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OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA

MEMORANDUM

TO: Brad Ewing
Department of Revenue

FROM: April Simpson, Office of the Lieutenant Governor
465.4081

DATE: November 6, 2018

RE: Filed Permanent Regulations: Department of Revenue

Department of Revenue: Oil and Gas Production Tax Regulations: (15 AAC 55.206, .208, .211, .215, .217, .224, .290, .315, .320, .337, .345, .375, .511, .520, .800 and .900)

Attorney General File:	JU2017200517 (part 2)
Regulation Filed:	11/6/2018
Effective Date:	12/6/2018
Print:	228, January 2019

cc with enclosures: Linda Miller, Department of Law
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO REGULATIONS OF THE DEPARTMENT OF REVENUE

The attached 46 pages of regulations, dealing with Chapter 55, the Oil and Gas Production Tax and Oil Surcharge are adopted and certified to be a correct copy of the regulation changes that the Department of Revenue adopts under the authority of AS 43.05.080, AS 43.55.011, AS 43.55.019, AS 43.55.020, AS 43.55.023; AS 43.55.024, AS 43.55.025, AS 43.55.028, AS 43.55.030, AS 43.55.040, AS 43.55.110, AS 43.55.160, AS 43.55.165, AS 43.55.170, AS 43.55.895, AS 43.55.900, Secs. 35, 41, and 42, ch. 3 SSSLA 2017, and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Department of Revenue paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor as provided in AS 44.62.180.

Date: 10/9/18

Sheldon Fisher
Commissioner
Department of Revenue

Claire Richardson

FILING CERTIFICATION

I, ~~Byron Mallot~~ Valerie Nurr'araaluk Davidson, Lieutenant Governor for the State of Alaska, certify that on Nov 6, 2018, at 11:58 A.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

Claire Richardson for
Lieutenant Governor Davidson

Effective: December 6, 2018.

Register: 228, January 2019.

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, VALERIE NURR'ARAALUK DAVIDSON, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

Claire Richardson
Scott Meriwether
April Simpson
Kady Levale

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Anchorage, on October 24, 2018.

VALERIE NURR'ARAALUK DAVIDSON
LIEUTENANT GOVERNOR

15 AAC 55.206(b) is amended to read:

(b) The provision of AS 43.55.160(b) that a production tax value may not be less than zero applies to each production tax value calculated for each segment. Subject to the provisions of AS 43.55.023(b)(2)**, as those provisions read before January 1, 2018, for oil and gas produced before January 1, 2018, or the provisions of AS 43.55.160(e), for oil and gas produced after December 31, 2017**, adjusted lease expenditures applicable to a segment that exceed the amount of adjusted lease expenditures that may, under AS 43.55.160(b), be deducted in calculating a production tax value for the segment are considered excess adjusted lease expenditures and, except as otherwise provided under 15 AAC 55.224, may not be reallocated to, or deducted in calculating a production tax value for, a different segment. Excess adjusted lease expenditures relating to the calculation of an annual production tax value, but not a monthly production tax value, may be used to establish a carried-forward annual loss to the extent allowed under AS 43.55.023(b)**, as the provisions of that subsection read before January 1, 2018, for oil and gas produced before January 1, 2018, or under AS 43.55.165(a)(3), for oil and gas produced after December 31, 2017,** and **AS** 43.55.160(e).

15 AAC 55.206(f) is amended to read:

(f) For purposes of this section**,** [AND] 15 AAC 55.215, **and 15 AAC 55.217, if** a unit, other than a unit within the Cook Inlet sedimentary basin [BEFORE 2022, MAY BE TREATED AS A SINGLE LEASE OR PROPERTY EVEN IF IT] contains multiple participating areas, **the participating areas together may be treated as a single lease or property,** unless any producer's ownership interests differ by 10 percentage points or more between two or more of the participating areas.

15 AAC 55.206 is amended by adding a new subsection to read:

(h) In the calculation of annual production tax value under AS 43.55.160(a)(1) or (h) for a calendar year, the provisions of AS 43.55.165(n)(2) do not affect the deductibility of adjusted lease expenditures for the calendar year under AS 43.55.165(a) that are described in AS 43.55.165(a)(1) and (2). (Eff. 10/21/2009, Register 192; am 12/25/2013, Register 208; am 3/1/2017, Register 221; am 12 / 6 / 2018, Register 228)

Authority:	AS 43.05.080	AS 43.55.024	AS 43.55.160
	AS 43.55.011	AS 43.55.110	AS 43.55.165

15 AAC 55.208(c) is amended to read:

(c) The only adjusted lease expenditures incurred by a municipal entity that may be used to establish a carried-forward annual loss under AS 43.55.023(b)(1), **as the provisions of that paragraph read before January 1, 2018,** subject to the provisions of AS 43.55.023(b)(2)**, as the provisions of that paragraph read before January 1, 2018, for lease expenditures incurred before January 1, 2018, or AS 43.55.165(a)(3), subject to the provisions of AS 43.55.160(e), for lease expenditures incurred after December 31, 2017**, are the portion, if any, of the amount of adjusted lease expenditures calculated under (b) of this section that would otherwise be deductible in calculating an annual production tax value but whose deduction would cause the annual production tax value to be less than zero. (Eff. 3/1/2017, Register 221; am 12 / 6 / 2018, Register 228)

Authority:	AS 43.05.080	AS 43.55.110	**AS 43.55.165**
	AS 43.55.023	AS 43.55.160	AS 43.55.895

15 AAC 55.211(h) is amended to read

(h) Except as provided under **AS 43.55.160(e) and** 15 AAC 55.511(c)(2), the gross value at the point of production of oil or gas is reduced under AS 43.55.160(f) or (g) only for the purpose of calculating an annual production tax value under AS 43.55.160(a)(1)(A) or (h)(1), subject to the provisions of AS 43.55.023(b)(2)**, as those provisions read before January 1, 2018, for oil and gas produced before January 1, 2018, or under AS 43.55.160(e) for oil and gas produced after December 31, 2017**. The gross value at the point of production of oil is not reduced under AS 43.55.160(f) or (g) for the purpose of calculating an average gross value at the point of production of oil for a month under AS 43.55.024(j), or for the purpose of calculating a gross value at the point of production under AS 43.55.011(f) or AS 43.55.020(a)(1)(B)(ii), (5)(B)(ii), or (7)(A)(ii).

(Eff. 12/25/2013, Register 208; am 3/1/2017, Register 221; am 12/6/2018, Register 228)

Authority:	AS 43.05.080	AS 43.55.110	AS 43.55.160

15 AAC 55.215(d) is amended to read:

(d) A producer's lease expenditure [INCURRED BEFORE 2022] that is a cost of exploring for, developing, or producing oil or gas deposits located within a lease or property**, other than a lease or property subject to AS 43.55.011(p),** outside the Cook Inlet sedimentary basin from which both (1) gas used in the state; and (2) oil or other gas are produced by the producer during the calendar year after June 30, 2007 in which the lease expenditure is incurred, is allocated between **(1) gas used in the state and (2) oil or other gas** [THE CATEGORIES IN (1) AND (2) OF THIS SUBSECTION] proportionally to the respective amounts of **each**[GAS AND OF OIL OR OTHER GAS IN EACH CATEGORY], in BTU equivalent barrels, produced by the producer from the lease or property during the calendar year and taxable under AS 43.55.011(e).

15 AAC 55.215(e) is amended to read:

(e) A producer's lease expenditure [INCURRED BEFORE 2022] that is a cost of exploring for oil or gas deposits located within land that is not a lease or property and is in an area of the state described in (a)(2)(A)(i) or (ii) of this section is allocated among (1) gas used in the state produced from each lease or property in that area**, other than gas subject to AS 43.55.011(p)**; and (2) oil and other gas produced from leases or properties in that area, proportionally to the respective amounts, if any, of gas used in the state and of oil or other gas, in BTU equivalent barrels, produced by the producer from the leases or properties during the calendar year after June 30, 2007 in which the lease expenditure is incurred and taxable under AS 43.55.011(e).

15 AAC 55.215 is amended by adding a new subsection to read:

(h) Except to the extent provided under 15 AAC 55.217(f), this section does not apply to carried-forward annual losses. (Eff. 5/3/2007, Register 182; am 10/21/2009, Register 192; am 12/25/2013, Register 208; am 12 / 6 / 2018, Register 228)

Authority:	AS 43.05.080	AS 43.55.024	AS 43.55.160
	AS 43.55.011	AS 43.55.110	AS 43.55.165

Article 2 of 15 AAC 55 is amended by adding a new section to read:

15 AAC 55.217. Carried-forward annual losses after December 31, 2017. (a) This section applies to lease expenditures incurred after December 31, 2017, to explore for, develop, or produce oil or gas deposits located outside the Cook Inlet sedimentary basin.

(b) For carried-forward annual losses for a segment under 15 AAC 55.206(c)(1), the adjusted lease expenditures that establish each carried-forward annual loss are determined using the following procedure, unless no oil or gas is produced during the calendar year from the segment:

(1) for any oil or gas produced during the calendar year for which the gross value at the point of production is reduced under AS 43.55.160(f) or (f) and (g), the reduction is added back to the gross value at the point of production;

(2) the adjusted lease expenditures incurred by the producer during the calendar year that are applicable to the segment under 15 AAC 55.215 are segregated into the following groups:

(A) the adjusted lease expenditures incurred to explore for, develop, or produce oil or gas deposits located within segment leases or properties from which oil or gas is produced during the calendar year, as allocated under 15 AAC 55.215(d) if applicable;

(B) the adjusted lease expenditures incurred to explore for, develop, or produce oil or gas deposits located within segment leases or properties, if any, from which no oil or gas is produced during the calendar year;

(C) the adjusted lease expenditures incurred to explore for oil or gas deposits located within land in the area under 15 AAC 55.215(a)(2) other than the producer's leases or properties, as allocated under 15 AAC 55.215(e) or (g), as applicable;

(3) if the gross value at the point of production of the taxable oil and gas produced by the producer during the calendar year from all leases or properties in the segment is

(A) less than or equal to the total adjusted lease expenditures described in (2)(A) of this subsection, a quotient Q is calculated as $Q = SE \div \sum(PE)$, where SE = the amount by which the total adjusted lease expenditures described in (2)(A) of this subsection exceed the gross value at the point of production of the taxable oil and gas produced by the producer during the calendar year from all leases or properties subject to (2)(A) of this subsection, and PE = the amount, if greater than zero, by which the adjusted lease expenditures incurred by the producer during the calendar year to explore for, develop, or produce oil or gas deposits located within each of those leases or properties, as allocated to the segment under 15 AAC 55.215(d) if applicable, exceeds the gross value at the point of production of taxable oil and gas produced by the producer during the calendar year from the lease or property; for each of those leases or properties for which PE is calculated, PE is multiplied by the quotient Q; the product of that multiplication is referred to as TE, and for each lease or property for which TE is calculated, a fraction is calculated as $F = TE \div LE$, where LE is the amount of adjusted lease expenditures incurred by the producer during the calendar year to explore for, develop, or produce oil or gas deposits located within the lease or property, as allocated to the segment under 15 AAC 55.215(d) if applicable; carried-forward annual losses for the segment are, subject to 15 AAC 55.224(f) if applicable, established only by

(i) for each lease or property for which F is calculated, a fraction F of the adjusted lease expenditures incurred by the producer during the calendar year to explore for, develop, or produce oil or gas deposits located within the lease or property, as allocated to the segment under 15 AAC 55.215(d) if applicable; for each lease or property this fraction F is applied uniformly to all of those adjusted lease expenditures; and

(ii) the adjusted lease expenditures, if any, described in (2)(B) and (2)(C) of this subsection;

