

An Introduction to Alaska Property and Production Taxes

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Agenda

- Overview of property tax
- Approaches to value
- State property taxation
- Local property taxation: municipality and borough
- Production tax credits

Overview of Property Tax

- State, Borough, Municipal taxes
- Valuation methodologies may vary by type of property
- Mill rates: for tax due, multiply the assessed value of the property by the mill rate and divide by \$1000
- Exemptions and credits

Approaches to Value

- **Sales Comparison Approach**

- Analysis of sales, listings, pending sales. Comparables must be relevant, timely with appropriate adjustments. Differences affect value of comparables, including financing terms, property rights, market conditions, physical traits.

- **Income Approach**

- Net present value of income from the property. Analyze cost and sales, must have market support, capitalization rate should reflect what investors expect to earn on comparable sales and other investments with similar risk.

- **Cost Approach**

- Compare to cost to build new or substitute property, adjust for depreciation. Examine cost studies, consistent use of reproduction versus replacement cost, appropriate depreciation (physical deterioration, functional or external obsolescence).

State Property Taxation: AS 43.56

- Levied on the full and true value of oil and gas exploration, production and pipeline transportation property
- 20 mills levied annually
- If in a municipality or borough, proceeds go there up to mill rate for other property

State Property Taxation: AS 43.56

- January 1 lien date
- Valuation methodologies
 - Exploration property
 - Production property
 - Pipeline transportation property
- Exemptions (especially IDC) and credits (see SB 84)

Local Property Taxation

- Mill rates and procedural deadlines vary by jurisdiction
- Levied on real or certain personal property
- Powers to tax, notice provisions, credits, required and optional exemptions are set by state statute, AS 29.45
- Borough and municipal codes and ordinances further delineate property that is taxed and exemptions

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Local Property Taxation

Optional exemptions and credits include:

- Exemption for residential renewable energy system using sources other than fossil or nuclear fuel
- River habitat protection and air quality improvement tax credits
- Exemption for economic development property: property that has not been previously taxed that creates employment, generates “exports” of goods/services outside the municipality, reduces importation of goods/services into the municipality

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Local Property Taxation: ANCSA

- ANCSA exempts from state and local real property taxes property interests conveyed pursuant to the act to Native individuals, groups and corporations
- Exemption applies to properties that are not developed or leased to third parties, or that are used solely for exploration
- “ ‘Exploration’ means the examination and investigation of undeveloped land to determine the existence of subsurface nonrenewable resources”. 43 U.S.C. 1636(d)(2)(A)(ii)

Local Property Taxation: ANCSA

For purposes of the exemption, “developed” means: “a purposeful modification of land or an interest in land that effectuates a condition of gainful and productive present use without further substantial modification.”...

“Surveying, construction of roads, providing utilities, or other similar actions which are normally considered to be component parts of the development process but do not create the condition described in the preceding sentence, shall not constitute a developed state within the meaning of this clause.” 43 U.S.C. 1636(d)(2)(A)(1)

Local Property Taxation: ANCSA

- For the land to be “developed” it must be legally and practically suitable for sale to the ultimate user
- Legal suitability: the parcel may not be suitable for sale without an approved, recorded plat
- Practical suitability: a developer seeking maximum revenue would not sell without making additional improvements or re-platting
- *See Kenai Peninsula Borough v. Tyonek Native Corp.*, 807 P.2d 502; *Kenai Peninsula Borough v. Cook Inlet Region, Inc.*, 807 P.2d 487

Local Property Taxation: ANCSA

- Land that is subdivided under an approved and recorded subdivision plat is “developed” unless the subdivided property is a remainder parcel. 43 U.S.C. 1636(d)(2)(B)(iii)
- The taxable property is limited to “the smallest practicable tract actually used in the developed state.” 43 U.S.C. 1636(d)(2)(A)(i)
- Upon subdivision plat recordation, taxes are due for prior 30 months (what would have been due absent the exemption). 43 U.S.C. 1636(d)(5)
- Think carefully about structuring deals to preserve exemptions, but keep the project moving!

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Production Tax Credits: AS 43.55

- Qualified capital expenditures: 20%
- Net operating loss: 25% of NOL
- Well lease expenditures (south of 68°): 40%
- Exploration incentive credit: 30% - 40%
- Small company credit: \$12 million/year
- New area development credit: \$6 million/year
- Cook Inlet jack-up rig: 100% of \$25 mm, 90% of \$22.5 mm or 80% of \$20 mm

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Production Tax Credits for Capital Expenditures

- 20% of qualified capital expenditures
- Includes qualified capital expenditures for G&G and exploration wells if submit certain information to DNR
- Expenditures can also be deducted
- Certificates can be purchased by the state or transferred
- A qualified capital expenditure is a lease expenditure that is:
 - Incurred for G&G, or
 - Capital under the IRC, includes IDC regardless of elections

Production Tax Credits for Net Operating Losses

- 25% of a carried forward annual loss
- Carried forward annual loss is adjusted lease expenditures not deductible in previous calendar year
- Certificates can be purchased by the state or transferred

Production Tax Credits: Well Lease Expenditures

- 40% of well lease expenditures south of 68°
- Includes well lease expenditures for G&G and exploration wells if submit certain information to DNR
- Expenditures can also be deducted
- Certificates can be purchased by the state or transferred
- A well lease expenditure is a lease expenditure for seismic within a unit or for certain wells if:
 - it's a qualified capital expenditure and an IDC under the IRC (includes sidetracking, deepening, completion, recompletion, workover, regardless of whether in production)

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Production Tax Credits: Alternative Credit for Exploration

- 40% for seismic outside an existing unit
- 30% for exploration wells 25 miles outside a unit (10 miles for Cook Inlet)
- 30% for exploration wells seeking new trap that are 3 miles away from another well (3-mile limit doesn't apply to Cook Inlet)
- 40% for exploration wells that meet the previous two standards
- Certificates can be purchased by the state or transferred

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State Purchase of Production Tax Credits

- State will purchase credit certificates issued for: capital expenditures, net operating losses, well lease expenditures, and exploration expenditures
- Applicant must produce less than 50,000 bbl/day and have zero tax liability

Non-transferable Production Tax Credits

- New area development credit: \$6 million against any production tax liability for production outside of Cook Inlet and south of 68°
- Small producer credit: \$12 million against any production tax liability for producers of less than 50,000 bb/d, phased out at 100,000 bb/d



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