

NOTICE OF
PROPOSED CHANGES ON OIL & GAS PRODUCTION TAX IN THE REGULATIONS
OF THE DEPARTMENT OF REVENUE

BRIEF DESCRIPTION: The Department of Revenue proposes to change regulations affecting the oil and gas production tax to implement ch. 4, 4 SSLA 2016 (HB 247). The regulations relate to the calculation of production tax values, gross value reductions and tax credits for qualified North Slope oil and gas, the treatment of lease expenditures for oil and gas subject to tax limitations, tax credits, cash purchases of tax credit certificates, tax credits for municipalities, and conforming and clarifying changes related to recent legislation affecting the oil and gas production tax. The Department of Revenue further proposes to repeal regulations that are no longer necessary to implement the production tax program.

The Department of Revenue proposes to adopt regulation changes in Title 15, Chapters 05 and 55 of the Alaska Administrative Code, dealing with the administration of revenues and the oil and gas production tax, including the following:

- (1) **15 AAC 05.250. Use of confidential information in enforcement proceedings**, is proposed to be changed as follows: the proposed amendment will change the time period that currently limits disclosure of confidential information.
- (2) **15 AAC 05.255. Disclosure of a tax credit certificate purchased in 2016**, is proposed to be added as a new section to implement the statutory requirement that the names of recipients of cash purchases of tax credit certificates for the period January 1, 2016 through December 31, 2016 will be made public by April 30, 2017.
- (3) **15 AAC 05.330. Assessment and collection**, is proposed to be changed as follows: the proposed amendments add a new subsection to implement statutory changes regarding the compounding of interest and the periods to which that compounding applies. Conforming amendments to this section are also proposed.
- (4) **15 AAC 55.141. Methodology for calculating certain gas processing cost deduction**, is proposed to be changed as follows: the editor's note at the end of the section is proposed to be amended to update the link to the website for information from the Federal Reserve related to corporate bond yields. No other changes have been made to this section.
- (5) **15 AAC 55.151. Gross Value of oil or gas at the point of production**, is proposed to be changed as follows: the proposed amendment will repeal a subparagraph regarding the treatment of costs before July 1, 2007 that is no longer necessary to administer the oil and gas production tax program.
- (6) **15 AAC 55.171. Prevailing value for oil**, is proposed to be changed as follows: the proposed amendment will update references to online reporting services.

- (7) **15 AAC 55.173. Prevailing value for gas**, is proposed to be changed as follows: the proposed amendment will clarify the term ‘regulated utilities’ and repeal a subsection no longer necessary to administer the tax program related to the prevailing value for gas for the July-September 2008 calendar quarter.
- (8) **15 AAC 55.180. Choice of methods for determining reasonable cost of transportation for oil and gas produced before July 1, 2007**, is proposed to be repealed. The intended effect of this repeal is to streamline the existing regulations by repealing this regulation, which is no longer necessary to administer the oil and gas production tax program.
- (9) **15 AAC 55.191. Calculation of reasonable costs of transportation for oil or gas produced before July 1, 2007**, is proposed to be changed as follows: the proposed amendments will remove references to certain regulations that are no longer necessary to administer the oil and gas production tax program.
- (10) **15 AAC 55.193. Calculation of costs of transportation for oil and gas produced after June 30, 2007**, is proposed to be changed as follows: the proposed amendment will update the reference to a certain price reporting service.
- (11) **15 AAC 55.195. Return on investment or cost of capital allowance to be used in calculation of costs of transportation for oil or gas, other than certain LNG or vessel transportation costs for oil or gas produced on or after January 1, 2003**, is proposed to be changed as follows: the proposed amendments will update the reference document to be used in calculations pertaining to the section.
- (12) **15 AAC 55.205. Calculation of production tax values for oil and gas produced before July 1, 2007**, is proposed to be repealed. The intended effect of this repeal is to streamline the existing regulations by repealing this regulation, which is no longer necessary to administer the oil and gas production tax program.
- (13) **15 AAC 55.206. Calculation of production tax values for oil and gas produced after June 30, 2007**, is proposed to be changed as follows: the proposed amendment will implement the statutory requirement that a reduction in the gross value at the point of production must be added back to the production tax value prior to the determination of the amount of a carried-forward annual loss.
- (14) **15 AAC 55.208. Calculation of adjusted lease expenditures and production tax value for a municipal entity**, is proposed to be added as a new section to clarify the calculation of production tax value when a municipal entity is involved in oil and gas production sells oil or gas to another party.
- (15) **15 AAC 55. 211. Gross value reductions**, is proposed to be changed as follows: the proposed amendment will affect the use of the gross value reduction when determining the amount of an annual carried-forward loss for purposes of AS 43.55.023(b) by amending an existing subsection and adding a new subsection.
- (16) **15 AAC 55.212. Procedures relating to gross value reductions**, is proposed to be changed as follows: the proposed amendments will recognize the time

