

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 on December 31, 2017, 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 on December 31, 2017, 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)** [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(o)(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 ____/____/____, Register _____)

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 those provisions read on December 31, 2017, 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,** subject to the provisions of AS 43.55.023(b)(2), **as those provisions read on December 31, 2017, for oil and gas produced before January 1, 2018, or AS 43.55.165(a)(3), for oil and gas produced after December 31, 2107,** 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 ____/____/____, Register _____)

Authority:	AS 43.05.080	AS 43.55.110	AS 43.55.895
	AS 43.55.023	AS 43.55.160	<u>AS 43.55.165</u>

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 on December 31, 2017, 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 ____/____/____, Register _____)

Authority:	AS 43.05.080	AS 43.55.110	AS 43.55.160
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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 as provided in 15 AAC 55.217(d), this section does not apply to AS 43.55.165(o)(1). (Eff. 5/3/2007, Register 182; am 10/21/2009, Register 192; am 12/25/2013, Register 208; am ____/____/____, Register _____)

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) If the annual production tax value for a segment under 15 AAC 55.206(c)(1) outside the Cook Inlet sedimentary basin equals zero, taking into account any applicable reduction in the gross value at the point of production under AS 43.55.160(f) or (f) and (g), the following procedure must be used to determine the producer's carried-forward annual losses, if any, for the segment for the calendar year, 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 $G = XE \div AE$, 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

(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 $H = YE \div QE$, 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 obtained by dividing the amount calculated for the segment under 15 AAC 55.224(f)(5) by the amount calculated for the segment under 15 AAC 55.224(f)(1); only the result of that multiplication establishes a carried-forward annual loss.

(c) 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 includes, for the segment:

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

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

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

(d) This subsection implements AS 43.55.165(o)(1). A carried-forward annual loss established 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. A carried-forward annual loss established for a segment described in

(1) 15 AAC 55.206(c)(2)(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, develop, or produce 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:

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

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

(2) 15 AAC 55.206(c)(2)(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 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 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 leases or properties:

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

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

(3) 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.

(e) For purposes of AS 43.55.165(s) and this section,

(1) a lease expenditure incurred by a producer to explore for oil or gas deposits

(A) within land that later becomes part or all of a lease or property of the producer, or (B) in the case of geological or geophysical exploration other than a stratigraphic test well, within three 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;

(2) a lease expenditure incurred by a producer to explore a specific potential hydrocarbon accumulation that is in a unit or is later included in a unit, or to explore by

delineating a specific reservoir that is in a unit or is later included in a unit, 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 to explore by delineating a specific reservoir outside a unit 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.

(f) A carried-forward annual loss established by adjusted lease expenditures that were incurred in a calendar year may not be deducted in calculating an annual production tax value unless all deductible carried-forward annual losses established by adjusted lease expenditures that were incurred in earlier calendar years are first deducted in calculating that annual production tax value.

(g) 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).

(h) A producer that acquires an interest in a lease or property may use an unused carried-forward annual loss established by lease expenditures that were previously incurred by the transferor or the transferor's predecessor to the same extent as if the lease expenditures had been incurred by the acquiring producer, 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, subject to the following limitations:

(1) the transferor of the interest must provide the acquiring producer with a description and documentation of the lease expenditures with sufficient specificity to distinguish them from other lease expenditures incurred by the transferor and to justify on audit the deduction of the carried-forward annual loss;

(2) the transferor of the interest must agree in writing that the lease expenditures will not be used by the transferor and will be available for use only by the acquiring producer;

(3) if the transferor retains an interest in the lease or property, the fraction of the lease expenditures available for use by the acquiring producer may not be greater than the fraction of the transferor's interest transferred to the acquiring producer;

(i) If a producer acquires another producer or explorer, the amount of the tax benefit of the acquired entity's previously unused carried-forward annual losses that may be used may not exceed the value of the consideration paid for the acquisition based on the tax rate under AS 43.55.011(e) at the time of the acquisition.

(j) The limitation provided under AS 43.55.165(o), 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.

(k) As used in

(1) AS 43.55.165(l)(4), "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(o)(2), (p), and (s), 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) the lease or property, if any, to which the lease expenditure is reasonably related as determined under (e) 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(l);

(B) “potential hydrocarbon accumulation” has the meaning given in 11 AAC 83.395;

(C) “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.

(D) "reservoir" has the meaning given in 11 AAC 83.395;

(E) "unit" means a unit that is subject to a cooperative or unit plan of development or operation under AS 38.05.180(p), 30 U.S.C 226(m) (Mineral Leasing Act of 1920), or 42 U.S.C. 6506a(j) (Naval Petroleum Reserves Production Act of 1976).

(I) 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:

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

$$PE \text{ for Property B} = \$200$$

$$PE \text{ for Property C} = \$500$$

$$\text{Sum of PEs} = \$700$$

$$Q = \$600 \div \$700 = 6/7$$

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

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

$$F \text{ for Property B} = \$171.43 \div \$1,200 = 14.286\%$$

$$F \text{ for Property C} = \$428.57 \div \$2,000 = 21.428\%$$

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 tax calculated under AS 43.55.011(e) for the gas used in the state produced from Property B does not exceed the maximum amount of tax provided under AS 43.55.011(o), so that the fraction calculated under (b)(4) of this section 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.

