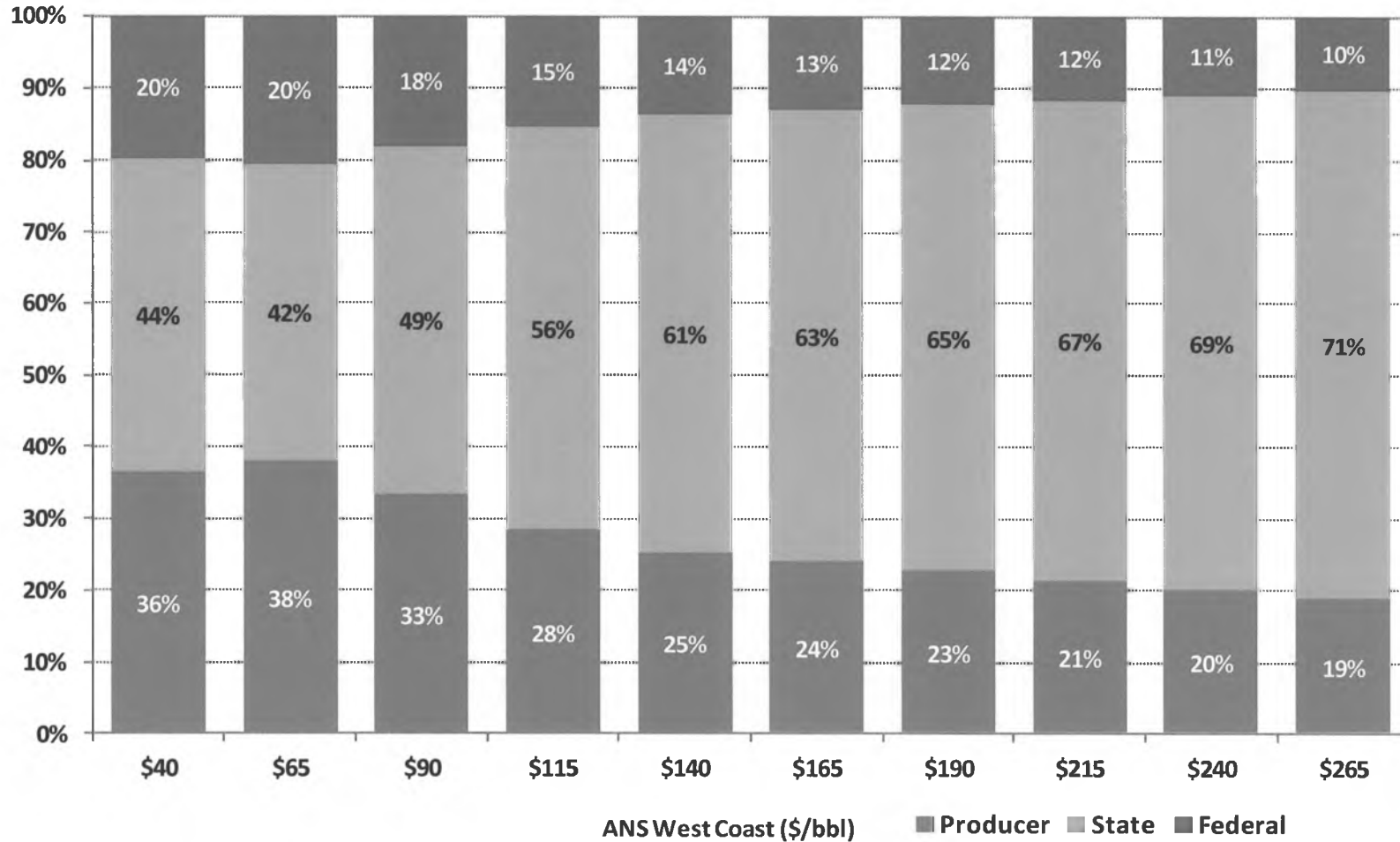
# Absolute Profit Split under ACES



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 23



# Statutory Review of Alaska's Oil and Gas Tax Structure





## 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

*Nature Corp.  
Mental Health Trust lands*



## 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;



# Minimum Tax



- Applies only to oil and gas production “north of 68 degrees North Latitude” [i.e. North Slope production – all units]
  - EXCEPT FOR:
    - Royalty production [subsection (i)]
    - Gas Used in State [“(o) gas”]
- Minimum Tax based on the average price for ANS crude on the U.S. West Coast
  - Uses Platt’s, Reuters, and Dow Jones monthly average reported prices
- A variable calculation based on GVPP
- Compared to tax obligation under AS 43.55.011(e)
- Is currently a “soft” floor

*Tax credits can take below minimum floor*



# 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”

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# 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



# AS 43.55.011(j) & (k)



- For a calendar year before 2022, the tax levied by (e) of this section for gas produced from a lease or property in the Cook Inlet sedimentary basin may not exceed
- (1) for a lease or property that first commenced commercial production of gas before April 1, 2006, the product obtained by multiplying (A) the amount of taxable gas produced during the calendar year from the lease or property, times (B) the average rate of tax that was imposed under this chapter for taxable gas produced from the lease or property for the 12-month period ending on March 31, 2006, times (C) the quotient obtained by dividing the total gross value at the point of production of the taxable gas produced from the lease or property during the 12-month period ending on March 31, 2006, by the total amount of that gas;
- (2) for a lease or property that first commences commercial production of gas after March 31, 2006, the product obtained by multiplying (A) the amount of taxable gas produced during the calendar year from the lease or property, times (B) the average rate of tax that was imposed under this chapter for taxable gas produced from all leases or properties in the Cook Inlet sedimentary basin for the 12-month period ending on March 31, 2006, times (C) the average prevailing value for gas delivered in the Cook Inlet area for the 12-month period ending March 31, 2006, as determined by the department under AS 43.55.020(f).



# 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



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quarter

- (3) an installment payment of the estimated tax levied by AS 43.55.011(i) for each lease or property is due for each <sup>quarter</sup> ~~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.

3/21/2021

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\* (handwritten mark)

*continued on page 46 but with appropriate references to C.I.T.*



# 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





# 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



- Direct Costs “allowed by the department by regulation” defined in:
  - 15 AAC 55.250 - Standards for lease expenditures other than overhead
    - Defines the types of activities for which direct charges will be allowed
  - 15 AAC 55.260 – Direct charges
    - Allowed expenses for activities in 15 AAC 55.250
- Allowance for overhead
  - 4.5% of direct costs
  - 15 AAC 55.271





## 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  $\$.30 \times$  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” *product from*
  - 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)

*oil*  
→  
*gas*



# 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:

- DEC* • \$.01 per taxable barrel of oil from each lease or property in the state (AS 43.55.201) *response surcharge suspended when 50 mil.*
- DEC* • \$.04 per taxable barrel of oil from each lease or property in the state (AS 43.55.300) *prevention surcharge*
- 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?

