

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

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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