limitations on gross value reductions imposed by HB 247 and as implemented by proposed 15 AAC 55.214.

- (17) **15 AAC 55.214. Duration of gross value reductions**, is proposed to be added as a new section to implement the time limitations placed on gross value reductions in HB 247.
- (18) **15 AAC 55.223. Cook Inlet lease expenditures incurred before July 1, 2007**, is proposed to be repealed. The intended effect of this repeal is to streamline the existing regulations by repealing this regulation, which is no longer necessary to administer the oil and gas production tax program.
- (19) **15 AAC 55.224. Lease expenditures incurred after June 30, 2007, for Cook Inlet, for gas used in the state, and for oil and gas subject to AS 43.55.011(p)**, is proposed to be changed as follows: the proposed amendments will add new subsections to recognize the treatment of certain tax ceilings as amended by statute and make a conforming change to an existing subsection.
- (20) **15 AAC 55.275. Exclusions from lease expenditures**, is proposed to be changed as follows: the proposed amendments will make conforming changes for regulations that are proposed to be repealed.
- (21) **15 AAC 55.280. Adjustments to lease expenditures**, is proposed to be changed as follows: the proposed amendments will make conforming changes for regulations that are proposed to be repealed.
- (22) **15 AAC 55.315. Carried-forward annual loss credits**, is proposed to be changed as follows: proposed amendments will add new subsections to clarify the treatment of the gross value reduction in determining the amount of an annual loss that may be carried forward into future periods.
- (23) **15 AAC 55.320. Transferable tax credit certificates**, is proposed to be changed as follows: the proposed amendments will add new subsections requiring the taxpayer to disclose to the department certain information about outstanding liabilities related to the applicant for purchase of a tax credit certificate.
- (24) **15 AAC 55.325. Cash purchases of tax credit certificates**, is proposed to be changed as follows: the existing regulation will be repealed and readopted as a new section under Article 5 of 15 AAC 55.
- (25) **15 AAC 55.330. Transitional investment expenditure credits**, is proposed to be repealed. The intended effect of this repeal is to conform to the related statutory provision, which is no longer in effect.
- (26) **15 AAC 55.335. Additional nontransferable credits**, is proposed to be changed as follows: the proposed amendments clarify the amount of an available credit when a producer does not have production of oil or gas for the entire calendar year, and, the treatment of oil produced after January 1, 2017 that does not receive a reduction in the gross value at the point of production under AS 43.55.160(f) or (g).

