



# TaxNewsFlash

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## Notice 2026-35: Applicable percentage for marginal production for 2026

The [Internal Revenue Bulletin 2026-25](#) (dated June 15, 2026) includes Notice 2026-35, which announces that the applicable percentage under section 613A to be used in determining percentage depletion for marginal oil and gas properties is 15% for the 2026 tax year.

Under section 613A(c)(6)(C), the applicable percentage for marginal properties is determined based on the reference price for crude oil for the preceding calendar year. Specifically, the percentage, which cannot exceed 25%, is calculated as the sum of 15% plus one percentage point for each whole dollar by which \$20 exceeds the reference price (determined under section 45K(d)(2)(C)) for the calendar year preceding the calendar year in which the tax year begins.

Because the reference price for crude oil for the 2025 calendar year was \$63.40, which exceeds \$20, there is no increase to the statutory minimum. Consequently, the applicable percentage remains at 15% for the 2026 tax year.

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