

12007

SENATE

RESOURCES

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(B) emergency or fire equipment that is necessary to the preservation of life or property;

(C) a farm vehicle that is controlled and operated by a farmer, used to transport agricultural products, farm machinery, or farm supplies to or from that farmer's farm, not used in the operations of a common or contract motor carrier, and used within 150 miles of the farmer's farm;

(D) a recreational vehicle; or

(E) a taxicab;

(3) "recreational vehicle" means

(A) a motor vehicle or trailer for recreational dwelling purposes;

(B) a motor home or other vehicle with a motor home body style;

(C) a one-piece camper vehicle; and

(D) any other self-propelled vehicle with living quarters;

(4) "tax" means the excise tax levied under this chapter on the charge made for the rental of a passenger or recreational vehicle;

(5) "vehicle" means a device in, upon, or by which a person or property may be transported or drawn upon or immediately over a highway or vehicular way or area; "vehicle" does not include

(A) devices used exclusively upon stationary rails or tracks;

(B) mobile homes; or

(C) watercraft. (§ 1 ch 105 SLA 2003; am § 1 ch 29 SLA 2004)

Cross references. — For provision directing the manner of the Department of Revenue's implementation of the 2004 addition of subparagraph (2)(E) of this section, see § 2, ch. 29, SLA 2004, in the 2004 Temporary and Special Acts.

Effect of amendments. — The 2004 amendment,

effective May 8, 2004, retroactive to January 1, 2004, added paragraph (2)(e) and made related changes.

Editor's notes. — Section 3, ch. 29, SLA 2004, makes the 2004 addition of subparagraph (2)(E) of this section retroactive to January 1, 2004.

Chapter 55. Oil and Gas Production Taxes and Oil Surcharge.

Article

1. Oil and Gas Properties Production Taxes (§§ 43.55.011 — 43.55.150)
2. Conservation Surcharge on Oil (§§ 43.55.201 — 43.55.299)
3. Additional Conservation Surcharge on Oil (§§ 43.55.300, 43.55.310)
4. General Provisions (§ 43.55.900)

Administrative Code. — For oil and gas properties production tax, see 15 AAC 55.

NOTES TO DECISIONS

No apportionment formula to calculate interest expense. — Administrative regulation precluded the use of an apportionment formula by the department of revenue to calculate allowable interest expense for debt incurred to construct the trans-Alaska pipeline system. *State, Dep't of Revenue v. Atlantic Richfield Co.*, 858 P.2d 307 (Alaska 1993) (decided under former AS 43.21.030).

Entitlements benefit qualified as taxable income. — The entitlements benefit a gas company received from internally transferring and refining federal price-controlled Alaska North Shore oil qualified as taxable income under former AS 43.21.020 (since repealed). *State, Dep't of Revenue v. Atlantic Richfield Co.*, 858 P.2d 307 (Alaska 1993).

Collateral references. — 71 Am. Jur. 2d, State and Local Taxation, §§ 155-157.
84 C.J.S., Taxation, §§ 494-500.

State tax on or in respect of goods shipped in interstate commerce to consignee for sale on consign-

or's account without previous sale or order for purchase. 4 ALR2d 244.

Constitutional exemption from taxation as subject to legislative regulation respecting conditions of its assertion. 4 ALR2d 744.

power of legislature to remit, release, or compromise tax claim. 28 ALR2d 1425.
 when right to refund of state or local taxes accrues, statute limiting time for applying for refund. ALR2d 1350.
 legislative power to exempt from taxation property, uses, or uses additional to those specified in constitution. 61 ALR2d 1031.

Financial hardship or inability to pay taxes as rendering inapplicable statutes denying remedy by injunction against assessment or collection of tax. 65 ALR2d 550.

Expenses and taxes deductible by lessee in computing lessor's oil and gas royalty or other return. 73 ALR2d 1056.

Article 1. Oil and Gas Properties Production Taxes.

Section

Oil production tax
 Adjustment in tax rates
 Economic limit factor
 Gas production tax
 Relation to other taxes
 Oil or gas producer education credit
 Payment of tax
 Tax credit for oil and gas exploration or gas only exploration

Section

30. Filing of statements
 40. Powers of Department of Revenue
 50. Incorrect returns
 60. Delinquency
 80. Collection and deposit of revenue
 90. Refunds
 110. Administration
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 150. Determination of gross value

Sec. 43.55.010. Gross production tax. [Repealed, § 9 ch 136 SLA 1977.]

Sec. 43.55.011. Oil production tax. (a) There is levied upon the producer of oil a tax on all oil produced from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-barrel amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for the oil production of the lease or property under AS 43.55.013. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 12.25 percent of the gross value at the point of production of taxable oil produced on or before June 30, 1981, from the lease or property and 15 percent of the gross value at the point of production of taxable oil produced from the lease or property after June 30, 1981; except that for a lease or property coming into commercial oil production after June 30, 1981, the percentage-of-value amount equals 12.25 percent of the gross value at the point of production of taxable oil produced from the lease or property in the first five years after the start of commercial oil production and equals 15 percent of the gross value at the point of production of taxable oil produced thereafter from the lease or property.

(c) The cents-per-barrel amount equals \$0.60 per barrel of taxable old crude oil produced from the lease or property, and \$0.80 per barrel for all other taxable oil produced from the lease or property, both as adjusted by AS 43.55.012.

(d) *[Repealed, § 18 ch 116 SLA 1981.]* § 1 ch 136 SLA 1977; am §§ 12, 18 ch 116 SLA 1981.

Cross references. — For oil and gas leasing provisions, see AS 38.05.180.

Sec. 43.55.012. Adjustment in tax rates. (a) *[Repealed, § 18 ch 116 SLA 1981.]*

(b) The cents-per-barrel amount set out in AS 43.55.011(c) applies to oil of 27 degrees API gravity. For each degree of API gravity less than 27 degrees the cents-per-barrel amount shall be reduced by \$.005 and for each degree of API gravity greater than 27 degrees the cents-per-barrel amount shall be increased by \$.005 except that oil above 40 degrees API gravity shall be taxed as 40 degree oil. In applying the gravity adjustment

under this subsection, fractional degrees of API gravity shall be disregarded. (§ 1 ch 136 SLA 1977; am § 18 ch 116 SLA 1981; am § 47 ch 50 SLA 1989)

Sec. 43.55.013. Economic limit factor. (a) *[Repealed, § 18 ch 116 SLA 1981.]*

(b) The economic limit factor for oil production of a lease or property shall be computed according to the following formula:

$$(1 - [PEL/TP]) \exp ([150,000/(TP/Days)] \exp [1460 \times WD/PEL])$$

where: PEL = the monthly production rate at the economic limit;
 TP = the total production during the month for which the tax is to be paid;
 WD = the total number of well days in the month for which the tax is to be paid;
 Days = the number of days in the month for which the tax is to be paid; and
 exp = exponent.

(c) The economic limit factor for gas production of a lease or property equals one minus the ratio of the monthly production rate at the economic limit to the production during the month for which the tax is to be paid.

(d) The monthly production rate at the economic limit for a lease or property is 300 barrels times the number of well days for the lease or property during the month for which the tax is to be paid.

(e) *[Repealed, § 3 ch 25 SLA 1989.]*

(f) *[Repealed, § 3 ch 25 SLA 1989.]*

(g) The monthly production at the economic limit for a lease or property is presumed to be 3,000 Mcf times the number of well days for the lease or property during that month for which the tax is to be paid. The taxpayer may rebut this presumption by providing clear and convincing evidence of a different monthly production rate at the economic limit for the lease or property. The hearing shall be held before February 15 of the year or within six months after commencement of gas production for a lease or property. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (i) of this section into the average monthly direct operating cost determined under (h) of this section.

(h) The average monthly direct operating cost for gas production operations of the lease or property shall be determined based on a period of not less than four consecutive months. The direct operating costs include only royalty actually and currently paid, production supplies, purchased fuel, routine maintenance, and wages and benefits of employees working on the production operations. Additional direct operating costs not listed in this section may be included only after their inclusion in a regulation adopted by the department. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, money paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the gas production operations of the lease or property, or any other cost not directly related to the gas production operations of the lease or property.

(i) For the purpose of calculating the economic limit, the value at the point of production of gas produced from the lease or property shall be determined on the basis of the volume weighted average price paid for gas of like quality and pressure in the same field.

(j) The department may aggregate two or more leases or properties (or portions of them), for purposes of determining economic limit factors under this section and applying them to AS 43.55.011 or AS 43.55.016, when economically interdependent oil or gas production operations are not confined to a single lease or property. The department may

also segregate a lease or property into two or more parts, for purposes of determining economic limit factors under this section and applying them under AS 43.55.011 or AS 43.55.016, when two or more economically independent oil or gas production operations are being conducted on it, or when old crude oil is produced from the same lease or property as other oil.

(k) A determination of the monthly production rate at the economic limit for a lease or property is retroactive to January 1 of the current year. For production of a lease or property commencing after January 1, the determination of the monthly production rate at the economic limit for that lease or property made within six months after the commencement of production is retroactive to the commencement of production. (§ 1 ch 136 SLA 1977; am §§ 13 — 16, 18 ch 116 SLA 1981; am §§ 1 — 3 ch 25 SLA 1989; am § 15 ch 108 SLA 1996)

Opinions of attorney general. — The 1989 amendment could be made retroactive without an immediate effective date. June 1, 1989 Op. Att'y Gen., overruling March 31, 1988 Inf. Op. Att'y Gen., insofar as it is inconsistent with this opinion.

Absence of the Senate president's authentication

did not affect the power of the governor to take action on the 1989 bill, passed by both houses of the legislature. June 1, 1989 Op. Att'y Gen.

Mistaken description of the 1989 bill by the Senate president did not invalidate the Senate's vote on the bill. June 1, 1989 Op. Att'y Gen.

NOTES TO DECISIONS

Retroactivity of 1989 amendments. — Alaska Const., art. II, § 18 does not require a two-thirds vote of both houses of the legislature for the passage of

laws containing retroactive provisions, such as the 1989 bill modifying the economic limit factor. ARCO Alaska, Inc. v. State, 824 P.2d 708 (Alaska 1992).

Sec. 43.55.015. Tax per barrel of oil. [Repealed, § 9 ch 136 SLA 1977.]

Sec. 43.55.016. Gas production tax. (a) There is levied upon the producer of gas a tax for all gas produced from each lease or property in the state, less any gas the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-Mcf amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for gas production of the lease or property under AS 43.55.013. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 10 percent of the gross value at the point of production of the taxable gas produced from the lease or property.

(c) The cents-per-Mcf amount equals \$.064 per 1,000 cubic feet of taxable gas produced from the lease or property. (§ 1 ch 136 SLA 1977; am § 26 ch 168 SLA 1990)

Sec. 43.55.017. Relation to other taxes. (a) Except as provided in this chapter, the taxes imposed by this chapter are in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax upon

(1) producing oil or gas leases;

(2) oil or gas produced or extracted in the state;

(3) the value of intangible drilling and exploration expenses.

(b) The taxes imposed by this chapter are in place of all taxes imposed by a municipality upon oil or gas in place or nonproducing oil or gas leases or properties.

(c) The taxes imposed by this chapter are not in place of the tax imposed by income taxes, franchise taxes, or taxes upon the retail sale of oil or gas products. (§ 1 ch 136 SLA 1977; am § 36 ch 32 SLA 1997; am § 4 ch 34 SLA 1999)

Effect of amendments. — The 1999 amendment, effective July 1, 1999, deleted "AS 43.57 or" preceding

"income taxes" in the first sentence of subsection (c) and made a minor stylistic change

Opinions of attorney general. — A municipality may not levy a transportation tax on crude oil flowing through the Trans Alaska Pipeline (pipeline) while the crude oil passes through the municipality. November 15, 1989 Op. Att'y Gen.

NOTES TO DECISIONS

Cited in *Liberati v Bristol Bay Borough*, 584 P.2d 1115 (Alaska 1978).

Sec. 43.55.018. Credit against tax. [Repealed, § 18 ch 116 SLA 1981.]

Sec. 43.55.019. Oil or gas producer education credit. (a) For cash contributions accepted for direct instruction, research, and educational support purposes, including library and museum acquisitions, and contributions to endowment, by an Alaska university foundation or by a nonprofit, public or private, Alaska two-year or four-year college accredited by a regional accreditation association, a producer of oil or gas is allowed as a credit against the tax due under this chapter

- (1) 50 percent of contributions of not more than \$100,000; and
- (2) 100 percent of the next \$100,000 of contributions.

(b) *[Repealed, § 12 ch 71 SLA 1991.]*

(c) Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used.

(d) A contribution claimed as a credit under this section may not be claimed as a credit under another provision of this title; and

(2) when combined with credits taken during the taxpayer's tax year under AS 21.89.070, 21.89.075, AS 43.20.014, AS 43.56.015, AS 43.65.018, AS 43.75.018, or AS 43.77.045, exceed \$150,000.

(e) The department may, by regulation, establish procedures by which a taxpayer may allocate a pro rata share of a credit claimed under this section against monthly tax payments made during the tax year. (§ 4 ch 58 SLA 1987; am § 49 ch 21 SLA 1991; am §§ 4, 5, 12 ch 71 SLA 1991; am § 5 ch 21 SLA 1994; am § 18 ch 126 SLA 1994; am § 17 ch 81 SLA 1996; am § 4 ch 86 SLA 2000; am §§ 10, 11 ch 46 SLA 2002)

Revisor's notes. — References to "AS 43.55.011 — 43.55.150" were substituted for "this chapter" in (a) of this section in 1989 to reflect the enactment of AS 43.55.200 — 43.55.240.

In 1991, to harmonize the amendments made by chs. 21 and 71, SLA 1991, the words "by an Alaska" were inserted before "university foundation" in (a) of this section.