(B) greater than the adjusted lease expenditures described in (2)(A) of this subsection and less than or equal to the sum of the adjusted lease expenditures described in (2)(A) and (2)(B) of this subsection, a fraction G is calculated as G = XE ÷ AE, where XE = the amount, if any, by which the adjusted lease expenditures described in (2)(B) of this subsection exceed the remainder resulting from subtracting the adjusted lease expenditures described in (2)(A) of this subsection from the gross value at the point of production of the taxable oil and gas produced by the producer during the calendar year from all leases or properties in the segment, and AE = the total adjusted lease expenditures described in (2)(B) of this subsection; carried-forward annual losses for the segment are, subject to 15 AAC 55.224(f) if applicable, established only by

(i) for each lease or property subject to (2)(B) of this subsection, a fraction G of the adjusted lease expenditures incurred by the producer during the calendar year to explore for, develop, or produce oil or gas deposits located within the lease or property; for each lease or property this fraction G is applied uniformly to all of those adjusted lease expenditures; and

(ii) the adjusted lease expenditures, if any, described in (2)(C) of this subsection;

(C) greater than the sum of the adjusted lease expenditures described in (2)(A) of this subsection and (2)(B) of this subsection and less than the sum of the adjusted lease expenditures described in (2)(A), (2)(B), and (2)(C) of this subsection, a fraction H is calculated as H = YE ÷ QE, where YE = the amount, if any, by which the adjusted lease expenditures described in (2)(C) of this subsection exceed the remainder resulting from subtracting the sum of the adjusted lease expenditures described in (2)(A) and (2)(B) of this subsection from the gross value at the point of production of the taxable oil and gas produced by the producer during the calendar year from all leases or properties in the segment, and QE = the total adjusted lease expenditures described in (2)(C) of this subsection; carried-forward annual losses for the segment are, subject to 15 AAC 55.224(f) if applicable, established only by a fraction H of the adjusted lease expenditures described in (2)(C) of this subsection; this fraction H is applied uniformly to all of those lease expenditures;

(D) equal to or greater than the sum of the adjusted lease expenditures described in (2)(A), (2)(B), and (2)(C) of this subsection, no carried-forward annual loss is established for the segment;

(4) in the case of a segment described in 15 AAC 55.206(c)(1)(E) or (F), the amount initially calculated for each carried-forward annual loss under (3) of this subsection is multiplied by the fraction calculated under 15 AAC 55.224(f)(7); only the product of that multiplication, if greater than zero, establishes the carried-forward annual loss.

(c) The following examples illustrate (b) of this section:

Example 1. In a given calendar year, a producer has three producing leases or properties on the North Slope and no non-producing leases or properties on the North Slope. The producer also conducts seismic exploration on the North Slope in a location remote from and unrelated to any of the leases or properties.

Ten barrels of taxable oil with a gross value at the point of production of $500, and qualifying for a gross value reduction of 20 percent under AS 43.55.160(f), are produced during the year from Property A. The producer incurs adjusted lease expenditures during the year of $400 to develop and produce oil from Property A.

Twenty barrels of taxable oil with a gross value at the point of production of $1,000, not qualifying for a gross value reduction, and 10 BTU equivalent barrels of taxable gas used in the state with a gross value at the point of production of $610 are produced during the year from Property B. The producer incurs adjusted lease expenditures during the year of $1,800 to develop and produce oil and gas from Property B.

Thirty barrels of taxable oil with a gross value at the point of production of $1,500, not qualifying for a gross value reduction, are produced during the year from Property C. The producer incurs adjusted lease expenditures during the year of $2,000 to develop and produce oil from Property C.

The producer incurs adjusted lease expenditures during the year of $140 to conduct the off-lease seismic exploration.

An annual production tax value must be calculated for each of two segments in this example: (1) oil and gas, other than gas used in the state, produced from North Slope leases or properties, under 15 AAC 55.206(c)(1)(A); and (2) gas produced from Property B that is used in the state, under 15 AAC 55.206(c)(1)(E).

The gross value at the point of production for the first segment is the sum of $500, less a 20 percent gross value reduction, or $400 from Property A, plus $1,000 from Property B, plus $1,500 from Property C, for a total of $2,900. Adjusted lease expenditures applicable to this segment are the sum of $400 from Property A, plus $1,200 from Property B (because under 15 AAC 55.215(d), the lease expenditures to develop and produce oil and gas from Property B are allocated between the oil and the gas used in the state proportionally to the respective BTU equivalent barrels produced, of which oil accounts for 20/30 = 2/3 of the $1,800 lease expenditures = $1,200), plus $2,000 from Property C, plus $120 from the seismic exploration (because under 15 AAC 55.215(e), those lease expenditures are allocated between the oil produced from both Properties A, B, and C, on one hand, and the gas used in the state produced from Property B, on the other hand, proportionally to the respective BTU equivalent barrels produced, of which oil accounts for 60/70 = 6/7 of the $140 lease expenditures = $120), for a total of $3,720. Since the lease expenditures exceed the gross value at the point of production, the annual production tax value for the segment is zero. Hence, the producer is required to follow the procedure set out in (b) of this section to determine the producer's carried-forward annual losses, if any, for this segment.

The gross value at the point of production for the second segment is $610, for gas used in the state produced from Property B. The lease expenditures applicable to this segment are the sum of $600 from Property B (because under 15 AAC 55.215(d), one-third of the lease expenditures incurred to develop and produce oil and gas from Property B are allocated to gas used in the state produced from Property B), plus $20 from the seismic exploration (because under 15 AAC 55.215(e), 1/7 of those lease expenditures are allocated to the gas used in the state produced from Property B), for a total of $620. Since the lease expenditures exceed the gross value at the point of production, the annual production tax value for the segment is zero. Hence, the producer is required to follow the procedure set out in (b) of this section to determine the producer's carried-forward annual losses, if any, for this segment.

For the first segment:

(1) After adding back the gross value reduction for Property A, the gross value at the point of production for Property A is $500.

(2) The applicable adjusted lease expenditures are grouped as follows:

(A) $3,600 incurred to explore for, develop, or produce oil or gas deposits located within the producer's leases or properties from which oil or gas is produced;

(B) zero incurred to explore for, develop, or produce oil or gas deposits located within the producer's leases or properties from which no oil or gas is produced;

(C) $120 incurred to explore for oil or gas deposits located within North Slope land other than the producer's leases or properties.

(3) The gross value at the point of production of the oil and gas produced from Properties A, B, and C, $3,000, is less than the $3,600 in adjusted lease expenditures in group

(2)(A), above. Therefore, carried-forward annual losses for the segment are calculated under (3)(A), as follows:

SE = \$3,600 - \$3,000 = \$600

PE for Property B = \$200

PE for Property C = \$500

Sum of PEs = \$700

Q = \$600 ÷ \$700 = 6/7

TE for Property B = \$200 * 6/7 = \$171.43

TE for Property C = \$500 * 6/7 = \$428.57

F for Property B = \$171.43 ÷ \$1,200 = 14.286%

F for Property C = \$428.57 ÷ \$2,000 = 21.428%

Therefore, under (b)(3)(A)(i) of this section, the producer has a carried-forward annual loss for the segment in the amount of \$171.43, established by 14.286 percent of the producer's \$1,200 in adjusted lease expenditures incurred to explore for, develop, or produce oil or gas deposits located within Property B and allocated to oil produced from Property B. (That is to say, 14.3 percent of each of those lease expenditures is carried-forward, rather than the producer's identifying a subset of lease expenditures with a total dollar amount of \$171.43 to carry forward.) The producer has a second carried-forward annual loss for the segment in the amount of \$428.57, established by 21.428 percent of the producer's \$2,000 in adjusted lease expenditures incurred to explore for, develop, or produce oil or gas deposits located within Property C. In addition, as provided by (b)(3)(A)(ii) of this section, the producer has a third carried-forward annual loss for the segment in the amount of \$120, established by the producer's \$120 in adjusted lease expenditures incurred to explore for oil or gas deposits located in North Slope land other than the producer's leases or properties and allocated to oil and gas other than gas used in the state.

For the second segment:

(1) There is no gross value reduction to add back.

(2) The applicable adjusted lease expenditures are grouped as follows:

(A) \$600 incurred to explore for, develop, or produce oil or gas deposits located within the lease or property from which gas is produced (Property B);

(B) zero incurred to explore for, develop, or produce oil or gas deposits located within the producer's leases or properties from which no oil or gas is produced (this is necessarily true for a segment under 15 AAC 55.206(c)(1)(E), since by definition this kind of segment is gas produced from a single lease or property, and that single lease or property is the subject of the preceding subparagraph (2)(A));

(C) \$20 incurred to explore for oil or gas deposits located within North Slope land other than the producer's leases or properties.

(3) The gross value at the point of production of gas produced from the segment lease or property, \$610, is greater than the sum of the adjusted lease expenditures described in (2)(A) and (2)(B), \$600, but is less than the sum of the adjusted lease expenditures described in (2)(A), (2)(B), and (2)(C), \$620. Therefore, carried-forward annual losses for the segment are calculated under (3)(C), as follows:

$$YE = \$10$$

$$H = \$10 \div \$20 = 50\%$$

Therefore, under (b)(3)(C) of this section, the producer has a carried-forward annual loss for the segment in the amount of \$10, established by 50 percent of the producer's \$20 in adjusted lease expenditures incurred to explore for oil or gas deposits located within North Slope land other than the producer's leases or properties and allocated to gas used in the state. (It is assumed for purposes of (b)(4) of this section that the production does not have a positive annual production tax value for the segment described in 15 AAC 55.206(c)(1)(F) for the calendar year, so that the fraction calculated under 15 AAC 55.224(f)(7) equals one.)

Example 2. In a given calendar year, a producer has one lease or property on the North Slope, Property D, from which no oil or gas is produced. The producer incurs adjusted lease expenditures of $1,000 to explore for or develop oil and gas deposits located within the lease or property. The producer also incurs adjusted lease expenditures of $200 to conduct seismic exploration on the North Slope in a location remote from and unrelated to the lease or property.

Under 15 AAC 55.206(c)(2)(A), the relevant segment is the area of the state north of 68 degrees North latitude. The production tax value for the segment is zero, but since the segment is not a segment under 15 AAC 55.206(c)(1) the producer need not use the procedure set out in (b) of this section to determine carried-forward annual losses for the segment. The producer has a carried-forward annual loss for the segment in the amount of $1,000, established by the producer's $1,000 in adjusted lease expenditures incurred to explore for or develop oil or gas deposits located within Property D. The producer also has a carried-forward annual loss for the segment in the amount of $200, established by the producer's $200 in adjusted lease expenditures incurred to explore for oil or gas deposits located within North Slope land other than the producer's leases or properties.

(d) The following example illustrates (b)(3) of this section and 15 AAC 55.55.224(f):

In a given calendar year, a producer has two producing leases or properties on the North Slope, both of which have commenced regular production (Property A and Property B). The producer also has two non-producing leases or properties on the North Slope, neither of which has commenced regular production (Property C and Property D). Oil and gas other than gas used in the state produced from the four properties make up the first segment of taxable production for the producer. The producer also has taxable production from a second segment on the North Slope for gas used in the state produced from Property A. For purposes of this example it has been assumed that if any of the properties are eligible for a gross value reduction under AS 43.55.160(f) or AS 43.55.160(f) and (g), any gross value reduction has been added back to the gross value at the point of production prior to determining the amount of any carried-forward annual loss under this section. Additionally, the producer has no lease expenditures or production outside of the North Slope.

In Year 1, the producing leases or properties, Property A and Property B, respectively, produce 30 and 20 barrels of taxable oil with gross values at the point of production of $1,500 and $1,000, and adjusted lease expenditures of $1,800 and $1,200. Property A also produces six BTU equivalent barrels of taxable gas used in the state with a gross value at the point of production of $200. The non-producing properties, Property C and Property D incur adjusted lease expenditures of $300 and $500, respectively.

