

SUBJECT: A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY IN SUPPORT OF SB 92.

AGENDA OF: March 4, 2025

Assembly Action:

AGENDA ACTION REQUESTED: Present to the Assembly for consideration.

Route To	Signatures
Originator	<div style="text-align: right; font-size: small;">2 / 2 0 / 2 0 2 5</div> <hr/> X N S f o r A s s y m B e r n i e r <hr/> <small>Signed by: Nicholas Spiropoulos</small>
Borough Attorney	<div style="text-align: right; font-size: small;">2 / 2 0 / 2 0 2 5</div> <hr/> X N i c h o l a s S p i r o p o u l o s <hr/> <small>Signed by: Nicholas Spiropoulos</small>
Borough Manager	<div style="text-align: right; font-size: small;">2 / 2 1 / 2 0 2 5</div> <hr/> X M i c h a e l B r o w n <hr/> <small>Signed by: Mike Brown</small>
Borough Clerk	<div style="text-align: right; font-size: small;">2 / 2 1 / 2 0 2 5</div> <hr/> X L o n n i e M c K e c h n i e <hr/> <small>Signed by: Lonnie Mckechnie</small>

ATTACHMENT (S): Resolution Serial No. 25-028 (3 pp)
 SB 92 (5 pp)
 SB 92 Sponsor Statement (1 pp)

SUMMARY STATEMENT: This resolution is sponsored by Assemblymember Bernier in support of SB 92. SB 92 addresses corporate income tax in Alaska and starts to level the playing field in oil and gas taxation of S-corporations as compared to C-corporations.

The distinction between S and C corporations are found in the United States Internal Revenue Service ("IRS") Code. Under the IRS Code, the income of C-corporations is taxed directly and paid by the corporation. However, the income of S-corporations is not taxed directly. Rather for S-corporations, the shareholders are taxed to the extent of their ownership. Under the IRS code, the income tax of an S-corporation is still paid to the federal government, but it is paid by the shareholders rather than the corporation itself.

Alaska has a corporate income tax. For C-corporations, the corporation is required to file and pay income tax to the State of Alaska. However, Alaska has no personal income tax (it was abolished in 1980). Therefore, S-corporations pay no income tax to the State of Alaska because the individual shareholders are not

taxed on their income at all.

As it pertains to oil and gas, this means major oil and gas producers can evade a tax which other corporations pay simply by incorporating as an S-corporation. This creates an unfair business environment, is anti-competitive, and fails to maximize Alaska's benefits from the development of oil and gas resources as mandated by the Alaska Constitution.

SB 92 addresses this situation by addressing income from the production of oil or gas from a lease or property in the state or from the transportation of oil or gas by pipeline in the state before deductions. SB 92 provides that if an entity has income from these activities over \$5,000,000 in a tax year, the entity shall pay a tax of 9.4 percent on that income over \$5,000,000. Under SB 92, the specific category of corporation or entity does not matter. Because the specific category of corporation does not matter, SB 92 addresses a tax loophole as applied to oil and gas activities in Alaska.

SB 92 also provides that if an entity is a corporation paying a tax under the existing corporate income tax under AS 43.20.011, it is not subject to the tax in SB 92. This avoids a double tax on any entity. One other thing to note is that the maximum tax rate under existing corporate income taxes is 9.4 percent which matches that of SB 92. However, the current maximum tax rate for corporations applies to income over \$222,000. While a taxpayer under SB 92 does not start paying tax until the income is over \$5 million, SB 92 still brings more equity to the oil and gas taxation structure of the state.

Finally, it can be observed that if SB 92 results in tax on the corporate income, there may be a reduction in the individual shareholder liability to the IRS because payment of state income tax reduces IRS liability. The exact amounts of reduction is dependent on the individual taxpayer.

This resolution of the Matanuska-Susitna Borough supports SB 92 in its current, narrow form to bring a level of fairness in oil and gas tax in Alaska.

RECOMMENDATION OF ADMINISTRATION: Respectfully request approval.