Cross references. — For statement of legislative purpose in connection with the enactment of this section, see § 1, ch. 58, SLA 1987 in the Temporary

and Special Acts; for legislative findings, intent, and purpose relating to the amendment of subsection (d) by ch. 81, SLA 1996, see § 1, ch. 81, SLA 1996 in the Temporary and Special Acts.

Effect of amendments. — The 2000 amendment, effective July 1, 2000, inserted a section reference in paragraph (d)(2).

The 2002 amendment, effective June 19, 2002, added section references in paragraph (d)(2) and, effective July 1, 2003, deleted those added references.

Sec. 43.55.020. Payment of tax. (a) The production tax on oil or gas shall be paid monthly. The tax is due on the 20th day of each calendar month on oil or gas produced from each lease or property during the preceding month. If the tax is not paid before the end of the month in which it becomes due, the tax becomes delinquent.

(b) The production tax on oil or gas shall be paid by or on behalf of the producer.

(c) *[Repealed, § 7 ch 101 SLA 1972.]*

(d) In making settlement with the royalty owner the producer may deduct the amount of the tax paid on royalty oil or gas, or may deduct royalty oil or gas equivalent in value at the time the tax becomes due to the amount of the tax paid.

(e) Gas produced in excess of that needed for safety purposes, except gas used in the operation of a lease or property in drilling for or producing oil or gas, or for repressuring, is considered, for the purpose of AS 43.55.011 — 43.55.150 and in the amount used, as gas produced from a lease or property. Gas flared beyond the amount authorized for safety by

the Alaska Oil and Gas Conservation Commission under AS 31.05 is considered as gas produced, except that it is subject to a penalty equal to the tax computed under AS 43.55.016 per 1,000 cubic feet of gas for the month in which the gas was flared.

(f) If oil or gas is 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 during the calendar month of production for that field or area. (§ 3 ch 7 ESLA 1955; am §§ 5 — 9 ch 101 SLA 1972; am § 7 ch 107 SLA 1976; am §§ 2, 3 ch 136 SLA 1977; am § 3 ch 158 SLA 1978; am §§ 48, 49 ch 50 SLA 1989; am § 27 ch 168 SLA 1990)

Revisor's notes. — A reference to "AS 43.55.011 — 43.55.150" was substituted for "this chapter" in (e) of this section in 1989 to reflect the enactment of AS 43.55.200 — 43.55.240

Legislative history reports. — For report on ch. 101, SLA 1972 (FCCS HCSSE 168), see 1972 House Journal, p. 963. For report on ch. 107, SLA 1976 (SCS CSHB 583), see 1976 House Journal, p. 556.

NOTES TO DECISIONS

Cited in *Hickel v. Halford*, 872 P.2d 171 (Alaska 1994).

Sec. 43.55.021. Alaska veterans' memorial endowment fund contribution credit. [Repealed. § 25 ch 46 SLA 2002.]

Sec. 43.55.025. Tax credit for oil and gas exploration or gas only exploration.

(a) Subject to the terms and conditions of this section, on oil and gas produced from an oil and gas lease, or on gas produced from a gas only lease, on or after July 1, 2004, a credit against the tax due under this chapter is allowed in an amount equal to

(1) 20 percent of the total exploration expenditures that qualify under (b) and (c) of this section, 20 percent of the total exploration expenditures that qualify under (b) and (d) of this section, or both, for a total credit that does not exceed 40 percent of the total exploration expenditures; or

(2) 40 percent of the total exploration expenditures that qualify under (b) and (e) of this section, for a total production tax credit that does not exceed 40 percent of the total qualified exploration expenditures.

(b) To qualify for the production tax credit under (a) of this section, an exploration expenditure must be incurred for work performed on or after July 1, 2003, and before July 1, 2007, and

(1) may be for seismic or geophysical exploration costs not connected with a specific well;

(2) if for an exploration well,

(A) must be incurred by an explorer that holds an interest in the exploration well for which the production tax credit is claimed;

(B) may be for either an oil or gas discovery well or a dry hole; and

(C) must be for goods, services, or rentals of personal property reasonably required for the surface preparation, drilling, casing, cementing, and logging of an exploration well, and, in the case of a dry hole, for the expenses required for abandonment if the well is abandoned within 18 months after the date the well was spudded;

(3) may not be for testing, stimulation, or completion costs; administration, supervision, engineering, or lease operating costs; geological or management costs; community relations or environmental costs; bonuses, taxes, or other payments to governments related to the well; or other costs that are generally recognized as indirect costs or financing costs; and

(4) may not be incurred for an exploration well or seismic exploration that is included in a plan of exploration or a plan of development for any unit on May 13, 2003.

(c) To be eligible for a 20 percent production tax credit, exploration expenditures must

(1) qualify under (b) of this section; and

(2) be for an exploration well that is located and drilled in such a manner that the bottom hole is located not less than three miles away from the bottom hole of a preexisting suspended, completed, or abandoned oil or gas well; in this paragraph, "preexisting" means a well that was spudded more than 150 days but less than 35 years before the exploration well was spudded.

(d) To be eligible for an additional 20 percent production tax credit, an exploration expenditure must

(1) qualify under (b) of this section; and

(2) be for an exploration well that is located not less than 25 miles outside of the outer boundary, as delineated on July 1, 2003, of any unit that is under a plan of development.

(e) To be eligible for the 40 percent production tax credit in (a) of this section, the exploration expenditure must

(1) qualify under (b) of this section;

(2) be for seismic exploration; and

(3) have been conducted outside the boundaries of a production unit or an exploration unit; however, the amount of the expenditure that is otherwise eligible under this subsection is reduced proportionately by the portion of the seismic exploration activity that crossed into a production unit or an exploration unit.

(f) For a production tax credit under this section,

(1) an explorer shall, in a form prescribed by the department and within six months of the completion of the exploration activity, claim the credit and submit information sufficient to demonstrate to the department's satisfaction that the claimed exploration expenditures qualify under this section;

(2) an explorer shall agree, in writing,

(A) to notify the Department of Natural Resources, within 30 days after completion of seismic or geophysical data processing, completion of a well, or filing of a claim for credit, whichever is the latest, for which exploration costs are claimed, of the date of completion and submit a report to that department describing the processing sequence and providing a list of data sets available;

(B) to provide to the Department of Natural Resources, within 30 days after the date of a request, specific data sets, ancillary data, and reports identified in (A) of this paragraph;

(C) that, notwithstanding any provision of AS 38, information provided under this paragraph will be held confidential by the Department of Natural Resources for 10 years following the completion date, at which time that department will release the information after 30 days' public notice;

(3) if more than one explorer holds an interest in a well or seismic exploration, each explorer may claim an amount of credit that is proportional to the explorer's cost incurred;

(4) the department may exercise the full extent of its powers as though the explorer were a taxpayer under this title, in order to verify that the claimed expenditures are qualified exploration expenditures under this section; and

(5) if the department is satisfied that the explorer's claimed expenditures are qualified under this section, the department shall issue to the explorer a production tax credit certificate for the amount of credit to be allowed against production taxes due under this chapter.

(g) An explorer may transfer, convey, or sell its production tax credit certificate to any person, and any person who receives a production tax credit certificate may also transfer, convey, or sell the certificate.

(h) A producer that purchases a production tax credit certificate may apply the credits against its production tax liability under this chapter. Regardless of the price the

producer paid for the certificate, the producer may receive a credit against its production tax liability for the full amount of the credit, but for not more than the amount for which the certificate is issued. A production tax credit allowed under this section may not be applied more than once.

(i) For a production tax credit under this section,

(1) the amount of the credit that may be applied against the production tax for each tax month may not exceed the total production tax liability of the taxpayer applying the credit for the same month; and

(2) an amount of the production tax credit that is greater than the total tax liability of the taxpayer applying the credit for a tax month may be carried forward and applied against the taxpayer's production tax liability in one or more immediately following months.

(j) Notwithstanding any other provision of this title, of AS 31.05, or of AS 40.25.100, the department shall provide to the Department of Natural Resources information submitted with a claim under this section to support the eligibility of an exploration expenditure, including seismic exploration data and well data, and any information described in (f)(2) of this section received by the department.

(k) In this section, "explorer" means a person who, in exploring for new oil or gas reserves, incurs expenditures. (§ 3 ch 59 SLA 2003; am § 49 ch 49 SLA 2004)

Effect of amendments. — The 2004 amendment, effective June 5, 2004, inserted "from an oil and gas lease, or on gas produced from a gas only lease" in the introductory language of subsection (a)

Effective dates. — Section 3, ch 59, SLA 2003, which enacted this section, took effect on September 9, 2003

Sec. 43.55.030. Filing of statements. (a) The tax shall be paid to the department and the person paying the tax shall file with the department at the time the tax is required to be paid a statement, under oath, on forms prescribed by or acceptable to the department, giving with other information required, the following:

(1) a description of the lease or property from which the oil or gas was produced, by name, legal description, lease number or by accounting code numbers assigned by the department;

(2) the names of the producer and the person paying the tax;

(3) the gross amount of oil or gas produced from the lease or property, and the percentage of the gross amount owned by each producer for whom the tax is paid;

(4) the total value of the oil or gas produced from the lease or property owned by each producer for whom the tax is paid; and

(5) the name of the first purchaser and the price received for the oil or gas if sold in the state.

(b) *[Repealed, § 11 ch 101 SLA 1972.]*

(c) *[Repealed, § 11 ch 101 SLA 1972.]*

(d) Reports by or on behalf of the producer are delinquent the first day following the day the tax is due. Each producer is subject to a penalty of \$25 a day for each lease or property upon which the report is not filed. The penalty for failure to file a report is in addition to the penalty for delinquent taxes, and is a lien against the assets of the producer. (§ 4 ch 7 ESLA 1955; am §§ 10 — 12 ch 101 SLA 1972; am §§ 4 — 6 ch 136 SLA 1977)

Sec. 43.55.040. Powers of Department of Revenue. [See delayed amendment note.] Except as provided in AS 43.05.400 — 43.05.499, the department may

(1) require a person engaged in production and the agent or employee of the person, and the purchaser of oil or gas, or the owner of a royalty interest in oil or gas to furnish additional information that is considered by the department as necessary to compute the amount of the tax:

- (2) examine the books, records, and files of such a person;
- (3) conduct hearings and compel the attendance of witnesses and the production of books, records, and papers of any person; and
- (4) make an investigation or hold an inquiry that is considered necessary to a disclosure of the facts as to
 - (A) the amount of production from any oil or gas location, or of a company or other producer of oil or gas; and
 - (B) the rendition of the oil and gas for taxing purposes. (§ 5 ch 7 ESLA 1955; am § 16 ch 108 SLA 1996)

Delayed amendment. — Under §§ 75 and 97, ch 163, SLA 2004, effective July 1, 2005, this section will read as follows: "Powers of Department of Revenue Except as provided in AS 43.05.405 — 43.05.499, the department may

"1) require a person engaged in production and the agent or employee of the person, and the purchaser of oil or gas, or the owner of a royalty interest in oil or gas to furnish additional information that is considered by the department as necessary to compute the amount of the tax;

"2) examine the books, records, and files of such a person;

"3) conduct hearings and compel the attendance of witnesses and the production of books, records, and papers of any person; and

"4) make an investigation or hold an inquiry that is considered necessary to a disclosure of the facts as to

"(A) the amount of production from any oil or gas location, or of a company or other producer of oil or gas; and

"(B) the rendition of the oil and gas for taxing purposes."

Sec. 43.55.050. Incorrect returns. The department may determine whether or not a return required by this chapter to be filed with it is correct. If a person makes an untrue or incorrect return of the gross production or the value of it, or fails or refuses to make a return, the department shall, under regulations adopted by it, determine the correct amount of gross production or the value of it, and compute the tax. (§ 6 ch 7 ESLA 1955)

Sec. 43.55.060. Delinquency. When the tax provided for in this chapter becomes delinquent, it bears interest as provided in AS 43.05.225(1). If any person fails to make a report required by this chapter, within the time prescribed by law for the report, the department shall examine the books, records and files of the person to determine the amount and value of the production to compute the tax, and the department shall add to the tax the cost of the examination, together with any penalties accrued. (§ 7 ch 7 ESLA 1955; am § 4 ch 58 SLA 1971; am § 13 ch 82 SLA 1982; am § 5 ch 2 SLA 1991)

Sec. 43.55.070. Lien for tax. [Repealed, § 4 ch 94 SLA 1976. For current law, see AS 43.10.035.]

Sec. 43.55.080. Collection and deposit of revenue. The department shall deposit in the general fund the money collected by it under AS 43.55.011 — 43.55.150. (§ 10 ch 7 ESLA 1955; am § 14 ch 101 SLA 1972)

Revisor's notes. — A reference to "AS 43.55.011 — 43.55.150" was substituted for "this chapter" in this section in 1989 to reflect the enactment of AS 43.55.200 — 43.55.240

Sec. 43.55.090. Refunds. In case of overpayment, duplicate payment or payment made in error, the department may refund the amount of the overpayment under AS 43.10.210. (§ 11 ch 7 ESLA 1955; am § 28 ch 168 SLA 1990)

Revisor's notes. — In 1998, "AS 43.10.210" was substituted for "AS 43.15.010" to reflect the 1990 renumbering of AS 43.15.010

Sec. 43.55.100. Acceptance of deductions. [Repealed, § 15 ch 101 SLA 1972.]

