

29th Legislature

HB 191

Oil and Gas Corporate Income Tax
“Separate Accounting”

Power Point presentation created by the office of Rep. Paul Seaton.

Worldwide Apportionment: attributes a percentage of a corporation's total worldwide expenses to each jurisdiction and requires combined reporting of the group's profit or loss. The parent, multinational corporation and all of its subsidiaries are viewed as though they are a single entity for tax purposes.

- **Problem:** When a corporation's subsidiaries are less profitable outside of Alaska as compared to their subsidiaries within Alaska, the less profitable subsidiaries reduce the overall profit of the parent company, which reduces the amount of corporate tax they pay to Alaska (well below Alaska's 9.4% tax rate.)

Separate Accounting: Multinational corporations must determine their profits separately in each tax jurisdiction in which they operate. A branch or subsidiary within a multinational corporation is accounted for as a separate entity for tax purposes.

- **Solution:** This method does not allow a corporation to include their lower profit from areas outside of Alaska. The company is taxed only on their profit from Alaska operations.

HB 191 does not change Alaska's 9.4% corporate income tax rate or tax credits. It helps the state more fully and equitably collect on the tax due.

History of Separate Accounting

The next 5 slides show:

- Supreme Court Case 1985
- Estimated Interest & Liability for Separate Accounting Revenue collected between 1978-1981
- 1982-1997 comparison between Worldwide Apportionment & Separate Accounting
- 1982-1997 graph of comparison
- Separate Accounting in other States & Countries

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ATLANTIC RICHFIELD COMPANY; ARCO)
PIPE LINE COMPANY; BP ALASKA,)
INC.; EXXON CORPORATION; EXXON)
PIPELINE COMPANY; SOHIO ALASKA)
PETROLEUM COMPANY; and SOHIO)
PIPE LINE COMPANY,)

Appellants,)

vs.)

STATE OF ALASKA; ALASKA DEPART-)
MENT OF REVENUE; ALASKA DEPART-)
MENT OF ADMINISTRATION;)
COMMISSIONER OF REVENUE ROBERT)
D. HEATH, and COMMISSIONER OF)
ADMINISTRATION LISA RUDD,)

Appellees.)

Supreme Court
No. S-52

Superior Court Nos.
3AN-79-1903 Civil
3AN-80-1542 Civil

APPENDIX A OF BRIEF OF APPELLEES

1 of 1 DOCUMENT

Atlantic Richfield Co. v. State

File No. S-52; No. 2965

11. The estimated interest that would be payable on a refund of the difference between AS 43.21 and AS 43.20 tax liabilities:

<u>YEAR</u>	<u>INTEREST ON ESTIMATED REFUND*</u>
1978	\$ 40,000,000
1979	89,000,000
1980	138,000,000
1981	<u>159,000,000</u>
TOTAL	\$426,000,000

*Interest through 4/27/84


12. The estimated total refund liability of the State is:

<u>YEAR</u>	<u>ESTIMATED TOTAL REFUND LIABILITY</u>
1978	\$ 122,000,000
1979	311,000,000
1980	570,000,000
1981	<u>821,000,000</u>
TOTAL	\$1,824,000,000

Further your affiant saith naught.


Robert D. Heath, Commissioner
Department of Revenue

SUBSCRIBED AND SWORN TO before me this 27th day of April, 1984.


