

Detail Comparison Between Governor's October 1 2007 Production Tax Bill and Current Law

<u>Issue</u>	<u>Bill Section</u>	<u>Statute Section</u>	<u>Current Law</u>	<u>Governor's 10/1/2007 Proposal</u>
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Base Rate

Base Rate	15, 17	.011(e) & (g)	22.5%	25%
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Tax on Private royalties under .011 (i) not changed (section 23 corrects reference)

Progressivity

Difference subtracted from net (Production Tax) Value to Arrive at Price Index - (i.e. progressivity starting point)	17, 18	sec .011(g) & (h)	\$40	\$30
Progressivity Tax per dollar of Price Index	17, 18	.011(g) & (h)	0.25%	0.20%
Progressivity Calculation Averaged over what Period?	17, 18	.011(g) & (h), .160 (a)	Month	Year

Floor

sections 15,16, and sections 32-36, 41-42 to remove ability to apply credits

Base	16	.011(f)	Entire North Slope collectively, before application of credits	Prudhoe & Kuparuk, Individually (no other fields come close to 1 billion barrel standard), after application of credits
Gross Calculation	16	.011(f)	No change: Gross Value at Point of Production	
Rate	16	.011(f)	ranges from 0% to 4%	10%
Can credits be applied to further reduce tax if floor applies?	16	.011(f)	Exploration (.025) and Non Transferable (.024) credits can be applied against floor, Investment and all other .023 credits cannot	No
Status of credits not used because of floor	16	.011(f)	implicit: can be carried forward, or applied to non North Slope areas	explicit: only applied against that legacy field: when carried forward

Credits

Investment & Loss Forward Credits (.023 Credits)

Investment Credits	26	.023(a)	Taken in year of investment	Maximum of 50% of any year's credits taken in that year.
Applied against tax due under floor?	26	.023(a)	No change: .023 credits cannot be applied against tax due calculated under the floor	

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Investment & Loss Forward Credits (.023 Credits) cont.

Loss Carry Forward Credits	27	.023(b)	20%	25%
Restrictions on use of Loss Carry Forward Credits	27	.023(b)	no similar restriction	explicit: if costs occurred in legacy field subject to floor, loss can only be applied against that field.
Restrictions on use of Purchased Credits	28,29	.023(d)	Can be taken any time although cannot be applied against more than 20% of tax due	50% of credit cannot be taken until following year. (retains 20% rule)
Transitional Investment Credits	63	.023(i)	Qualified investment from 2001 - 2006 used as a credit at 10% if matched by new investment.	eliminated

Nontransferable Credits (.024 Credits)

Applied against tax due under floor?	41,42, 32-36	.024 (a),(c),(e), (g)	Yes	No
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Exploration Credits (.025 Credits)

Applied against tax due under floor?	36, 41	.025(a) & (h)	Yes	No
Disallowances	37	.025(b)	"administration, supervision...management... community relations or environmental costs..." not allowed	adds "costs arising from gross negligence or violations of health, safety, or environmental statutes or regulations" to costs not allowed
DNR approval and 3 mile rule for 40% credit	38	.025(c)	Bottom whole must be more than 3 miles from previously drilled bottom hole, except in CI, if DNR determines "distinct exploration target"	Before drilling DNR must make determination that new target "distinctly separate from any trap that has been tested by preexisting well," and after drilling DNR must determine well achieved objective and if not in CI bottom hole must be 3 miles from previously drilled bottom hole.

note: .025(d) and (e) unchanged

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Exploration Credits (.025 Credits) Cont.

Data Explorer must submit to DNR	39	.025(f)(2) (A)&(B)	explorer must provide DNR with list of "data sets available"	Detailed list of data
Confidentiality of Well Data	39	.025(f)(2) (c)	10 years	24 months
note: Seismic data still at 10 years				
Applicability of Credit Certificates	39	.025(f)(5)	Can be used immediately	2 certificates, each for 1/2 of amount, one certificate cannot be used until the following calendar year
Non Confidential Information	39	.025(f)(5)	under general tax confidentiality rules	Explorer, location and date of work and when it will become public is public
Tax Exempt Entities Ability to Sell Credits	31,40	.025(g)	not mentioned	not allowed
Applied Against Tax Due under Floor?	36, 41,42	.025(a), (h) and (i)	Yes	No
Definition of Pre-Existing Well - in Effect Whether Delineation Wells Qualify for Credits	43	old .025 (c)(2)(a) new .025(k)4	preexisting well is one that was spudded more than 150 days and less then 35 years earlier. Limits ability to come back next season and get credit for delineation well.	preexisting well is one that was spudded more than 540 days and less then 35 years earlier. Allows two seasons worth of work to qualify for credit.
note: .025(i) appears to have also been rewritten for clarity in section 42 and definitions are moved to (k) in section 43 or added in 62				
"DNR TIE" Seismic Credits	44	.025(l)	none	If DNR deems "best interests of state" served by acquisition and distribution of seismic data shot before 2003, a 5% credit allowed for cost.