**Senator
Robert Yundt**
Senate District N

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Sponsor Statement

Senate Bill 92 works to level the playing field and ensure that all oil companies that come to Alaska to extract our mineral wealth are charged at the same rate regardless of whether they are designated as an S corporation or a C corporation. The new 9.4% tax would apply only to entities making over \$5 million in profits from oil production or pipeline transportation. Other S corporations operating in Alaska that do not work in oil production or transportation would not be included in SB 92.

If you have additional questions, please contact Ryan McKee in my office at 907-465-3878

SENATE BILL NO. 92

IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTY-FOURTH LEGISLATURE - FIRST SESSION

BY SENATOR YUNDT

Introduced: 2/10/25

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing an income tax on certain entities producing or transporting oil or**
2 **gas in the state; and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 43.20 is amended by adding a new section to read:

5 **Sec. 43.20.019. Tax on income attributable to a qualified entity; energy**
6 **and electrical grid projects or upgrades fund.** (a) If an entity has qualified taxable
7 income over \$5,000,000 in a tax year, the entity shall pay a tax of 9.4 percent on the
8 qualified taxable income over \$5,000,000.

9 (b) The tax under this section does not apply to a corporation paying tax under
10 AS 43.20.011.

11 (c) The department shall aggregate the qualified taxable income of two or
12 more entities for the purpose of determining the tax due under this section if the
13 department determines that, without the provisions of this section, the qualified
14 taxable income would reasonably be expected to be attributed to a single entity.

1 (d) The energy and electrical grid projects or upgrades fund is established in
 2 the general fund. The Department of Administration shall separately account for the
 3 tax collected under this section and deposit the tax into the energy and electrical grid
 4 projects or upgrades fund.

5 (e) In this section,

6 (1) "entity" means a

7 (A) sole proprietorship;

8 (B) partnership; or

9 (C) entity that has elected to file federal returns under 26
 10 U.S.C. 1361 - 1379 (Internal Revenue Code);

11 (2) "qualified taxable income" means income from the production of
 12 oil or gas from a lease or property in the state or from the transportation of oil or gas
 13 by pipeline in the state before deductions for

14 (A) dividends and gifts; and

15 (B) wages, salaries, bonuses, or other similar payments to
 16 owners, partners, members, or shareholders of the entity.

17 * **Sec. 2.** AS 43.20.030(a) is amended to read:

18 (a) If a **taxpayer** [CORPORATION], or a partnership that has a **taxpayer**
 19 [CORPORATION] as a partner, is required to make a return under the provisions of
 20 the Internal Revenue Code, **the taxpayer** [IT] shall file with the department, within 30
 21 days after the federal return is required to be filed, a return setting out

22 (1) the amount of tax due under this chapter, less credits claimed
 23 against the tax; and

24 (2) other information for the purpose of carrying out the provisions of
 25 this chapter that the department requires.

26 * **Sec. 3.** AS 43.20.031(i) is amended to read:

27 (i) A **taxpayer that** [CORPORATION WHICH] is a member of a group of
 28 unitary corporations **or entities that** [WHICH] collectively has income from business
 29 activity taxable both inside and outside the state, or income from other sources both
 30 inside and outside the state, shall determine its income from sources in this state by
 31 use of the combined method of accounting.

1 * **Sec. 4.** AS 43.20.145(a) is amended to read:

2 (a) A **taxpayer** [CORPORATION] that is a member of an affiliated group
3 shall file a return using the water's edge combined reporting method. A return under
4 this section must include the following **entities** [CORPORATIONS] if the **entities**
5 [CORPORATIONS] are part of a unitary business with the **taxpayer** [FILING
6 CORPORATION]:

7 (1) an affiliated corporation that is eligible to be included in a federal
8 consolidated return under 26 U.S.C. 1501 - 1505 (Internal Revenue Code) if the
9 corporation's property, payroll, and sales factors in the United States average

10 (A) 20 percent or more; or

11 (B) under 20 percent, if the corporation does not meet the
12 requirements of 26 U.S.C. 861(c);

13 (2) a domestic international sales corporation; in this paragraph,
14 "domestic international sales corporation" has the meaning given in 26 U.S.C. 992(a);