- (27) **15 AAC 55.337. Tax credits for a municipality**, is proposed to be changed as follows: the proposed amendment will add a new section relating to the amount of tax credits for which a municipal entity may be eligible.
- (28) **15 AAC 55.340. Cook Inlet credit provisions before July 1, 2007**, is proposed to be repealed. The intended effect of this repeal is to streamline the existing regulations by repealing this regulation, which is no longer necessary to administer the oil and gas production tax program.
- (29) **15 AAC 55.345. Procedures for applying for certain tax credits**, is proposed to be changed as follows: the proposed amendments add new subsections that identify additional information that will be required from applicants of purchases of tax credit certificates, remove references to repealed statutory authority and regulations proposed for repeal, and repeal other subsections that are no longer necessary to administer the oil and gas production tax program.
- (30) **15 AAC 55.350. Alternative tax credit for exploration expenditures for work performed after June 30, 2003, and before July 1, 2008**, is proposed to be repealed. The intended effect of this repeal is to streamline the existing regulations by repealing this regulation, which is no longer necessary to administer the oil and gas production tax program.
- (31) **15 AAC 55.351. Alternative tax credit for exploration expenditures for work performed after June 30, 2008, and for certain seismic exploration work performed before July 1, 2003**, is proposed to be changed as follows: the proposed amendments will clarify the time periods for which certain exploration expenditures may qualify for credit.
- (32) **15 AAC 55.355. Alternative oil and gas exploration tax credit claim for expenditures for work performed after June 30, 2003, and before July 1, 2008**, is proposed to be repealed. The intended effect of this repeal is to streamline the existing regulations by repealing this regulation, which is no longer necessary to administer the oil and gas production tax program.
- (33) **15 AAC 55.356. Alternative oil and gas exploration tax credit claim for expenditures for work performed after June 30, 2008, and for certain seismic exploration work performed before July 1, 2003**, is proposed to be changed as follows: the proposed amendments will clarify dates for which certain qualifying expenditures may be eligible for credit.
- (34) **15 AAC 55.360. Qualified exploration expenditures**, is proposed to be changed as follows: the proposed amendments will clarify dates for which certain qualifying expenditures may be eligible for credit.
- (35) **15 AAC 55.370. Applying production tax credit certificates against production tax liability**, is proposed to be changed as follows: the proposed amendments pertain to conforming changes related to other regulations that are proposed for repeal.

- (36) **15 AAC 55.375. Order of applying tax credits**, is proposed to be changed as follows: the proposed amendments make conforming changes for statutes that are no longer in effect.
- (37) **15 AAC 55.380. Subtraction of tax credits in calculation of installment payment of estimated tax for oil and gas produced before July 1, 2007**, is proposed to be repealed. The intended effect of this repeal is to streamline the existing regulations by repealing this regulation, which is no longer necessary to administer the oil and gas production tax program.
- (38) **15 AAC 55.410. Tax on production tax value of oil and gas**, is proposed to be changed as follows: the proposed amendments will repeal a subsection no longer necessary to administer the oil and gas production tax program and clarify that oil and gas will no longer have a single production tax value after January 1, 2022.
- (39) **15 AAC 55.420. Minimum tax for oil and gas produced before July 1, 2007**, is proposed to be repealed. The intended effect of this repeal is to streamline the existing regulations by repealing this regulation, which is no longer necessary to administer the oil and gas production tax program.
- (40) **15 AAC 55.430. Tax based on price index for oil and gas produced before July 1, 2007**, is proposed to be repealed. The intended effect of this repeal is to streamline the existing regulations by repealing this regulation, which is no longer necessary to administer the oil and gas production tax program.
- (41) **15 AAC 55.440. Tax limitations for Cook Inlet and for gas used in the state**, is proposed to be changed as follows: the proposed amendments make conforming changes to recognize that the former tax rate for oil in the Cook Inlet sedimentary basin was zero percent.
- (42) **15 AAC 55.510. Installment payments of estimated tax for oil and gas produced before July 1, 2007**, is proposed to be repealed. The intended effect of this repeal is to streamline the existing regulations by repealing this regulation, which is no longer necessary to administer the oil and gas production tax program.
- (43) **15 AAC 55. 511. Installment payments of estimated tax for oil and gas produced after June 30, 2007**, is proposed to be changed as follows: the proposed amendments recognize that if the gross value at the point of production is to be reduced in the annual calculation of production tax value, than the gross value reduction shall also be incorporated into the monthly estimated installment payment by the taxpayer, and other conforming changes
- (44) **15 AAC 55.520. Monthly filings**, is proposed to be changed as follows: the proposed amendments to remove references to provisions of statute which are repealed effective January 1, 2018.
- (45) **15 AAC 55.525. Cash purchases of tax credit certificates**, is proposed as a new section for Article 5, Payments and Reporting. It readopts the former 15 AAC

55.325 and adds new subsections to clarify the treatment of the credit repurchase limit in AS 43.55.028(g) and the resident worker preference.