In Year 2, the producing leases or properties, Property A and Property B, respectively, produce 50 and 25 barrels of taxable oil with gross values at the point of production of $2,750 and $1,375, and adjusted lease expenditures of $2,400 and $1,200. Property A also produces 10 BTU equivalent barrels of taxable gas used in the state with a gross value at the point of production of $500. The non-producing properties, Property C and Property D incur adjusted lease expenditures of $400 and $600, respectively.

In Year 3, the producing leases or properties, Property A and Property B, respectively, produce 50 barrels and 30 barrels of taxable oil with gross values at the point of production of $3,000 and $1,800, and adjusted lease expenditures of $2,400 and $1,200. Property A also produces 10 BTU equivalent barrels of taxable gas used in the state with a gross value at the point of production of $500. In addition, during Year 3, Property C commences regular production and for the North Slope oil and gas, other than gas used in the state segment, produces 20 barrels of taxable oil with a gross value at the point of production of $1,200 and incurs adjusted lease expenditures of $1,300. In addition, Property C produces six BTU equivalent barrels of gas used in the state, with a gross value at the point of production of $150. Non-producing Property D incurs adjusted lease expenditures of $600.

In Year 1 the producer has a loss for the first segment of $1,000. The $1,800 in adjusted lease expenditures for Property A are allocated to the first segment, North Slope oil and gas other than gas used in the state, in the amount of $1,500 [$1,800*(30/(30 + 6))] and $300 to the second segment, gas used in the state for Property A [$1,800*(6/(30 + 6))]. Part or all of the $200 carried-forward annual loss established by lease expenditures incurred on Property B may be deducted in determining the annual production tax value for the first segment in any following year to the extent that the gross value at the point of production for the segment exceeds the adjusted lease expenditures described in AS 43.55.165(a)(1) or (2) for the segment for the calendar year subject to AS 43.55.165(m). The carried-forward annual losses of $300 established by lease expenditures incurred on Property C, and $500 established by lease expenditures incurred on Property D, may not be applied in determining the annual production tax value for the segment until the respective Property has commenced regular production. For the gas used in the state segment for Property A, the producer has a carried-forward annual loss of $100. Since there are no other North Slope properties from which gas used in the state was produced and it was previously stated that the producer does not have any other lease expenditures or production outside of the North Slope that might result in a positive annual production tax value for the segment described in 15 AAC 55.206(c)(1)(F) for the calendar year, the fraction calculated under 15 AAC 55.224(f)(7) equals one.

In Year 2, the producer has a loss for the first segment, in the amount of $75. The lease expenditures establishing the loss are those incurred on the non-producing properties (Property C and Property D) as provided by (b)(3)(B) of this section. The $2,400 in adjusted lease expenditures from Property A is allocated to the North Slope oil or gas, other than gas used in the state segment, in the amount of $2,000 to Property A ($2,400 * (50/(50 + 10))) and $400 to the gas used in the state segment for Property A ($2,400 * (10/(50 + 10))). Since the amount of lease expenditures for the calendar year for the North Slope oil and gas, other than gas used in the state segment, required to exceed the gross value at the point of production includes costs from both producing and non-producing properties, the adjusted lease expenditures incurred on the non-producing properties are used to establish any carried-forward annual losses based on the calculations in (b)(3)(B) of this section, where XE = $75 (amount of the loss for the North Slope oil and gas, other than gas used in the state, segment) and AE = $1,000 (the sum of the adjusted lease expenditures from leases or properties from which no oil or gas is produced), resulting in a fraction G, of .075. Applying the fraction G of .075 to the adjusted lease expenditures of $400 incurred on Property C and $600 incurred on Property D results in carried-forward annual losses in the amounts of $30 established by lease expenditures incurred on Property C and $45 established by lease expenditures incurred on Property D. Those carried-forward annual losses may not be applied to the segment until the respective property commences regular production.

For the gas used in the state segment for Property A, the GVPP of $500 exceeds the adjusted lease expenditures of $400, so there is no carried-forward annual loss. Additionally, the $100 carried-forward annual loss for gas used in the state from Property A from Year 1 may be applied against the $100 production tax value in Year 2 to reduce production tax value to zero. Since there are no excess lease expenditures for the gas used in the state segment for Property A the calculations under 15 AAC 55.224(f) are not relevant.

In Year 3 the producer has a positive production tax value for the North Slope oil and gas, other than gas used in the state segment, before deducting any available carried-forward annual losses, in the amount of $1,200. For the North Slope oil and gas, other than gas used in the state segment, there is no carried-forward annual loss created in Year 3. The adjusted lease expenditures from Property A are allocated to the North Slope oil and other gas, other than gas used in the state segment, in the amount of $2,000 to Property A [$2,400 * (50/(50 + 10))] and $400 to the gas used in the state segment for Property A [$2,400 * (10/(50 + 10))]. The adjusted lease expenditures for Property C of $1,300 are allocated to the North Slope oil and other gas, other than gas used in the state segment, in the amount of $1,000 to Property A [$1,300 * (20/(20 + 6))] and $300 to the gas used in the state segment for Property C [$1,300 * (6/(20 + 6))]. For the North Slope oil and gas, other than gas used in the state segment, the amount of tax levied by AS 43.55.011(e) is $420 if no carried-forward annual losses from prior years are deducted [($6,000 GVPP - $4,800 adjusted lease expenditures) X 35%)]. Since the minimum tax for the North Slope oil and gas, other than gas used in the state segment, as determined under AS 43.55.011(f) is $240 ($6,000 gross value at the point of production X 4%), the producer may use any available carried-forward annual losses from Property B ($200), plus those from Property C ($300) from Year 1, plus an additional $14 from Property C (Year 2) to reduce the producer's production tax liability, before the application of any tax credits, to no less than the $240 minimum tax determined under AS 43.55.011(f).

For the gas used in the state segment for Property A, the amount of production tax calculated under AS 43.55.011(e)(2) is $35 ~~[~~(($500 GVPP - $400 adjusted lease expenditures) X 35%))~~]~~. However, this amount is limited under AS 43.55.011(o) to $10 ~~[~~((10 BTU equivalent barrels X (6 MMBTUs/BTU Eq. Bbl./1,037,000 BTUs/Mcf)) = 58 Mcf. (58 Mcf X $.177 = $10))~~]~~. For the gas used in the state segment for Property C the producer is determined to have incurred excess lease expenditures under 15 AAC 55.206(b) in the amount of $150 ~~[~~$150 GVPP – adjusted lease expenditures of $300~~]~~. As previously noted, the producer does not have any other lease expenditures or production outside of the North Slope that might result in a positive annual production tax value for the segment described in 15 AAC 55.206(c)(1)(F). Therefore, the amount of the carried-forward annual loss would be determined under 15 AAC 55.224(f) as follows:

$150 = 15 AAC 55.224(f)(1) – Total amount of excess lease expenditures gas used in state

$ 53 = 15 AAC 55.224(f)(2) – ~~[~~(15 AAC 55.224(f)(1) X 35%)~~]~~

$ 25 = 15 AAC 55.224(f)(3)&(4) – sum of benefit of limitation under AS 43.55.011(o) & (p)

$ 28 = 15 AAC 55.224(f)(5) – Difference ~~[~~(15 AAC 55.224(f)(2) – 15 AAC 55.224(f)(4))~~]~~

$ 79 = 15 AAC 55.224(f)(6) – ~~[~~(15 AAC 55.224(f)(5)/35%)~~]~~

0.53 = 15 AAC 55.224(f)(7) – ratio to be applied to excess lease expenditures in 15 AAC 55.224(f)(1) ~~[~~(15 AAC 55.224(f)(6) / 15 AAC 55.224(f)(1))~~]~~.

In accordance with (b)(4) of this section the 53% ratio in 15 AAC 55.224(f)(7) is applied to the $150 excess less expenditures from gas used in the state Property C resulting in a carried-forward annual loss of $79 for the segment.

(e) A producer for which a carried-forward annual loss for a segment under 15 AAC 55.206 is established by adjusted lease expenditures incurred during a calendar year shall file, with or as part of the statement required by AS 43.55.030(a) or (e) for the calendar year, a statement on a form approved or prescribed by the department that contains, for the segment,

(1) the following information:

(A) if applicable, the calculations specified under (b) of this section;

(B) the amount of the carried-forward annual loss, if any, established for each segment lease or property; and

(C) the amount of the carried-forward annual loss, if any, established for exploration described in (b)(2)(C) of this section; or

(2) if the producer wishes to disclaim the right to use in the future any carried-forward annual loss for the segment established for that calendar year, the producer's agreement not to deduct all or any part of any carried-forward annual loss for the segment established for that calendar year in the calculation of an annual production tax value for a future calendar year; that agreement binds any transferee of an interest in a lease or property of the producer and any person that acquires the producer.

(f) This subsection implements AS 43.55.165(n)(1). A carried-forward annual loss established

(1) under (b) of this section may be deducted only in calculating an annual production tax value for the same segment under 15 AAC 55.206(c)(1) for which the carried-forward annual loss was established.

(2) for a segment described in 15 AAC 55.206(c)(2)(A)

(A) may be deducted only in calculating annual production tax values for the following segments, if the lease expenditures establishing the carried-forward annual loss were incurred to explore for or develop oil or gas deposits located within a lease or property that includes land north of 68 degrees North latitude, with the carried-forward annual loss allocated between the segments proportionally to the respective amounts of gas used in the state and of oil and other gas produced by the producer from the lease or property during the calendar year regular production of oil or gas commences from the lease or property:

(i) gas used in the state produced by the producer from the lease or property;

(ii) oil and other gas produced by the producer from leases or properties that include land north of 68 degrees North latitude;

(B) may be deducted only in calculating annual production tax values for the following segments, if the lease expenditures establishing the carried-forward annual loss were incurred to explore for or develop oil or gas deposits located within land that is not the producer's lease or property and is located north of 68 degrees North latitude, with the carried-forward annual loss allocated among the segments proportionally to the respective amounts of gas used in the state and of oil and other gas produced by the producer from the producer's leases or properties that include land north of 68 degrees North latitude during the first calendar year that regular production of oil or gas commences from any of the producer's leases or properties that include land north of 68 degrees North latitude:

(i) gas used in the state produced by the producer from each lease or property that includes land north of 68 degrees North latitude;

(ii) oil and other gas produced by the producer from leases or properties that include land north of 68 degrees North latitude;

(3) for a segment described in 15 AAC 55.206(c)(2)(B) may be deducted only in calculating an annual production tax value for oil and gas produced by the producer from leases or properties outside the Cook Inlet sedimentary basin and no part of which is north of 68 degrees North latitude lease or property.

(g) The following example illustrates (f) and (p)(2) of this section:

The facts are as described in Example 1 in (c) of this section. The producer wishes to deduct the carried-forward losses to the maximum extent possible in calculating annual production tax values for a later calendar year.

The first segment, for which adjusted lease expenditures established the $171.43, $428.57, and $120 carried-forward annual losses, is oil and gas, other than gas used in the state, produced from leases or properties that include land north of 68 degrees North latitude, under 15 AAC 55.206(c)(1)(A). Therefore, subject to AS 43.55.165(n)(2) and (o), the carried-forward annual losses established by those lease expenditures may be deducted in calculating the annual production tax value for oil and gas, other than gas used in the state, produced from leases or properties that include land north of 68 degrees North latitude. Under AS 43.55.165(n)(2) and (p)(2) of this section, the $171.43 carried-forward annual loss established by lease expenditures incurred to explore for, develop, or produce oil or gas deposits located within Property B may be deducted only if regular production of oil or gas has commenced from Property B, and the $428.57 carried-forward annual loss established by lease expenditures incurred to explore for, develop, or produce oil or gas deposits located within Property C may be deducted only if regular production of oil or gas has commenced from Property C. Since the $120 carried-forward annual loss was established by the producer's lease expenditures incurred to explore for oil or gas deposits located in North Slope land in a location remote from and unrelated to any of the producer's existing leases or properties, that carried-forward annual loss may not be deducted until and unless the adjusted lease expenditures that established the carried-forward annual loss become reasonably related to a lease or property of the producer from which regular production has commenced. In addition, the amounts of any or all of the carried-forward losses are potentially subject to reduction under AS 43.55.165(o).