Notary Public, State of Alaska
My commission expires: 12/9/84

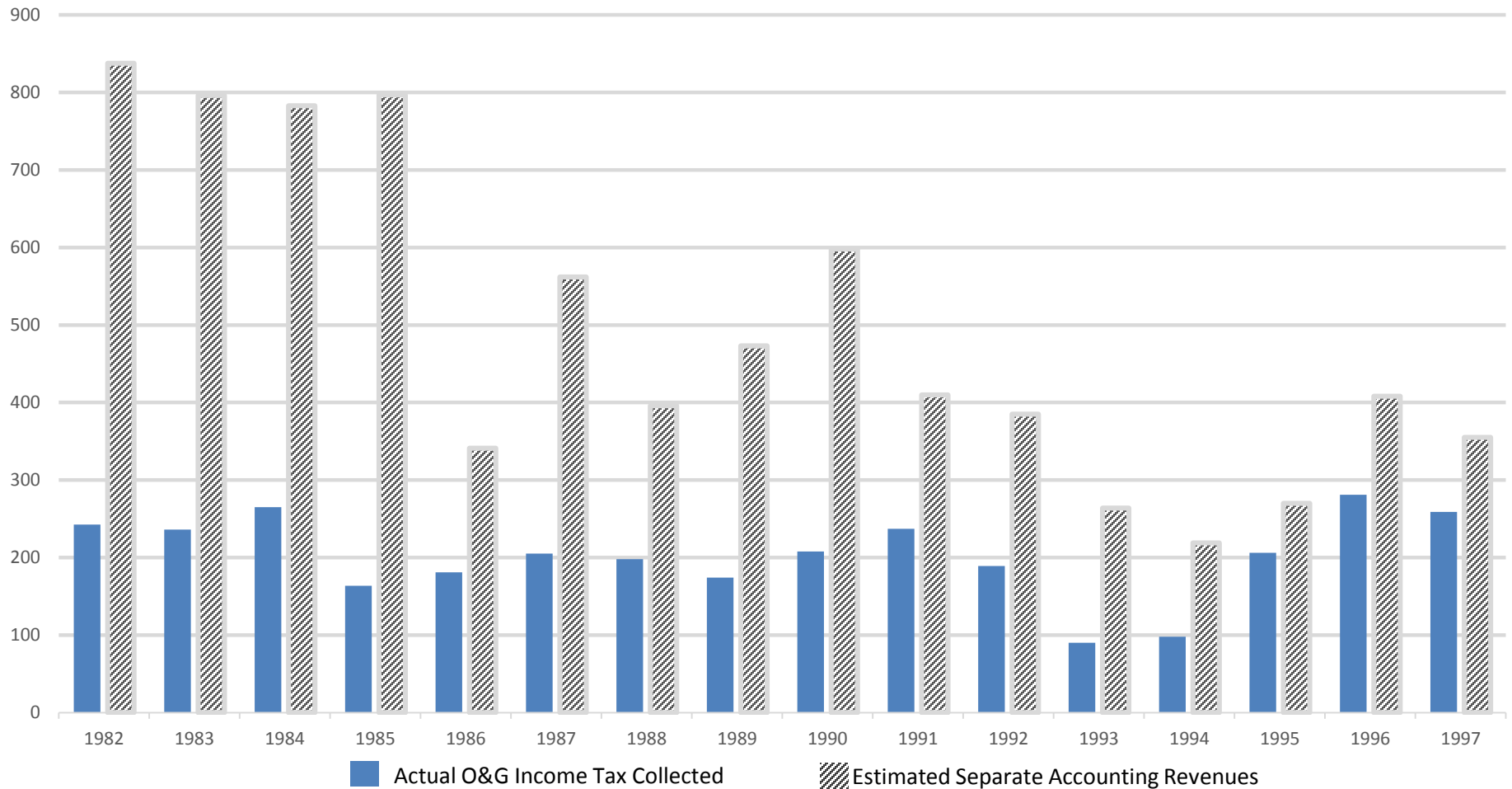
**Comparison of Actual Oil and Gas Corporate Income Tax
Collected with Estimated Revenues using a Separate Accounting
Income Tax Approach
(In Millions)**

	(Worldwide Apportionment)	Estimated <u>Separate</u> Accounting Revenues	Difference
	Actual O&G Income Tax Collected		
1982	242.50	837.62	595.12
1983	236.00	796.15	560.15
1984	265.10	782.86	517.76
1985	163.60	797.00	628.40
1986	181.00	341.00	160.00
1987	205.00	562.00	357.00
1988	198.00	396.00	198.00
1989	174.00	473.00	299.00
1990	208.00	598.00	390.00
1991	237.00	410.00	173.00
1992	189.00	385.00	196.00
1993	90.00	264.00	174.00
1994	98.00	219.00	121.00
1995	206.00	270.00	64.00
1996	281.00	408.00	127.00
1997	259.00	355.00	96.00
TOTALS	\$3,238.20	\$7,894.63	\$4,656.43



Source: 1986-97 calendar year data from DOR letter D. Dickinson to J. Donohue Sept. 23, 1999; 1982-85 fiscal data is from DOR report dated Oct. 31, 1985, Wright to Nordale, in re HB353; data for second half of 1985 not available at this time.

