**ALASKA DEPARTMENT OF REVENUE, TAX DIVISION**
**ADVISORY BULLETIN 2008 - 04**

Subject: AS 43.55.025 Alternative Oil and Gas Exploration Production Tax Credits

A geophysical exploration company, hereafter referred to as "the Company" has requested an Advisory Bulletin on several questions concerning the Alternative Oil and Gas Exploration Production Tax Credit. Following are the relevant questions raised and the responses.

***1. Is the Company an explorer under AS 43.55.025 when it undertakes spec seismic work?***

We assume that the Company does not hold oil and gas leases in Alaska, and that it intends to conduct seismic exploration for oil or gas in Alaska with the intention of selling information acquired from this exploration to others that hold or may be interested in acquiring oil and gas leases in Alaska. We further assume that in conducting seismic exploration, the Company will incur exploration expenditures on its own account and will not be acting as a contractor or agent for others. The Company states that it will retain an interest in the seismic work.

Under these assumptions, when it incurs seismic exploration expenditures, the Company will be an explorer for purposes of AS 43.55.025.

AS 43.55.900(7) defines explorer: "explorer' means a person who, in exploring for new oil or gas reserves, incurs expenditures."

15 AAC 55.355(a) provides:
"An application for an alternative oil and gas exploration tax credit under AS 43.55.025 for a particular exploration activity may, on a form provided by the department, be filed by
(1) A single explorer that
  (A) holds the entire interest in the particular well or seismic or geophysical exploration activity, and
  (B) incurred 100 percent of the expenditures for which the credit is claimed, or
(2) a designated joint application that is authorized in a writing, signed by each explorer that incurred expenditures, to file a joint tax credit application on behalf of all those explorers; a joint application must be for the total qualified expenditures incurred by all the explorers for the exploration activity for which the credit is claimed and must include a copy of the written authorization signed by each explorer."

In addition, 15 AAC 55.900(b)(13) provides that "explorer" has the meaning given in AS 43.55.025; "explorer" does ***not*** include a drilling contractor, operator, or other person that does ***not*** hold an interest in the exploration well or seismic or geophysical work." [Emphasis added]

***2. Will credits under AS 43.55.025 be affected by the Company's license fees or revenues from selling the information generated from the same costs which determined the credit?***

No. Alternative tax credits for oil and gas exploration earned under AS 43.55.025 will not be affected by the Company's license fees or revenues from selling the information generated from the qualifying exploration expenditures that determined the credit. It should be noted that, under 15 AAC 55.360(d)(5)(B), the purchase of seismic or geophysical data is not a qualified exploration expenditure. Therefore, the purchaser of any seismic or geological data would not be eligible for a credit for the purchase under AS 43.55.025. Nor would a tax credit be available to the purchaser under AS 43.55.023(a), as is made clear by the definition of "qualified capital expenditure" in AS 43.55.023(*l*).

Such revenues might be includable in the determination of corporate taxable income under AS 43.20.

3. ***In planning a 2008-2009 program, when should the Company apply for an AS 43.55.025 credit based on its 2008 costs?***

The Company anticipates that its seismic exploration will take place over several seasons and asks if a tax credit application based on expenditures made during one season may be made after the completion of that season's work, rather than waiting until after the last season's work has been completed. The answer is yes. For a production tax credit, AS 43.55.025(f)(1) requires that, "an explorer shall, in a form prescribed by the department and, except for a credit under (*l*) of this section, 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; . . ."

Forms to apply for the credit are available on the Tax Division's website at: www.tax.alaska.gov/

4. ***Is the only statutory reporting requirement which applies to the Company under AS 43.55.030(e) where on an annual basis we would need to demonstrate that as an explorer, if we have not filed for a credit under AS 43.55.023 we are not liable for a tax under AS 43.55.160(d) or AS 43.55.170(b)?***

No. The Department has prescribed an interim annual reporting form that implements the reporting requirements of both AS 43.55.030(a) and AS 43.55.030(e), and this form requires not only producers but also explorers to report, among other things, lease expenditures incurred during the calendar year, regardless of whether the explorer or producer has a production tax liability for the year. In general, seismic exploration expenditures that qualify under AS 43.55.025 are lease expenditures. In addition, the Company would be subject to monthly reporting requirements under AS 43.55.030(f) and 15 AAC 55.520. Both the annual and monthly reporting requirements include specifically identifying expenditures that may qualify for a tax credit under AS 43.55.025.

There is a reporting requirement under AS 43.55.030(e) and (f) for lease expenditures and payments or credits received under AS 43.55.170, even if the explorer has not claimed a credit under AS 43.55.023. The department has previously addressed the reporting issue in Advisory Bulletin 2008-1, "Annual and Monthly Reporting Requirements for Explorers and Producers", dated March 24, 2008. This is available on our website, or you may access directly by the following link:

http://www.tax.alaska.gov/programs/documentviewer/viewer.aspx?316o

Note that the Proposed 15 AAC 55.520(f) referenced in Advisory Bulletin 2008-1 became effective on May 17, 2008 and appears in Register 186, July 2008, of the Alaska Administrative Code. An explorer also has additional notification and reporting requirements to the Department of Natural Resources under AS 43.55.025.

This advisory bulletin is issued for the information and guidance of producers, explorers, and other interested persons. Opinions expressed here are strictly limited to the proposed conditions as presented above interpreted in accordance with existing Alaska production tax law. These interpretations do not address other possible effects under other tax types or other tax laws, and, as provided under AS 43.55.110(g), interpretations stated in this advisory bulletin are not binding on the Department or others.

Jonathan E. Iversen
Director

Issued: October 6, 2008