The second segment, for which adjusted lease expenditures established the $10 carried-forward annual loss, is gas produced from Property B that is used in the state, under 15 AAC 55.206(c)(1)(E). Therefore, subject to AS 43.55.165(n)(2) and (o), this carried-forward annual loss may be deducted in calculating the annual production tax value of gas used in the state that is produced from Property B. However, as explained above, the carried-forward annual loss may not be deducted until and unless the adjusted lease expenditures that established the carried-forward annual loss become reasonably related to a lease or property of the producer from which regular production has commenced.

(h) For purposes of AS 43.55.165(r) and this section,

(1) a lease expenditure incurred by a producer to conduct

(A) exploration for oil or gas deposits within land that later becomes part or all of a lease or property of the producer is reasonably related to that lease or property, beginning in the calendar year the land becomes part or all of that lease or property;

(B) geological or geophysical exploration, other than a stratigraphic test well under (5) of this subsection, within 25 miles of land that later becomes part or all of a lease or property of the producer, is reasonably related to that lease or property, beginning in the calendar year the land becomes part or all of that lease or property; for purposes of this sub-paragraph, geological or geophysical exploration is conducted within 25 miles of land that later becomes part or all of a lease or property of the producer if

(i) the location of the energy source used in active geophysical exploration is no more than 25 miles from the point within the lease or property that is nearest to that location;

(ii) the location of the sensor used in passive geophysical exploration is no more than 25 miles from the point within the lease or property that is nearest to that location; for an aerial survey, the location of the aerial sensor is the surface location overflown at the time the sensor is in use for geophysical exploration;

(iii) the location where rock or other geologic material is sampled or examined in place in geological exploration is no more than 25 miles from the point within the lease or property that is nearest to that location.

(2) a lease expenditure incurred by a producer to explore a specific potential hydrocarbon accumulation, or to explore by delineating a specific reservoir, is reasonably related to a participating area of the producer established for a reservoir that is discovered or delineated, respectively, by the producer's exploration of that potential hydrocarbon accumulation or reservoir; the first calendar year the lease expenditure is reasonably related to the participating

area is the calendar year the participating area is established, except for lease expenditures subject to (3) of this subsection;

(3) a lease expenditure incurred by a producer to explore by further delineating a reservoir for which a participating area was previously established is reasonably related to the participating area as of the calendar year during which the lease expenditure is incurred;

(4) unless (2) or (3) of this subsection applies, a lease expenditure incurred by a producer to explore a specific potential hydrocarbon accumulation outside a unit or within a unit described in 15 AAC 55.815(2), or to explore by delineating a specific reservoir outside a unit or within a unit described in 15 AAC 55.815(2), is reasonably related to a lease or property of the producer that contains all or part of a reservoir that is discovered or delineated, respectively, by the producer's exploration of that potential hydrocarbon accumulation or reservoir; the first calendar year the lease expenditure is reasonably related to the lease or property is the later of the calendar year during which (A) the lease expenditure is incurred, or (B) the lease or property is first shown to contain all or part of the reservoir;

(5) a lease expenditure incurred by a producer to explore for oil or gas deposits by means of a stratigraphic test well is reasonably related to a lease or property acquired by the producer, beginning in the calendar year the lease or property is acquired, if the producer relies on information gained from the well in evaluating that lease or property for acquisition; this paragraph does not apply to a well less than 600 feet deep and for whose drilling the Alaska Oil and Gas Conservation Commission does not require a blowout preventer.

(i) The following example illustrates (h)(1)(B) of this section:

A producer conducts a seismic survey, a type of active geophysical exploration, on the North Slope. The energy source is provided by a vehicle-mounted plate vibration generator (vibroseis). Vibrations for the purpose of the survey are generated at 1,000 locations over the course of the survey. The producer subsequently acquires an oil and gas lease that is within 25 miles of 345 of those locations, as measured from the nearest point in the lease. The other 655 locations are more than 25 miles from the lease. The lease expenditures incurred to conduct the seismic survey at the 345 locations within 25 miles of the lease are reasonably related to the lease. The amount of lease expenditures that are reasonably related to the lease may be calculated as 34.5 percent of the total lease expenditures incurred to conduct the seismic survey.

(j) The following example illustrates (h)(2) of this section:

A unit composed of state oil and gas leases has been formed to encompass a specific potential hydrocarbon accumulation. A producer drills three wells to explore the potential hydrocarbon accumulation. The first well is a dry hole. The second well discovers a reservoir in the potential hydrocarbon accumulation. The third well penetrates the same reservoir. A participating area in which the producer owns an interest is established for the reservoir by the department of natural resources. The lease expenditures incurred to drill all three wells are reasonably related to the participating area, because all the wells were drilled to explore the potential hydrocarbon accumulation in question.

(k) This subsection implements AS 43.55.165(m). In the calculation of an annual production tax value for a producer's segment described in 15 AAC 55.206(c)(1)(A), carried-forward annual losses may be deducted only to the extent that 35 percent of the resulting annual production tax value is equal to or greater than the amount calculated for the producer for the calendar year under AS 43.55.011(f).

(*l*) The following example illustrates (k) of this section:

A producer produces oil from North Slope leases or properties for which the amount of tax calculated under AS 43.55.011(e)(2) for the calendar year is $150 after the deduction of adjusted lease expenditures under AS 43.55.165(a)(1) and (2). The minimum tax for the oil as determined under AS 43.55.011(f) for the calendar year is $100. Regardless of the amount of carried-forward annual losses under AS 43.55.165(a)(3) that the producer has available, carried-forward annual losses under AS 43.55.165(a)(3) may not be used to reduce the amount of tax calculated under AS 43.55.011(e) to less than $100. The producer deducts carried-forward annual losses under AS 43.55.165(a)(3) from a prior year to reduce the producer's tax liability to an amount equal to the amount of tax determined under AS 43.55.011(f) ($100). The producer has available $75 of credits earned in the current year under AS 43.55.024(i) and a tax credit under AS 43.55.023(b), as the provisions of that subsection read before January 1, 2018, for oil and gas produced before January 1, 2018, in the amount of $50. The entire amount of the tax credit under AS 43.55.024(i) of $75 may be applied to reduce the producer's tax liability to $25, and $25 dollars of the tax credit under AS 43.55.023(b) may be applied to further reduce the producer's tax liability down to zero. The remaining $25 of the tax credit under AS 43.55.023(b) may not be used to apply for a refund, but may be carried-forward to be used in a future period.

(m) Subject to the following conditions and limitations, a producer to which an interest in a lease or property is transferred may apply the fraction specified in (1) of this subsection of an unused carried-forward annual loss established by lease expenditures that were previously incurred by the transferor of the interest to the same extent as if the lease expenditures had been incurred by the transferee of the interest, if the lease expenditures either were incurred to explore for, develop, or produce oil or gas deposits located within the lease or property or if the lease expenditures are reasonably related to the lease or property under (h) of this section, and if the transferor of the interest in the lease or property provides the transferee at the time of the transfer of the interest with the transferor's written agreement that the allowed fraction of the carried-forward annual loss will not be applied by the transferor of the interest and will be available for application only by the transferee:

(1) the fraction allowed for purposes of this subsection equals the fraction of the transferor's interest in the lease or property transferred to the transferee of the interest;

(2) the transferor of the interest in the lease or property shall provide the transferee of the interest with a description and documentation of the lease expenditures establishing the carried-forward annual loss with sufficient specificity to distinguish them from other lease expenditures incurred by the transferor;

(3) the transferor of the interest in the lease or property shall file, with or as part of the statement required by AS 43.55.030(a) or (e) for the calendar year during which the interest in the lease or property was transferred,

(A) a statement on a form approved or prescribed by the department that identifies the lease or property, the interest transferred, and the transferee, and describes the lease expenditures, with reference to the carried-forward annual loss established by the lease expenditures as reported in the statement required under (e) of this section; and

(B) a copy of the transferor's written agreement that the allowed fraction of the carried-forward annual loss will not be applied by the transferor of the interest and will be available for application only by the transferee;

(4) a claimed lease expenditure and a claimed carried-forward annual loss under this subsection are subject to adjustment or disallowance on audit to the same extent as if no transfer of an interest in the lease or property had occurred;

(5) if the transferor of the interest in the lease or property does not agree in writing at the time of the transfer of the interest that the allowed fraction of the carried-forward annual loss will not be applied by the transferor of the interest and will be available for application only by the transferee, the full amount of the carried-forward annual loss remains available for use by the transferor of the interest to the extent provided by AS 43.55 and this chapter;

(6) except as provided in this subsection and (n) of this section, a carried-forward annual loss may not be transferred.

(n) If the transferee of an interest in a lease or property under (m) of this section or under this section having the right to apply a fraction of a carried-forward annual loss subject to (m) of this section transfers all or part of the interest to a subsequent transferee, and if the transferor of the interest in the lease or property provides the subsequent transferee at the time of the transfer of the interest with the transferor's written agreement that the fraction allowed under this subsection of the carried-forward annual loss will not be applied by the transferor of the interest and will be available for application only by the subsequent transferee, the subsequent transferee may apply the fraction allowed under this subsection of the unused carried-forward annual loss to the extent allowed under, and subject to the provisions of, (m) of this section, except as provided as follows:

(1) if the interest in a lease or property transferred under this subsection is less than the entire interest owned by the transferor under this subsection, the fraction of the unused carried-forward annual loss that the subsequent transferee under this subsection may apply is equal to the fraction of the interest in the lease or property transferred multiplied times the

fraction of the carried-forward annual loss that the transferor under this subsection had the right to apply before the transfer;

(2) the description and documentation of lease expenditures referred to in (m)(2) of this section and required to be provided by the transferor under this subsection to the subsequent transferee under this subsection may be a copy of the description and documentation that the transferor under (m) of this section provided under (m)(2) of this section to the transferee under (m) of this section;

(3) the statement referred to in (m)(3)(A) of this section and required to be filed by the transferor under this subsection need not include a reference to the statement required under (e) of this section to be filed by the transferor under (m) of this section.

(o) The limitation provided under AS 43.55.165(n), that a carried-forward annual loss may only be applied beginning in the calendar year in which regular production of oil or gas from the lease or property where the lease expenditure resulting in the carried-forward annual loss was incurred commences, is satisfied if the first calendar year for which part or all of the carried-forward annual loss is deducted in calculating an annual production tax value is not earlier than the calendar year during which that regular production commences. If the lease expenditure was incurred on more than one lease or property, the calendar year during which regular production of oil or gas commences may be determined with reference to any one of those leases or properties for purposes of this subsection. Upon receiving a written request from a producer, the department will request the Alaska Oil and Gas Conservation Commission to determine whether, and if so when, regular production of oil or gas has commenced from a lease or property.