Comparison of Actual Oil and Gas Corporate Income Tax Collected with Estimated Revenues using a Separate Accounting Income Tax Approach Assuming Existing AS 43.20 Rate



Source: 1986-1997 calendar year data from DOR letter, D. Dickinson to J. Donohue, 9/23/99; 1982-85 fiscal data is from DOR report dated 10/31/85, Wright to Nordale, in re HB353. Data for second half of 1985 not available at this time. Since the actual income tax collections for FY82 (the phase out year) included revenue from both separate accounting and modified apportionment, the actual income tax collections for FY82 depicted on the chart includes an estimate of revenue from modified apportionment as if it had been in effect for the entire fiscal year.

States using

Separate Accounting:

Mississippi and Oklahoma

Companies in both Alaska & Mississippi:

- Anadarko Petroleum
- Apache Corporation
- Aurora Exploration
- Chevron USA
- ExxonMobil
- Hilcorp Energy Co.
- Shell Oil
- Tesoro
- Ultra Oil & Gas

Companies in both Alaska & Oklahoma:

- Anadarko Petroleum
- Apache Corporation
- BP Exploration & Production
- Chevron USA
- ConocoPhillips
- ExxonMobil Corp
- XTO Energy

80 oil-producing countries:

For Nonresident corporations in these countries, the vast majority determine taxable income using a separate accounting system or a variation of separate accounting.

Companies in both Alaska & other Countries:

- Anadarko Petroleum
- Apache Corporation
- BP Exploration & Production
- Chevron USA
- ConocoPhillips
- Eni Petroleum
- ExxonMobil Corp.
- Repsol
- Shell Oil Co. (Royal Dutch Shell)
- Statoil

Tax Rates & Net Income

The next 3 slides show:

- Top 5 Oil Companies 2006-2013 Tax Rate Paid to Alaska
- ConocoPhillips Net Income per BOE 2000-2014
- ConocoPhillips Graph Net Income per BOE for only Alaska, Lower 48, and U.S. Total

Top Five Oil Companies – Corporate Income Tax Comparison

	2006	2007	2008	2009	2010	2011	2012	2013
Production Tax Value (PTV)	8,269,253,754	12,373,309,410	16,639,085,462	8,123,576,735	10,267,505,397	14,471,372,140	12,875,430,660	10,511,652,318
Production Tax net of Credits	1,648,686,505	3,486,434,327	7,121,145,726	2,033,891,379	3,023,427,665	6,018,617,015	5,201,264,064	3,345,624,109
PTV net of Production Tax / Subtotal								
Production Income	6,620,567,249	8,886,875,083	9,517,939,736	6,089,685,356	7,244,077,732	8,452,755,125	7,674,166,596	7,166,028,209
Transportation Income (E)	(90,244,995)	110,116,400	(753,871,782)	(455,178,918)	(467,334,308)	(347,095,698)	(78,316,445)	8,709,283
Separate Accounting Taxable Income (A)	6,530,322,254	8,996,991,483	8,764,067,954	5,634,506,438	6,776,743,424	8,105,659,427	7,595,850,151	7,174,737,492
Separate Accounting Tax @ 9.4% (B)	613,850,292	845,717,199	823,822,388	529,643,605	637,013,882	761,931,986	714,009,914	674,425,324
Actual Corporate Income Tax Paid (C.) (Worldwide Apportionment)	657,429,974	600,302,648	668,232,719	309,232,497	405,148,405	474,009,740	393,108,892	319,247,744
Difference (B-C)	(43,579,682)	245,414,551	155,589,669	220,411,108	231,865,477	287,922,246	320,901,022	355,177,580
Effective Tax Rate Paid to Alaska (C/A)	10.1%	6.7%	7.6%	5.5%	6.0%	5.8%	5.2%	4.4%

(Note: Alaska Corporate Income Tax Rate is 9.4% for corporations with taxable income \$222,000 or more.)

