Alaska State Legislature

State Capitol Room 102
Juneau, Alaska 99801-1182
(907) 465-2689
Fax: (907) 465-3472
1-800-665-2689

270 W. Pioneer Ave. Suite B
Homer, Alaska 99603
(907) 235-2921
(907) 283-9170
Fax: (907) 235-4008

REPRESENTATIVE PAUL SEATON
Rep.Paul.Seaton@akleg.gov

Sponsor Statement

HB 191

"An Act relating to the oil and gas corporate income tax; and providing for an effective date."

HB 191 requires international or Lower 48 domestic oil producers to pay their 9.4% Alaska Corporate Income Tax on profits made in and expenses related to Alaska, just like companies operating only in Alaska. HB 191 replaces the current tax method under which oil companies pay a proportion of their worldwide profits calculated for their production from Alaska operations. This current worldwide apportionment of corporate income tax allows oil companies to write off less profitable international or Lower 48 domestic production against their highly profitable Alaska production.

HB 191 reinstitutes Separate Accounting which simply means that the companies pay on profits made in Alaska instead of writing off losses incurred outside of the state. Alaska instituted Separate Accounting from 1978 through 1981 because the state was subsidizing overseas investments by oil companies under the worldwide apportionment method of calculating income taxes. During these four years, an additional $1.4 billion dollars (without including interest) was collected under the separate accounting method than would have been collected under the worldwide apportionment method. The oil companies sued on numerous grounds and lost on all points at trial. The case was appealed to the Alaska Supreme Court.

There was concern in 1981 over an increasing liability for repayment of this additional $1.4 billion if the separate accounting method was overturned by the Supreme Court, so the state returned to the worldwide apportionment method awaiting case resolution. The Alaska Supreme Court upheld the state's right to collect Corporate Income Tax via Separate Accounting in 1985. Oil companies then appealed to the U.S. Supreme Court which dismissed the appeal because Alaska's Separate Accounting law did not raise any federal constitutional or statutory question. Since that time, Alaska has not availed itself of its right to reinstate the separate accounting method and calculate oil company corporate income tax based on profits made in and expenses related to Alaska.

According to a 2000 testimony by Dan Dickenson with the Department of Revenue, Alaska lost $4.6 Billion from 1982 – 1997 by not utilizing Separate Accounting. During the four years in which the state required Separate Accounting, the state received an additional $1.4 billion or $350 million per year, not including interest. If we multiply $350 million by the 32 years that we have not collected Corporate Income Tax through Separate Accounting, this equals approximately $11.2 billion in lost revenue to the state.

International energy consultant Pedro Van Meurs, who has advised Alaska and numerous jurisdictions on modifications to their petroleum tax regimes, is a strong supporter of calculating state corporate tax based on costs and revenues attributed to oil production in Alaska. Most nations such as Norway utilize separate accounting. All of the major producers operating in Alaska have been complying with the separate accounting terms in those jurisdictions. Two other states, Mississippi and Oklahoma, use separate accounting even though they have neighbors who do not.

Government Take is used for comparative attractiveness of investment in different jurisdictions. Alaska's rate of 9.4% is used for Corporate Income Tax in these comparisons. Since 9.4% is used for these comparisons, the state of Alaska should truly be collecting the 9.4% tax on the profits international oil companies make in Alaska. Converting the method of computing Corporate Income Tax for oil and gas corporations will not change the corporate tax rate or change any tax credits but will help the state collect on the full tax rate.

HB 191 creates fairness between the tax rate paid by oil and gas corporations operating exclusively in Alaska and the tax rate paid by multinational oil and gas corporations.

Rep.Paul.Seaton@akleg.gov