(m) The following example illustrates (d) and (k)(2) of this section:

The facts are as described in Example 1 in (l) 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(o)(2) and (p), 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(o)(2) and (k)(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(p).

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(o)(2) and (p), 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. (Eff. ____/____/____, Register _____)

Authority: AS 43.05.080 AS 43.55.110 AS 43.55.165

AS 43.55.011 AS 43.55.160 **Sec. 30, ch. 3 SSSLA 2017**

15 AAC 55.224(a) is amended to read:

(a) For purposes of the calculations required under (b), [OR] (d), **(e), or (f)** 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 (b), [OR] (d), **(e), or (f)**, 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 for oil or gas produced 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 for oil or gas produced 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 for oil or gas produced 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 for oil or gas produced 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 for oil or gas produced 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 for oil or gas produced 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 for oil or gas produced 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 for oil or gas produced 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 **an** annual production tax **value** [VALUES] for **segment** [SEGMENTS] described in 15 AAC 55.206(c)(1)(E)[,] or (F). **For each segment, only** [ONLY] the amount, if any, of those excess adjusted lease expenditures that is calculated under **(5)** (7) of this subsection may be used to establish a carried-forward annual loss under **AS 43.55.160(e) and 43.55.165(a)(3) and (m) – (s)**. [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 **for each segment described in 15 AAC 55.206(c)(1)(E) or (F)** are as follows:

(1) calculate the [TOTAL] amount of excess adjusted lease expenditures, **if any,** [SUBJECT TO THIS SUBSECTION] for **the segment** [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) **if the amount calculated under (1) of this subsection is greater than zero,** **multiply that amount by 35 percent;**[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 SUM BY 35 PERCENT;]

(3) [(4)] calculate for **the** [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)] **as applicable,** reduces the amount of the producer's tax otherwise levied by AS 43.55.011(e);

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

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

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

(B) equal to or less than the amount calculated under **(3)** [(5)] of this subsection, consider the amount calculated under this paragraph to be zero;

(5) [(7)] divide the amount calculated under **(4)** [(6)] of this subsection by 0.35. (Eff. 10/21/2009, Register 192; am 12/25/2013, Register 208; am 3/1/2017, Register 221; am ___/___/___, Register _____)

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 June 29, 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 ____/____/____, Register _____)

Authority:	AS 43.05.080	<u>AS 43.55.028</u>	AS 43.55.165
	AS 43.55.023	AS 43.55.110	Sec. 72, ch. 1, SSSLA 2007

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 ____/____/____, Register _____)

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

15 AAC 55.520(f) is amended to read:

(f) A producer or explorer that produces oil or gas during a month, incurs a lease expenditure during a month, incurs an expenditure during a month for which a tax credit may be claimed under AS 43.55.025, or receives during a month a payment or credit that constitutes an adjustment to lease expenditures under AS 43.55.170 shall submit to the department no later than the last day of the following month a report of

(1) amounts and dispositions of oil and gas produced;

(2) destination values, calculated in accordance with 15 AAC 55.151(b)(1), of oil and gas produced;

(3) transportation costs and adjustments for oil and gas produced;

(4) lease expenditures incurred, separately setting out

(A) qualified capital expenditures and other lease expenditures;

- (B) exploration, development, and production expenditures;
 - (C) expenditures for which a tax credit may be claimed under AS 43.55.025 and the anticipated amount of the tax credit;
 - (D) overhead allowance;
 - (E) property taxes;
 - (F) net profit share payments;
 - (G) exclusions under AS 43.55.165(e)(18) and (19); and
 - (H) applicable lease expenditures under AS 43.55.165(j) and (k);
- (5) payments or credits received that constitute adjustments to lease expenditures under AS 43.55.170;
- (6) tax credits subtracted in calculating the monthly installment payment of estimated tax;
- (7) potential tax credits generated during the month but of which no portion is subtracted in calculating the monthly installment payment of estimated tax;
- (8) tax credit certificates issued under AS 43.55.023 or 43.55.025 and transferred to another person;
- (9) tax payments, including conservation surcharges under AS 43.55.201 or 43.55.300, due for the month; and

(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**

(11) the amount of carried-forward annual losses under AS 43.55.160(e) and 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. (Eff. 5/3/2007, Register 182; am 5/17/2008, Register 186; am 12/25/2013, Register 208; am ____/____/____, Register _____)

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		

15 AAC 55.800. Retroactive application of regulations [NOTE: This has been put here as a placeholder by the department for purposes of this discussion draft. The department intends to include appropriate language to make any final regulations retroactive to January 1, 2018.]

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

(29) except in AS 43.55.160(a) and (h) subject to AS 43.55.165(m), "lease expenditure" means a lease expenditure described in AS 43.55.165(a)(1) and (2).