

## Alaska Oil and Gas Association

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E-MAILED AS A PDF

October 10, 2016

John Larson, Audit Master  
Alaska Dept. of Revenue, Tax Division  
550 W. 7th Ave. Suite 500  
Anchorage, AK 99501

Re: Proposed Amendments to  
15 AAC 56 (Property Tax)

Dear Mr. Larson:

The members of the Alaska Oil and Gas Association (“AOGA”) offer the following comments regarding the changes to regulations in 15 AAC 56 that the Department of Revenue (“DOR” or the “Department”) proposed on 16 September 2016. As is our practice regarding public statements on tax matters, these comments represent the unanimous consensus of AOGA’s membership.

For most of the proposed amendments, we agree with the Department’s characterization that the proposed change is necessary to conform with changes that have been made to the existing regulation’s underlying statute, or with the judicial adjudication of the meaning and application of the regulation’s underlying statute, or with the repeal or renumbering of another regulation to which the regulation being amended refers. However, we disagree with the proposed deletion of the last sentence in 15 AAC 56.100(a).

Under that regulation, “production property” — that is, property “used or committed by agreement for use in the production of gas or unrefined oil, or in the operation or maintenance of facilities for the production of gas or unrefined oil” — is valued on the basis of “replacement cost less depreciation[.]” The proposal would leave intact the existing provision about how “replacement cost” is to be calculated, but proposes to delete the language for the second half of the valuation — determining the “economic life of proven reserves” for purposes of finding the amount of depreciation to be reflected in the annual assessed value of production property.

We believe the existing language about depreciation over an economic life determined by “using petroleum engineering methods” is already too loose. But if general “petroleum engineering methods” are no longer going to be applicable, then on what logical and factual basis will the

economic life be determined for purposes of calculating depreciation? Can it be on the basis of “facts” set out a letter to the editor of a newspaper or magazine? “Facts” as determined by a reading of tarot cards? or what?

Moreover, the Department would be missing a golden opportunity — one that didn’t exist in 1975 when 15 AAC 56.100(a) was originally adopted — to piggyback off the work of another government agency that has an even stronger vested interest in ensuring that published reserves figures are reliably determined on a consistent basis from one field to another, and from one state to another.

After years of research and analysis, the federal Securities and Exchange Commission (“SEC”) has adopted section 210.4-10 of Title 17, Chapter II, Part 210 of the Code of Federal Regulations. That section prescribes standards and methodologies for determining “proved” oil and gas reserves, and they apply uniformly to anyone that files reports with the SEC.

The Department could avail itself of the benefits of the SEC’s enforcement activities for no additional state expense, simply by adopting this SEC regulation by reference in 15 AAC 56.-100(a). Instead of deleting the last sentence in the regulation, that sentence would be amended as follows:

The economic life of proved reserves will be **determined on the basis of the proved reserves reported to the Securities and Exchange Commission under 17 C.F.R. sec. 210.4-10, or in the absence of such a report, on the basis of [ESTABLISHED EACH YEAR USING] petroleum engineering methods.**

The resulting efficiency for DOR from this would be similar to how it benefits from IRS audits for purposes of enforcing the state income tax (*see* AS 43.20.200(b) and 43.20.300(b)).

AOGA also has a concern that is not addressed in the proposed regulations.

The statutory timetable is extremely tight for reporting taxable property to the Department by January 15, for the Department’s assessor to mail assessment notices for that property by March 1, for taxpayers and/or municipalities to object to the Department about those assessments within 20 days from the mailing of the assessment notices, for the Department to make adjustments to the assessments within 30 days of mailing the assessment notice, for appeals to be made to the State Assessment Review Board (“SARB”) within 50 days of the mailing of assessment notices, and for those appeals to be administratively adjudicated by SARB in time for the final assessment roll to be certified and mailed by June 1, and for the state and municipal taxes to be paid by June 30 each year.

While we recognize that regulations cannot alter this timetable under AS 43.56, we believe that the Department could do more to make information available to taxpayers sooner than it currently does. By statute, taxpayers have only 20 days from the mailing of an assessment notice in which to appeal, but ordinarily the only information about the assessment that they have by that deadline is just the assessed value itself — the assessment notice does not explain how the

assessed value was determined or what numerical factors went into that assessment. This leaves a taxpayer (or a municipality) with no practical alternative but to file an appeal in order to ascertain the facts and reasoning behind each assessment notice and – if an error or defect is then revealed – to have it corrected by the Department or by SARB.