## Table of Tax Credits under AS 43.55 - The Alaska Oil and Gas Production Tax

Below is a table relating to credits under AS 43.55, the Oil and Gas Production Tax, for the State of Alaska. This is intended as an informational guide only. The State of Alaska makes no warranty, expressed or implied, of the accuracy of this. To be certain of the current statutes and regulations, refer to the official printed version of the statutes and regulations. This information only relates to credits in effect on January 1, 2011.

Credits under AS 43.55

Updated 1/17/12, DMG

	Credits that May be Issued as Certificates and Submitted to the State for Cash Purchase						AS 43.55.019	AS 43.55.023(l)	AS 43.55.024(a)	AS 43.55.024(c)		
	AS 43.55.023(a)(1)	AS 43.55.023(a)(2)	AS 43.55.023(b)	AS 43.55.023(f)(1)	AS 43.55.023(f)(2)	AS 43.55.023(a)(1-4)					AS 43.55.023(a)(5)	
<b>Informal Title</b>	Qualified Capital Expenditures Credit	Qualified Capital Expenditures Credit in Relation to Exploration	Carried-Forward Annual Loss Credit	Well Lease Expenditure Credit	Well Lease Expenditure Credit in Relation to Exploration	Alternative Credit for Exploration	Alternative Credit for Exploration - Jack-up Rig	Education Credit	Transitional Investment ("TIE") Credit	New Area Development ("Middle Earth") Credit	Small Producer Credit	
<b>Initial and Most Recent Effective Date(s)</b>	4/1/2006, amended 7/1/2007	4/1/2006, amended 7/1/2007	4/1/2006, amended 7/1/2008	7/1/2010	7/1/2010	2003, amended 7/1/2008	5/10/2010	1987, amended 1/1/2011	4/1/2006, amended	4/1/2006	4/1/2006	
<b>Credit Percentage / Amount</b>	20%	20%	25% (pre-7/1/07 20%)	40%	40%	30% or 40% (pre-7/1/08 20% or 40%)	80%, 90%, or 100% (up to \$20, \$22.5 or \$25 million)	Max of \$5,000,000	20%	\$6,000,000	\$12,000,000	
<b>Description</b>	A Qualified Capital Expenditure (QCE) must be a lease expenditure and treated as a capitalized cost under 26 IRC. For credits south of 68 degrees North latitude these are issued as one certificate. For the North Slope, these credits are issued as two certificates (one available in year issued, the other available the following calendar year).	A Qualified Capital Expenditure (QCE) must be a lease expenditure and related to exploration. For credits south of 68 degrees North latitude these are issued as one certificate. For the North Slope, these credits are issued as two certificates (one available in year issued, the other available the following calendar year).	The carried forward annual loss is calculated for each segment by taking 25% of excess lease expenditures (lease expenditures not deductible in calculating production tax values). For credits south of 68 degrees North latitude these are issued as one certificate. For the North Slope, these credits are issued as two certificates (one available in year issued, the other available the following calendar year).	A Well Lease Expenditure (WLE) must be a lease expenditure, QCE, AND an Intangible Drilling and Development Cost (IDC) south of 68 degrees North latitude.	A Well Lease Expenditure (WLE) must be a lease expenditure, QCE, AND an Intangible Drilling and Development Cost (IDC) related to exploration south of 68 degrees North latitude.	These credits are narrowly defined by both the statute and regulations as costs directly related to drilling an exploration well or performing a seismic shoot. An exploration well may receive either the 30% or 40% depending on location and seismic exploration may receive 40% credit.	The qualified expenditures related to the first 3 unaffiliated wells drilled by the same jack-up rig in Cook Inlet pre-Tertiary zone qualify for this credit. The first well receives a 100% credit up to \$25 million, the second well received a 90% credit up to \$22.5 million, and the third well receives a 80% credit up to \$20 million.	For cash donations to qualified educational institutions or foundations a portion of the donation may be taken as a credit against tax liability.	For taxpayers that did not have commercial production before January 1, 2008, a 20% credit for QCEs for the period April 1, 2001 to March 31, 2006 is allowed. This credit is limited to 1/10 of the QCEs incurred April 1, 2007 through December 31, 2007.	For production south of 68 degrees North latitude and outside of Cook Inlet (aka "Middle Earth"), a producer may take a credit of \$6,000,000 to offset tax liability. Expires 2016.	If the taxpayer produces less than 50,000 BTU equivalent barrels average daily production, then they may take the full \$12,000,000 credit. For production between 50,000-100,000 BTU equivalent barrels the credit is prorated. Expires 2016.	
<b>DNR Data Requirements</b>	No	Yes	No	No	Yes	Yes	Yes	No	No	No	No	
<b>Location Requirements</b>	No	No	No	Yes - must be south of 68 degrees North latitude	Yes - must be south of 68 degrees North latitude	For some of these credits there are distance requirements from other wells and units	Yes - must be a jack-up rig in Cook Inlet	No	No	Yes - must be outside of Cook Inlet and south of the North Slope aka "middle earth"	No	
<b>Regulations*</b>	15 AAC 55.310-320	15 AAC 55.310-320	15 AAC 55.310-320	None Yet	None Yet	15 AAC 55.350-360	15 AAC 55.350-360	None Yet	15 AAC 55.330	15 AAC 55.335	15 AAC 55.335	
<b>Combinations</b>	Same expenditures may also qualify for credit under AS 43.55.023(b)	Same expenditures may also qualify for credit under AS 43.55.023(b)	Same expenditures may also qualify for credit under AS 43.55.023(a), (l), or 025(a)(1-4)	Same expenditures may also qualify for credit under AS 43.55.023(b)	Same expenditures may also qualify for credit under AS 43.55.023(b)	Same expenditures may also qualify for credit under AS 43.55.023(b)	None of the expenditures included in this credit may receive a credit under any other section of this chapter	Credit may be in addition to all other credits	May not have received an AS 43.55.025 credit for the same expenditures	Not for specific expenditures - credit may be in addition to all other credits	Not for specific expenditures - credit may be in addition to all other credits	
<b>Uses to Credit</b>	Applied directly to tax or issued as a certificate and then transferred, applied to tax, or "cashed" out with the State under AS 43.55.028 - or a combination of the above. Note: the recipient of a transferred certificate may not "cash" out the certificate with the State.	Applied directly to tax or issued as a certificate and then transferred, applied to tax, or "cashed" out with the State under AS 43.55.028 - or a combination of the above. Note: the recipient of a transferred certificate may not "cash" out the certificate with the State.	Applied directly to tax or issued as a certificate and then transferred, applied to tax, or "cashed" out with the State under AS 43.55.028 - or a combination of the above. Note: the recipient of a transferred certificate may not "cash" out the certificate with the State.	Applied directly to tax or issued as a certificate and then transferred, applied to tax, or "cashed" out with the State under AS 43.55.028 - or a combination of the above. Note: the recipient of a transferred certificate may not "cash" out the certificate with the State.	Applied directly to tax or issued as a certificate and then transferred, applied to tax, or "cashed" out with the State under AS 43.55.028 - or a combination of the above. Note: the recipient of a transferred certificate may not "cash" out the certificate with the State.	Applied directly to tax or issued as a certificate and then transferred, applied to tax, or "cashed" out with the State under AS 43.55.028 - or a combination of the above. Note: the recipient of a transferred certificate may not "cash" out the certificate with the State.	Applied directly to tax or issued as a certificate and then transferred, applied to tax, or "cashed" out with the State under AS 43.55.028 - or a combination of the above. Note: the recipient of a transferred certificate may not "cash" out the certificate with the State.	Applied directly to tax or issued as a certificate and then transferred, applied to tax, or "cashed" out with the State under AS 43.55.028 - or a combination of the above. Note: the recipient of a transferred certificate may not "cash" out the certificate with the State.	Applied directly to tax and may not be carried forward or transferred	Applied directly to tax and may not be transferred or used after 2013.	Applied directly to tax and may not be carried forward or transferred	Applied directly to tax and may not be carried forward or transferred
<b>Filing Requirements</b>	Form 0405-330 must be submitted as well as all backup required under regulation to support the credit claim.	Form 0405-330 must be submitted as well as all backup required under regulation to support the credit claim.	Form 0405-330 must be submitted as well as all backup required under regulation to support the credit claim.	Form 0405-330 must be submitted as well as all backup required under regulation to support the credit claim.	Form 0405-330 must be submitted as well as all backup required under regulation to support the credit claim.	Form 0405-310 must be submitted as well as all backup required under regulation to support the credit claim.	Form 0405-310 must be submitted as well as all backup required under regulation to support the credit claim.	Form 0405-308	Form 0405-330 must be submitted as well as all backup required under regulation to support the credit claim.	Form 0405-332	Form 0405-332	

