



THE STATE
of ALASKA

GOVERNOR BILL WALKER

Department of Revenue

TAX DIVISION

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Representative Neal Foster
State Capital Room 410
Juneau AK, 99801

Sent via e-mail: Representative.Neal.Foster@akleg.gov
No hard copy to follow

RE: HB 398 - Corp Tax: Public Utility Income Allocation

Dear Representative Foster:

The current corporate income tax statutes require all non-oil and gas taxpayers doing business in more than one state to apportion their income to Alaska using the three-factor apportionment formula of property, payroll, and sales. The formula is—AK property divided by total property, plus AK payroll divided by total payroll, plus AK sales divided by total sales. That sum is divided by three and the factor is multiplied by a company's total taxable income to arrive at their Alaska taxable income.

The three-factor apportionment statutes were adopted in 1970 and made an exception to the general three-factor apportionment rule for financial organizations and public utilities that operated both within Alaska and outside of Alaska. At that time, most public utilities were locally owned and operated, we didn't have multistate public utilities doing business in Alaska. Therefore, utilities in Alaska reported all of their income to Alaska and the exception to the three-factor filing rule was not utilized.

The Tax Division adopted regulations in 1985 laying out how financial organizations should apportion income—the Division chose to use the same three-factor formula with guidance on how their unique property and sales should be apportioned. Since there were still no multi-state public utilities in Alaska, there was no regulation drafted for public utilities. Even though we have had multistate public utilities in Alaska for some time now, they have all filed using the same three-factor apportionment formula as every other non-oil and gas corporation until relatively recently. Within the last ten years, some public utilities began filing using their own method and citing Sec. 2, Art. IV of 43.19 as their authority to deviate from the standard three-factor formula. Since there is no guidance on what method should be used, we have to spend a lot of resources learning what the method is and if it is a fair and equitable method. Since there has been no guidance on how multistate public utilities should apportion their income since 1970, the Division isn't comfortable making a change through regulation. However, the Division

feels it's appropriate to use the same three-factor apportionment formula to apportion public utility income to Alaska as is used for all other non-oil and gas corporations. Allowing multistate public utilities to use an apportionment method of their own choosing creates issues in the administration of the tax. Also, a corporation will naturally choose a method that will create the lowest possible tax obligation.

Currently, there are 3 public utilities utilizing a method other than the standard three-factor apportionment formula to apportion or allocate income to Alaska. To protect confidential taxpayer information, we are unable to provide a potential revenue gain from this proposed legislation. We can only state that the gain would be material in relation to Corporate Income Tax Revenues.

I hope you find this information useful. Please let me know if you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brandon Spanos', with a long horizontal flourish extending to the right.

Brandon Spanos