Average Difference per year: \$221,712,746

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Table 2: ConocoPhillips Exploration and Production Net Income per Barrel of Oil Equivalent by Selected Jurisdictions

(Nominal Dollars)

Net Income																
Jurisdiction	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Average
Alaska	\$8.97	\$6.01	\$6.19	\$10.43	\$14.36	\$20.38	\$21.08	\$20.66	\$22.84	\$15.73	\$19.47	\$24.10	\$29.21	\$31.09	\$30.48	\$18.73
Lower 48	\$9.13	\$8.02	\$3.77	\$8.42	\$10.56	\$15.96	\$10.63	\$9.80	\$14.39	(\$0.20)	\$6.26	\$8.09	\$6.06	\$4.13	(\$0.11)	\$7.66
U.S. Total	\$9.03	\$6.60	\$5.34	\$9.54	\$12.65	\$18.32	\$14.52	\$13.71	\$17.38	\$5.37	\$10.89	\$13.55	\$13.34	\$11.85	\$7.62	\$11.31
International	\$5.35	\$3.60	\$2.74	\$5.57	\$7.64	\$11.55	\$12.70	\$11.43	\$18.68	\$5.30	\$18.67	\$13.60	\$17.06	\$25.46	\$20.76	\$12.01
Equity Affiliates	\$0.00	\$4.11	\$10.82	\$6.66	\$10.31	\$11.07	\$11.41	(\$9.20)	(\$27.54)	\$6.09	\$12.46	\$23.12	\$26.10	\$29.67	\$29.99	\$9.67
Global Total	\$7.54	\$5.62	\$4.43	\$7.32	\$9.88	\$13.85	\$13.05	\$7.58	\$7.65	\$5.52	\$14.73	\$14.70	\$16.60	\$19.78	\$16.02	\$10.95

Source: April 2015 Legislative Research calculations based on annual filing of form 10-K with U.S. Securities and Exchange Commission posted on EDGAR online database. <http://www.sec.gov/edgar/searchedgar/webusers.htm>.

Definitions:

BOE: Barrel of Oil Equivalent is the amount of a given fuel required to equal the amount of energy contained in one standard U.S. barrel of crude oil (42 gallons). Example: BOE for natural gas is 5,800 cubic feet (5.8Mcf). BOE's should be viewed as estimates; amount of energy can vary by grade of oil produced.