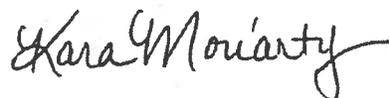
We acknowledge the great administrative burden the assessor and assessment staff already face. But we believe that if they could provide the particulars behind an assessment notice when the notice is mailed, the stakeholders — the assessor and staff, the taxpayer, and the affected municipality if any — might save time and effort overall as a result of being able to filter out the assessment notices that appear to be sound and to file appeals only for assessment notices that seem to have an actual problem or defect.

We believe there is still time this year for us and other taxpayers to meet with the assessment staff to discuss the feasibility of providing supporting information and analysis in the assessment notices for 2017.

Thank you for your consideration.

Very truly yours,

ALASKA OIL & GAS ASSOCIATION

A handwritten signature in black ink that reads "Kara Moriarty". The signature is written in a cursive, flowing style.

Kara Moriarty, President

cc: AOGA Members



**HAND DELIVERED**

**Marie P. Evans**  
Sr. Counsel Taxation Alaska

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**OCT 19 2016**

Tax Division  
Department of Revenue  
Anchorage, Alaska

October 18, 2016

Mr. John Larsen  
Audit Master, Department of Revenue  
550 W. 7<sup>th</sup> Ave., Ste 1820  
Anchorage, AK 99501

Re: Department of Revenue  
Notices Dated July 27, September 19 and 21, 2016  
Explanatory Overview of Proposed Regulation Change Under  
15 AAC 56.100(a) for Property Tax

Dear Mr. Larsen:

ConocoPhillips Alaska, Inc. ("ConocoPhillips") participated in the public hearing on August 12, 2016, reviewed the Department's Notice dated July 27, 2016 and submitted a letter dated August 16, 2016. Upon receiving the subsequent public notices issued September 19, 2016 and September 21, 2016 and the Explanatory Overview of Proposed Regulation Change Under 15 AAC 56.100(a) for Property Tax ("Explanatory Overview"), ConocoPhillips offers the following for the Department's consideration.

The Department's Explanatory Overview notes that the Department decided, after the scoping workshop and public letters, to postpone "material changes" to the property tax regulations. The Department also indicates that further progress on property tax regulations is likely subject to the timing of 2017 legislative session.

Recognizing the Department is limited on resources, we encourage the Department to plan workshops prior to the end of the 2017 regular legislative session. The regular legislative session and the annual property tax cycle take place simultaneously. If the regular legislative session does not end timely, then postponing workshops to progress this matter could result in another annual property tax cycle without any progress or change. Absent change to statute and/or regulations, new property tax disputes are

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likely to arise during each annual assessment process and continue the controversies and litigation.

The Department's Explanatory Overview also explains that the Department is removing the current regulation at 15 AAC 56.100(a) that requires a property tax assessment to determine "[t]he economic life of proven reserves [...] be established each year using petroleum engineering methods." It is not at all clear how removing this regulation, pertaining to the calculation of proven reserves using petroleum engineer methods, would, as it intended, "clarify that the production forecasting function is no longer being performed by the Department of Revenue." The fact that the production forecasting function is no longer performed by the Department of Revenue does not mean that the economic life of proven reserves cannot be or should not be established by petroleum engineers - either within the Department of Revenue or under contract to the Department of Revenue - using accepted petroleum engineering methods. Without objective and measurable methods and standards, widely varying interpretations and applications occur. It is then difficult, if not impossible, for taxpayers to review and analyze the accuracy and reasonableness of the property tax assessments received. If controversy arises as the result of varying interpretations of vaguely defined terms or standards, then the taxpayer and the Department of Revenue are unlikely to reach resolution without litigation.

In summary, resolution by litigation does not benefit the Department or the taxpayers; therefore, it is better to begin, sooner rather than later, a process to promulgate objective and measurable assessment terms and standards. If the Department would like to discuss this letter or further recommendations, then please contact me at the address first given above.

Sincerely,



Marie P. Evans