\*Other regulations under 15 AAC 55 may apply to these credits, this section only lists the regulations directly related. Please read all of 15 AAC 55 for complete information and treatments of the tax credits.

# Summary of Tax Credits under AS 43.55 – The Alaska Oil and Gas Production Tax

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## Disclaimer:

**This summary is intended as an informational guide only. The State of Alaska makes no warranty, expressed or implied, as to the accuracy of this summary. To be certain of the current statutes and regulations, refer to the official printed version of the statutes and regulations. This information only relates to tax credits in effect on January 1, 2011.**

The Alaska Department of Revenue Tax Division (Division) offers many different production tax credits under AS 43.55. Below is a brief summary of the tax credits that the Division administers. Please note: there are other credits that the Department of Natural Resources or other sections of the Tax Division may offer that may be applied against royalty or rental payments, the production tax liability levied by AS 43.55, or the corporate income tax under AS 43.20 that are not included in this summary; please see the relevant Department or section for more information on those credits.

## Education Tax Credit under AS 43.55.019

The education credit is a tiered credit based on cash contribution made to qualified educational and vocational entities or programs<sup>1</sup> outlined under AS 43.55.019(a). The credit is allowed for oil and gas producers against the tax due under this chapter for cash contributions to qualifying programs or entities. The credit was increased in 2010 for the period January 1, 2011 – December 31, 2013.

Effective 1/1/2011 – 12/31/2013<sup>2</sup>, the credit is limited to 50 percent of contributions of not more than \$100,000; 100 percent of the next \$200,000 of contributions; and 50 percent of the amount of contributions that exceed \$300,000<sup>3</sup>. A contribution claimed as a credit under this section may not be the basis for a credit claimed under another provision of this title; and when combined with contributions that are the basis for credits taken during the taxpayer's tax year under AS 21.96.070, 21.96.075, AS 43.20.014, AS 43.56.018, AS 43.65.018, AS 43.75.018, or AS 43.77.045, may not result in the total amount of credits exceeding \$5,000,000 in a single calendar year for an affiliated group<sup>4</sup>.

Effective 1/1/2014, the credit is limited to 50 percent of contributions of not more than \$100,000; and 100 percent of the next \$100,000 of contributions. A contribution claimed as a credit under this section may not be the basis for a credit claimed under another provision of this title; and when combined with contributions that are the basis for credits taken during the taxpayer's tax year under AS 21.96.070, 21.96.075, AS 43.20.014, AS 43.56.018, AS 43.65.018, AS 43.75.018, or AS 43.77.045, may not result in the total amount of credits exceeding \$150,000.<sup>5</sup>

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<sup>1</sup> Effective July 1, 2011, cash contributions for qualified athletic tournaments, Alaska Native culture programs, or coastal ecosystem learning centers also qualify. SB 84, (ch. 7, SLA 2010)

<sup>2</sup> Change took place in 2010 with the passing of SB 236 (ch. 29, SLA 2010)

<sup>3</sup> AS 43.55.019(b)

<sup>4</sup> AS 43.55.019(d)(2)

<sup>5</sup> These are delayed amendments per SB 236

# Summary of Tax Credits under AS 43.55 – The Alaska Oil and Gas Production Tax

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## Uses of Credit

This credit may be applied against any tax levied by 43.55. The credit is NOT transferable, is NOT available to be issued as a certificate, and may not reduce a person's tax liability below zero for any tax year. An unused credit or portion of a credit not used under this section for a tax year may not be sold, traded, transferred, or applied in a subsequent tax year.<sup>6</sup>

## Pertinent Statutes and Regulations

AS 43.55.019; no regulations at this time

## Qualified Capital Expenditures (QCE) Credit under AS 43.55.023(a)

The QCE credit is a 20% credit based on Qualified Capital Expenditures, as defined by AS 43.55.023(o).<sup>7</sup> The QCEs must also be allowable Lease Expenditures under AS 43.55.165. If the expenditures are incurred in connection with geological or geophysical exploration or an exploration well under AS 43.55.023(a)(2), then there are also certain data requirements<sup>8</sup> that must be met with the Department of Natural Resources (DNR).