(p) As used in

(1) AS 43.55.165(s)(1) "loss" means an amount of adjusted lease expenditures described in AS 43.55.165(a)(1) and (2) incurred during a calendar year after 2017 that would otherwise be deductible by the producer in calculating an annual production tax value for that calendar year under AS 43.55.160(a)(1) or (h) but whose deduction would cause the annual production tax value to be less than zero, subject to the requirements in AS 43.55.160(e) to add back a reduction under AS 43.55.160(f) or (g) and to account for the adjusted lease expenditures if the producer's tax liability is limited by AS 43.55.011(o) or (p);

(2) AS 43.55.165(n)(2), (o), and (r), and this section, the lease or property "on" which a lease expenditure is incurred or "where" a lease expenditure is incurred means

(A) in the case of a lease expenditure incurred to explore for, develop, or produce oil or gas deposits located within a lease or property of the producer, the lease or property within which is located the oil or gas deposits to explore for, develop, or produce which the lease expenditure is incurred;

(B) a lease or property, if any, to which the lease expenditure is determined to be reasonably related under (h)(1) – (5) of this section;

(C) a lease or property that incorporates the lease or property described in (A) or (B) of this paragraph, such as a participating area that when established encompasses an oil and gas lease subject to (A) or (B) of this paragraph and other oil and gas leases; the first calendar year the lease expenditure is considered to be on a lease or property described in this subparagraph is the calendar year during which the lease or property incorporates the lease or property described in (A) or (B) of this paragraph;

(3) this section,

(A) "carried-forward annual loss" has the meaning given in AS 43.55.165(s)(1);

(B) "participating area" means a participating area described in 15 AAC 55.815(1);

(C) "potential hydrocarbon accumulation" has the meaning given in 11 AAC 83.395;

(D) "producer" includes "explorer" with regard to lease expenditures incurred to explore for oil or gas deposits located in land in which the explorer does not own an operating right, operating interest, or working interest in a mineral interest in oil or gas;

(E) "reservoir" has the meaning given in 11 AAC 83.395. (Eff. 12/6/2018, Register 228)

Authority:	AS 43.05.080	AS 43.55.110	AS 43.55.165
	AS 43.55.011	AS 43.55.160	Sec. 35, ch. 3 SSSLA 2017

15 AAC 55.224(a) is amended to read:

(a) For purposes of the calculations required under **<u>(b), (d), (e), or (f)</u>** [(b) OR (d)] of this section, in calculating an annual production tax value for a segment described in 15 AAC 55.206(c)(1)(C), (D), (E), or (F), a producer shall deduct applicable adjusted lease expenditures for the calendar year to the maximum extent that deductibility is allowed under applicable law, including **<u>(b), (d), (e), or (f)</u>** [(b) OR (d)], as applicable of this section.

15 AAC 55.224(b) is amended to read:

(b) For a calendar year before 2014 for which a limitation under AS 43.55.011(j), (k), (o), or (p) on the tax levied by AS 43.55.011(e) has the effect of reducing the producer's tax on oil or gas produced from one or more leases or properties below the amount of the tax that would be levied in the absence of that limitation, the producer shall account under this subsection for adjusted lease expenditures that are excess adjusted lease expenditures, if any, under 15 AAC 55.206(b) in the calculation of annual production tax values for segments described in 15 AAC 55.206(c)(1)(C), (D), (E), or (F). Only the amount, if any, of those excess adjusted lease expenditures that is calculated under (6) of this subsection may be used to establish a carried-forward annual loss under AS 43.55.023(b)**, as the provisions of that subsection read before January 1, 2018**. The calculations to be performed for the accounting under this subsection are as follows:

. . . (((Publisher: 15 AAC 55.224(b)(1) – (6) are unchanged.)))

15 AAC 55.224(d) is amended to read:

(d) For a calendar year after 2013 **and before 2017** for which a limitation under AS 43.55.011(j), (k), (o), or (p) on the tax levied by AS 43.55.011(e) has the effect of reducing the producer's tax on oil or gas produced from one or more leases or properties below the amount of the tax that would be levied in the absence of that limitation, the producer shall account under this subsection for adjusted lease expenditures that are excess adjusted lease expenditures, if any, under 15 AAC 55.206(b) in the calculation of annual production tax values for segments described in 15 AAC 55.206(c)(1)(C), (D), (E), or (F). Only the amount, if any, of those excess adjusted lease expenditures that is calculated under (7) of this subsection may be used to establish a carried-forward annual loss under AS 43.55.023(b)**, as the provisions of that subsection read before January 1, 2018**. The fraction of the amount calculated under (7) of this subsection that is subject to a 25 percent tax credit under AS 43.55.023(b)**, as the provisions of that subsection read before January 1, 2018,** is equal to the amount calculated under (1) of this subsection divided by the sum of the amounts calculated under (1) and (2) of this subsection. The fraction of the amount calculated under (7) of this subsection that is subject to a 45 percent tax credit under AS 43.55.023(b)**, as the provisions of that subsection read before January 1, 2018,** in the case of lease expenditures incurred after December 31, 2013, and before January 1, 2016, or a 35 percent tax credit under AS 43.55.023(b)**, as the provisions of that subsection read before January 1, 2018,** in the case of lease expenditures incurred after December 31, 2015 and before January 1, 2017, is equal to the amount calculated under (2) of this subsection divided by the sum of the amounts calculated under (1) and (2) of this subsection. The calculations to be performed for the accounting under this subsection are as follows:

. . . (((Publisher: 15 AAC 55.224(d)(1) – (7) are unchanged.)))

15 AAC 55.224(e) is amended to read:

(e) For calendar year 2017 for which a limitation under AS 43.55.011(j), (k), (o), or (p) on the tax levied by AS 43.55.011(e) has the effect of reducing the producer's tax on oil or gas produced from one or more leases or properties below the amount of the tax that would be levied in the absence of that limitation, the producer shall account under this subsection for adjusted lease expenditures that are excess adjusted lease expenditures, if any, under 15 AAC 55.206(b) in the calculation of annual production tax values for segments described in 15 AAC 55.206(c)(1)(C), (D), (E), or (F). Only the amount, if any, of those excess adjusted lease expenditures that is calculated under (7) of this subsection may be used to establish a carried-forward annual loss under AS 43.55.023(b)**, as the provisions of that subsection read before January 1, 2018**. The fraction of the amount calculated under (7) of this subsection that is subject to a 15 percent tax credit under AS 43.55.023(b)**, as the provisions of that subsection read before January 1, 2018,** is equal to the amount calculated under (1) of this subsection divided by the sum of the amounts calculated under (1) and (2) of this subsection. The fraction of the amount calculated under (7) of this subsection that is subject to a 35 percent tax credit under AS 43.55.023(b)**, as the provisions of that subsection read before January 1, 2018,** is equal to the amount calculated under (2) of this subsection divided by the sum of the amounts calculated under (1) and (2) of this subsection. The calculations to be performed for the accounting under this subsection are as follows:

. . . (((Publisher: 15 AAC 55.224(e)(1) – (7) are unchanged.)))

15 AAC 55.224(f) is amended to read:

(f) For a calendar year after 2017 for which a limitation under AS 43.55.011(o) **or** [AND] (p) on the tax levied by AS 43.55.011(e) has the effect of reducing the producer's tax on oil or gas produced from one or more leases or properties below the amount of the tax that would be levied in the absence of that limitation, the producer shall account under this subsection for adjusted lease expenditures that are excess adjusted lease expenditures, if any, under 15 AAC 55.206(b) in the calculation of annual production tax values for segments described in 15 AAC 55.206(c)(1)(E)[,] or (F). Only the **fraction calculated under (7) of this subsection** [AMOUNT, IF ANY,] of those excess adjusted lease expenditures**, if greater than zero,** [THAT IS CALCULATED UNDER (7) OF THIS SUBSECTION] may be used to establish [A] carried-forward annual **losses** [LOSS] under **AS 43.55.160(e) and 43.55.165(a)(3) and (*l*) – (s)(1).** [AS 43.55.023(b). THE FRACTION OF THE AMOUNT CALCULATED UNDER (7) OF THIS SUBSECTION THAT IS SUBJECT TO A 15 PERCENT TAX CREDIT UNDER AS 43.55.023(b) IS EQUAL TO THE AMOUNT CALCULATED UNDER (1) OF THIS SUBSECTION DIVIDED BY THE SUM OF THE AMOUNTS CALCULATED UNDER (1) AND (2) OF THIS SUBSECTION. THE FRACTION OF THE AMOUNT CALCULATED UNDER (7) OF THIS SUBSECTION THAT IS SUBJECT TO A 35 PERCENT TAX CREDIT UNDER AS 43.55.023(b) IS EQUAL TO THE AMOUNT CALCULATED UNDER (2) OF THIS SUBSECTION DIVIDED BY THE SUM OF THE AMOUNTS CALCULATED UNDER (1) AND (2) OF THIS SUBSECTION.] The calculations to be performed for the accounting under this subsection are as follows:

(1) calculate the total amount of excess adjusted lease expenditures subject to this subsection [FOR SEGMENTS DESCRIBED IN 15 AAC 55.206(c)(1)(F) FOR GAS PRODUCED FROM LEASES OR PROPERTIES NO PART OF WHICH IS NORTH OF 68 DEGREES NORTH LATITUDE];

(2) [CALCULATE THE TOTAL AMOUNT OF EXCESS ADJUSTED LEASE EXPENDITURES SUBJECT TO THIS SUBSECTION FOR SEGMENTS DESCRIBED IN 15 AAC 55.206(c)(1)(E) FOR GAS PRODUCED FROM LEASES OR PROPERTIES THAT INCLUDE LAND NORTH OF 68 DEGREES NORTH LATITUDE;

(3) SUM THE AMOUNTS CALCULATED UNDER (1) AND (2) OF THIS SUBSECTION AND] multiply that **total amount** [SUM] by 35 percent;

(3) [(4)] calculate for each segment the amount by which a limitation under **AS 43.55.011(o) or (p)** [AS 43.55.011(j), (k), (o), OR (p)] reduces the amount of the producer's tax otherwise levied by AS 43.55.011(e);

(4) [(5)] sum the total of the reductions calculated under **(3)** [(4)] of this subsection for all affected segments;

(5) [(6)] if the amount calculated under **(2)** [(3)] of this subsection is

(A) greater than the amount calculated under **(4)** [(5)] of this subsection, subtract the amount calculated under **(4)** [(5)] of this subsection from the amount calculated under **(2)** [(3)] of this subsection;

(B) equal to or less than the amount calculated under **(4)** [(5)] of this subsection, consider the amount calculated under this paragraph to be zero;

(6) [(7)] divide the amount calculated under **(5)** [(6)] of this subsection by 0.35**;**

(7) divide the amount calculated under (6) of this subsection by the amount calculated under (1) of this subsection. (Eff. 10/21/2009, Register 192; am 12/25/2013, Register 208; am 3/1/2017, Register 221; am 12/6/2018, Register 228)

Authority:	AS 43.05.080	AS 43.55.024	AS 43.55.160
	AS 43.55.011	AS 43.55.110	AS 43.55.165

15 AAC 55.290(c) is amended to read:

(c) For purposes of AS 43.55.023(i), AS 43.55.165, and this chapter, whether a cost incurred by a producer or explorer was incurred before April 1, 2001, or after March 31, 2001, before April 1, 2006, or after March 31, 2006, [AND] before July 1, 2007, or after June 30, 2007,

before July 1, 2008, or after June 30, 2008, before July 1, 2016, or after June 30, 2016, and before July 1, 2017, or after June 30, 2017 is determined by the month

(1) for which the operator of a lease or property contemporaneously billed the producer for the cost, if

(A) the cost is a cost of exploring for, developing, or producing oil or gas deposits located within the lease or property;

(B) the operator operated the lease or property on behalf of the producer; and

(C) at least one producer, other than the operator, on behalf of which the operator operated the lease or property had a material interest in the lease or property;

(2) in which the cost was contemporaneously recorded on the producer's or explorer's financial accounting books as incurred or, in the case of a cost that is treated as a capitalized expenditure under 26 U.S.C. (Internal Revenue Code), as amended, regardless of elections made under 26 U.S.C. 263(c) (Internal Revenue Code), as amended, as placed in the producer's or explorer's work-in-process, construction-in-process, or similar account, if the circumstances were other than those described in (1) of this subsection. (Eff. 5/3/2007, Register 182; am 10/21/2009, Register 192; am 12/6/2018, Register 228)

Authority:	AS 43.05.080	**AS 43.55.028**	AS 43.55.165
	AS 43.55.023	AS 43.55.110	Sec. 72, ch. 1,
			SSSLA 2007

15 AAC 55.315(b) is amended to read:

(b) A determination of a carried-forward annual loss subject to AS 43.55.023(b)(2)**, as the provisions of that paragraph read before January 1, 2018, for oil and gas produced before January 1, 2018,** may be performed by subtracting the reduction under AS 43.55.160(f) or (g) from the amount of excess adjusted lease expenditures otherwise calculated under 15 AAC 55.206(b) for the segment described in 15 AAC 55.206(c)(1)(A). Only the remainder, if positive, constitutes excess adjusted lease expenditures that may establish a carried-forward annual loss under AS 43.55.023(b)**, as the provisions of that subsection read before January 1, 2018, for oil and gas produced before January 1, 2018**. If the remainder is zero or less, there is no carried-forward annual loss.