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Central Microfilm Services
Department of Education & Early Development
State of Alaska

- (2) examine the books, records, and files of such a person;
- (3) conduct hearings and compel the attendance of witnesses and the production of books, records, and papers of any person; and
- (4) make an investigation or hold an inquiry that is considered necessary to a disclosure of the facts as to
 - (A) the amount of production from any oil or gas location, or of a company or other producer of oil or gas; and
 - (B) the rendition of the oil and gas for taxing purposes. (§ 5 cl. 7 ESLA 1955; am § 16 ch 108 SLA 1996)

Delayed amendment. — Under §§ 75 and 97, ch 163, SLA 2004, effective July 1, 2005, this section will read as follows: "Powers of Department of Revenue. Except as provided in AS 43.05.405 — 43.05.499, the department may

"1) require a person engaged in production and the agent or employee of the person, and the purchaser of oil or gas, or the owner of a royalty interest in oil or gas to furnish additional information that is considered by the department as necessary to compute the amount of the tax;

"2) examine the books, records, and files of such a person;

"3) conduct hearings and compel the attendance of witnesses and the production of books, records, and papers of any person; and

"4) make an investigation or hold an inquiry that is considered necessary to a disclosure of the facts as to

"(A) the amount of production from any oil or gas location, or of a company or other producer of oil or gas; and

"(B) the rendition of the oil and gas for taxing purposes."

Sec. 43.55.050. Incorrect returns. The department may determine whether or not a return required by this chapter to be filed with it is correct. If a person makes an untrue or incorrect return of the gross production or the value of it, or fails or refuses to make a return, the department shall, under regulations adopted by it, determine the correct amount of gross production or the value of it, and compute the tax. (§ 6 ch 7 ESLA 1955)

Sec. 43.55.060. Delinquency. When the tax provided for in this chapter becomes delinquent, it bears interest as provided in AS 43.05.225(1). If any person fails to make a report required by this chapter, within the time prescribed by law for the report, the department shall examine the books, records and files of the person to determine the amount and value of the production to compute the tax, and the department shall add to the tax the cost of the examination, together with any penalties accrued. (§ 7 ch 7 ESLA 1955; am § 4 ch 58 SLA 1971; am § 13 ch 82 SLA 1982; am § 5 ch 23 SLA 1991)

Sec. 43.55.070. Lien for tax. [Repealed, § 4 ch 94 SLA 1976. For current law, see AS 43.10.035.]

Sec. 43.55.080. Collection and deposit of revenue. The department shall deposit in the general fund the money collected by it under AS 43.55.011 — 43.55.150. (§ 10 ch 7 ESLA 1955; am § 14 ch 101 SLA 1972)

Revisor's notes. — A reference to "AS 43.55.011 — 43.55.150" was substituted for "this chapter" in this section in 1989 to reflect the enactment of AS 43.55.200 — 43.55.240.

Sec. 43.55.090. Refunds. In case of overpayment, duplicate payment or payment made in error, the department may refund the amount of the overpayment under AS 43.10.210. (§ 11 ch 7 ESLA 1955; am § 28 ch 168 SLA 1990)

Revisor's notes. — In 1998, "AS 43.10.210" was substituted for "AS 43.15.010" to reflect the 1990 renumbering of AS 43.15.010.

Sec. 43.55.100. Acceptance of deductions. [Repealed, § 15 ch 101 SLA 1972.]

Sec. 43.55.110. Administration. (a) The department may adopt regulations for the purpose of making and filing reports required by this chapter and otherwise necessary to the enforcement of this chapter.

(b) The department may require a sufficient bond from every person charged with the making and filing of reports and the payment of the tax. The bond shall run to the state and shall be conditioned upon the making and filing of reports as required by law, upon compliance with the regulations of the department, and for the prompt payment, by the principal on the bond, of all taxes due the state by virtue of this chapter.

(c) If reports required have not been filed, or are insufficient to furnish the information required by the department, the department shall institute, in the name of the state upon relation of the department, the necessary action or proceedings to enjoin the person from continuing operations until the reports are filed.

(d) Upon showing that the state is in danger of losing its claims or the property is being mismanaged, dissipated or concealed, a receiver shall be appointed at the suit of the state. (§ 13 ch 7 ESLA 1955)

Secs. 43.55.120 — 43.55.130. Noncompliance and false reports. [Repealed, § 46 ch 113 SLA 1980. For criminal penalties, see AS 43.05.290.]

Sec. 43.55.135. Measurement. For the purposes of AS 43.55.011 — 43.55.150, oil shall be measured in terms of a "barrel of oil" and gas shall be measured in terms of a "cubic foot of gas." (§ 16 ch 101 SLA 1972)

Revisor's notes. — A reference to "AS 43.55.011 — section in 1989 to reflect the enactment of AS 43.55.150" was substituted for "this chapter" in this 43.55.200 — 43.55.240

Sec. 43.55.140. [Renumbered as AS 43.55.900.]

Sec. 43.55.150. Determination of gross value. (a) For the purposes of AS 43.55.011 — 43.55.150, the gross value shall be calculated using the reasonable costs of transportation of the oil or gas. The reasonable costs of transportation shall be the actual costs, except

- (1) when the parties to the transportation of oil or gas are affiliated;
- (2) when the contract for the transportation of oil or gas is not an arm's length transaction or is not representative of the market value of that transportation;
- (3) when the method of transportation of oil or gas is not reasonable in view of existing alternative methods of transportation.

(b) If the department finds that the conditions in (a)(1), (2), and (3) of this section are present, the department shall determine the reasonable costs of transportation, using the fair market value of like transportation, the fair market value of equally efficient and available alternative modes of transportation, or other reasonable methods. Transportation costs fixed by tariff rates properly on file with the Regulatory Commission of Alaska or other regulatory agency shall be considered prima facie reasonable.

(c) In determining the gross value of oil under (a) of this section, the department may not allow as reasonable costs of transportation

(1) the amount of loss of or damage to, or of expense incurred due to the loss of or damage to, a vessel used to transport oil if the loss, damage, or expense is incurred in connection with a catastrophic oil discharge from the vessel into the marine or inland waters of the state;

(2) the incremental costs of transportation of the oil that are attributable to temporary use of or chartered or substituted service provided by another vessel due to the loss of or damage to a vessel regularly used to transport oil and that are incurred in connection with a catastrophic oil discharge into the marine or inland waters of the state; and

(3) the costs incurred to charter, contract, or hire vessels and equipment used to contain or clean up a catastrophic oil discharge. (§ 6 cl 107 SLA 1976; am § 92 ch 59 SLA 1982; am § 1 ch 114 SLA 1989)

Revisor's notes. — A reference to "AS 43.55.011 — 43.55.150" was substituted for "this chapter" in (a) of this section in 1989 to reflect the enactment of AS 43.55.200 — 43.55.240.

In 1999, the current reference in subsection (b) to "Regulatory Commission of Alaska" was substituted

for "Alaska Public Utilities Commission" in accordance with § 20(a), ch. 25, SLA 1999.

Legislative history reports. — For legislative letter of intent in connection with the enactment of (c) of this section by § 1, ch. 114, SLA 1989 (HCS CSSB 299-Res), see 1989 Senate Journal 1507.

Article 2. Conservation Surcharge on Oil.

Section

201. Surcharge levied
211. Use of revenue derived from surcharge
221. Suspension and reimposition of the surcharge

Section

231. Surcharge not imposed
299. Definitions

Cross references. — For legislative findings and purpose in connection with the enactment of this article, see § 1 ch. 112, SLA 1989 in the Temporary and Special Acts.

Editor's notes. — Section 5, ch. 112, SLA 1989 provides that chapter 112 "does not relieve a person

responsible for an oil terminal facility, offshore exploration or production facility, or a vessel that transports crude oil, or a person who has control of a hazardous substance, from the responsibility for containing and cleaning up a discharge of oil or the hazardous substance as required by law."

Sec. 43.55.200. Surcharge levied. [Repealed, § 43 ch 128 SLA 1994.]

Sec. 43.55.201. Surcharge levied. (a) Every producer of oil shall pay a surcharge of \$.02 per barrel of oil produced from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation.

(b) The surcharge imposed by (a) of this section is in addition to and shall be paid in the same manner as the tax imposed by AS 43.55.011 — 43.55.150; and is in addition to the surcharge imposed by AS 43.55.300 — 43.55.310.

(c) A producer of oil shall make reports of production in the same manner and under the same penalties as required under AS 43.55.011 — 43.55.150. (§ 13 ch 128 SLA 1994)

Sec. 43.55.210. Disposition of proceeds of surcharge. [Repealed, § 43 ch 128 SLA 1994.]

Sec. 43.55.211. Use of revenue derived from surcharge. The legislature may appropriate the annual estimated balance of the account maintained under AS 37.05.142 for deposits into the general fund of the proceeds of the surcharge levied under AS 43.55.201 to the response account in the oil and hazardous substance release prevention and response fund established by AS 46.08.010. (§ 14 ch 128 SLA 1994)

Sec. 43.55.220. Use of revenue derived from surcharge. [Repealed, § 43 ch 128 SLA 1994.]

Sec. 43.55.221. Suspension and reimposition of the surcharge. (a) Not later than 30 days after the end of each calendar quarter, the commissioner of administration shall determine, as of the end of that quarter, the fiscal year's

(1) unreserved and unobligated balance in the response account of the oil and hazardous substance release prevention and response fund established in AS 46.08.010; for purposes of this paragraph, the "unreserved and unobligated balance in the response account" means the cash balance of the account less the sum of

- (A) reserves for outstanding appropriations from the account;
- (B) encumbrances of money in the account; and
- (C) other liabilities of the account;

(2) balance of the account maintained under AS 37.05.142 that accounts for the proceeds of the surcharge that are deposited in the general fund;

(3) the balance of the response mitigation account established by AS 46.08.025(b) that originated from the sources described in AS 46.08.025(a)(3) and that is available for appropriation to the response account of the fund established in AS 46.08.010.

(b) Within 15 days after making the determinations required by (a) of this section, the commissioner of administration shall

(1) add the amounts determined under (a)(1) — (3) of this section; and

(2) report the sum calculated under (1) of this subsection to the commissioner of revenue.

(c) In making the determination required by (a) of this section, the commissioner of administration may not consider money described in (a) of this section that is subject to a dedication imposed by law that restricts the use of the money to a specific purpose for which the response account of the oil and hazardous substance release prevention and response fund established in AS 46.08.010 may not be lawfully expended.

(d) If the commissioner of administration reports that the sum reported under (b) of this section equals or exceeds \$50,000,000, the commissioner of revenue shall suspend imposition and collection of the surcharge levied and collected under AS 43.55.201. Suspension of the imposition and collection of the surcharge begins on the first day of the calendar quarter next following the commissioner's receipt of the commissioner of administration's report under (b) of this section. Before the first day of a suspension authorized by this subsection, the commissioner shall make a reasonable effort to notify all persons who are known to the department to be paying the surcharge under AS 43.55.201 that the surcharge will be suspended.

(e) Except as provided in AS 43.55.231, if the commissioner of administration reports that the sum reported under (b) of this section is less than \$50,000,000, the commissioner of revenue shall require imposition and collection of the surcharge authorized under AS 43.55.201. If the surcharge is not in effect, reimposition of the surcharge begins on the first day of the calendar quarter next following the commissioner's receipt of the commissioner of administration's report under (b) of this section. Before the first day of reimposition of the surcharge authorized by this subsection, the commissioner shall make a reasonable effort to notify all persons who are known to the department to be required to pay the surcharge under AS 43.55.201 that the surcharge will be reimposed. (§ 15 ch 128 SLA 1994)

Sec. 43.55.230. Suspension and reimposition of the surcharge. [Repealed, § 43 ch 128 SLA 1994.]

Sec. 43.55.231. Surcharge not imposed. (a) The surcharge authorized by AS 43.55.201 is not levied during any fiscal year for which

(1) the legislature does not, during the regular or a special legislative session preceding the first day of the fiscal year, appropriate at least an amount equal to the amount determined under (b) of this section from the general fund to the response account in the oil and hazardous substance release prevention and response fund; or

(2) the legislature, during the regular or a special legislative session preceding the first day of the fiscal year, appropriates at least the amount of money equal to the amount determined under (b) of this section from the general fund to the response account in the oil and hazardous substance release prevention and response fund and that appropriation is vetoed or reduced by the governor.

(b) The amount of money required to be appropriated from the general fund to the response account in the oil and hazardous substance release prevention and response

fund by (a) of this section is the amount, determined for the last day of the preceding fiscal year, that is the sum of the actual or estimated balance of

- (1) the account maintained under AS 37.05.142 to account for all proceeds of the surcharge that are deposited into the general fund; and
- (2) the portion of the balance of the response mitigation account established by AS 46.08.025(b) that originated from the recovery of money described in AS 46.08.025(a)(3). (§ 16 ch 128 SLA 1994)

Sec. 43.55.240. Surcharge not imposed. [Repealed, § 43 ch 128 SLA 1994.]

Sec. 43.55.299. Definitions. In AS 43.55.201 — 43.55.299,

- (1) "response account" means the oil and hazardous substance release response account established in AS 46.08.010(a)(2);
- (2) "response mitigation account" means the oil and hazardous substance release response mitigation account established in AS 46.08.025(b). (§ 17 ch 128 SLA 1994)

Article 3. Additional Conservation Surcharge on Oil.

Section

300. Surcharge levied
310. Use of revenue derived from surcharge

Sec. 43.55.300. Surcharge levied. (a) Every producer of oil shall pay a surcharge of \$.03 per barrel of oil produced from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation.

(b) The surcharge imposed by (a) of this section is in addition to and shall be paid in the same manner as the tax imposed by AS 43.55.011 — 43.55.150; and is in addition to the surcharge imposed by AS 43.55.201 — 43.55.231.

(c) A producer of oil shall make reports of production in the same manner and under the same penalties as required under AS 43.55.011 — 43.55.150. (§ 17 ch 128 SLA 1994)

Sec. 43.55.310. Use of revenue derived from surcharge. The legislature may appropriate the annual estimated balance of the account maintained under AS 37.05.142 for deposits into the general fund of the proceeds of the surcharge levied under AS 43.55.300 to the oil and hazardous substance release prevention account in the oil and hazardous substance release prevention and response fund established by AS 46.08.010. (§ 17 ch 128 SLA 1994)

Article 4. General Provisions.