## Uses of Credit

Half of this credit may be applied<sup>9</sup> directly against tax liability in the year it was incurred by taking the total credit allowed for the year and applying it equally against the liability for each month of the year.<sup>10</sup> This credit may also be requested as a tax credit certificate<sup>11</sup>, but no more frequently than once per calendar quarter<sup>12</sup>. To receive a credit certificate, an application<sup>13</sup> must be submitted to the Department of Revenue (DOR) with all relevant backup required under regulation<sup>14</sup> after the expenditures have been incurred.<sup>15</sup> The DOR has until the later of 120 days from the date that the application is received by the Department or 120 days from March 31<sup>st</sup> of the calendar year following the calendar year in which the expenditures were incurred<sup>16</sup> to grant or deny the application. Credits for expenditures incurred North of 68 degrees North latitude (North Slope), are issued as two equal certificates – one available in the year issued and the other available in the calendar year following the calendar year in which it was issued.<sup>17</sup> Credits for expenditures south of 68 degrees North latitude, including "middle earth"<sup>18</sup> and Cook Inlet, may be

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<sup>6</sup> AS 43.55.019(e)

<sup>7</sup> Definition of a QCE was re-lettered as a revisers edit to AS 43.55.023(o) after HB 280 passed in 2010

<sup>8</sup> The data requirements are outlined in AS 43.55.025(f)(2)

<sup>9</sup> AS 43.55.023(a)(1), no more than half the credit may be applied for in a single calendar year

<sup>10</sup> Per AS 43.55.020(a)(1)

<sup>11</sup> Under AS 43.55.023(d) or (m)

<sup>12</sup> Per 15 AAC 55.320(a)(1)

<sup>13</sup> Form 0405-330 located on the tax division website at

<http://www.tax.alaska.gov//programs/programs/forms/index.aspx?60650>

<sup>14</sup> See 15 AAC 55.320 and 345 for filing requirements

<sup>15</sup> See regulation for "When cost is incurred" under 15 AAC 55.290

<sup>16</sup> Per AS 43.55.023(d)

<sup>17</sup> AS 43.55.023(d)

<sup>18</sup> "Middle Earth" is a term commonly used to describe the land south of 68 degrees North latitude and outside of the Cook Inlet sedimentary basin

# Summary of Tax Credits under AS 43.55 – The Alaska Oil and Gas Production Tax

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issued as one certificate all available in the year it was issued.<sup>19</sup> If the credit is issued as a certificate, the credit certificate may then be sold or transferred to another company, applied to tax liability under AS 43.55.011(e)<sup>20</sup>, or if all requirements are met under AS 43.55.028, redeemed for cash from the State by the original applicant. The credit may not be used to reduce a person's tax liability below zero for any tax year.<sup>21</sup>

## **Pertinent Statutes and Regulations**

AS 43.55.023; AS 43.55.165-170; 15 AAC 55.250-290; 15 AAC 55.305-381; 15 AAC 55.900

## **Carried-Forward Annual Loss Credit under AS 43.55.023(b)**

The carried-forward annual loss credit is 25% of a producer or explorer's adjusted lease expenditures<sup>22</sup> that were not deductible in calculating production tax values for that calendar year under AS 43.55.160<sup>23</sup>. This credit may also be requested as a tax credit certificate<sup>24</sup>, but not earlier than January 1<sup>st</sup> of the calendar year following the calendar year in which the loss was incurred<sup>25</sup>.

## **Uses of Credit**

This credit may be applied directly against a producer's tax liability in the year following the year it was incurred by taking the total credit allowed for the year and applying it equally against the liability for each month of the year.<sup>26</sup> This credit may also be requested as a tax credit certificate<sup>27</sup>. To receive a credit certificate, an application<sup>28</sup> must be submitted to the Department of Revenue (DOR) with all relevant backup required under regulation<sup>29</sup> after the expenditures have been incurred.<sup>30</sup> The DOR has until the later of 120 days the date that the application is received by the Department or 120 days from March 31<sup>st</sup> of the calendar year following the calendar year in which the expenditures were incurred<sup>31</sup> to grant or deny the application. Credits for expenditures incurred North of 68 degrees North latitude (North Slope), are issued as two equal certificates – one available in the year issued and the other available in the calendar year following the calendar year in which it was issued.<sup>32</sup> Credits for expenditures south of 68 degrees North latitude, including "middle earth" and Cook Inlet, may be issued as one certificate all of which is available in the year it

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<sup>19</sup> AS 43.55.023(m)

<sup>20</sup> 15 AAC 55.381(b) allows for the credit certificate under this section to be applied against a single monthly installment payment

<sup>21</sup> No credit or portion of credit may be used to reduce a person's tax liability under AS 43.55.011(e) for any calendar year below zero. See; 43.55.023(c); 43.55.025(f) and (g); and 43.55.025(i)

<sup>22</sup> Under AS 43.55.165 and 170

<sup>23</sup> For an explorer with a zero GVPP, this calculation is 25% of their adjusted lease expenditures

<sup>24</sup> Under AS 43.55.023(d) or (m)

<sup>25</sup> Per 15 AAC 55.320(a)(2)

<sup>26</sup> Per AS 43.55.020(a)(1)

<sup>27</sup> Under AS 43.55.023(d) or (m)

<sup>28</sup> Form 0405-330 located on the tax division website at

<http://www.tax.alaska.gov//programs/programs/forms/index.aspx?60650>

<sup>29</sup> See 15 AAC 55.320 and 345 for filing requirements

<sup>30</sup> See regulation for "When cost is incurred" under 15 AAC 55.290

<sup>31</sup> Per AS 43.55.023(d)

<sup>32</sup> AS 43.55.023(d)

# Summary of Tax Credits under AS 43.55 – The Alaska Oil and Gas Production Tax

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was issued.<sup>33</sup> If the credit is issued as a certificate, the credit certificate may then be transferred to another company, applied to a tax levied by AS 43.55.011(e)<sup>34</sup>, or redeemed for cash from the State by the original applicant if all requirements are met under AS 43.55.028.

## **Pertinent Statutes and Regulations**

AS 43.55.023; AS 43.55.165-170; 15 AAC 55.250-290; 15 AAC 55.305-381; 15 AAC 55.900

## **Transitional Investment Expenditure (“TIE”) Credit under AS43.55.023(i)**

The TIE credit is a 20% credit for qualified capital expenditures incurred between April 1, 2001, and March 31, 2006. The credit may not exceed 1/10 of the AS 43.55.023(a) QCE credit taken from the period April 1, 2006, through December 31, 2007, and may only be taken by a company that did not have commercial production before January 1, 2008.

### **Uses of Credit**

This credit may be applied against a tax levied by AS 43.55.011(e), but not for any calendar year after 2013.<sup>35</sup> The credit is NOT transferable, is NOT available to be issued as a certificate, and may not be used to reduce a person’s tax liability below zero for any tax year. An application form<sup>36</sup> must be submitted with the annual return for the year that the credit is applied with all applicable backup.

## **Well Lease Expenditure Credit under AS 43.55.023(l)**

The Well Lease Expenditure credit is a 40% credit based on Well Lease Expenditures incurred south of 68 degrees North latitude, which includes “middle earth” and Cook Inlet, after June 30, 2010. The Well Lease Expenditures must also be allowable lease expenditures under AS 43.55.165, qualified capital expenditures under AS 43.55.023(o), and intangible drilling and development costs<sup>37</sup> authorized under 26 U.S.C. (Internal Revenue Code). If the expenditures are incurred in connection with geological or geophysical exploration or an exploration well under AS 43.55.023(l)(2), then there are also certain data requirements<sup>38</sup> that must be met with the Department of Natural Resources (DNR).