15 AAC 55.315(c) is amended to read:

(c) The following examples illustrate (b) of this section:

Example 1. Producer A produces only oil in a calendar year after 2016 that qualifies for a 20 percent reduction in the gross value at the point of production under AS 43.55.160(f) but not a reduction under AS 43.55.160(g). The gross value at the point of production, before reduction, is $10 million. After reduction under AS 43.55.160(f), the gross value at the point of production is $8 million. The producer's adjusted lease expenditures for the calendar year applicable to the oil are $9 million. The annual production tax value of the oil would be calculated by deducting $9 million from $8 million, except that an annual production tax value may not be less than zero. Therefore, the annual production tax value of the oil is zero, and the $1 million in adjusted lease expenditures that are not deductible are considered excess adjusted lease expenditures. However, for the purpose of determining a carried-forward annual loss and a potential tax credit under AS 43.55.023(b)(2)**, as the provisions of that paragraph read before January 1, 2018, for oil and**

gas produced before January 1, 2018, the $2 million reduction in the gross value at the point of production is subtracted from that $1 million in excess adjusted lease expenditures. This results in a negative value. Therefore, there is no carried-forward annual loss under AS 43.55.023(b)(2)**, as the provisions of that paragraph read before January 1, 2018, for oil and gas produced before January 1, 2018,** and no tax credit.

Example 2. The facts are the same as in Example 1 except that the producer's adjusted lease expenditures for the calendar year applicable to the oil are $11 million instead of $9 million. In this situation, the annual production tax value of the oil again is zero, but the amount of excess adjusted lease expenditures is $3 million. After the $2 million reduction in the gross value at the point of production is subtracted from the $3 million figure, the resulting excess adjusted lease expenditures are $1 million. Therefore, there is a $1 million carried-forward annual loss under AS 43.55.023(b)(2)**, as the provisions of that paragraph read before January 1, 2018, for oil and gas produced before January 1, 2018**. (Eff. 5/3/2007, Register 182; am 3/1/2017, Register 221; am 1/1/2018, Register 224; am 12 / 6 / 2018, Register 228)

Authority:	AS 43.05.080	AS 43.55.110	Sec. 39, ch. 3 SSSLA 2017
	AS 43.55.023	AS 43.55.160	

15 AAC 55.320(a) is amended to read:

(a) A producer or explorer may apply for a transferable tax credit certificate for

(1) a qualified capital expenditure credit under AS 43.55.023(a) or a well lease expenditure credit under AS 43.55.023(*l*) at any time after the expenditure in question is incurred but no more frequently than once a calendar quarter;

(2) a carried-forward annual loss credit under AS 43.55.023(b)**, as the provisions of that subsection read before January 1, 2018, for lease expenditures incurred before January 1, 2018,** no earlier than January 1 of the calendar year following the calendar year in which the carried-forward annual loss in question is incurred.

(Eff. 5/3/2007, Register 182; am 10/21/2009, Register 192; am 9/14/2012, Register 203; am 3/1/2017, Register 221; am 12/6/2018, Register 228)

Authority:	AS 43.05.080	AS 43.55.023	AS 43.55.110

15 AAC 55.337(a) is amended to read:

(a) For a tax credit based on expenditures incurred during a calendar year, other than a tax credit under AS 43.55.023(b), **as the provisions of that subsection read before January 1, 2018,** the amount of the municipal entity's tax credit may not exceed the amount of the tax credit otherwise allowed under this chapter, multiplied by the fraction calculated under (d) of this section for that calendar year.

(Eff. 3/1/2017, Register 221; am 12/6/2018, Register 228)

Authority:	AS 43.05.080	AS 43.55.024	AS 43.55.110
	AS 43.55.019	AS 43.55.025	AS 43.55.895
	AS 43.55.023		

15 AAC 55.345(b) is amended to read:

(b) In addition to other information required by the department, a claim under this section for a tax credit for a qualified capital expenditure under AS 43.55.023(a), carried-forward annual loss under AS 43.55.023(b)**, as the provisions of that subsection read before January 1, 2018, ,** or well lease expenditure under AS 43.55.023(*l*) must include

. . . (((Publisher: 15 AAC 55.345(b)(1) – (8) are unchanged.)))

(Eff. 5/3/2007, Register 182; am 10/21/2009, Register 192; am 9/14/2012, Register 203; am 3/1/2017, Register 221; am 12 / 6 / 2018, Register 228)

Authority:	AS 43.05.080	AS 43.55.025	AS 43.55.040
	AS 43.55.023	AS 43.55.030	AS 43.55.110
	AS 43.55.024		

15 AAC 55.375(c)(10) is amended to read:

(10) ninth, any credit under AS 43.55.023(b)**, as the provisions of that subsection read before January 1, 2018**;

(Eff. 5/3/2007, Register 182; am 10/21/2009, Register 192; am 9/14/2012, Register 203; am 12/25/2013, Register 208; am 3/1/2017, Register 221; am 12 / 6 / 2018, Register 228)

Authority:	AS 43.05.080	AS 43.55.024	AS 43.55.110
	AS 43.55.023	AS 43.55.025	

15 AAC 55.511 is amended by adding a new section to read:

(i) Where the calculation of an installment payment of estimated tax under AS 43.55.020(a) calls for subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for specified oil, gas, or oil and gas, those lease expenditures include lease expenditures that are described in AS 43.55.165(a)(3), but only the following portion of the lease expenditures described in AS 43.55.165(a)(3) is subtracted: 1/12 of the adjusted lease expenditures described in AS 43.55.165(a)(3) that are actually deducted in calculating the annual production tax value for the calendar year for the oil, gas, or oil and gas under AS 43.55.160(a)(1) or AS 43.55.160(h), as applicable. (Eff. 10/21/2009, Register 192; am 4/30/2010, Register 194; am 12/25/2013, Register 208; am 3/1/2017, Register 221; am 12/6/2018, Register 228)

Authority:	AS 43.05.080	AS 43.55.110	**AS 43.55.165**
	AS 43.55.011	AS 43.55.160	AS 43.55.895
	AS 43.55.020		

15 AAC 55.520(f)(9) is amended to read:

(9) tax payments, including conservation surcharges under AS 43.55.201 or 43.55.300, due for the month; [AND]

15 AAC 55.520(f)(10) is amended to read:

(10) the volumes of oil and gas that the producer has determined qualify for a reduction in gross value at the point of production under AS 43.55.160(f), or under AS 43.55.160(f)(1) and (g), and the amounts of the reductions the producer has calculated under 15 AAC 55.211(g)**; and** [.]

15 AAC 55.520(f) is amended by adding a new paragraph to read:

(11) the amount of carried-forward annual losses under AS 43.55.160(e) and 43.55.165(a)(3) and (*l*) – (s)(1) that is included in the amount of lease expenditures subtracted in calculating the monthly installment payment of estimated tax. (Eff. 5/3/2007, Register 182; am 5/17/2008, Register 186; am 12/25/2013, Register 208; am 12 / 6 / 2018, Register 228)

Authority:	AS 43.05.080	AS 43.55.040	AS 43.55.165
	AS 43.55.020	AS 43.55.110	AS 43.55.180
	AS 43.55.030	**AS 43.55.160**	

15 AAC 55.800(a)(3) is amended to read:

(3) 15 AAC 55.215**, except the changes to 15 AAC 55.215(d) and (e), effective December 6, 2018 apply retroactively to January 1, 2013**;

15 AAC 55.800(k) is amended to read:

as amended effective March 1, 2017,

(k) The provisions of 15 AAC 55.206(b) and 15 AAC 55.224(d) as amended effective March 1, 2017 **and December 6, 2018**, apply retroactively to January 1, 2017, and otherwise apply retroactively to July 1, 2007.

15 AAC 55.800(m) is amended to read:

(m) **Except as otherwise provided in this section the** [The] following provisions apply retroactively to January 1, 2017:

. . . (((Publisher: 15 AAC 55.800(m)(1) – (16) are unchanged.)))

15 AAC 55.800 is amended by adding a new subsection to read:

(p) The following provisions apply retroactively to January 1, 2018:

(1) The changes to 15 AAC 55.206(b) and (f) effective December 6, 2018;

(2) 15 AAC 55.206(h);

(3) The changes to 15 AAC 55.208(c) effective December 6, 2018;

(4) The changes to 15 AAC 55.211(h) effective December 6, 2018;

(5) 15 AAC 55.215(h);

(6) 15 AAC 55.217;

(7) 15 AAC 55.511(i);

(8) The changes to 15 AAC 55.224(a) and (f) effective December 6, 2018;

(9) 15 AAC 55.520 (f)(11);

(10) 15 AAC 55.900(b)(29). (Eff. 5/3/2007, Register 182; am 10/21/2009, Register 192; am 2/27/2010, Register 193; am 4/30/2010, Register 194; am 12/4/2010, Register

196; am 3/1/2017, Register 221; am 1/1/2018, Register 224; am 12/6/2018, Register 228)

Authority:	AS 43.05.080	Sec. 72, ch. 1 SSSLA 2007	Sec. 41, ch. 3 SSSLA 2017
	AS 43.55.110	Sec. 38, ch. 4 4SSLA 2016	Sec. 42, ch. 3 SSSLA 2017
	Sec. 37, ch. 2 TSSLA 2006		

15 AAC 55.900(b) is amended by adding a new paragraph to read:

(29) except in AS 43.55.160(a) and (h) subject to AS 43.55.165(*l*), "lease expenditure" does not include a carried-forward annual loss as defined in AS 43.55.165(s)(1). (Eff. 1/1/95, Register 132; am 1/1/2000, Register 152; am 1/1/2002, Register 160; am 1/1/2003, Register 164; am 1/1/2004, Register 168; am 5/3/2007, Register 182; am 10/21/2009, Register 192; am 2/27/2010, Register 193; am 4/30/2010, Register 194; am 12/4/2010, Register 196; am 9/14/2012, Register 203; am 12/25/2013, Register 208; am 3/1/2017, Register 221; am 12/6/2018, Register 228)

Authority:	AS 43.05.080	AS 43.55.025	AS 43.55.165
	AS 43.55.011	AS 43.55.028	AS 43.55.170
	AS 43.55.020	AS 43.55.110	AS 43.55.895
	AS 43.55.023	AS 43.55.150	AS 43.55.900
	AS 43.55.024	AS 43.55.160	

MEMORANDUM

State of Alaska
Department of Law

To: The Honorable Valerie Nurr'araaluk Davidson
Lieutenant Governor

Date: November 5, 2018

File No.: JU2017200517

Tel. No.: 465-3600

From: Susan R. Pollard SRP
Chief Assistant Attorney General
and Regulations Attorney
Legislation and Regulations Section

Re: Department of Revenue: Oil and Gas Production Tax Regulations:
(15 AAC 55. 206, .208, .211, .215, .217, .224, .290, .315, .320, .337, .345, .375, .511, .520, .800 and .900.)

The Department of Law has reviewed the attached regulations of the Department of Revenue against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. The regulations were adopted by the Department of Revenue after the close of the public comment period. The regulations concern the oil and gas production tax, AS 43.55. The regulations implement legislative changes from 2017 (ch. 3, SSSLA 2017 (HB 111)). Among other changes, the regulations address repeal of statutory tax credits, and provide clarity on reporting and carry-forward of those losses starting for 2018 tax year filings. The regulations address a complex tax structure; accordingly, examples provide useful guidance to taxpayers. Some of the regulations have retroactive application; the changes and application to January 1, 2013 are consistent with the applicable statutory authority (secs. 7 and 38, ch. 10, SLA 2013).