Section

900. Definitions

Sec. 43.55.900. Definitions. In this chapter,

- (1) "API gravity" means the specific gravity of oil measured in degrees on the American Petroleum Institute scale;
- (2) "barrel of oil" means 42 United States gallons of oil of 231 cubic inches a gallon computed at a temperature of 60 degrees Fahrenheit;
- (3) "catastrophic oil discharge" has the meaning given in AS 46.04.900;
- (4) "cubic foot of gas" means the volume of gas contained in one cubic foot of space measured at a pressure base of 14.65 pounds per square inch absolute and a temperature base of 60 degrees Fahrenheit;
- (5) *[Repealed, § 38 ch 168 SLA 1990.]*

(6) "gas" means all natural, associated or casinghead gas, all hydrocarbons produced at the wellhead not defined as oil, and all liquid hydrocarbons extracted at a gas processing plant;

(7) "gross value at the point of production" means

(A) for oil, the value of the oil at the point where it is metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) in a condition of pipeline quality on the premises of the lease or property from which it is recovered; however, if the oil is not of pipeline quality when it is removed from the premises of the lease or property from which it is recovered, or if the oil recovered from a lease or property is not metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) on the premises of the lease or property from which it is recovered, then the gross value at the point of production is the value of that oil at the off-premises location where the oil is first metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) in a condition of pipeline quality;

(B) for gas recovered from or in association with oil, the value of the gas at the point where it is accurately metered or measured after separation from the oil or gas run through a gas processing plant, the gross value at the point of production is the full consideration received by the producer for the gas if sold in an arm's length transaction or, in the absence of an arm's length transaction, is the sum of the value of the liquids extracted from the gas at the plant and the value of the residue gas, less a reasonable allowance for processing the gas at the plant and for transporting the gas to the plant from the premises upon which the oil production operation is conducted; and

(C) for gas not recovered from or in association with oil, the value of the gas at the point where it is accurately metered or measured or the value of the gas at the point of sale, if any, on the premises of the lease or property from which the gas is recovered, whichever is the higher value; for gas run through a gas processing plant, the gross value at the point of production is the full consideration received by the producer for the gas if sold in an arm's length transaction or, in the absence of an arm's length transaction, is the sum of the value of the liquids extracted from the gas at the plant and the value of the residue gas, less a reasonable allowance for processing the gas at the plant and for transporting the gas to the plant from the point where it was accurately metered or measured;

(8) "intangible drilling expenses" as defined in 26 U.S.C. 263(c) (Internal Revenue Code) as defined on January 1, 1974;

(9) "lease or property" means any right, title, or interest in or the right to produce or recover oil or gas including:

(A) a mineral interest;

(B) a leasehold interest;

(C) a working interest, royalty interest, overriding royalty interest, production payment, net profit interest, or any other interest in a lease, concession, joint venture, or other agreement for exploration, development, or production of oil and gas or of gas only;

(D) a working interest, royalty interest, overriding royalty interest, production payment, net profit interest or any other interest in an agreement for unitization or pooling under the provisions of 26 U.S.C. 614(b)(3) (Internal Revenue Code) as defined on January 1, 1974;

(10) "oil" means crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or condensate recovered by separation from gas other than at a gas processing plant;

(11) "oil production operation" means the operation by which oil is recovered from a lease or property and rendered into oil of pipeline quality, and includes any gathering done before the oil is finally rendered into oil of pipeline quality;

(12) "old crude oil" means crude oil production classified as "old crude oil" in 10 CFR Chapter II Part 212-72 on May 1, 1977, and which is also classified as "old crude oil" on the date of production;

(13) "ownership or right to which is exempt from taxation" means any ownership interest of the federal government or the state;

(14) "pipeline quality" means good and merchantable condition;

(15) "surcharge" means

(A) when used in AS 43.55.201 — 43.55.299, the surcharge levied by AS 43.55.201;

(B) when used in AS 43.55.300 — 43.55.310, the surcharge levied by AS 43.55.300;

(16) "well days" means the number of days in which a well is operating during a month. § 1 ch 7 ESLA 1955; am § 17 ch 101 SLA 1972; am § 3 ch 4 FSSLA 1973; am § 4 ch 159 SLA 1975; am §§ 7, 9 ch 136 SLA 1977; am § 2 ch 112 SLA 1989; am § 2 ch 114 SLA 1989; am § 38 ch 168 SLA 1990; am § 18 ch 128 SLA 1994; am § 50 ch 49 SLA 2004)

Revisor's notes. — Formerly AS 43.55.140. Renumbered in 1989. The section was reorganized in 1983 to alphabetize the defined terms. Paragraph (3) was enacted as (15) and paragraph (15) was enacted as AS 43.55.290. Renumbered, with corresponding word changes, in 1989, at which time the remaining

paragraphs were renumbered accordingly.

Effect of amendments. — The 2004 amendment, effective June 5, 2004, in subparagraph (9)(C) deleted "oil and gas" preceding "exploration" and added "of oil and gas or of gas only" at the end, and made stylistic changes.

Chapter 56. Oil and Gas Exploration, Production, and Pipeline Transportation Property Taxes.

Section

- 10 Levy of tax
- 18 Oil or gas property education credit
- 20 Exemptions
- 30 In place of other taxes
- 40 State Assessment Review Board
- 50 Per diem and expenses
- 60 Assessment
- 70 Returns
- 80 Investigation
- 90 Assessment roll
- 100 Assessment notice

Section

- 110 Appeal to the department
- 120 Appeal to the board
- 130 Hearings of the board
- 135 Certification
- 140 Supplementary assessment rolls
- 150 Collection and deposit
- 160 Interest and penalty
- 180 Remedy
- 200 Regulations
- 210 Definitions

Administrative Code. — For oil and gas exploration, production and pipeline transportation property tax, see 15 AAC 56.

Collateral references. — 71 Am. Jur. 2d, State and Local Taxation, §§ 155-157.

84 C.J.S., Taxation, §§ 95-98, 398-400, 415, 494-500.

Constitutional exemption from taxation as subject to legislative regulation respecting conditions of its assertion. 4 ALR2d 744.

Loading or unloading interstate freight in performance of obligation resting upon one other than interstate carrier as interstate commerce as regards local taxation. 10 ALR2d 651.

Property destined for removal from state as subject to taxation therein. 11 ALR2d 938.

Power of legislature to remit, release, or compromise tax claim. 28 ALR2d 1425.

Validity of provision for exemption from taxation of property transferred to private parties for redevelopment purposes. 44 ALR2d 1446.

When right to refund of state or local taxes accrues within statute limiting time for applying for refund. 46 ALR2d 1350.

Legislative power to exempt from taxation property purposes, or uses additional to those specified in constitution. 61 ALR2d 1031.

Financial hardship or inability to pay taxes as rendering inapplicable statutes denying remedy by injunction against assessment or collection of tax. 65 ALR2d 550.

Expenses and taxes deductible by lessee in computing lessor's oil and gas royalty or other return. 70 ALR2d 1056.

Right of property taxpayer to recover back taxes voluntarily but mistakenly paid a second or successive time. 84 ALR2d 1133.

Transportation, freight, mailing, or handling charges billed separately to purchaser of goods as subject to sales or use taxes. 2 ALR4th 1124.

SB

305

(FILE 2)

ADMIN. PRESENTATION
ROGER MARKS

Sen. Res.
2-23-06

PPT REVENUE STUDIES

Presentation to
House & Senate Resources

Alaska Department of Revenue
Tax Division
February 23, 2006

1

OVERVIEW

- Description of tax
- Description of model
- Long-term cumulative revenues
- Annual revenues
- Corporate take

2

PPT

- Start with WELLHEAD VALUE (market value less transportation)
- Subtract UPSTREAM COSTS (capital, operating, royalties, property tax)
- Subtract additional STANDARD ALLOWANCE of \$73 million
- This is TAXABLE INCOME
- Multiply taxable income by TAX RATE
- This is the TAX BEFORE CREDITS
- Credits are capital costs multiplied by CREDIT RATE
- This is subtracted from the tax before credits to yield the PPT PAID

3

PPT Example

- 20 million barrels @ \$50/bbl ANS West Coast = MARKET VALUE of \$1,000 million
- \$2/bbl shipping + \$3/bbl TAPS = \$5/bbl = \$100 million
- WELLHEAD VALUE = \$900 million
- UPSTREAM COST = Capital + Operating + Royalty + Property Tax = \$300 million
- STANDARD ALLOWANCE of \$73 million
- TAXABLE INCOME = \$900 - \$300 - \$73 = \$527 million
- If TAX RATE = 20%, TAX BEFORE CREDITS = 20% X \$527 = \$105 million
- If capital = \$200 million and the CREDIT RATE = 20%, credit = \$40 million
- PPT PAID = \$105 - \$40 = \$65 million

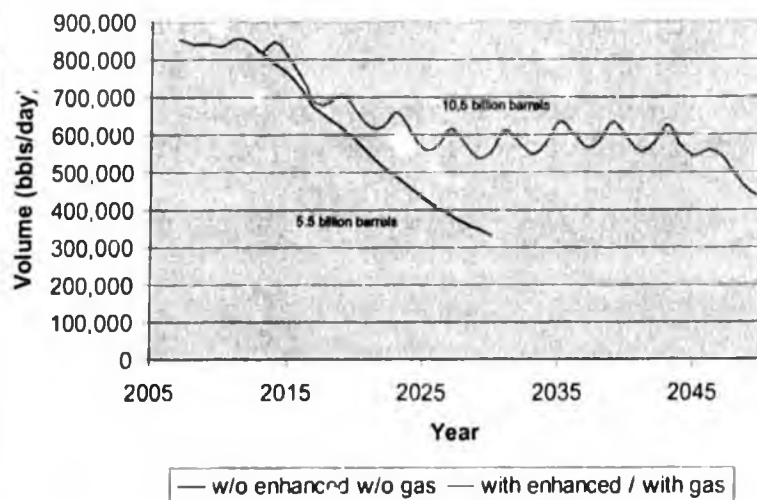
4

Volume Scenarios

- No enhanced volumes / No gasline
 - Totals 5.5 billion barrels through 2030
 - Including 0.8 billion barrels of heavy oil
 - No additional heavy oil at prices under \$30
- Gasline and enhanced volumes
 - Totals 10.5 billion barrels through 2050
 - Includes additional 3.2 billion barrels conventional
 - 700 million barrels net stemming from gasline
 - Including additional 1.8 billion barrels heavy oil
 - No additional heavy oil at prices under \$30

5

Figure 1
Volume Scenarios



6

Costs and Prices

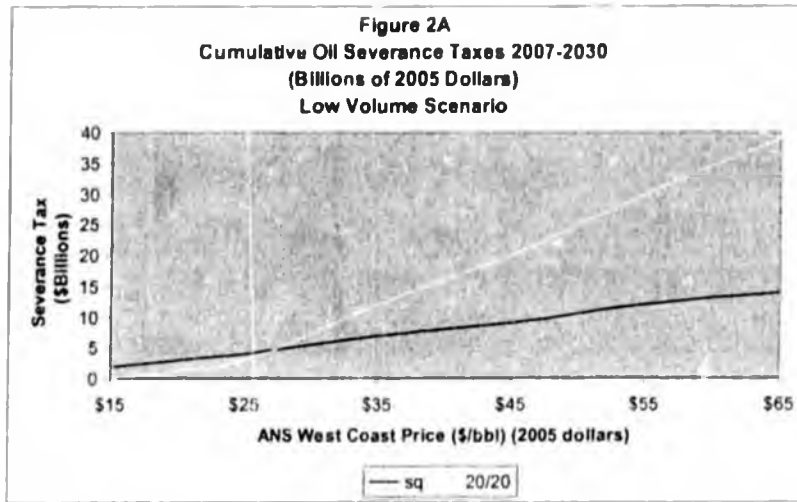
- Costs
 - \$100 mm/yr exploration through 2040
 - \$1/bbl on-going capital on all barrels
 - \$3.50/bbl developmental capital on 2/3 of existing conventional oil
 - \$8/bbl developmental capital on 2/3 of existing heavy oil
 - \$3.50/bbl developmental capital on new conventional oil
 - \$8/bbl developmental capital on new heavy oil
 - \$3/bbl operating costs on conventional oil
 - \$5/bbl operating costs on heavy oil
- Costs and prices are real \$2005 dollars
- Heavy oil discounted 8% for quality

7

Cumulative Revenues

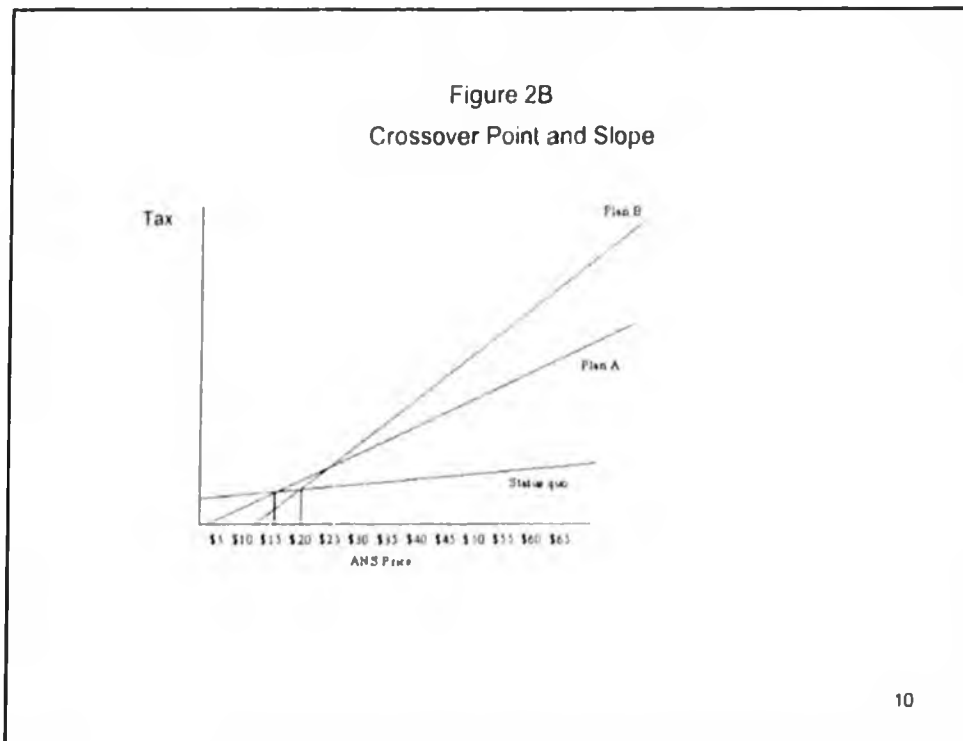
- Without enhanced volumes / without gasoline (through 2030)
- With enhanced volumes / with gasoline (through 2050)
 - Does not include gasoline severance taxes
 - Includes gasoline costs