### **Uses of Credit**

This credit may be applied directly against a tax levied by AS 43.55.011(e) in the year it was incurred by taking the total credit allowed for the year and applying it equally against the liability

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<sup>33</sup> AS 43.55.023(m)

<sup>34</sup> 15 AAC 55.381(b) allows for the credit certificate under this section to be applied against a single monthly installment payment.

<sup>35</sup> AS 43.55.023(i)(3)(A)

<sup>36</sup> Form 0405-330

<sup>37</sup> AS 43.55.023(n)

<sup>38</sup> The data requirements are outlined in AS 43.55.025(f)(2)

# Summary of Tax Credits under AS 43.55 – The Alaska Oil and Gas Production Tax

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for each month of the year<sup>39</sup>. This credit may also be requested as a tax credit certificate<sup>40</sup>, but no more frequently than once per calendar quarter.<sup>41</sup> To receive a credit certificate, an application<sup>42</sup> must be submitted to the Department of Revenue (DOR) with all relevant backup required under regulation<sup>43</sup> after the expenditures have been incurred.<sup>44</sup> The DOR has until the later of 120 days from the date that the application is received by the Department or 120 days from March 31<sup>st</sup> of the calendar year following the calendar year in which the expenditures were incurred<sup>45</sup> to grant or deny the application. This credit is issued as one certificate available in the year it was issued<sup>46</sup>. If the credit is issued as a certificate, the credit certificate may then be transferred to another company, applied to a tax levied by AS 43.55.011(e)<sup>47</sup>, or redeemed for cash from the State by the original applicant if all requirements are met under AS 43.55.028.

## **Pertinent Statutes and Regulations**

AS 43.55.023; AS 43.55.165-170; 15 AAC 55.250-290; 15 AAC 55.305-381; 15 AAC 55.900

## **Additional Nontransferable Tax Credits (aka the “Middle Earth Credit” and “Small producer Credit”) under AS 43.55.024(a) and (c)**

Under AS 43.55.024(a), a prorated credit up to \$6,000,000 may be applied against a producer’s tax liability levied by AS 43.55.011(e) for a calendar year for oil and gas produced outside of Cook Inlet and south of 68 degrees North latitude<sup>48</sup> aka “middle earth”<sup>49</sup>. This credit may not be taken after the later of 2016 or after the 9<sup>th</sup> calendar year after the calendar year in which the producer first had commercial production before May 1, 2016<sup>50</sup> from at least one lease or property in “middle earth”.

Tax credits under AS 43.55.024(c), also known as the “small producer credit”, may be applied for a calendar year in which the producers’ tax liability exceeds zero against a producer’s tax levied by AS 43.55.011(e) for a producer whose average amount of oil and gas produced a day and taxable under AS 43.55.011(e) is less than 100,000 BTU equivalent barrels a day. If a producer's average taxable production is more than 50,000 and less than 100,000 BTU equivalent barrels per day, a

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<sup>39</sup> Per AS 43.55.020(a)(1)

<sup>40</sup> Under AS 43.55.023(d) or (m)

<sup>41</sup> Per 15 AAC 55.320(a)(1)

<sup>42</sup> Form 0405-330 located on the tax division website at

<http://www.tax.alaska.gov//programs/programs/forms/index.aspx?60650>

<sup>43</sup> See 15 AAC 55.320 and 345 for filing requirements

<sup>44</sup> See regulation for “When cost is incurred” under 15 AAC 55.290

<sup>45</sup> Per AS 43.55.023(d)

<sup>46</sup> AS 43.55.023(m)

<sup>47</sup> 15 AAC 55.381(b) allows for the credit certificate under this section to be applied against a single monthly installment payment.

<sup>48</sup> AS 43.55.024(a)

<sup>49</sup> “Middle Earth” is phrase commonly used to describe the land south of 68 degrees North latitude and outside of Cook Inlet

<sup>50</sup> AS 43.55.024(b)

# Summary of Tax Credits under AS 43.55 – The Alaska Oil and Gas Production Tax

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producer may apply a prorated portion of the \$12,000,000 credit for the calendar year.<sup>51</sup> A producer may not take a tax credit under (c) of this section after the later of 2016; or if the producer did not have commercial oil or gas production from a lease or property in the state before April 1, 2006, the ninth calendar year after the calendar year during which the producer first has commercial oil or gas production before May 1, 2016, from at least one lease or property in the state.<sup>52</sup>

## Uses of Credit

These credits may be applied against a tax levied by AS 43.55.011(e). The credits are NOT transferable and are NOT available to be issued as a certificate. An unused tax credit or portion of a tax credit under this section may not be carried forward for use in a later calendar year.<sup>53</sup> The credit may not be used to reduce a tax liability for any calendar year below zero.<sup>54</sup> For a calendar year during which two or more producers that qualify under AS 43.55.024(e) are succeeded through merger, acquisition, or a similar transaction by a single producer that qualifies under AS 43.55.024(e), they are each only allowed a portion of the credit.<sup>55</sup>

## Alternative Tax Credit for Oil and Gas Exploration under AS43.55.025(a)(1)-(4)

Depending on the type of exploration (seismic vs. exploration well) and the location of the project a company may receive a 30% or 40% credit under AS 43.55.025. For a qualifying exploration well that is bottom holed more than 3 miles from a preexisting well, other than in Cook Inlet, and pre-approved by the commissioner of natural resources before the project commences<sup>56</sup> a company may receive a 30% credit.<sup>57</sup> For a qualifying exploration well that is more than 25 miles outside an existing unit, or 10 miles outside of a unit in Cook Inlet, a company may receive a 30% credit.<sup>58</sup> For a qualifying exploration well that is both more than 3 miles from a preexisting well and 25 miles from a unit, other than in Cook Inlet, a company may receive a 40% credit.<sup>59</sup> For a qualifying seismic project outside a unit, a company may receive a 40% credit.<sup>60</sup> To qualify for any credits under this section the company must submit required data sets to the Department of Natural Resources. A credit application<sup>61</sup> must be completed and received by the Department of Revenue

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<sup>51</sup> AS 43.55.024(c)(2)

<sup>52</sup> AS 43.55.024(d)

<sup>53</sup> AS 43.55.024(h)

<sup>54</sup> AS 43.55.024(g)

<sup>55</sup> 15 AAC 55.335(b)

<sup>56</sup> AS 43.55.025(c)(2)

<sup>57</sup> AS 43.55.025(a)(1) and (c)

<sup>58</sup> AS 43.55.025(a)(2) and (d)

<sup>59</sup> AS 43.55.025(a)(3), (c), and (d)

<sup>60</sup> AS 43.55.025(a)(4) and (e)

<sup>61</sup> Form 0405-310

# Summary of Tax Credits under AS 43.55 – The Alaska Oil and Gas Production Tax

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within six months of the completion of the exploration activity.<sup>62</sup> The application must be either submitted by a single applicant that holds a 100% interest in the project and incurred 100% of the expenditures or submitted by a designated joint applicant on behalf of and signed by all partners.<sup>63</sup> All credit requests under this section are audited before a certificate is issued and a tax credit certificate is always issued. These credits are only for work performed before July 1, 2016.