The Department of Revenue requests that the regulations be filed to be effective as soon as possible, and in time for the January, 2019 register. *Please note that the regulation's effective date needs to be written in for* 15 AAC 55.800(a)(3) (page 44); 15 AAC 55.800(k) (page 45); and 15 AAC 55.800(p) (1), (3), (4), and (8), (page 45).

The December 21, 2017 public notice and the October 9, 2018 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.125. The corrections are shown on the attached copy of the regulations.

SRP:lbp

cc: Honorable Sheldon Fisher, Commissioner

Department of Revenue

John Larsen, Audit Master
Production Tax Audit Group
Department of Revenue

Brad Ewing, Director, Regulations Contact
Administrative Services Division
Department of Revenue

Mary Gramling, Assistant Attorney General
Natural Resources Section
Department of Law

Nicole Reynolds, Assistant Attorney General
Natural Resources Section
Department of Law

NOTICE OF
PROPOSED CHANGES ON OIL & GAS PRODUCTION TAX IN THE REGULATIONS
OF THE DEPARTMENT OF REVENUE

BRIEF DESCRIPTION: The Department of Revenue proposes to change regulations affecting the oil and gas production tax to implement ch. 3, SSSLA 2017 (HB 111). The regulations relate to carried-forward annual losses, ring-fencing of carried-forward annual losses, exploration expenditures that are reasonably related to a lease or property, and other conforming and clarifying changes affecting the oil and gas production tax and definitions.

The Department of Revenue proposes to adopt regulation changes to 15 AAC 43.55 of the Alaska Administrative Code, dealing with the oil and gas production tax, including the following:

(1) **15 AAC 55.206. Calculation of production tax values for oil and gas produced after June 30, 2007**, is proposed to be changed to include conforming language for carried-forward annual loss credits under the former AS 43.55.023(b), the new carried-forward annual loss under AS 43.55.165(a)(3), and provisions regarding the deductibility of lease expenditures for an existing segment.

(2) **15 AAC 55.208. Calculation of adjusted lease expenditures and production tax value for a municipal entity**, is proposed to be changed to make conforming changes for carried-forward annual loss credits under the former AS 43.55.023(b) and the new carried-forward annual loss under AS 43.55.165(a)(3).

(3) **15 AAC 55.211. Gross value reductions**, is proposed to be changed to provide that the provisions of AS 43.55.160(f) & (g) will be applied only for purposes of determining production tax value, but will be added back for other purposes, including the determination of a carried-forward annual loss.

(4) **15 AAC 55.215. Applicability of lease expenditures**, is proposed to be changed to include conforming changes for gas used in-state under AS 43.55.011(o), gas subject to AS 43.55.011(p), and that except to the extent provided in proposed 15 AAC 55.217, the section does not apply to carried-forward annual losses under AS 43.55.165(a)(3), or AS 43.55.165(m) – (s).

(5) **15 AAC 55.217. Carried-forward annual losses after December 31, 2017**, is proposed as a new section to implement the new carried-forward annual loss provisions of AS 43.55.165(a)(3) and AS 43.55.165(m) – (s). The section includes describing how carried-forward annual losses will be determined, allocation of carried-forward annual losses between categories or segments, ring-fencing of carried-forward annual losses, reasonably related exploration expenditures, application of carried-forward annual losses in determining production tax value, transferability of carried-forward annual losses, periods to which regular production applies, various definitions, and sample calculations.

(6) **15 AAC 55.224. Lease expenditures incurred after June 30, 2007, for Cook Inlet, for gas used in the state, and for oil and gas subject to AS 43.55.011(p)**, is proposed to be changed to include conforming changes for the carried-forward annual loss tax credit under the former AS 43.55.023(b), a carried-forward annual loss under new

AS 43.55.165(a)(3), and the calculation of the limitation on the amount of a carried-forward annual loss for segments described in 15 AAC 55.206(c)(1)(E) or (F).

(7) **15 AAC 55.290. When cost is incurred**, is proposed to be changed to include conforming changes for a carried-forward annual loss tax credit under the former AS 43.55.023(b) and the new carried-forward annual loss under AS 43.55.165(a)(3)

(8) **15 AAC 55.315. Carried-forward annual loss credits**, is proposed to be changed to conform to the repeal of the carried-forward annual loss tax credit under AS 43.55.023(b).

(9) **15 AAC 55.320. Transferable tax credit certificates**, is proposed to be changed to conform to the repeal of the carried-forward annual loss tax credit under AS 43.55.023(b).

(10) **15 AAC 55.337. Tax credits for a municipal entity**, is proposed to be changed to conform to the repeal of the carried-forward annual loss tax credit under AS 43.55.023(b).

(11) **15 AAC 55.345. Procedures for applying certain tax credits**, is proposed to be changed to conform to the repeal of the carried-forward annual loss tax credit under AS 43.55.023(b).

(12) **15 AAC 55.375. Order of applying tax credits**, is proposed to be changed to conform to the repeal of the carried-forward annual loss tax credit under AS 43.55.023(b).

(13) **15 AAC 55.511. Installment payments of estimated tax for oil and as produced after June 30, 2007**, is proposed to include a new section to implement the new carried-forward annual loss provisions of AS 43.55.165(a)(3) and AS 43.55.165(m) – (s). The section describes what portion of the adjusted lease expenditures described in AS 43.55.165(a)(3) may be subtracted in determining the monthly installment payment under AS 43.55.020.

(14) **15 AAC 55.520. Monthly filings**, is proposed to be changed to include a requirement that a producer or explorer that produces oil or gas during a month submit to the department a report of the amount of carried-forward annual losses under AS 43.55.160(e) and AS 43.55.165(a)(3) and (m) – (s) that is included in the amount of lease expenditures subtracted in calculating the monthly installment payment of estimated tax.

(15) **15 AAC 55.800. Retroactive application of regulations**, is proposed to be changed as follows: the proposed amendments address retroactivity periods for proposed and existing regulations.

(16) **15AAC 55.900. Definitions**, is proposed to be amended by adding a new paragraph.

You may comment on the proposed regulation changes, including the costs to private persons of complying with the proposed changes, by submitting written comments to: John Larsen, Audit Master, Alaska Department of Revenue, 550 W. 7th Ave., Ste. 500, Anchorage, AK 99501. Additionally, the Department of Revenue will accept comments by electronic mail to john.larsen@alaska.gov, or by facsimile at (907) 269-6644. **Written comments must be received no later than 4:00 p.m., on Friday, January 26, 2018.**

Oral or written comments also may be submitted at a hearing to be held Thursday, January 11, 2018, in the East Hearing Room of the Regulatory Commission of Alaska located at 701 W. 8th Avenue, Suite 300, Anchorage, Alaska. The hearing will be held from 9:00 a.m. to

11:00 a.m. and may be extended to accommodate those present before 10:00 a.m. who did not have an opportunity to comment. If you are unable to attend the public hearing, you may participate by teleconference by dialing the toll-free conference call number, 1-800-315-6338. When asked for the participant PIN code, enter 40720#.

You may submit written questions relevant to the proposed action to: John Larsen at john.larsen@alaska.gov via email, or to: John Larsen, Audit Master, Alaska Department of Revenue, 550 W. 7th Ave., Ste. 500, Anchorage, AK 99501. The questions must be received at least 10 days before the end of the public comment period. The Department of Revenue will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and Tax Division website at (http://www.tax.alaska.gov).

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact John Larsen at john.larsen@alaska.gov or (907) 269-8436 no later than Monday, January 8, 2018 to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and the Tax Division website, and by contacting John Larsen at (907) 269-8436 or john.larsen@alaska.gov. If you would like to be added to the department's "Interested Parties" list server to receive email notification of any proposed action you may do so at the following link: http://tax.alaska.gov/programs/documentviewer/viewer.aspx?77n

After the public comment period ends on Friday, January 26, 2018, the Department of Revenue will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulations may be different from that of the proposed regulations. As some of the statutes that are the subject of these proposed regulations have an effective date of January 1, 2018 the department will include regulatory provisions to specify that certain regulations are to be retroactive to January 1, 2018. **You should comment during the time allowed if your interests could be affected.** Written comments received are public records and are subject to public inspection.

Statutory Authority: AS 43.05.080; AS 43.55.110.
Statutes Being Implemented, Interpreted, or Made Specific: AS 43.55.011; AS 43.55.020; AS 43.55.023; AS 43.55.024; AS 43.55.025; AS 43.55.028; AS 43.55.030; AS 43.55.040; AS 43.55.160; AS 43.55.165; AS 43.55.170; AS 43.55.895; and ch. 3, SSSLA 2017.

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: December 21, 2017
Anchorage, Alaska

/s/ Ken Alper
Ken Alper
Director, Tax Division
(907) 269-6620

ADDITIONAL REGULATIONS NOTICE INFORMATION
[AS 44.62.190(d)]

1. Adopting Agency: Department of Revenue, Tax Division

2. General subject of regulation: Administration of Revenue Laws: The regulations relate to carried-forward annual losses, ring-fencing of carried-forward annual losses, exploration expenditures that are reasonably related to a lease or property, and other conforming and clarifying changes affecting the oil and gas production tax and definitions.

3. Citation of regulations: 15 AAC 55 sections to be amended or added: 206, 208, 211, 215, 217, 224, 290, 315, 320, 337, 345, 375, 511, 520, 800, and 900.

4. Department of Law file number: JU2017200517

5. Reason for the proposed action:
   ( ) compliance with federal law
   (x) compliance with new or changed state statutes
   ( ) compliance with court order
   (x) development of program standards
   ( ) other: (please list)

6. Appropriation/Allocation: Tax Division, Revenue Operations

7. Estimated annual cost to comply with the proposed action to:

   A private person: *
   Another state agency: $0. The department does not expect additional costs to any other state agency.
   A municipality: *

* The department is not able to make a numeric estimate based on information available to it. However, the department does not expect that any private person or municipality would incur additional costs beyond re-programming of computer systems that may be necessary to comply with the proposed regulations.

8. Cost of implementation to the state agency and available funding (in thousands of dollars): No costs are expected in FY 2018 or subsequent years.

	Initial Year FY 2018	Subsequent Years
Operating Cost	$___0____	$___0____
Capital Cost	$___0____	$___0____
1002 Federal receipts	$___0____	$___0____

1003 General fund match	\$___0____	\$___0____
1004 General fund	\$___0____	\$___0____
1005 General fund/ Program	\$___0____	\$___0____
1037 General fund/ mental health	\$___0____	\$___0____
Other	\$___0____	\$___0____

9. The name of the contact person for the regulations:

Name:	John Larsen
Title:	Audit Master
Address:	550 W. 7th Ave., Ste. 500, Anchorage, AK 99501
Telephone:	(907) 269-8436
FAX:	(907) 269-6644
E-mail:	john.larsen@alaska.gov

10. The origin of the proposed action:

__x___ staff of state agency
______ Federal government
______ General public
______ petition for regulation change
______ other (please list)

11. Date: December 21, 2017

Prepared by: /s/ John M. Larsen
John M. Larsen
Audit Master, Tax Division
(907) 269-8436

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#1414470
$831.66

AFFIDAVIT OF PUBLICATION

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Joleesa Stepetin
being first duly sworn on oath deposes and says that she is a representative of the Alaska Dispatch News, a daily newspaper. That said newspaper has been approved by the Third Judicial Court, Anchorage, Alaska, and it now and has been published in the English language continually as a daily newspaper in Anchorage, Alaska, and it is now and during all said time was printed in an office maintained at the aforesaid place of publication of said newspaper. That the annexed is a copy of an advertisement as it was published in regular issues (and not in supplemental form) of said newspaper on

December 21, 2017

and that such newspaper was regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is not in excess of the rate charged private individuals.