8

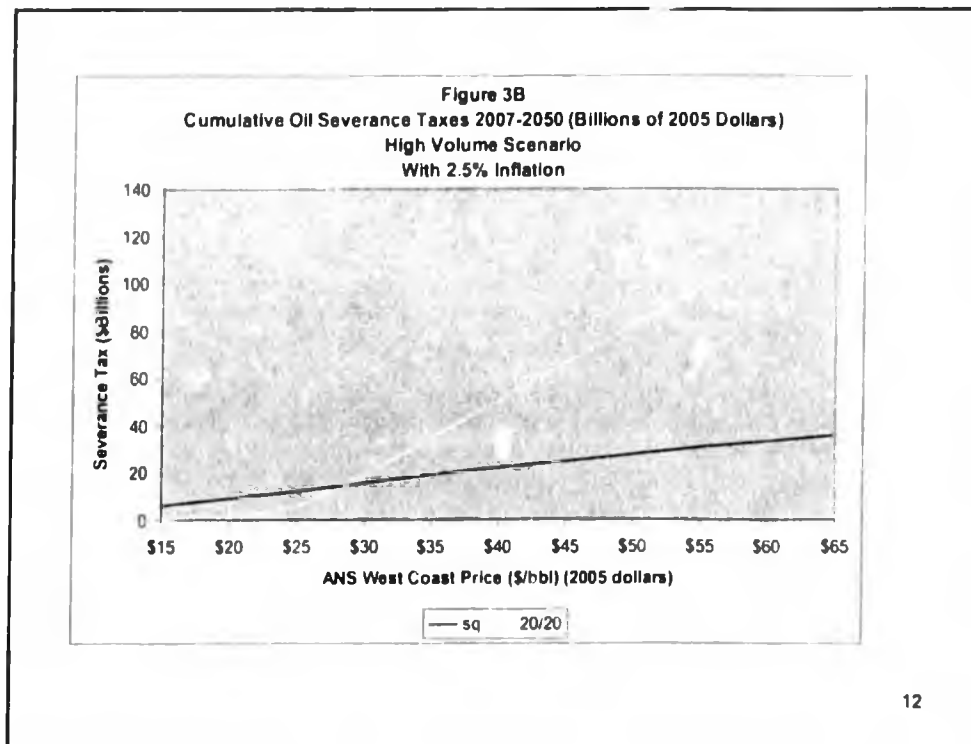
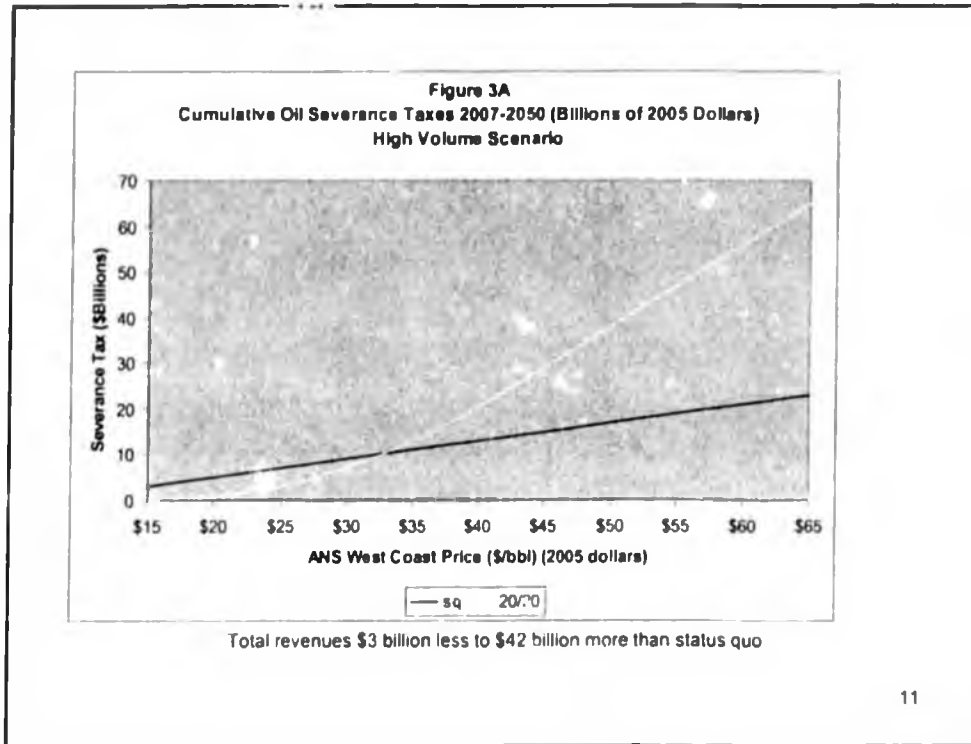


Total revenues \$2 billion less to \$25 billion more than status quo

9



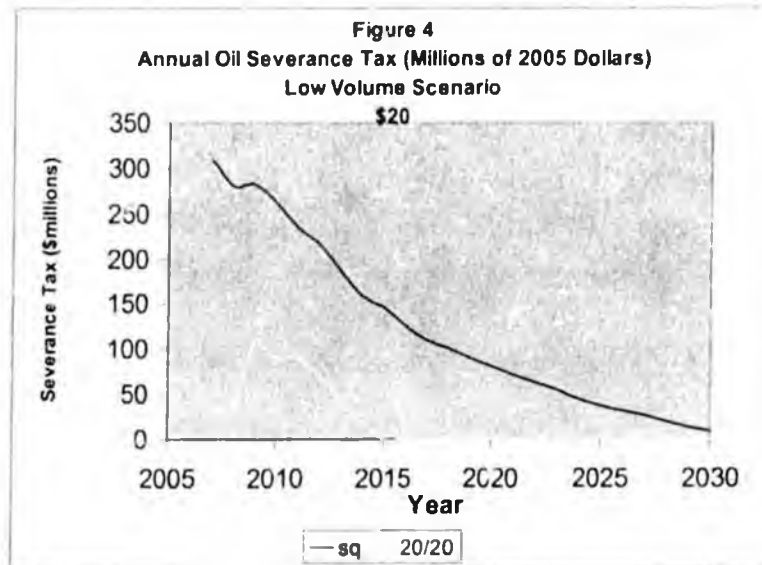
10



Annual Revenues

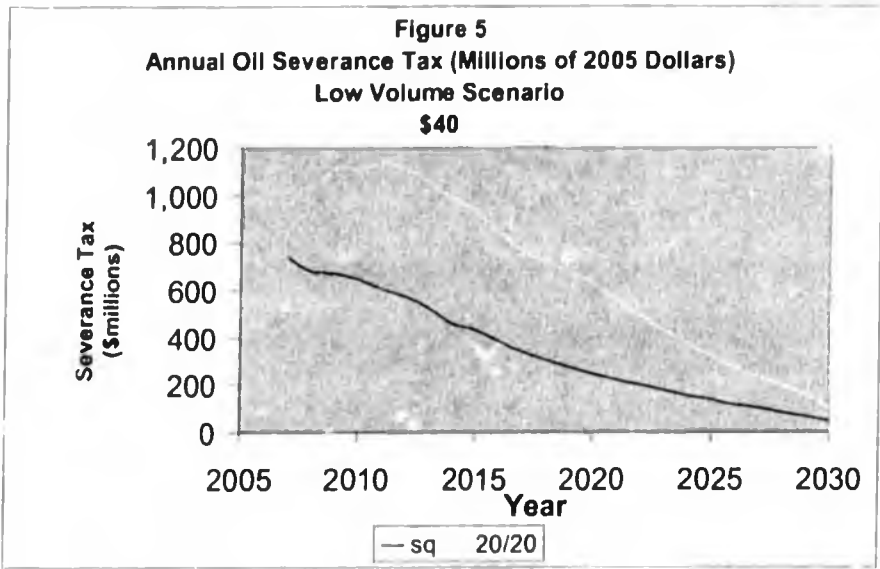
- Without enhanced volumes / without gasoline (through 2030)
 - \$20
 - \$40
 - \$60
- With gasoline / with enhanced volumes (through 2050) (does not include gasoline severance taxes; includes gasoline costs)
 - \$20
 - \$40
 - \$60

13

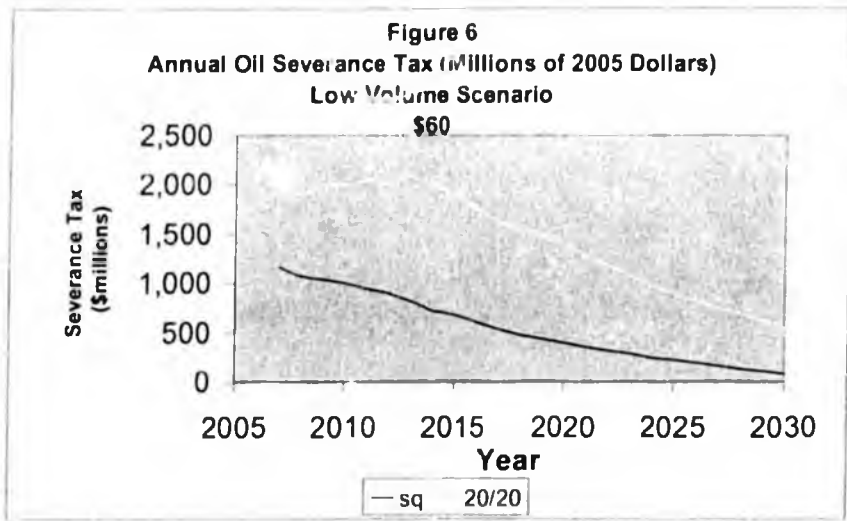


Average annual revenues \$100 million less than status quo

14

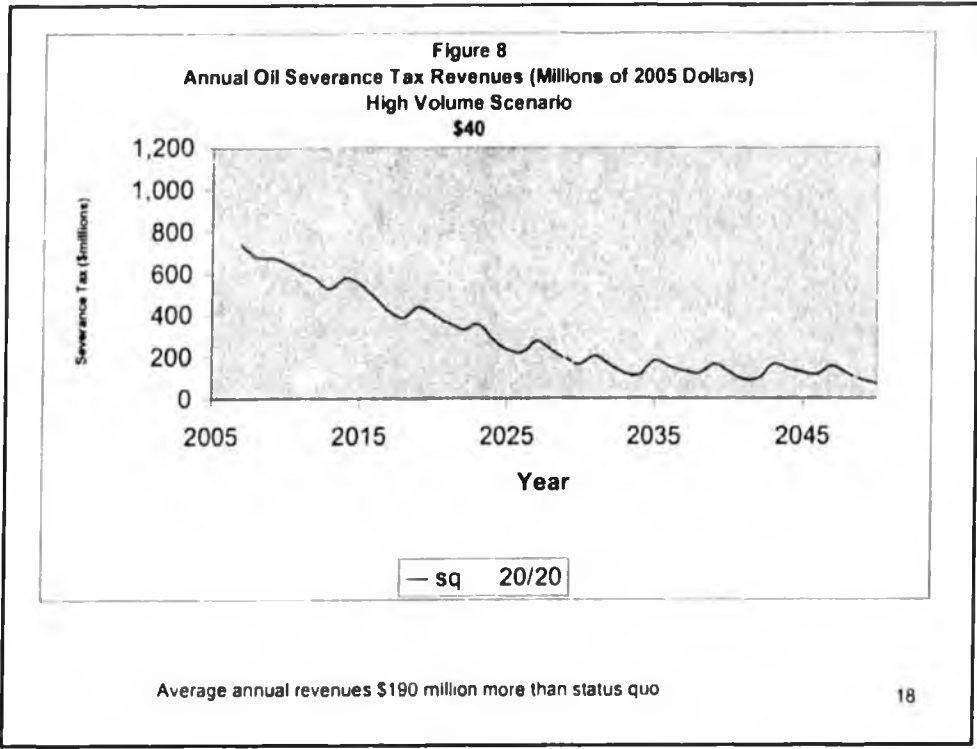
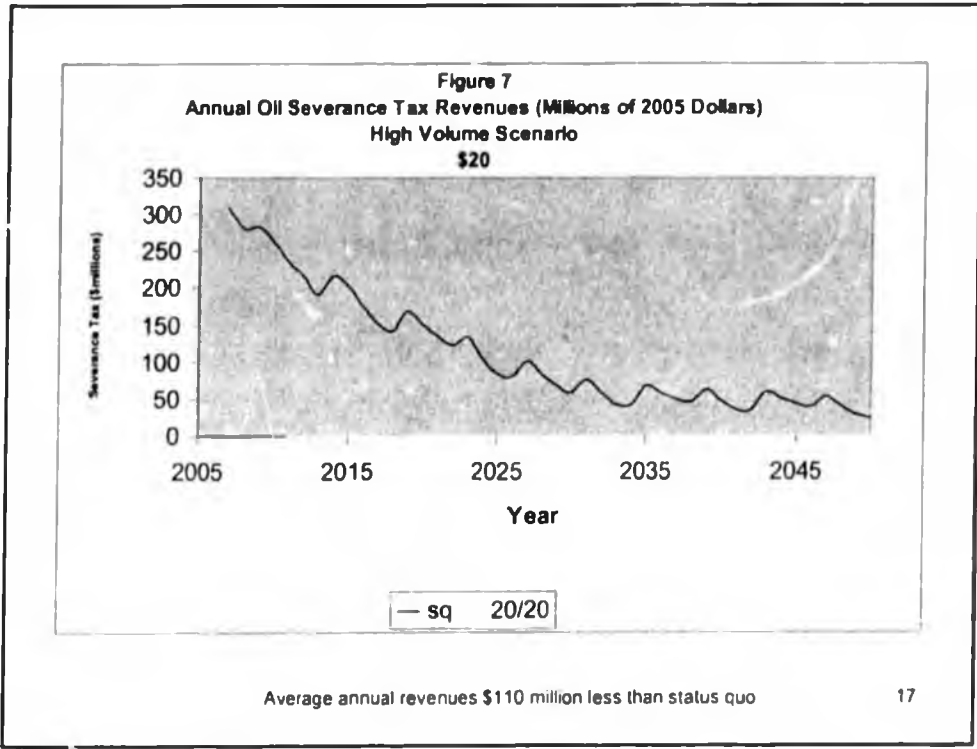


