



ALASKA STATE LEGISLATURE

SENATE RESOURCES COMMITTEE

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Sectional Analysis: Senate CS for CS for HB 111 \P

Section 1 Amends AS 43.05.225, Administration of Revenue Laws, Interest.

Beginning Jan. 1, 2018, delinquent taxes bear interest at 3 points above the 12th Federal Reserve District annual rate, compounded quarterly. Applies to all delinquent taxes (not only oil and gas production taxes) under Department of Revenue's administration.

Section 2 Amends AS 43.20.044(a), Alaska Net Income Act, Exploration incentive credit.

The exploration tax credit under AS 43.55.025 can be applied against the corporate income tax of the company that incurred the credit.

Section 3 Amends AS 43.20.046(e), Alaska Net Income Act, Gas storage facility tax credit.

The tax credit for gas storage facilities is no longer refundable from the Oil and Gas Tax Credit Fund under AS 43.55.028, as the fund is repealed in Sec. 25. The tax credit remains refundable by appropriation. As rules for refundability are attached to the Oil and Gas Tax Credit Fund, which is repealed, refundability would now be subject to the same rules in new Sec. 6.

Section 4 Amends AS 43.20.047(e), Alaska Net Income Act, Liquefied natural gas storage facility tax credit.

The tax credit for LNG storage facilities is no longer refundable from the Oil and Gas Tax Credit Fund under AS 43.55.028, as the fund is repealed in Sec. 25. The tax credit remains refundable by appropriation. As rules for refundability are attached to the Oil and Gas Tax Credit Fund, which is repealed, refundability would now be subject to the same rules in new Sec. 6.

Section 5 Amends AS 43.20.053(e), Alaska Net Income Act, Qualified in-state oil refinery infrastructure expenditures tax credit.

The tax credit for in-state refineries is no longer refundable from the Oil and Gas Tax Credit Fund under AS 43.55.028, as the fund is repealed in Sec. 25. The tax credit remains refundable by appropriation. As rules for refundability are attached to the Oil and Gas Tax Credit Fund, which is repealed, refundability would now be subject to the same rules in new Sec. 6.

Section 6 Adds a new section to AS 43.20, Alaska Net Income Tax.

Applies rules for refundability in the former Oil and Gas Tax Credit Fund to the income tax credits for instate refineries, LNG storage facilities and gas storage facilities refundable by appropriation. The Department of Revenue, in making refunds, may not discriminate among the three credits; must grant a preference for Alaska hire, and must ensure the claimant has no outstanding liability to the state.

Section 7 Amends AS 43.55.023(c), Oil and Gas Production Tax, Tax credits for certain losses and expenditures.

Enables taxpayers to apply credits issued under AS 43.55.023 against prior year taxes, interest, penalties, and fees related to the oil and gas production tax, including against amended oil and gas production taxes, providing the assessment was not subject to an administrative procedure or litigation.

Section 8 Amends AS 43.55.023(d), Oil and Gas Production Tax, Tax credits for certain losses and expenditures.

Conforming to the Section 25 repeal of the Oil and Gas Tax Credit Fund and elimination of refundable tax credits.

Section 9 Amends AS 43.55.023(e), Oil and Gas Production Tax, Tax credits for certain losses and expenditures.

A taxpayer can use a transferrable tax credit certificate issued under AS 43.55.023 against prior year taxes, interest, penalties, and fees related to the oil and gas production tax, including against amended oil and gas production taxes, providing the assessment was not subject to an administrative procedure or litigation.

Section 10 Adds a new subsection to AS 43.55.024, Oil and Gas Production Tax, Additional nontransferable tax credits.

Tax credits under AS 43.55.024(c), small producer credit, and AS 43.55.024(i), per-barrel credit for new oil, may be used to reduce taxes below the minimum, but not below zero, including in a year in which the sliding scale per-barrel credit under AS 43.55.024(j) is used. The taxpayer will decide the ordering of the credits when calculating tax liability.

Section 11 Amends AS 43.55.025(a), Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration.

The tax credit in AS 43.55.025 to be applied against production tax or corporate income taxes.

Section 12 Amends AS 43.55.025(f), Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration.

Allows the tax credit in AS 43.55.025 to be applied against production tax or corporate income taxes. Directs the Department of Revenue to grant or deny a credit application under AS 43.55.025 within 120 days of application.

Section 13 Amends AS 43.55.025(h), Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration.

A taxpayer may apply credits issued under AS 43.55.025 against prior year taxes, interest, penalties, and fees related to the oil and gas production tax, including against amended oil and gas production taxes, providing the assessment was not subject to an administrative procedure or litigation.

Section 14 Amends AS 43.55.025(i), Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration.

Credits under AS 43.55.025 can be applied against production tax or corporate income tax, but cannot be used to reduce taxes below zero.

Section 15 Amends As 43.55.028(e), Oil and Gas Production Tax, Oil and gas tax credit fund established; cash purchases of tax credit certificates.

As the Oil and Gas Tax Credit Fund is repealed in Sec. 25, ensures credits earned before Jan. 1, 2018, can be refunded by appropriation. Removes the maximum amount per year a company can receive in refunds and makes conforming changes. Maintains requirements that only companies producing less than 50,000 barrels per day can receive cash payments.

Section 16 Amends AS 43.55.028(g), Oil and Gas Production Tax, Oil and gas tax credit fund established; cash purchases of tax credit certificates.