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Allowable Lease Expenditures				
.160 great simplified in sections 52, 53 and 63 as monthly reporting calculations no longer needed.				
Carry Forward of Unused Lease Expenditures	54	.160 (e)	Lease expenditures that would reduce production tax values below zero can be used to establish a loss carry forward credit under .023(b)	Adds two more categories that can be used for carry forward credit: costs not associated with production or ownership interests
.165 Reorganized for clarity and as to between what is in (a) and what is in (b) in sections 56 & 57				
Cost must allowed in department's regulations?	56	165(a)	no	yes
Use Portions of Existing Cost Sharing Agreements or intra-producer audits to determine costs?	63	.165(c) & (d)	allowed	not allowed
DR&R Allowed?	58	.165(e) (15)	allowed for portion allocated to production after April 1, 2006	not allowed at all
Deferred Maintenance allowed?	58 & 64	new .165(e) (19)	Allowed	not allowed if undertaken in response to an problem which required a reduction in production, unless caused by something unavailable even to someone exercising due care.
Field Topping Plants allowed?	58	new .165(e) (20)	Allowed	not allowed; however a deduction for the 'fair market value' of the products from the topping plant will be allowed.

State Purchase of Credits

Funding of Purchase of .023 and .025 Credits by State	30,45	new.028 replaces .023(f)	"subject to appropriations made by law"	Creates the oil and gas credit fund, which is funded by 10% or 15% of production taxes depending on whether ANS WC is forecast (when?) to above \$60 or below \$60. Credits are purchased from fund.
Limits on Purchase of .023 and .025 Credits by State	30,45	new.028 replaces .023(f)	Entity receiving refund had to (i) have been producing fewer than 50,000 bbls a day (currently all but big three); (ii) reinvest that money in state, (iii) had no other delinquent taxes and (iv) was limited to \$25 million a year	Same restrictions except \$25 million cap eliminated

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Information				
Required Reporting of Forward Looking Information	49	.040 (5)	none	requires taxpayer "to file report and copies of records that are considered by the department as necessary to forecast state revenues under AS 43.55". For unit with multiple working owners limited to unit budget matters. Penalty of not more than \$1000 a day. Not clear how far in advance data must be disclosed to avoid penalty.
Disclosure of Tax Information	61	old 43.05.230 new .890	Published information must combine data. so as to "prevent the identification of particular returns."	As long as data is aggregated among 3 producers 11 categories of data can be made public (production, taxes, effective tax rates, gross value, costs, production tax value and credits). Such aggregation is explicitly "irrespective of whether the information...prevents[s] the identification of particular reports." (i.e. one large taxpayer aggregated with two very small taxpayers)
DNR Sharing Royalty Information with DOR	2-9 & 11	royalty statutes	limited ability	expanded ability
DOR Sharing Tax Information with DNR	12-13	AS 43.05.230	limited ability	expanded ability
Required Reporting	46	.030(a)	"The person paying the tax..." will report "with other information required" certain data	Producer (whether tax due or not) will report same information plus certain cost, credit and monthly data. Penalty of not more than \$1000 a day.
Required Reporting	48	.030(e) & (f)	some requirements in regulations	in statute: thorough reporting of costs, volumes, sales, monthly estimates and other information required by department

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Statute of Limitations

Statute of Limitations	1, 14, 50	old 43.05.260 new .075	3 Years for all Taxes	6 years for Production Tax
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DOR Auditors

Are DOR auditors exempt employees?	10,65,67	new AS 39.25.110	no	yes
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Other Administrative Provisions

Monthly filings	22, 24,25	0.02	ambiguity (tried to resolve in regulations) about interaction between annual tests and credits and monthly filings	Clear and separate rules for (i) non CI, not subject to floor under (f), (ii) CI, and (iii) subject to floor under (f).
Penalty for Failure to Report (when no tax is due)	47	.030(d)	none (penalty was tied to tax being due)	up to \$1,000 a day under departments regs
Retroactive Changes Require Payment	50	new .075	Regulatory provision 15 AAC 55.200	Incorporated into Statute
Electronic Payment and Filing	51	.110(e)& (f)	silent	DOR may require

sections 66 & 67 are transitional rules

Cook Inlet - no substantive change, however regs imported into statute

CI Allocation Rules	19 - 21, 55, 59	new .165(f)-(i)	Allocations and trying to fit all the other terms of the statute into the statutory ceiling language found in 15 AAC 55.360, 15 AAC 55.223 & 15 AAC 55.235.	adopted into statute
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Effective Date

General Rules	64, 69			Jan 1 2008
Deferred Maintenance Rules	64	new .165(e) (19)		Apr 1 2006