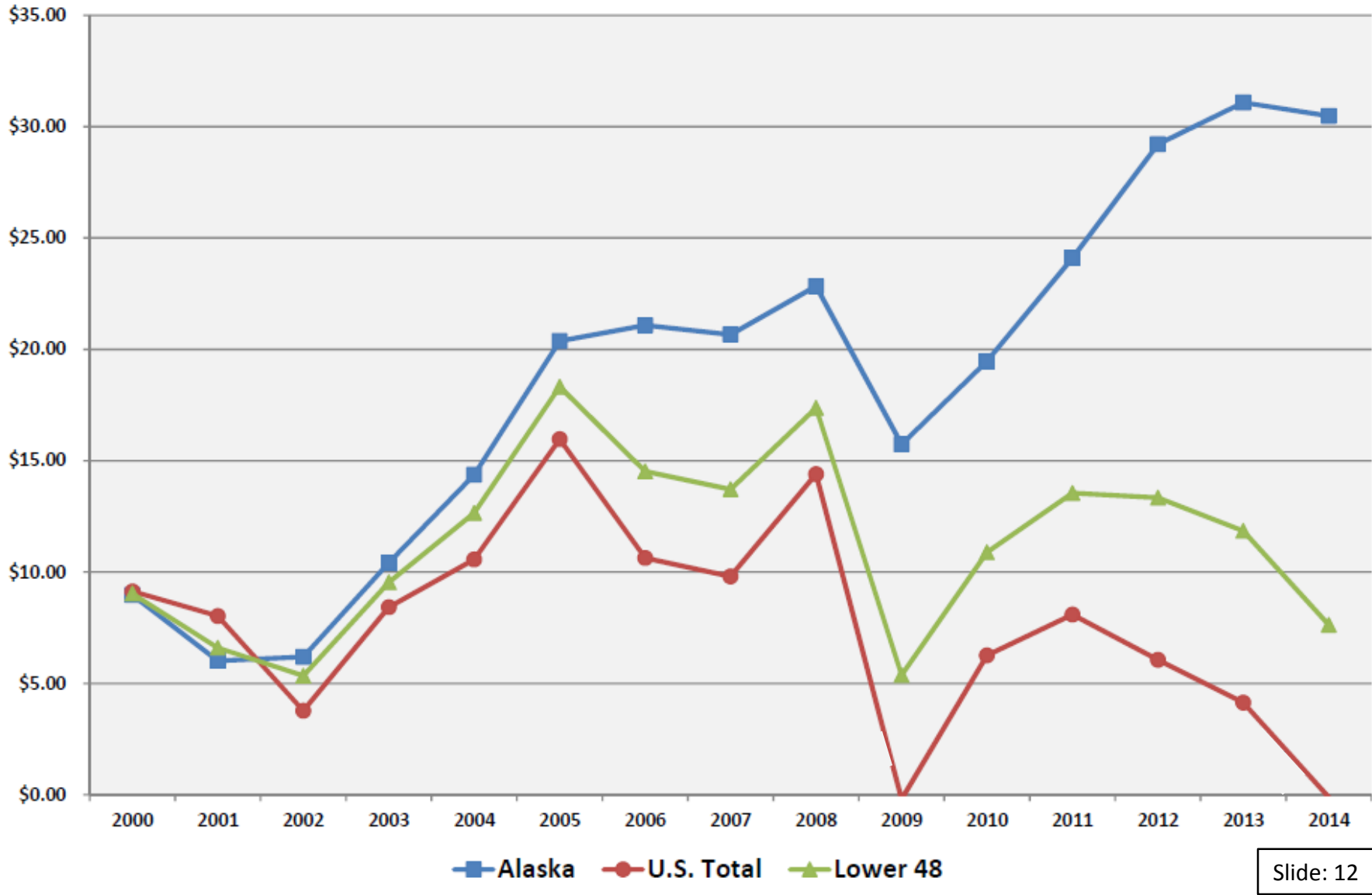
Equity Affiliates: companies that ConocoPhillips owns or in which it holds an equity interest. These exist across a number of geographic jurisdictions and vary in location from year to year.

Jurisdictional Totals: divide net income for the given geographical area by the total BOE (Barrel of oil equivalent) production in that area.

U.S. Total: sum of all net income in U.S. divided by the company's total BOE production in U.S. Note: the total is NOT just the average of Alaska and the Lower 48 noted in the graph.

Global Total: sum of all net income divided by the company's total BOE production. Note: the total is NOT just the average of the separate jurisdictions noted in the graph.

Figure 3: ConocoPhillips: Net Exploration and Production Income per Barrel of Oil Equivalent in the U.S., 2000-2014
(Nominal Dollars)



ConocoPhillips & Alaska

The next 5 slides show:

- ConocoPhillips Texas vs. Global Portfolio 2011
- Alaska Economics 2011
- ConocoPhillips 2015 Increasing Investments in Alaska
- ConocoPhillips 2015 Reducing Investments in the Lower 48
- Average Oil Industry Alaska Margin for FY16

Eagle Ford could nudge Alaska for COP

ConocoPhillips' plans to invest \$2 billion this year on liquids-rich shale plays could mean the Lower 48 edges out Alaska oil

Eric Lidji



Greg Garland, senior vice president for

exploration and production in the Americas

ConocoPhillips' global portfolio approximately \$23 per barrel based on 2011 article.