A five percent credit for exploration expenditures performed before July 1, 2003 is available if for seismic exploration performed outside a production unit if the Commissioner of the Department of Natural Resources determines public distribution of the seismic information is in the best interest of the State.<sup>64</sup>

## Uses of Credit

The credit itself may be applied against a producer's tax liability in the year in which it was incurred and also before the tax credit certificate is issued.<sup>65</sup> The credit certificate may be transferred, applied to tax liability,<sup>66</sup> or cashed out with the State under AS 43.55.028 by the original applicant.

## Pertinent Statutes and Regulations

AS 43.55.025; 15 AAC 55.305-381

## Alternative Tax Credit for Oil and Gas Exploration under AS43.55.025(a)(5) & (l) – aka the “Jack-up Rig Credit”

Signed into effect May 20, 2010<sup>67</sup>, AS 43.55.025(a)(5) and (l) were added to AS 43.55.025 to provide tax credits for a jack-up rig in Cook Inlet applicable to work performed after March 31, 2010. These sections added credits of 100% of qualifying exploration expenditures up to \$25 million for the first well, 90% of qualifying exploration expenditures up to \$22.5 million for the second well, and 80% of qualifying exploration expenditures up to \$20 million for the third well incurred for exploratory drilling with a jack-up rig in Cook Inlet. The three wells must be drilled by unaffiliated parties, use the same jack-up rig, and penetrate and evaluate a prospect in the pre-Tertiary zone. The latter determination is made by the Commissioner of the Department of Natural Resources.

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<sup>62</sup> The completion date of an exploration well is defined under 15 AAC 55.900(b)(10) and the completion date of a seismic project is generally the date that the initial processing of the seismic data has been completed.

<sup>63</sup> 15 AAC 55.355(a) and 15 AAC 55.356

<sup>64</sup> AS 43.55.025(k)

<sup>65</sup> 15 AAC 55.370(c)

<sup>66</sup> 15 AAC 55.381(b) allows for the credit certificate under this section to be applied against a single monthly installment payment

<sup>67</sup> Senate Bill 309, (Ch. 15 SLA 2010)

# Summary of Tax Credits under AS 43.55 – The Alaska Oil and Gas Production Tax

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## **Uses of Credit**

The credit itself may be applied against a producer's tax liability in the year in which it was incurred and also before the certificate is issued.<sup>68</sup> The credit certificate may be transferred, applied to tax liability,<sup>69</sup> or cashed out with the State under AS 43.55.028 by the original applicant.

## **Pertinent Statutes and Regulations**

AS 43.55.025; 15 AAC 305-381

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<sup>68</sup> 15 AAC 55.370(c)

<sup>69</sup> 15 AAC 55.381(b) allows for the credit certificate under this section to be applied against a single monthly installment payment

**State of Alaska**  
Department of Revenue

*Commissioner Bryan Butcher*



**SEAN PARNELL, GOVERNOR**

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The Honorable Eric Feige  
State Capitol Room 126  
Juneau AK, 99801

March 23, 2012

The Honorable Paul Seaton  
State Capitol Room 102  
Juneau AK, 99801

**SUBJECT: Response to Questions from House Resources Meeting on March 21, 2012**  
Oil and Gas Tax Overview

Dear Representatives Feige, Seaton and Munoz:

The purpose of this letter is to respond to a follow up question from the House Resources Committee meeting on March 21, 2012 specifically those raised by Rep Munoz. The question and response follow.

1. Reproduce slides 22 and 23 to reflect absolute profit split and share of profit under, both HB 110 and CSSB192.

We have attached these slides.

We hope this information is helpful..

Sincerely,

Bruce Tangeman  
Deputy Commissioner

cc: The Honorable Peggy Wilson, Vice Chair, House Resources Committee  
The Honorable Alan Dick, House Resources Committee Member  
The Honorable Neal Foster, House Resources Committee Member  
The Honorable Bob Herron, House Resources Committee Member  
The Honorable Cathy Munoz, House Resources Committee Member  
The Honorable Berta Gardner, House Resources Committee Member  
The Honorable Scott Kawasaki, House Resources Committee Member



*Response to questions from the  
House Resources Committee  
March 21, 2012  
Alaska Department of Revenue*



