

NOT-116279-15

2014 Section 45K(d)(2)(C) Reference Price

Notice 2015-45

SECTION 1. PURPOSE

This notice publishes the reference price under § 45K(d)(2)(C) of the Internal Revenue Code for calendar year 2014. The credit period for the nonconventional source production credit under § 45K ended on December 31, 2013, for facilities producing coke or coke gas (other than from petroleum based products). However, the reference price continues to apply in determining the amount of the enhanced oil recovery credit under § 43, the marginal well production credit under § 45l, and the percentage depletion in case of oil and natural gas produced from marginal properties under § 613A.

SECTION 2. BACKGROUND

Section 45K(d)(2)(C) provides that the term "reference price" means, with respect to a calendar year, the Secretary's estimate of the annual average wellhead price per barrel for all domestic crude oil the price of which is not subject to regulation by the United States.

Section 43(a) provides that, for purposes of § 38, the enhanced oil recovery

credit for any taxable year is an amount equal to 15 percent of the taxpayer's qualified enhanced oil recovery costs for such taxable year.

Section 43(b)(1) provides that the amount of enhanced oil recovery credit for any taxable year shall be reduced by an amount which bears the same ratio to the amount of such credit (determined without regard to this paragraph) as - (A) the amount by which the reference price for the calendar year preceding the calendar year in which the taxable year begins exceeds \$28, bears to (B) \$6. Section 43(b)(2) provides that the term "reference price" means, with respect to any calendar year, the reference price determined for such calendar year under § 45K(d)(2)(C).

Section 45I(a) provides that, for purposes of § 38, the marginal well production credit for any taxable year is an amount equal to the product of the credit amount and the qualified crude oil production and the qualified natural gas production which is attributable to the taxpayer.

Section 45I(b)(1) provides that the amount of the marginal well production credit is \$3 per barrel of qualified crude oil production, and 50 cents per 1,000 cubic feet of qualified natural gas production.

Section 45I(b)(2) provides that the \$3 and 50 cents amounts under § 45I(b)(1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as – (i) the excess (if any) of the applicable reference price over \$15 (\$1.67 for qualified natural gas production), bears to (ii) \$3 (\$0.33 for qualified natural gas production). The applicable reference

price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

Section 45I(c) provides that the term reference price means, with respect to any calendar year – (i) in the case of qualified crude oil production, the reference price determined under § 45K(d)(2)(C).

Section 613A(c)(6)(A) provides, in general, the allowance for depletion under § 611 shall be computed in accordance with § 613 with respect to - (i) so much of the taxpayer's average daily marginal production of domestic crude oil as does not exceed the taxpayer's depletable oil quantity (determined without regard to paragraph (3)(A)(ii)), and (ii) so much of the taxpayer's average daily marginal production of domestic natural gas as does not exceed the taxpayer's depletable natural gas quantity (determined without regard to paragraph (3)(A)(ii)), and the applicable percentage shall be deemed to be specified in subsection (b) of § 613 for purposes of subsection (a) of that section.

Section 613A(c)(6)(C) provides that the term “applicable percentage” means the percentage (not greater than 25 percent) equal to the sum of - (i) 15 percent, plus (ii) 1 percentage point for each whole dollar by which \$20 exceeds the reference price for crude oil for the calendar year preceding the calendar year in which the taxable year begins. For purposes of this paragraph, the term “reference price” means, with respect to any calendar year, the reference price determined for such calendar year under § 45K(d)(2)(C).

SECTION 3. REFERENCE PRICE

The reference price under § 45K(d)(2)(C) for calendar year 2014 is \$87.39.

SECTION 4. DRAFTING INFORMATION

The principal author of this notice is Jennifer C. Bernardini of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice, contact Ms. Bernardini on (202) 317-6853 (not a toll-free number).