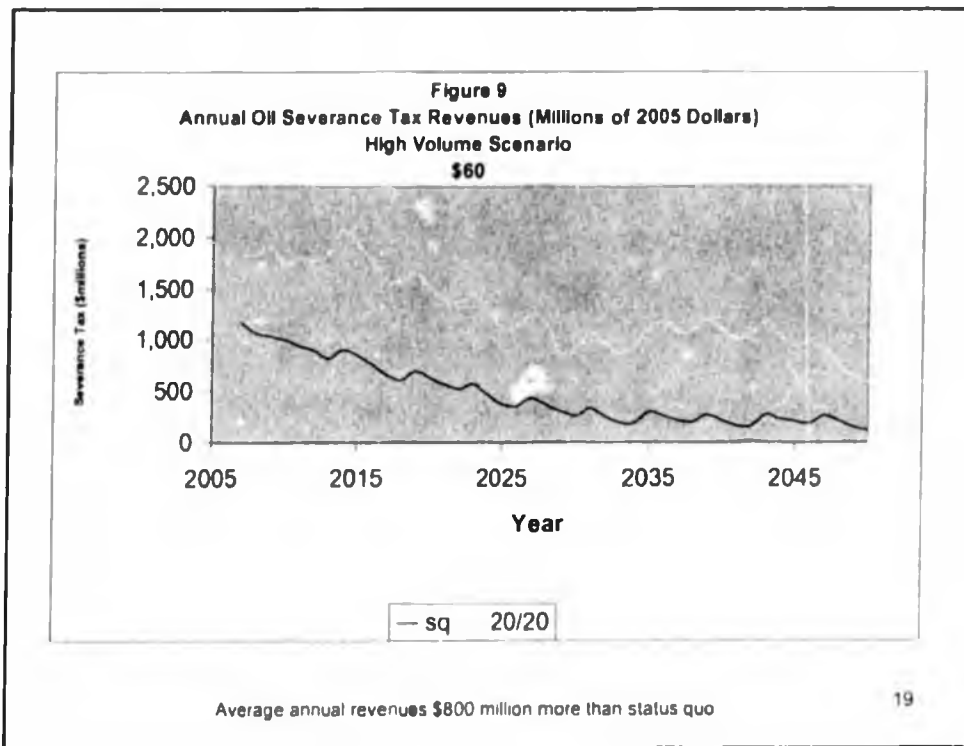
Average annual revenues \$330 million more than status quo



Average annual revenues \$900 million more than status quo

This is equivalent to total State Gasline revenues at a \$4.70/mmbtu market price

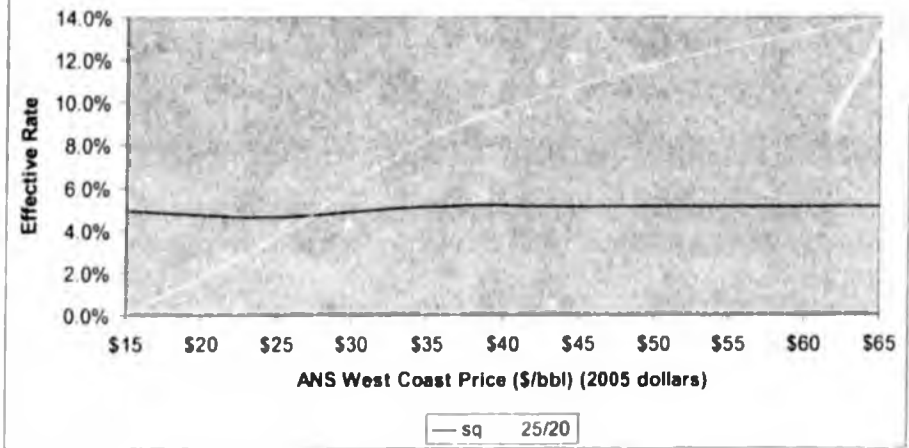




Effective Tax Rate

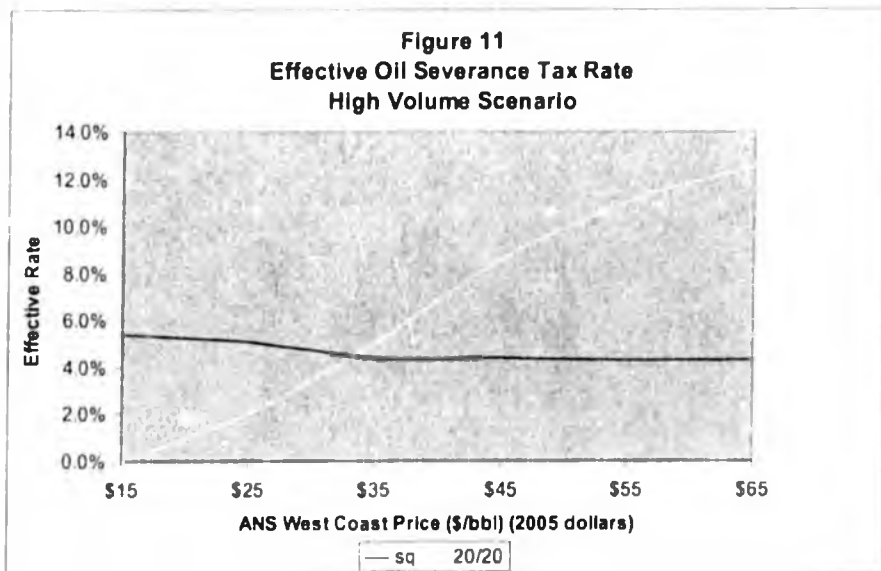
- Without enhanced volumes / without gasoline
- With enhanced volumes / with gasoline

Figure 10
Effective Oil Severance Tax Rate
Low Volume Scenario



21

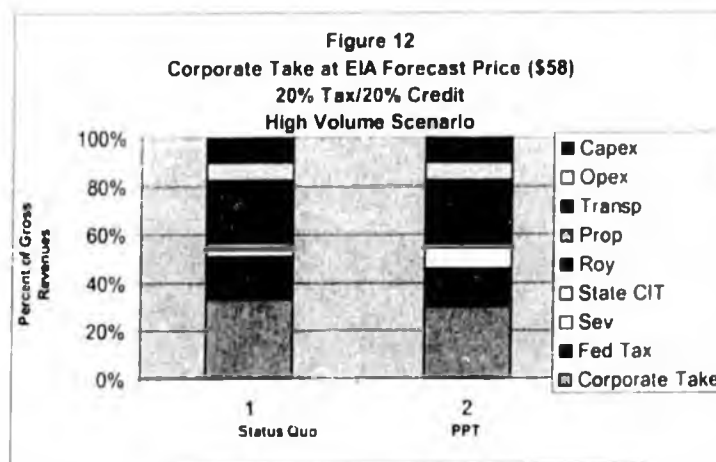
Figure 11
Effective Oil Severance Tax Rate
High Volume Scenario



22

Conclusion: Corporate Take

23



Corporate take goes from:
33% to 30% of gross income
49% to 44% of economic rent

State take goes from:
17% to 22% of gross income
25% to 32% of economic rent

24

ADMIN. PRESENTATION
DR. PEARO VAN MEURS

Sen. Res.
2-23-06

PETROLEUM PRODUCTION TAX

Presentations to the Senate
Resources Committee and to
the House Resources
Committee

February 23, 2006

1

FISCAL SYSTEM OF ALASKA

The fiscal system applicable to oil and gas of Alaska consists primarily of four components:

- Royalties
- Production tax (severance tax, "ELF")
- Property tax
- State corporate income tax

Additionally, there is federal corporate income tax.

This presentation is about the international competitive aspects of the proposed petroleum production tax.

In international comparisons always the entire State and Federal package together is compared.

2

PETROLEUM PRODUCTION TAX

The most recent proposal for the petroleum production tax is as follows:

Tax rate: 20%

Tax credit rate: 20%

Tax free allowance: Up to \$ 73 million

Capex clawback: 20% of capex over last 5 years

3

PETROLEUM PRODUCTION TAX

The presentation is primarily aimed at the discussion of my PPT report. The preparation of the report started in July 2005 and continued until February 14th this month.

Until early January 2006, I recommended a system with a 20% tax and 15% tax credit based on the international competitiveness analysis.

As a result of the economic analysis done in DOR in January 2006, and input from various other consultants, I amended my recommendation to a 25% tax rate and 20% tax credit rate.

Therefore, the report contains chapters about 20/15 and 25/20. Sensitivity analysis was done on other combinations.

The 20/20 concept and the capex clawback were adopted after the finalization of this report. However, from an international perspective of competitiveness, all these options are rather close and therefore the general conclusions of the report remain valid for the 20/20 concept as well.

4

PETROLEUM PRODUCTION TAX

The report contains the following chapters:

Executive Summary

1. Introduction
2. New international trends in government take
3. Economic analysis
4. Analysis of the 20/15 PPT
5. Analysis of alternative PPT's
6. International competitiveness of the 20/15 PPT
7. International rating of the 20/15 PPT
8. Competitiveness and PPT rate
9. International rating of the 25/20 PPT
10. Heavy Oil Incentives
11. Review of 25/20 PPT

5

PETROLEUM PRODUCTION TAX

COST SCENARIOS		PER BARREL COSTS							
		FOLLOW		FOLLOW		FOLLOW		FOLLOW	
		50 M	150 M	50 M	150 M	50 M	150 M	50 M	150 M
TOTAL OIL PRODUCTION (Millions)		0.0	50.0	100.0	50.0	50.0	150.0	50.0	50.0
HIGH COSTS									
TOTAL CAPEX	Exploration (m\$)	40	40	40	40	40	40	40	40
	Development (\$bil)	30	6.00	1.25	6.00	4.50	6.00	4.50	6.00
TOTAL OPEX	(\$bil)	0.00	5.00	1.75	6.50	2.00	2.00	2.00	2.00
AVERAGE COST*									
TOTAL CAPEX	Exploration (m\$)	37.0	37.5	37.5	37.5	37.5	37.5	37.5	37.5
	Development (\$bil)	9.25	6.00	4.37	4.00	3.75	3.00	3.00	3.00
TOTAL OPEX	(\$bil)	5.00	4.17	3.12	3.75	2.92	2.50	2.50	2.50
LOW COSTS									
TOTAL CAPEX	Exploration (m\$)	30	30	30	30	30	30	30	30
	Development (\$bil)	3.00	4.00	3.00	4.00	3.00	2.00	2.00	2.00
TOTAL OPEX	(\$bil)	6.00	3.32	2.50	3.00	2.32	2.00	2.00	2.00

The main focus of the economic work was on high cost fields of 50 million and 150 million barrels, since these field types represent North Slope conditions.

6

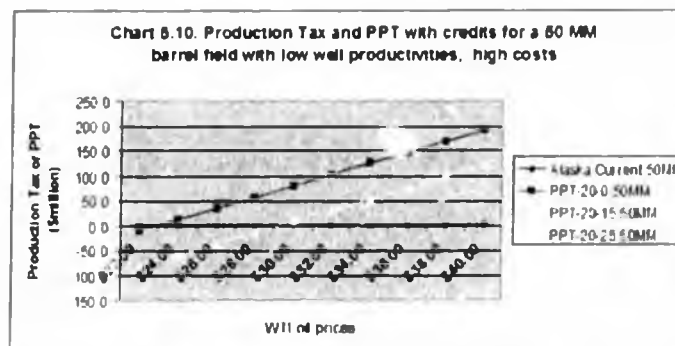
PETROLEUM PRODUCTION TAX

20/20 PPT \$ 40 CASE HIGH COSTS	DRY HOLE	50 MM	150 MM	500 MM
ROYALTIES	0.0	264.4	820.6	2827.5
PPT	-18.7	-110.1	180.6	1730.3
PROPERTY TAXES	0.0	28.3	86.3	292.3
STATE CIT	-2.6	100.6	318.1	1131.2
FEDERAL CIT	-8.9	340.3	1075.8	3825.5
ALASKA GOVERNMENT TAKE	45.6%	22.6%	31.4%	35.4%
FEDERAL GOVERNMENT TAKE	19.1%	27.2%	24.1%	22.7%
TOTAL	64.7%	49.8%	55.5%	58.1%

The 20/20 PPT provides for a progressive system for new investors, with a negative PPT on small fields to encourage investment.