## The Question

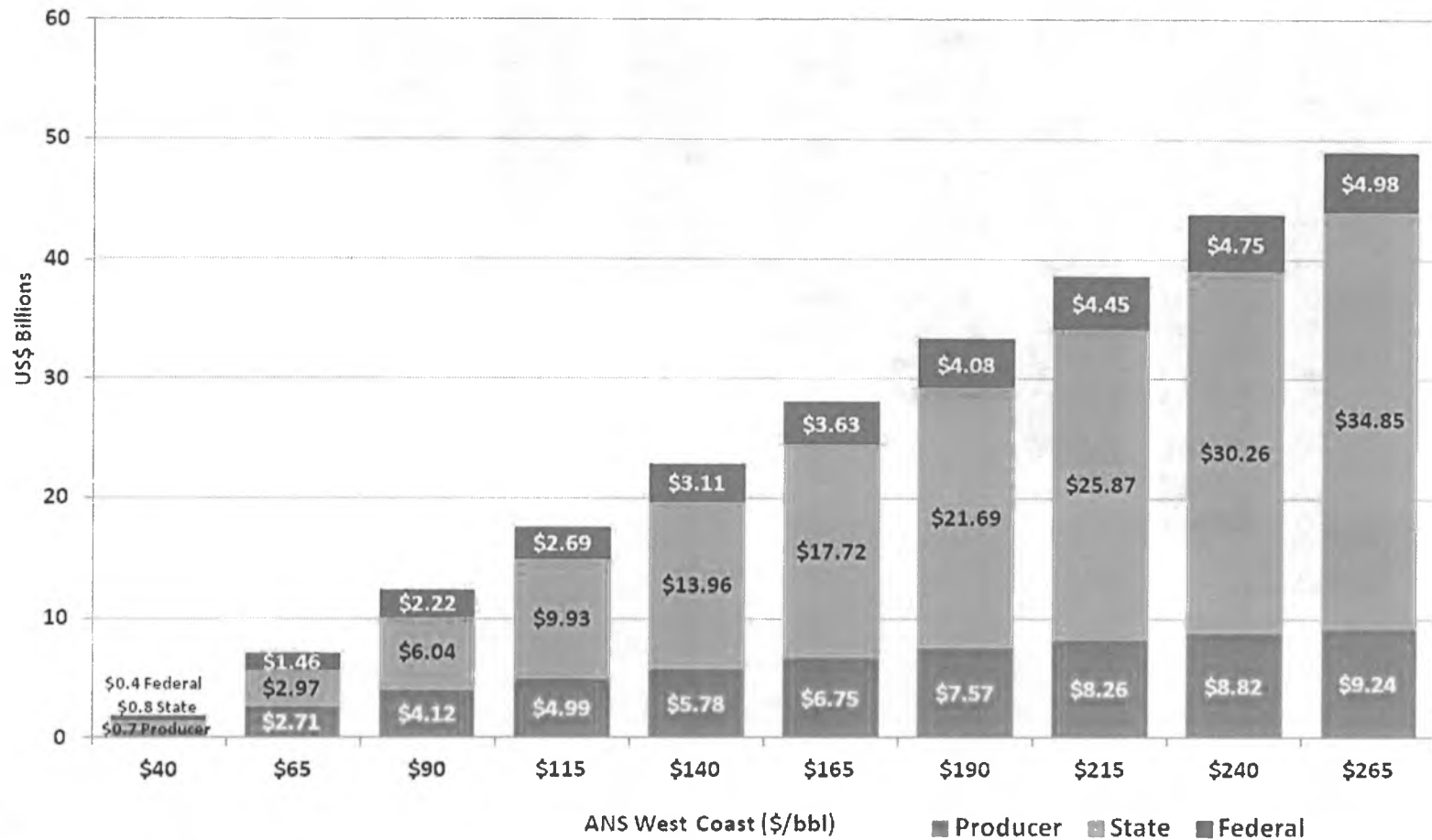


- Please reproduce slides #22 and #23 (reflect absolute profit split and share of profit under) both HB110 and CSSB192.



# Absolute Profit Split under ACES

(slide 22 in 3-21-12 presentation)

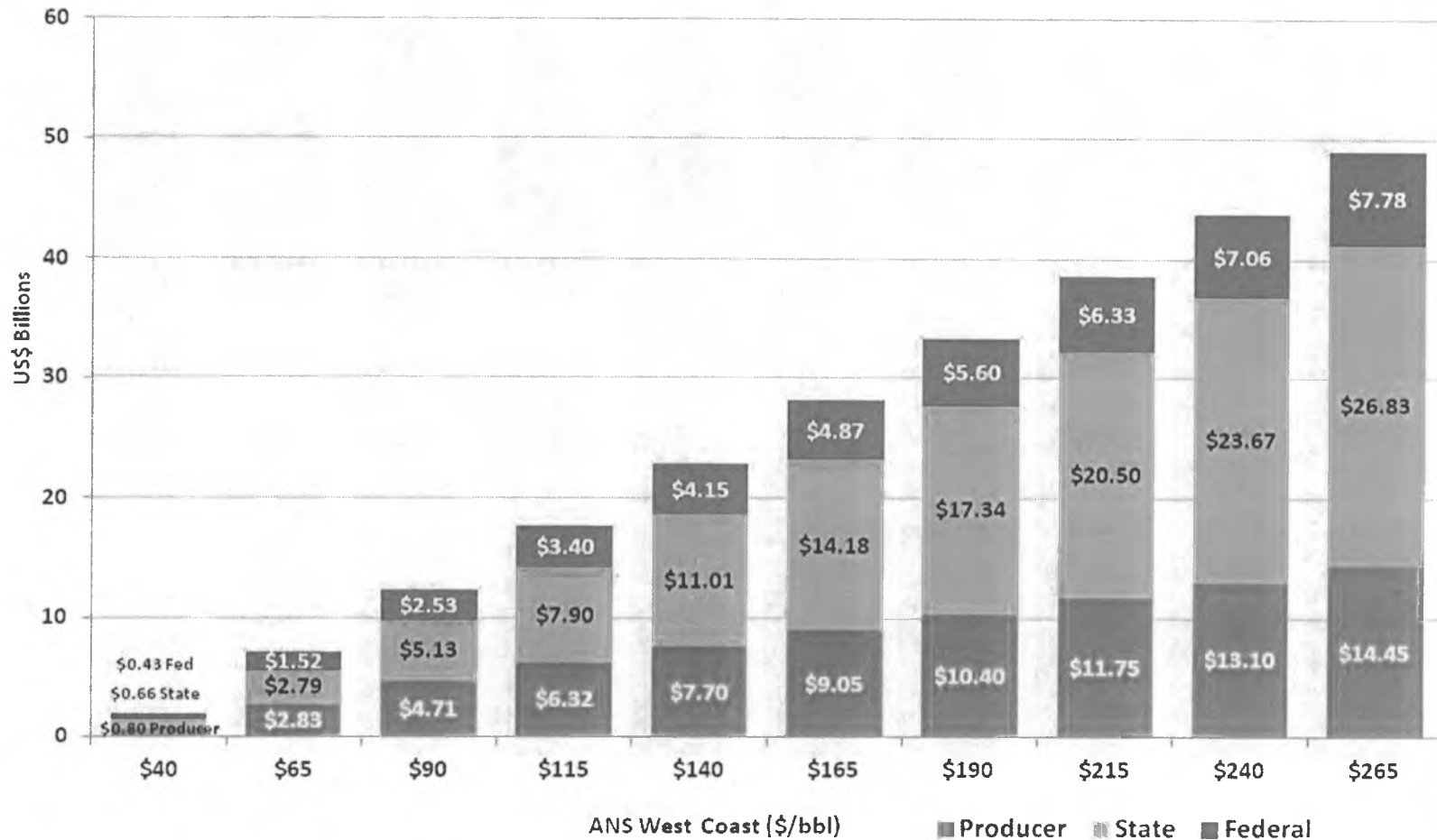


Profit defined as total gross value of all oil produced, less transportation costs and lease expenditures. Assumes FY 2012 production of .574 mmb/d, transport costs of \$8.72/bbl, opex of \$14.03 per taxable barrel, and capex of \$10.25 per taxable bbl.