Conforming to the repeal of the Oil and Gas Tax Credit Fund in Sec. 25, and to the transitioning of the LNG storage facility, gas storage facility, and instate refinery credits to refundable by appropriation in Secs. 3-6. Maintains Alaska hire preference when allocating funds to pay credits. Removes partial-value repurchase rules.

Section 17 Amends AS 43.55.028(j), Amends AS 43.55.028(g), Oil and Gas Production Tax, Oil and gas tax credit fund established; cash purchases of tax credit certificates.

Conforming to the repeal of the Oil and Gas Tax Credit Fund in Sec. 25 and to the repositioning of the gas storage, LNG storage, and refinery credits as refundable by appropriation in secs. 3-6.

Section 18 Amends AS 43.55.029(a), Oil and Gas Production Tax, Assignment of tax credit certificate.

Conforming to the Sec. 25 repeal of AS 43.55.023(b), net operating loss credit.

Section 19 Amends AS 43.55.160(d), Oil and Gas Production Tax, Determination of production tax value of oil and gas.

Conforming to the Sec. 25 repeal of AS 43.55.023(b), net operating loss credit.

Section 20 Amends AS 43.55.160(e), Oil and Gas Production Tax, Determination of production tax value of oil and gas.

Conforms to Sec. 21 changes to lease expenditures and to the Sec. 25 repeal of AS 43.55.023(b), net operating loss credit.

Section 21 Amends AS 43.55.165(a), Oil and Gas Production Tax, Lease expenditures (as amended by Sec. 29, ch.4, 4SSLA 2016 - House Bill 247).

For the North Slope only, lease expenditures include those incurred in a previous year that were not deducted in determining production tax value and were not the basis of a credit.

Section 22 Amends AS 43.55.165(f), Oil and Gas Production Tax, Lease expenditures.

Conforms to the Sec. 25 repeal of AS 43.55.023(b), net operating loss credit.

Section 23 Adds new subsections to AS 43.55.165, Oil and Gas Production Tax, Lease expenditures.

Lease expenditures carried forward under Sec. 21 generate a 10% increase in value (uplift), compounded annually, for seven years. Only companies without commercial production when the expenditure occurred are eligible for the uplift. The increased value (uplift) can be applied generally providing the producer holds interest in the leases on which the expenditure generating the uplift occurred and the leases entered production.

Specifies that current year lease expenditures are to be applied before carry-forward lease expenditures when calculating tax liability. In applying carry-forward lease expenditures, a producer only needs to apply the amount that would reduce taxes to the equal amount under the minimum tax, and not to zero. Carry-forward lease

expenditures in excess of the amount applied to reduce taxes to the equal of the minimum tax are carried forward to a future year.

Section 24 Amends AS 43.55.170(c), Oil and Gas Production Tax, Adjustments to lease expenditures.

Conforms to the Sec. 25 repeal of AS 43.55.023(b), net operating loss credit.

Section 25 Repeals multiple sections of statute:

- AS 43.55.023(b) Net operating loss credit
- AS 43.55.028(a) Oil and gas tax credit fund, fund established
- AS 43.55.028(b) Oil and gas tax credit fund, fund consists of money to the fund and earnings on the fund
- AS 43.55.028(c) Oil and gas tax credit fund, statutory minimum calculation
- AS 43.55.028(d) Oil and gas tax credit fund, fund management
- AS 43.55.028(f) Oil and gas tax credit fund, money in fund does not lapse
- AS 43.55.028(h) Oil and gas tax credit fund, not a dedicated fund
- AS 43.55.028(i) Oil and gas tax credit fund, qualified capital expenditure definition in relation to the fund section of statute
- AS 43.55.029(b)(4) Assignment of tax credit certificate, assignment must contain an account with a bank with which to receive funds when credit certificate is repurchased

Section 26 Applicability language related to the new ability to apply AS 43.55.025 credits to corporate income tax liability.

Allows use of credits earned in prior years to be applied against corporate income taxes.

Section 27 Applicability language related to the new timelines in Sec. 12 for the Department of Revenue to grant or deny applications for credits under AS 43.55.025.

Applications received before Jan. 1, 2017, will be considered received on the immediate effective date of the legislation.

Section 28 Applicability language related to credits used against prior years' production tax liability.

Tax credit certificates can be applied against tax liability, regardless of when tax credits were issued.

Section 29 Applicability language related to lease expenditures.

Clarifies the new treatment of lease expenditures and uplift apply to lease expenditures incurred from Jan. 1, 2018, and forward.

Section 30 Transition language related to the changes in the interest rate on delinquent taxes.

Section 31 Transition language related to carry-forward annual losses.
Ensures losses incurred through 2017 receive current statutory treatment.

Section 32 Transition language related to transferrable tax credit certificates.
Ensures the state may repurchase tax credit certificates issued for work done through 2017.

Section 33 Transition language related to the Oil and Gas Tax Credit Fund.
The balance of the fund lapses into the general fund.

Section 34 Sets an immediate effective date for Secs. 2, 7, 9, 11-14, and 26-28.
Sections relate to the ability to apply credits under AS 43.55.025 to corporate income taxes as well as to production taxes; and to apply credits issued under AS 43.55.023 and AS 43.55.025 to prior year liabilities.

Section 35 Sets an effective date for Sec. 21 based on the effective date of changes made in HB 247 of 2016.

Section 36 Sets a Jan. 1, 2018, effective date for all other sections.