7

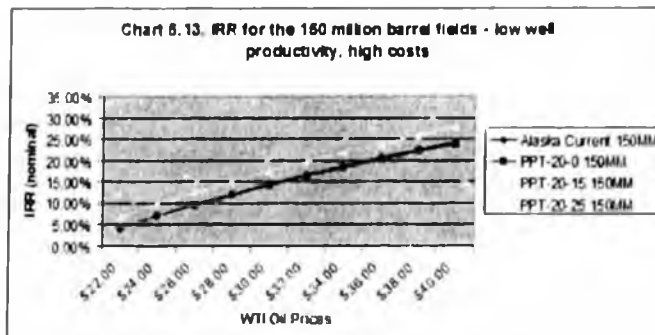
PETROLEUM PRODUCTION TAX



For small fields, the tax credits have a considerable impact on the break even point. Graph illustrates PPT for large producers

8

PETROLEUM PRODUCTION TAX



The level of tax credit is the main determinant of the rate of return. The higher the tax credits the higher the rate of return.

9

PPT AND COMPETITION

The competitive position of the Alaska system was analyzed using the same field sizes and applying international terms. Eight fiscal systems were analyzed. They all reflect areas in the world where currently considerable investment is taking place:

- Norway
- UK
- US Gulf Coast
- Alberta Oil Sands
- Nigeria
- Angola
- Russia-Sakhalin
- Azerbaijan

10

PETROLEUM PRODUCTION TAX

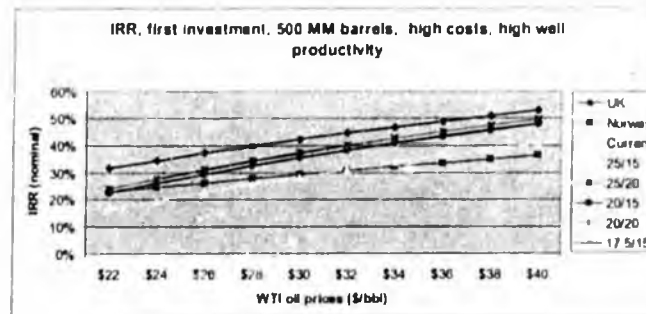
Jurisdiction	Net back differential (\$ per barrel)
Alaska-North Slope	\$ 7
Norway	\$ 1
UK	\$ 1
US Gulf of Mexico - Deep water	0
Nigeria - Deep Water	\$ 2
Alberta - oil sands	\$ 2
Angola	\$ 2
Russia-Sakhalin	\$ 1
Azerbaijan	\$ 6

The international comparison was corrected for the low net back of Alaska crude oil.

11

PPT AND COMPETITION

First Investment in 500 MM barrel field

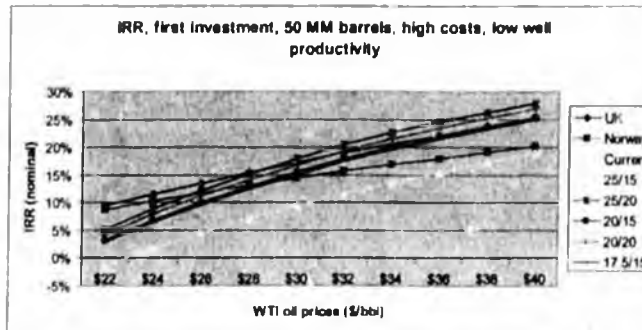


The PPT creates a very material improvement in IRR relative to Norway and UK, for a first investment in a large field.

12

PPT AND COMPETITION

First Investment in 50 MM barrel field

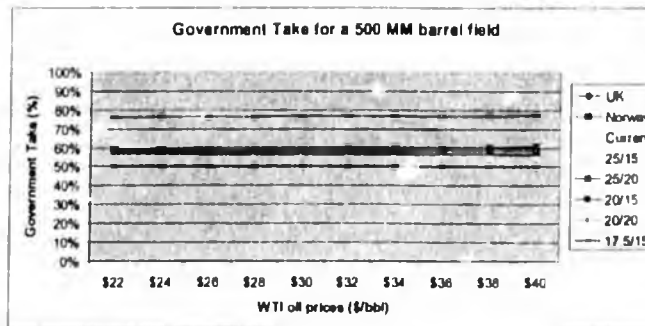


The PPT creates a very significant improvement in IRR relative to Norway and UK, for a first investment in a small field.

13

PPT AND COMPETITION

First Investment in 500 MM barrel field

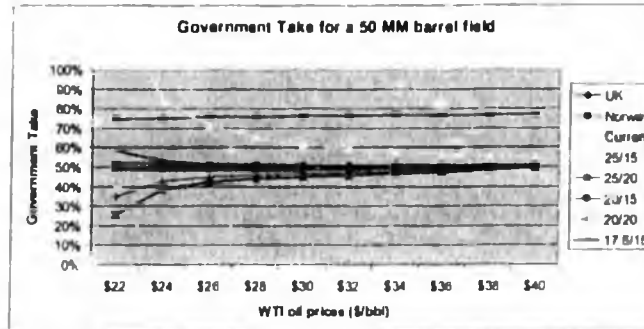


The PPT provides for a modest total government take for each of the five options, in order to compensate for the low net back prices and high costs.

14

PPT AND COMPETITION

First Investment in 50 MM barrel field



For first investors or small producers there is a reduction of government take compared to the Current System. The regressive nature of the government take is removed for each of the five options.

15

PPT and competition

A competitiveness index was prepared by evaluating 48 economic yardsticks for 10 fiscal terms.

If a fiscal system was the best in all of them the rating was 48. If the system was the worst in all of them the rating was 480

16

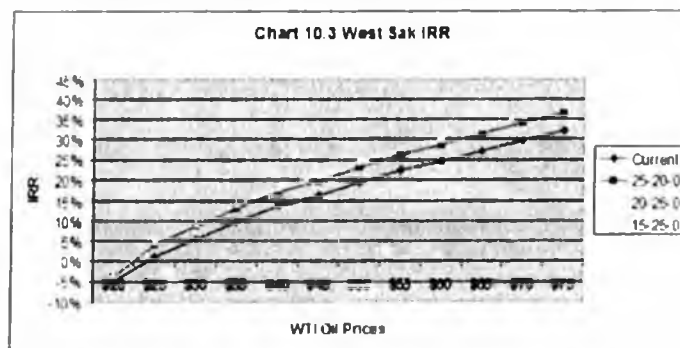
PPT and competition

RATING 20/15		RATING 25/20	
US GOM	52	US GOM	54
UK	135	UK	139
Alberta-Oil Sands	157	Alberta-Oil Sands	163
Nigeria	172	Nigeria	179
Alaska PPT	272	Alaska PPT	244
Angola	318	Angola	322
Azerbaijan	329	Azerbaijan	329
Alaska Current	364	Alaska Current	363
Norway	397	Norway	402
Russia-Sakhalin	444	Russia-Sakhalin	445

The rating of 25/20 was better than 20/15, because tax credits are very important in international rating. The system 20/20 would rate somewhat more attractive to investors than 25/20, but not significantly more.

17

PPT AND HEAVY OIL



The tax credit system will strongly enhance the rate of return on heavy oil projects, because the higher capital requirements will automatically result in more credits. The graph, however, also shows that it is not necessary to have very high credits of 25%.

18

Conclusion

The 20/20 proposal results in very competitive terms from an international perspective for new investors as well as for existing petroleum companies.

The system will therefore result in more investment in Alaska, while at the same time creating much higher revenues, primarily from existing production and under average and high prices also from new production.

Alaska's Production Tax

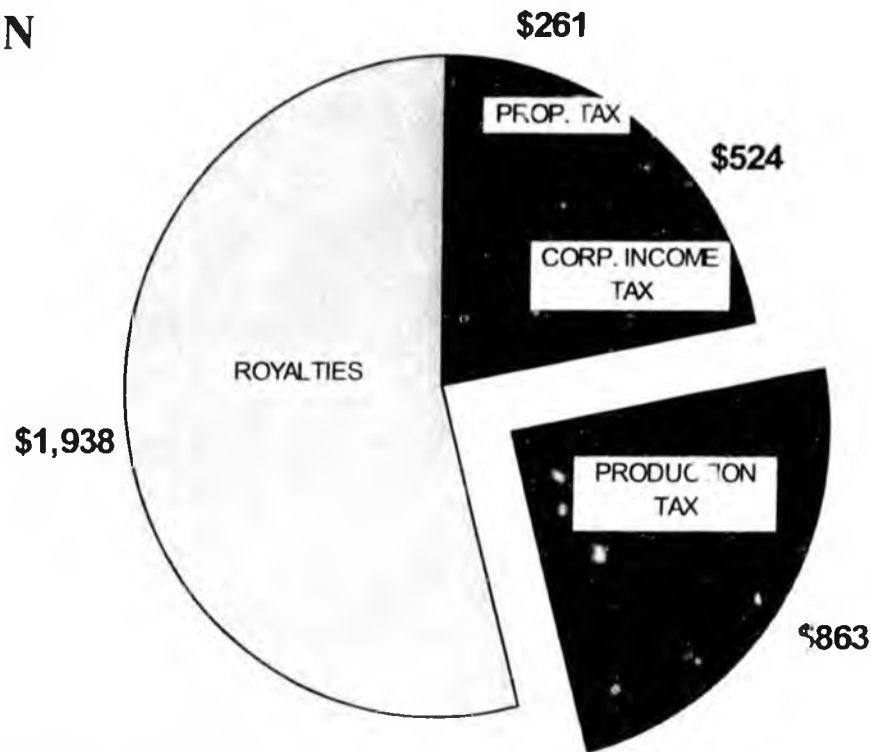
Theory and Practice

Library

Senate Resources Committee

Alaska's CURRENT Oil Fiscal System by Source FY '05

TOTAL
\$3631 MILLION



Alaska Dept. of Revenue Fall '05 Revenue Sources
Property taxes includes Municipalities
Royalties include Permanent Fund

Alaska's Oil and Gas Fiscal Regime

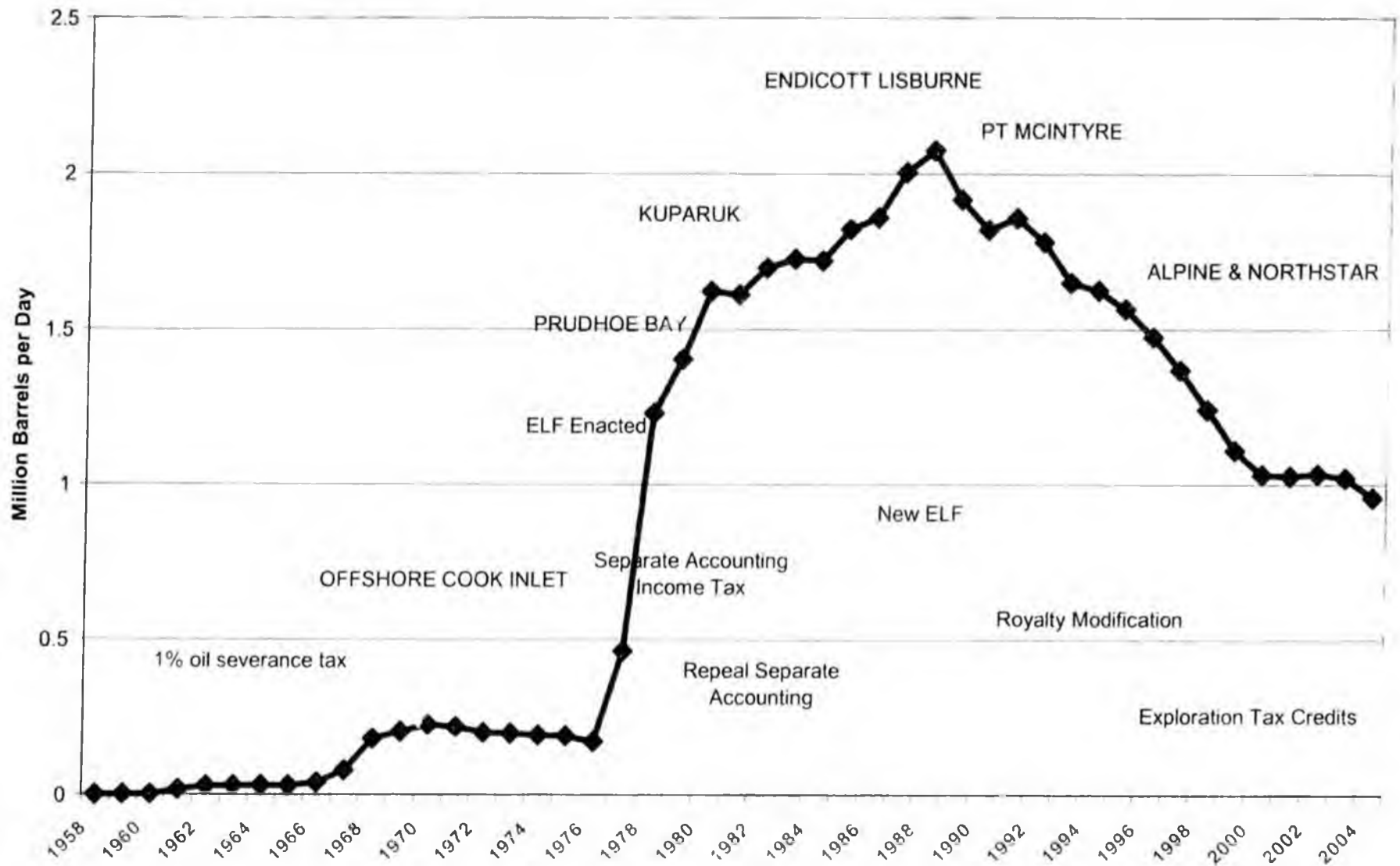
Royalty: State ownership share of the resource removed and sold from State lands.

Production tax : Tax on the severing of the resource from the State as either a % of value or a minimum cents per barrel or mcf.