ConocoPhillips likes the Eagle Ford because of economics.

Garland said the play offered \$45 per barrel margins last year, twice the average of ConocoPhillips' global portfolio. Since January 2010, well costs have fallen 40 percent.

Alaska Oil Economics 2011

- Spring 2011 approximate price of oil: \$118/bl
- Transportation \$6
- Royalty = \$112 x 12.5% = \$14
- Upstream Costs: \$20/bl
- Production Tax Value: \$78/bl

Note: Production tax rate is base 25% +.4% / \$ progressivity = 44.2%
44.2% x \$78 = prod tax of \$34.5/bl ACES Tax Regime

Typical
Company



Alaska Margin: \$43.50/bl

- At \$110/bl, margin would be \$41.60
- At \$100/bl, margin would be \$38.66

**Alaska margins are nearly double ConocoPhillips
\$23/bl worldwide average margin in 2011.**

ConocoPhillips Oil Economics 2015

ConocoPhillips increasing investment in Alaska due to higher profitability:

- Expand Drill Site 1H at the Kuparuk River Unit
- Sanctioned construction of Kuparuk River unit Drill Site 2S
- Commissioned 2 rigs
- Brought Nabors 9ES and Nabors 7ES to the Kuparuk River unit for infield drilling

Alaska vs Other 2015 Oil Economics

Reduced investment in the Lower 48 and Canada

Increased investment in Alaska

Month/Year of Report	Alaska Total Active Rig Count (From All Company's)	ConocoPhillips Rig Count in AK
Feb. 2015	48	6
Feb. 2014	49	7
Feb. 2013	48	4
Feb. 2012	47	4
Feb. 2011	44	5
Feb. 2010	43	5
Feb. 2009	41	5
Feb. 2008	46	4

**Info from Petroleum News Archives Alaska - Mackenzie Rig Report*

FEBRUARY AVERAGE RIG COUNTS			
YEAR	NORTH DAKOTA	OKLAHOMA	MISSISSIPPI
2015	121	162	8
2014	168	182	10
2013	177	193	12
2012	185	205	10

**All info from Baker Hughes (see link below)*

	US Avg Rig Count	Canadian Avg Rig Count
March 2015	1,110	196
March 2014	1,803	449
	30% Less Rigs	50% Less Rigs

**Info from Baker Hughes March 2015 Report*

Result:
Using the worldwide apportionment method, higher expenses in the Lower 48 create lower profit in these jurisdictions which are written off against Alaska's corporate income tax.

Estimated average oil Industry “margin” per taxable barrel in Alaska for FY16

Current production tax method.

Alaska North Slope (ANS) Oil Price FY16	\$66.03	(A)
Transportation Costs	\$ 9.17	(B)
ANS Average Wellhead	\$56.86	(C = A-B)
 Royalty	 \$ 7.11	
Deductible lease expenditures	\$43.55	(D)
Production tax value	\$13.31	(E = C-D)
 35% production tax	 \$ 4.66	 (F = E x 35%)
4% gross minimum tax	\$ 2.27	(G)
 Per-taxable barrel credit earned	 \$ 8.00	
Per-taxable barrel credit allowed	\$ 2.38	
Alaska Production tax after credits	\$ 2.27	(G)
 Company margin before state and federal income tax	 <u>\$11.04</u>	 (H = E-G)

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For purposes of this calculation, “margin” is defined as cash flow per taxable barrel after production tax but before state and federal corporate income tax. Source: Fall 2014 revenue forecast assumptions for FY2016. Information provided by Dept. of Revenue Tax Division 4/9/15.

During the last tax year 2013

Top five oil companies paid: 4.4% \$319,247,744

Under Separate Accounting
they would have paid: 9.4% \$674,425,324

Alaska's 2013 Loss: \$355,177,580