- (46) **15 AAC 55.800. Retroactive application of regulations**, is proposed to be changed as follows: the proposed amendments make conforming changes for certain regulations that have been repealed or are proposed for repeal, and add new subsections to address retroactivity of proposed amendments to certain existing regulations.
- (47) **15 AAC 55.805. Rules for 2007 mid-year statutory changes**, is proposed to be repealed. The intended effect of this repeal is to streamline the existing regulations by repealing this regulation, which is no longer necessary to administer the oil and gas production tax program.
- (48) **15 AAC 55.900. Definitions**, is proposed to be changed as follows: the proposed amendments make conforming changes and add new definitions for certain statutory provisions.

You may comment on the proposed regulation changes, including the costs to private persons of complying with the proposed changes, by submitting written comments to: John Larsen, Audit Master, Alaska Department of Revenue, 550 W. 7th Ave., Ste. 500, Anchorage, AK 99501. Additionally, the Department of Revenue will accept comments by electronic mail to john.larsen@alaska.gov, or by facsimile at (907) 269-6644. **Written comments must be received no later than 4:30 p.m., on Monday, October 24, 2016.**

Oral or written comments also may be submitted at a hearing to be held Wednesday, October 19, 2016, in the East Hearing Room of the Regulatory Commission of Alaska located at 701 W. 8th Avenue, Suite 300, Anchorage, Alaska. The hearing will be held from 9:00 a.m. to 12:00 p.m. and may be extended to accommodate those present before 10:00 a.m. who did not have an opportunity to comment. If you are unable to attend the public hearing, you may participate by teleconference by dialing the toll-free conference call number, 1-800-315-6338. When asked for the participant PIN code, enter 1003#.

You may submit written questions relevant to the proposed action to: John Larsen at john.larsen@alaska.gov via email, or to: John Larsen, Audit Master, Alaska Department of Revenue, 550 W. 7th Ave., Ste. 500, Anchorage, AK 99501. The questions must be received at least 10 days before the end of the public comment period. The Department of Revenue will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and Tax Division website (<http://www.tax.alaska.gov>).

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact John Larsen at johnlarsen@alaska.gov or (907) 269-8436 no later than Friday, October 14, 2016 to ensure that any necessary accommodations can be provided.

Department of Revenue Notice of Proposed Regulations

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and the Tax Division website, and by contacting John Larsen at (907) 269-8436 or john.larsen@alaska.gov.

After the public comment period ends on Monday, October 24, 2016, the Department of Revenue will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulations may be different from that of the proposed regulations. You should comment during the time allowed if your interests could be affected. Written comments received are public records and are subject to public inspection.

Statutory Authority: AS 43.05.080; AS 43.55.110; AS 43.55.160.

Statutes Being Implemented, Interpreted, or Made Specific: AS 40.25.100; AS 43.05.225; AS 43.05.230; AS 43.20.046; AS 43.20.047; AS 43.20.053; AS 43.55.011; AS 43.55.020; AS 43.55.023; AS 43.55.024; AS 43.55.025; AS 43.55.028; AS 43.55.029; AS 43.55.030; AS 43.55.060; AS 43.55.150; AS 43.55.160; AS 43.55.165; AS 43.55.180; AS 43.55.890; AS 43.55.895; AS 43.55.900.

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: September 21, 2016
Anchorage, Alaska

/s/ Ken Alper
Ken Alper
Director, Tax Division
(907) 269-6620