Property Tax: Levied on the assessed value of production and transportation hardware at a rate of 20 mils

Corporate Income Tax: World-wide income allocated to Alaska based on three factors: production, property and sales (includes tariffs)

Alaska Oil Production and Major Fiscal Adaptations 1958 - 2004



History of Alaska Petroleum Fiscal System

- 1955--1% Severance Tax Levied
- 1967--Fairbanks Flood Severance Tax to 2%
- 1968 Trading Bay and Prudhoe Bay Discovered Severance Tax Increased to 3%
- 1969--Stair step Severance Tax 3% first 300 barrels, 5% next 700 barrels, 6% next 1500 barrels, 8% greater than 2500 barrels per well

History of Alaska Petroleum Fiscal System

- 1973 Property tax on Production and Transportation Hardware 20 mils
- 1975 Reserves Tax (Creditable vs. Severance Tax)
- 1977 ELF and 12.25% rate
- 1978 Separate Accounting Income tax
- 1981 Repeal Separate Accounting Income Tax, Severance Tax Rate to 15% +rounding

History of Alaska Petroleum Fiscal System

- 1989 New ELF + Oil Spill Tax
- 1995 Royalty Modification
- 2004 Exploration Tax Credit for Severance Tax

An International Perspective on
Petroleum Fiscal Systems

Norwegian Petroleum Directorate

The fiscal policy

Objective



- ◆ Government objective

- Maximise Government take
Get as high share of the profit as possible
- Maximise value of the petroleum resources



The goal is to create a win-win situations between the state and the oil companies

- ◆ Companies objective

- Maximise shareholders interest (private or public)

The fiscal policy

Government objective



- ♦ Important to create a win-win situations between the state and the oil companies
- ♦ The bargaining relationship depends mainly on profitability and risk
 - the government has to take the mother earth and the geological potential into consideration when it design the fiscal packages
- ♦ Crucial to relate the fiscal packages on the geological basis and where on the geological learning curve that province is

The fiscal policy Challenge

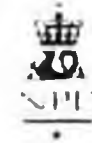


- ◆ The challenge of the fiscal policy:
 - Ensure as high share of the value as possible for the Government
 - Encouraging the exploration and exploitation of valuable resources

- ◆ One has to find a correct balance between the state interest and the oil companies.

The fiscal policy

The fiscal package



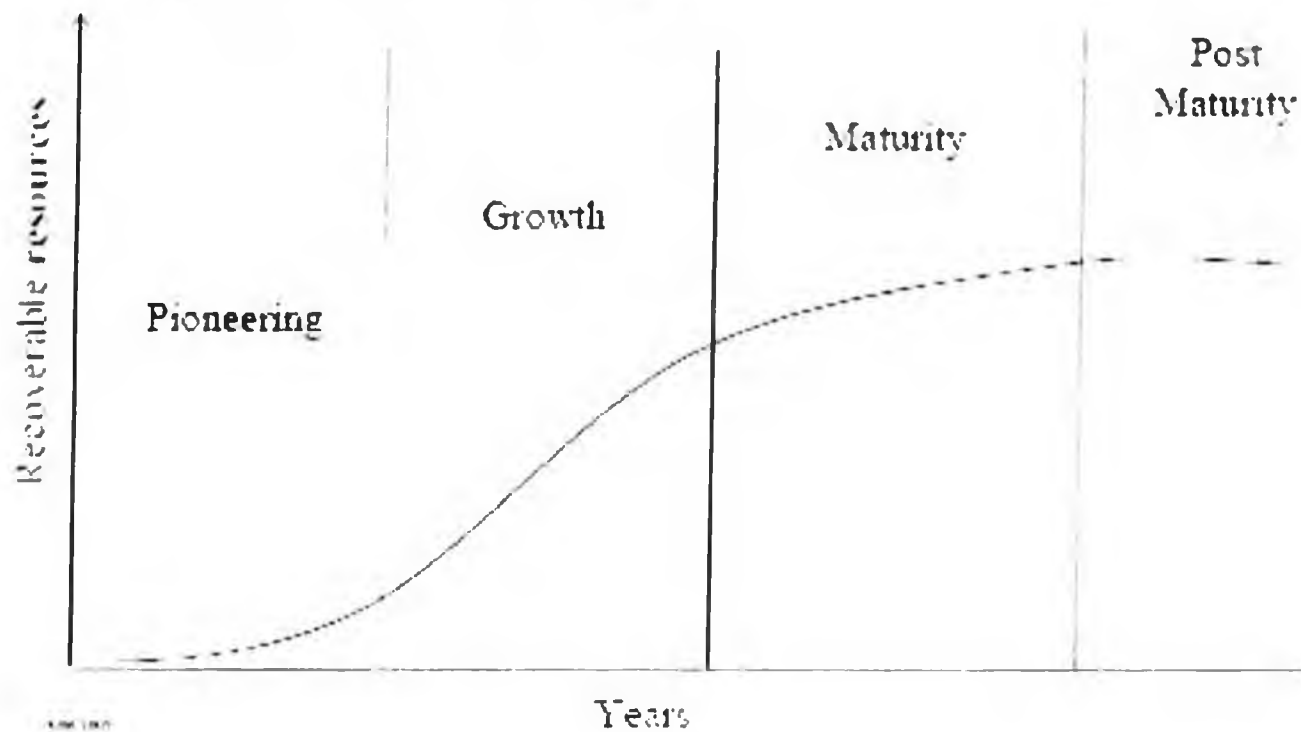
- ◆ The fiscal packages can be characterized both by the
 - The tax level
 - The tax system
- ◆ The fiscal policy can create disincentives to explore or to exploit the petroleum resources due to either the tax level or the tax system
- ◆ A key question to any fiscal package is whether it will influence the investment decision of the investor adversely with respects to the nation optimal decisions.

The fiscal package

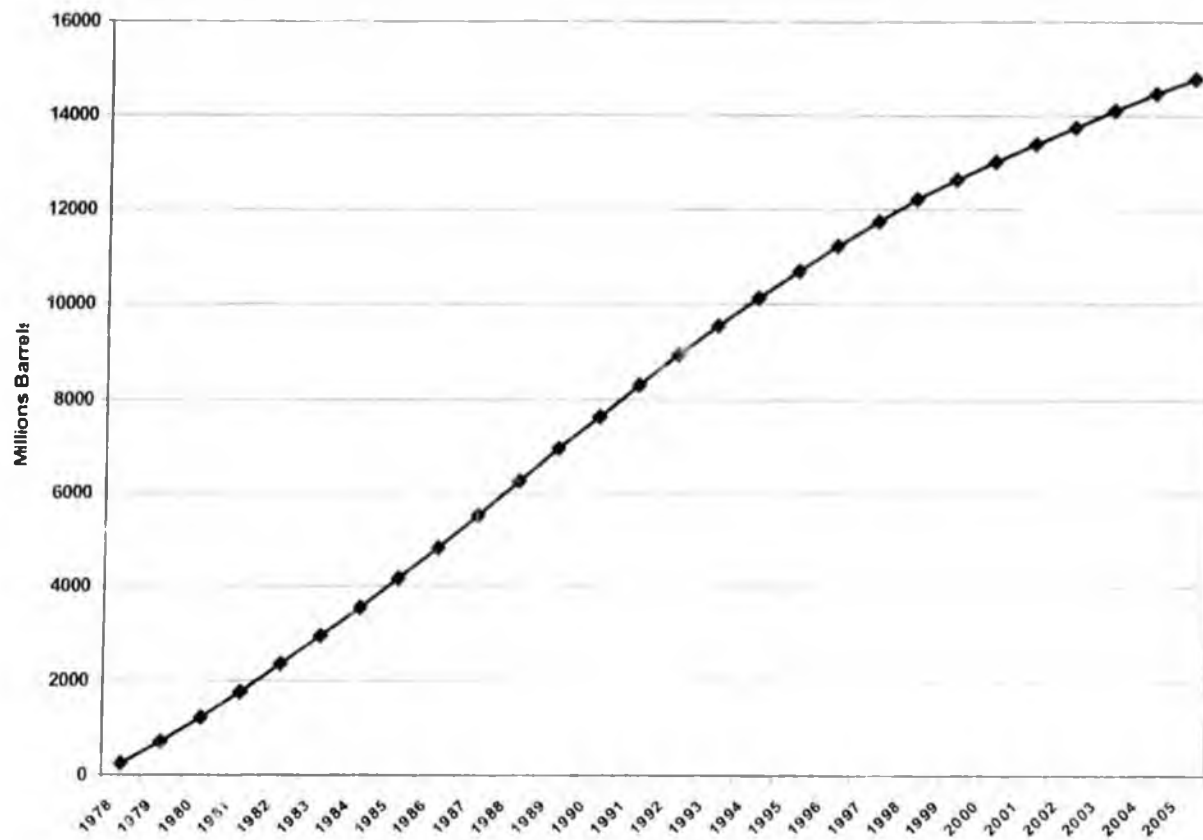
Relate to the geological basis and the geological learning curve



The geological learning curve



Cumulative Production Alaska North Slope



The fiscal package

The tax level



- ◆ If the geological prospectively is low, the prospect economy most likely will appear marginal
 - ◆ too high tax level can provide disincentives to incremental investments.

Crucial to relate the tax level on the geological basis and where on the geological learning curve that province is.

Petroleum Fiscal Systems

Concessionary System



- ♦ Oil company have exclusive right to explore and produce at its own risk and expense
- ♦ Oil company owns production
- ♦ Oil company often pays royalty and surface rental to the State
- ♦ Oil company pays taxes on profit
- ♦ Oil company owns equipment

Petroleum Fiscal Systems

Main elements in a Concessionary System



- ◆ Royalties
 - ◆ Gross tax – tax share of income and no tax share of costs
 - Might cause investment distortions
 - Give early revenues to the Government
 - Give relatively stable incomes to the Government
- ◆ Production taxes
 - ◆ Gross tax – tax share of income and no tax share of costs
 - Might cause investment distortions
 - Give early revenues to the Government
 - Give relatively stable incomes to the Government

Petroleum Fiscal Systems

Main elements in a Concessionary System (ctd)



- Corporate income taxes
 - Net income tax – tax share of both income and outcome
 - Might cause investment distortions due to the depreciation rules: the timing of the recovery of investments costs differ from the time of expended
 - Due to the discounting and inflationary effect the tax share of the costs is lower than the tax share of incomes

Petroleum Fiscal Systems

Main elements in a Production Sharing System



- Cost recovery
 - Contractor pays 100 % of costs which are recovered through Cost Oil
 - Cost Oil is a part of production normally with a ceiling each year
 - The costs can not be deducted immediately
 - Might cause investment distortions: due to the depreciation rule: the timing of the recovery of investments costs
 - Due to the discounting and inflationary effect the tax share of the costs is lower than the tax share of income:
- Profit oil
 - Remaining part of production. Profit Oil is shared between the Contractor and Concessionaire. Have the same effects as income taxes
 - R-factor determines the Profit Oil Split – allows progressive government take

Petroleum Fiscal Systems

Main elements in a Production Sharing System



- ◆ Royalty
- ◆ Production bonuses
- ◆ Profit Tax
- ◆ Withholding tax

What Have Experts Told Us Repeatedly

- Taxes on net are more economically efficient because they allow investors to recover their investment and rate of return.
- This ensures a competitive area to invest in.
- Governments need to style their fiscal system around their geology.
- Alaska is a high cost environment

- Alaska thus is not a particularly attractive place to explore and develop with its current system.
- Alaska could change its system to both increase its government take and encourage investment.

A Sample of these Experts

- The 1978 study by Walter Levy and Associates which lead to the adoption of separate accounting.
- The primary conclusion in the 1989 Alex Kemp/Gaffney/Motamen study following the ELF change.
- The conclusions in the 1994 Arthur D. Little/John Gault Study

- Woods MacKenzie in its 2004 study of international fiscal systems also described Alaska as a high cost regressive system that did have a good ranking thanks to high oil prices and the discovery of the lucrative Alpine field in 1994.
- 2005, Pedro Van Meurs recommends net profit system to replace ELF to provide State revenue upside and encourage investment

Why has the State Been Reluctant to Change the System?

- Throughout the 1990's significant concern about low prices.
- This led implicitly to a desire to give up some upside potential to protect against catastrophic low prices (see FY 1999)
- Changing oil fiscal regimes is not taken lightly--especially in a declining production environment.

Conclusions

- Alaska can take a positive step to making its tax system more efficient by changing the petroleum production tax
- We will still have our royalty share calculated before upstream cost deduction
- We will still have a piece of world-wide corporate income as long as the companies produce in Alaska

Conclusions

- We will also have a property tax
- At the same time if prices stay anywhere near as high as they have been over the last three years, we will generate more revenue for the state AND
- Provide significant new incentive to spend investment dollars exploring for and developing oil and gas in the State

**Presentation on SB 305 & HB
488 before Senate and House
Resources Committees**

February 23, 2006

**Robert E. Mintz, Department of Law
Dan E. Dickinson, C.P.A.**

**A TOUR OF
THE HIGHLIGHTS
OF
THE PRODUCTION
TAX BILL**

Section 5

AS 43.55.011(a)

There is levied upon the producer . . . a tax for
all produced . . . The
tax is equal to . . . of the
under AS 43.55.160.

Section 21

AS 43.55.160(a)

... is the total of the
of ... oil and gas ...
from • in the state, less
... as ... and
... 1/72 of ...

Section 31

AS 43.55.900(7)

“gross value at the point of production” means
for oil . . . at the . . . meter . . . in . . . pipeline
quality

for gas . . . where . . . metered [after any
separation or gas processing]

Section 19

AS 43.55.150(a)

... gross value at the point of production is
calculated using the reasonable

... [which] are the

.....

Section 20

AS 43.55.150(b)

... the department ... gross value
[to be calculated based upon] ... a
... [or]
a formula ... that uses ... [
] royalty ... valuation [or]
another
a value