Signed Joleesa Stepetin

Subscribed and sworn to before me this 22 day of December 20 17

Britney Thompson

Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska
MY COMMISSION EXPIRES 2/23/2019

Notary Public
BRITNEY L. THOMPSON
State of Alaska
My Commission Expires Feb 23, 2019

NOTICE OF
PROPOSED CHANGES ON OIL & GAS PRODUCTION TAX IN THE REGULATIONS
OF THE DEPARTMENT OF REVENUE

BRIEF DESCRIPTION: The Department of Revenue proposes to change regulations affecting the oil and gas production tax to implement ch. 3, SSSLA 2017 (HB 111). The regulations relate to carried-forward annual losses, ring-fencing of carried-forward annual losses, exploration expenditures that are reasonably related to a lease or property, and other conforming and clarifying changes affecting the oil and gas production tax and definitions.

The Department of Revenue proposes to adopt regulation changes to 15 AAC 43.55 of the Alaska Administrative Code, dealing with the oil and gas production tax, including the following:

(1) **15 AAC 55.206. Calculation of production tax values for oil and gas produced after June 30, 2007,** is proposed to be changed to include conforming language for carried-forward annual loss credits under the former AS 43.55.023(b), the new carried-forward annual loss under AS 43.55.165(a)(3), and provisions regarding the deductibility of lease expenditures for an existing segment.
(2) **15 AAC 55.208. Calculation of adjusted lease expenditures and production tax value for a municipal entity,** is proposed to be changed to make conforming changes for carried-forward annual loss credits under the former AS 43.55.023(b) and the new carried-forward annual loss under AS 43.55.165(a)(3).
(3) **15 AAC 55.211. Gross value reductions,** is proposed to be changed to provide that the provisions of AS 43.55.160(f) & (g) will be applied only for purposes of determining production tax value, but will be added back for other purposes, including the determination of a carried-forward annual loss.
(4) **15 AAC 55.215. Applicability of lease expenditures,** is proposed to be changed to include conforming changes for gas used in-state under AS 43.55.011(o), gas subject to AS 43.55.011(p), and that except to the extent provided in proposed 15 AAC 55.217, the section does not apply to carried-forward annual losses under AS 43.55.165(a)(3), or AS 43.55.165(m) – (s).
(5) **15 AAC 55.217. Carried-forward annual losses after December 31, 2017,** is proposed as a new section to implement the new carried-forward annual loss provisions of AS 43.55.165(a)(3) and AS 43.55.165(m) – (s). The section includes describing how carried-forward annual losses will be determined, allocation of carried-forward annual losses between categories or segments, ring-fencing of carried-forward annual losses, reasonably related exploration expenditures, application of carried-forward annual losses in determining production tax value, transferability of carried-forward annual losses, periods to which regular production applies, various definitions, and sample calculations.
(6) **15 AAC 55.224. Lease expenditures incurred after June 30, 2007, for Cook Inlet, for gas used in the state, and for oil and gas subject to AS 43.55.011(p),** is proposed to be changed to include conforming changes for the carried-forward annual loss tax credit under the former AS 43.55.023(b), a carried-forward annual loss under new AS 43.55.165(a)(3), and the calculation of the limitation on the amount of a carried-forward annual loss for segments described in 15 AAC 55.206(c)(1)(E) or (F).
(7) **15 AAC 55.290. When cost is incurred,** is proposed to be changed to include conforming changes for a carried-forward annual loss tax credit under the former AS 43.55.023(b) and the new carried-forward annual loss under AS 43.55.165(a)(3)
(8) **15 AAC 55.315. Carried-forward annual loss credits,** is proposed to be changed to conform to the repeal of the carried-forward annual loss tax credit under AS 43.55.023(b).
(9) **15 AAC 55.320. Transferable tax credit certificates,** is proposed to be changed to conform to the repeal of the carried-forward annual loss tax credit under AS 43.55.023(b).
(10) **15 AAC 55.337. Tax credits for a municipal entity,** is proposed to be changed to conform to the repeal of the carried-forward annual loss tax credit under AS 43.55.023(b).
(11) **15 AAC 55.345. Procedures for applying certain tax credits,** is proposed to be changed to conform to the repeal of the carried-forward annual loss tax credit under AS 43.55.023(b).
(12) **15 AAC 55.375. Order of applying tax credits,** is proposed to be changed to conform to the repeal of the carried-forward annual loss tax credit under AS 43.55.023(b).
(13) **15 AAC 55.511. Installment payments of estimated tax for oil and as produced after June 30, 2007,** is proposed to include a new section to implement the new carried-forward annual loss provisions of AS 43.55.165(a)(3) and AS 43.55.165(m) – (s). The section describes what portion of the adjusted lease expenditures described in AS 43.55.165(a)(3) may be subtracted in determining the monthly installment payment under AS 43.55.020.
(14) **15 AAC 55.520. Monthly filings,** is proposed to be changed to include a requirement that a producer or explorer that produces oil or

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, John M. Larsen, Audit Master, of the Department of Revenue, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to Chapter 55 of the Alaska Administrative Code; 15 AAC 55 206: dealing with conforming changes under the former AS 43.55.023(b) and the new carried-forward annual loss under AS 43.55.165(a)(3) and including provisions for the deductibility of lease expenditures from an existing segment; 15 AAC 55.208: dealing with conforming changes under the former AS 43.55.023(b) and the carried-forward annual loss under AS 43.55.165(a)(3); 15 AAC 55.211: directing that gross value reductions under AS 43.55.160(f) & (g) will be applied only for determining production value, and will be added back for determining a carried-forward annual loss; 15 AAC 55.215: dealing with conforming changes for gas used in-state under AS 43.55.011(o) and gas subject to AS 43.55.011(p); 15 AAC 55.217: dealing with carried-forward annual losses under AS 43.55.165(a)(3) and 43.55.165(*l*) – (s) and with the allocation and applicability of carried-forward annual losses to production tax value, including sample calculations; 15 AAC 55.224: dealing with conforming changes under the former AS 43.55.023(b) and the calculation of the limitation on the amount of a carried-forward annual loss under AS 43.55.165(a)(3) for segments described in 15 AAC 55.206(c)(1)(E) or (F); 15 AAC 55.290: dealing with conforming changes under the former AS 43.55.023(b) and the new carried-forward annual loss under AS 43.55.165(a)(3); 15 AAC 55.315: dealing with conforming changes under the former AS 43.55.023(b); 15 AAC 55.320: dealing with conforming changes under the former AS 43.55.023(b); 15 AAC 55.337: dealing with conforming changes under the former AS 43.55.023(b); 15 AAC 55.345: dealing with conforming changes under the former AS 43.55.023(b); 15 AAC 55.375: dealing with conforming changes under the former AS 43.55.023(b); 15 AAC 55.511: dealing with carried-forward annual losses under AS 43.55.165(a)(3) and 43.55.165(*l*) – (s) and the portion of adjusted lease expenditures described in AS 43.55.165(a)(3) that may be subtracted in determining a monthly installment payment of estimated tax; 15 AAC 55.520: dealing with reporting requirements for carried-forward annual losses under AS 43.55.165(a)(3) and (*l*) – (s) included in the amount of lease expenditures subtracted in calculating the monthly installment payment of estimated tax; 15 AAC 55.800: dealing with the retroactivity of certain regulations; and 15 AAC 55.900 adding a new paragraph to the definitions section has been given by being

(1) published in a newspaper or trade publication;
(2) furnished to every person who has filed a request for notice of proposed action with the state agency;
(3) furnished to appropriate state officials;
(4) furnished to interested persons;
(5) furnished to the Department of Law, along with a copy of the proposed regulation;
(6) furnished electronically to incumbent State of Alaska legislators;

(7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);

As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (2), (4), and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

Date: 10/10/2018

John M. Larsen

John M. Larsen, Audit Master

Subscribed and sworn to before me at Anchorage, Alaska

on 10/10/2018.

K Fletcher

Notary Public in and for the State of Alaska

STATE OF ALASKA
NOTARY PUBLIC
K. Fletcher
My Commission Expires with office.

AFFIDAVIT OF ORAL HEARING

I, John M. Larsen, Audit Master of the Department of Revenue, being sworn, state the following:

On Thursday, January 11, 2018, at 9 a.m., in the East Hearing Conference Room of the Regulatory Commission of Alaska, 701 W. 8th Ave., Suite 300, Anchorage, Alaska, I presided over a public hearing held under AS 44.62.210 for the purpose of taking testimony in connection with the adoption of changes to Chapter 55 of the Alaska Administrative Code; 15 AAC 55 206: dealing with conforming changes under the former AS 43.55.023(b) and the new carried-forward annual loss under AS 43.55.165(a)(3) and including provisions for the deductibility of lease expenditures from an existing segment; 15 AAC 55.208: dealing with conforming changes under the former AS 43.55.023(b) and the carried-forward annual loss under AS 43.55.165(a)(3); 15 AAC 55.211: directing that gross value reductions under AS 43.55.160(f) & (g) will be applied only for determining production value, and will be added back for determining a carried-forward annual loss; 15 AAC 55.215: dealing with conforming changes for gas used in-state under AS 43.55.011(o) and gas subject to AS 43.55.011(p); 15 AAC 55.217: dealing with carried-forward annual losses under AS 43.55.165(a)(3) and 43.55.165(*l*) – (s) and with the allocation and applicability of carried-forward annual losses to production tax value, including sample calculations; 15 AAC 55.224: dealing with conforming changes under the former AS 43.55.023(b) and the calculation of the limitation on the amount of a carried-forward annual loss under AS 43.55.165(a)(3) for segments described in 15 AAC 55.206(c)(1)(E) or (F); 15 AAC 55.290: dealing with conforming changes under the former AS 43.55.023(b) and the new carried-forward annual loss under AS 43.55.165(a)(3); 15 AAC 55.315: dealing with conforming changes under the former AS 43.55.023(b); 15 AAC 55.320: dealing with conforming changes under the former AS 43.55.023(b); 15 AAC 55.337: dealing with conforming changes under the former AS 43.55.023(b); 15 AAC 55.345: dealing with conforming changes under the former AS 43.55.023(b); 15 AAC 55.375: dealing with conforming changes under the former AS 43.55.023(b); 15 AAC 55.511: dealing with carried-forward annual losses under AS 43.55.165(a)(3) and 43.55.165(*l*) – (s) and the portion of adjusted lease expenditures described in AS 43.55.165(a)(3) that may be subtracted in determining a monthly installment payment of estimated tax; 15 AAC 55.520: dealing with reporting requirements for carried-forward annual losses under AS 43.55.165(a)(3) and (*l*) – (s) included in the amount of lease expenditures subtracted in calculating the monthly installment payment of estimated tax; 15 AAC 55.800: dealing with the retroactivity of certain regulations; and 15 AAC 55.900 adding a new paragraph to the definitions section.

Date: 10/10/2018

John M. Larsen, Audit Master

Subscribed and sworn to before me at Anchorage, Alaska

on 10/10/2018.
(date)

Notary Public in and for the State of Alaska

STATE OF ALASKA
NOTARY PUBLIC
K. Fletcher
My Commission Expires with office.

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, John M. Larsen, Audit Master for the Department of Revenue, being duly sworn, state the following:

In compliance with AS 44.62.215, the Department of Revenue has kept a record of its use or rejection of factual or other substantive information that was submitted in writing and orally as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Revenue's regulations on proposed changes to Title 15, Chapter 55 Oil and Gas Production Tax and Oil Surcharge.

Date: 10/10/2018

John M. Larsen

John M. Larsen, Audit Master

Subscribed and sworn to before me at Anchorage, Alaska

on 10/10/2018.
(date)

K Fletcher

Notary Public in and for the State of Alaska

STATE OF ALASKA
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