15 (3) a foreign sales corporation; in this paragraph, "foreign sales
16 corporation" has the meaning given to the term "FSC" in 26 U.S.C. 922(a);

17 (4) a corporation, regardless of the place where the corporation was
18 incorporated, if the corporation's property, payroll, and sales factors in the United
19 States average 20 percent or more;

20 (5) a corporation that is incorporated in or does business in a country
21 that does not impose an income tax, or that imposes an income tax at a rate lower than
22 90 percent of the United States income tax rate on the income tax base of the
23 corporation in the United States, if

24 (A) 50 percent or more of the sales, purchases, or payments of
25 income or expenses, exclusive of payments for intangible property, of the
26 corporation are made directly or indirectly to one or more members of a group
27 of corporations filing under the water's edge combined reporting method;

28 (B) the corporation does not conduct significant economic
29 activity.

30 * **Sec. 5.** AS 43.20.145(b) is amended to read:

31 (b) When computing taxable income for a **taxpayer** [CORPORATION] under

1 (a) of this section, the following amounts shall be excluded:

- 2 (1) 80 percent of dividend income received from foreign corporations;
 3 (2) an amount treated as a dividend under 26 U.S.C. 78;
 4 (3) 80 percent of the royalties accrued or received from a foreign
 5 corporation.

6 * **Sec. 6.** AS 43.20.145(d) is amended to read:

7 (d) Dividends and royalties taxable to a **taxpayer** [CORPORATION] using
 8 the water's edge combined reporting method are in lieu of an expense attribution for
 9 income excluded under (b) of this section.

10 * **Sec. 7.** AS 43.20.145(e) is amended to read:

11 (e) The department may require a **taxpayer** [CORPORATION] that files
 12 under (a) of this section to file a report under AS 43.20.142 and 43.20.143 prepared
 13 without regard to this section if the **taxpayer** [CORPORATION] or an affiliated
 14 **entity** [CORPORATION]

- 15 (1) fails to comply with regulations adopted under this chapter,
 16 including domestic disclosure spread sheet filing requirements; or
 17 (2) does not provide information that is requested by the department
 18 that is necessary for the department to audit the taxpayer's corporate return in a
 19 reasonable period of time.

20 * **Sec. 8.** AS 43.20.145(g) is amended to read:

21 (g) **An entity** [A CORPORATION] that has signed a contract approved by the
 22 legislature as a result of submission of a proposed contract developed under AS 43.82
 23 or as a result of acts by the legislature in implementing the purposes of AS 43.82,
 24 providing for payments in lieu of the tax under this chapter and that has nexus with the
 25 state solely as the result of the **entity's** [CORPORATION'S] participation in the
 26 approved qualified project that is subject to the contract is not required to file a return
 27 under this section unless required to do so by the contract.

28 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to
 29 read:

30 APPLICABILITY. This Act applies to an entity with qualified taxable income over
 31 \$5,000,000 for a tax year beginning on or after January 1, 2025.

1 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 TRANSITION: PAYMENT OF TAX. A person subject to tax before the effective
4 date of this Act under AS 43.20.019, added by sec. 1 of this Act, shall pay the balance of the
5 tax due for a tax year ending before January 1, 2026, by January 1, 2026. Until January 1,
6 2026, the Department of Revenue shall waive interest that would otherwise accrue under
7 AS 43.05.225 and civil and criminal penalties accruing under AS 43.05.220, 43.05.245, and
8 43.05.290 that are a result of the retroactivity of this Act.

9 * **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 RETROACTIVITY OF REGULATIONS. Notwithstanding a contrary provision of
12 AS 44.62.240, if the Department of Revenue expressly designates in the regulation that the
13 regulation applies retroactively to a specific date, a regulation adopted by the department to
14 implement, interpret, make specific, or otherwise carry out this Act applies retroactively to
15 that date.

16 * **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 RETROACTIVITY. This Act is retroactive to January 1, 2025.

19 * **Sec. 13.** This Act takes effect immediately under AS 01.10.070(c).