# Absolute Profit Split under CS HB110 (FIN)

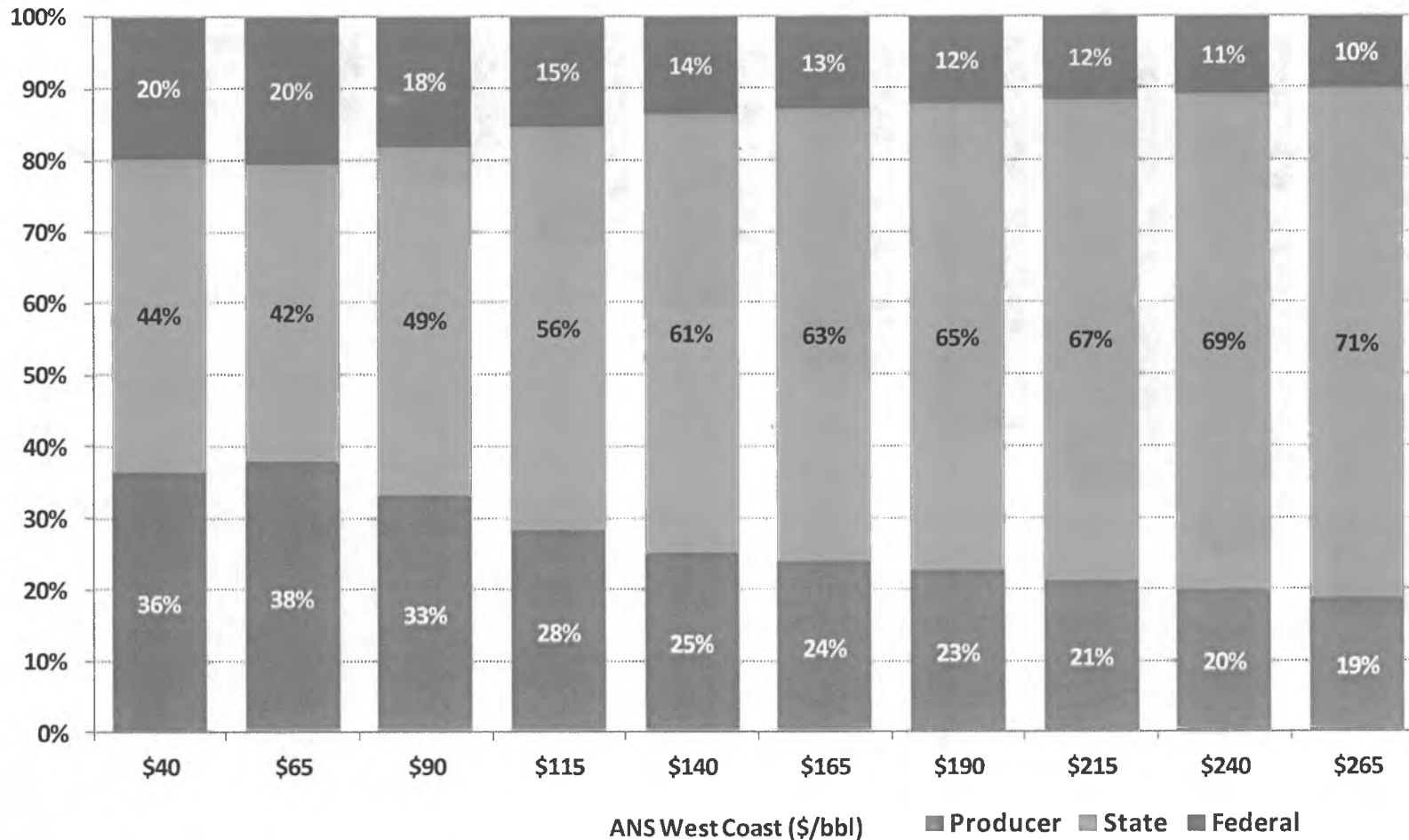


Profit defined as total gross value of all oil produced, less transportation costs and lease expenditures. Assumes FY 2012 production of .574 mmb/d, transport costs of \$8.72/bbl, opex of \$14.03 per taxable barrel, and capex of \$10.25 per taxable bbl.



# Share of Profit under ACES

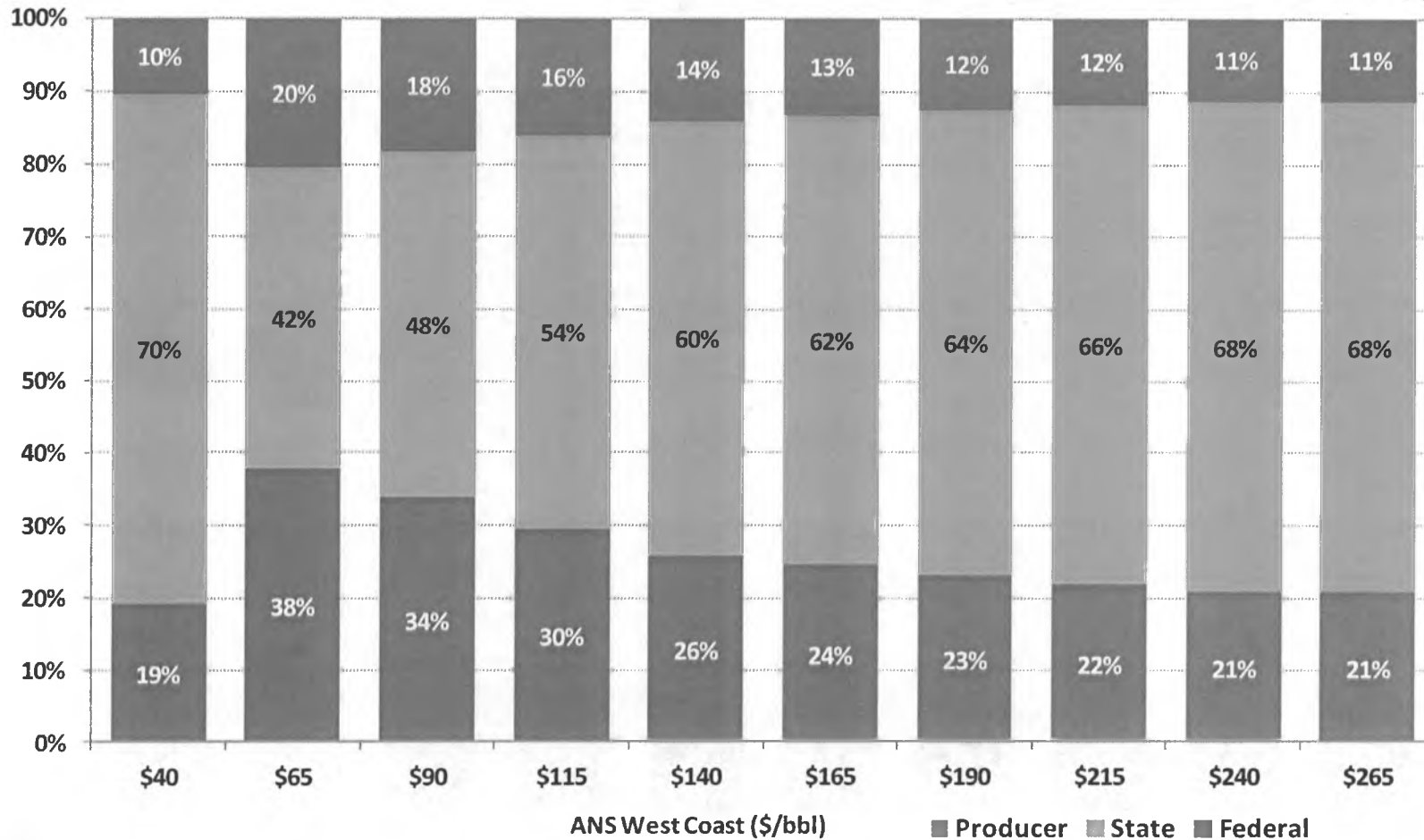
(slide 23 in 3-21-12 presentation)



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.



# Share of Profit under CS SB 192 (RES)



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.

Assumes that 80% of production is impacted by 10% gross minimum tax with no credits allowed against gross tax.

