Fiscal Note

State of Alaska
2021 Legislative Session

Bill Version: HB 130
Fiscal Note Number:
() Publish Date:

Identifier: HB130-DOR-TAX-4-16-21
Title: CORP. TAX: REMOVE EXEMPTIONS/CREDITS
Sponsor: WOOL
Requester: (H) Resources

Department: Department of Revenue
Appropriation: Taxation and Treasury
Allocation: Tax Division
OMB Component Number: 2476

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2022 Appropriation Requested	Included in Governor's FY2022 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY 2022**	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**	**FY 2027**
Personal Services	250.0		250.0	250.0	250.0	250.0	250.0
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	**250.0**	**0.0**	**250.0**	**250.0**	**250.0**	**250.0**	**250.0**

Fund Source (Operating Only)

1004 Gen Fund (UGF)	250.0		250.0	250.0	250.0	250.0	250.0
Total	**250.0**	**0.0**	**250.0**	**250.0**	**250.0**	**250.0**	**250.0**

Positions

Full-time	2.0		2.0	2.0	2.0	2.0	2.0
Part-time							
Temporary							

Change in Revenues

1004 Gen Fund (UGF)	141,700.0		32,600.0	43,600.0	42,100.0	41,800.0	48,700.0
Total	**141,700.0**	**0.0**	**32,600.0**	**43,600.0**	**42,100.0**	**41,800.0**	**48,700.0**

Estimated SUPPLEMENTAL (FY2021) cost: 0.0 *(separate supplemental appropriation required)*

Estimated CAPITAL (FY2022) cost: 0.0 *(separate capital appropriation required)*

Does the bill create or modify a new fund or account? No

(Supplemental/Capital/New Fund - discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes
If yes, by what date are the regulations to be adopted, amended or repealed? 12/31/21

Why this fiscal note differs from previous version/comments:

Not applicable, initial version.

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Division: Tax Division Date: 04/16/2021
Approved By: Brian Fechter, Administrative Services Director Date: 04/16/21
Agency: Department of Revenue

STATE OF ALASKA **BILL NO.** HB 130
2021 LEGISLATIVE SESSION

Analysis

Overview
Under current law, C-corporations doing business in the state are subject to corporate income tax (CIT) under AS 43.20. This bill makes several modifications to AS 43.20, almost all of which would increase revenue to the state. The most significant change is expanding the taxpayers required to file Alaska CIT returns and pay taxes to those oil and gas entities that are not currently required to file and/or pay tax. This bill casts a wide net that would include not only pass-through entities like partnerships, S-Corporations, and Limited Liability Companies (LLC), but also individuals, joint ventures, municipalities, family trusts, and electric cooperatives engaged in oil and gas production or pipeline transportation. The Department does not have an estimated number of new taxpayers this provision of the bill would apply to.

The bill also modifies federal tax credits available to all Alaska CIT taxpayers. Instead of applying the apportionment factor as well as 18% to the entire amount of federal credits allowed by Alaska statute, the starting point of the credit calculation would be only those credits generated by activities in Alaska. This provision of the bill applies to all Alaska CIT taxpayers that claim federal credits on their Alaska CIT returns. In any given year, there are between 300-500 taxpayers that claim a portion of federal credits on their Alaska CIT returns.

The bill would also eliminate the 80% deduction for royalties received by non-oil & gas taxpayers that are members of a water's edge combined group. Under current law, non-oil & gas CIT taxpayers may exclude from taxable income 80% of royalties received from foreign corporations. In any given year, there are approximately 250 non-oil & gas taxpayers that exclude foreign royalties from taxable income. Under current law, this exclusion does not apply to oil & gas taxpayers.

Another significant piece of this bill is the provision to decouple from (or reject) the changes made to the net operating loss (NOL) provisions of the Internal Revenue Code by the Coronavirus Aid, Relief, and Economic Security Act of March 2020, P.L. 116-136 (CARES Act), which Alaska adopts by reference. The bill proposes to decouple from the CARES Act changes to the treatment of NOLs by making this provision of the bill retroactive to January 1, 2020. By decoupling from the CARES Act changes to the NOLs, Alaska's treatment of NOLs would follow the law as it read before the CARES Act was enacted: NOLs arising January 1, 2018, and later would be limited to 80% of taxable income and could only be carried forward. This provision of the bill applies to all Alaska CIT taxpayers. Those most impacted will be the tourism industry, transportation industry, seafood industry, oil & gas industry, and any other taxpayers with significant losses in 2018, 2019, and/or 2020. The Department will not know the actual scale of 2020 losses until 2020 returns are filed in November 2021.

Lastly, the bill repeals AS 43.20.144(g) and 43.20.145(g). Under current law, these provisions exempt both oil & gas and non-oil & gas corporations that have signed contracts under AS 43.82 to develop the state's stranded gas resources from filing an Alaska CIT return and paying the tax if the contracts provide for payments in lieu of taxes. Since there are no contracts under the Stranded Gas Development Act and no exemptions claimed under these statutes, the proposed repeals will not have a fiscal impact.

The bill has an effective date of January 1, 2022.

Revenue Impact
The estimated revenue impact of this bill is based on the sum of the estimated impacts for each of the four major provisions discussed above. These estimates do not account for any potential interaction between the four provisions and assumes the impacts are additive. The estimated revenue impact is rounded to the nearest $0.1 million. Depending on the timing of tax implementation and estimated payments, it is possible that some of the revenue projected for FY2022 could be shifted into FY2023.

FISCAL NOTE ANALYSIS

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2021 LEGISLATIVE SESSION

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Analysis

Revenue Impact (cont.)
The modifications to expand the Alaska CIT base are estimated to result in annual revenue increases of between $46.0 million and $52.8 million from FY2023-2027. Assuming an even distribution of revenue over a fiscal year, this provision would result in an estimated revenue increase of approximately $18.5 million in FY2022 during the second half of the fiscal year. This estimate assumes that the companies added to the tax base will have a similar tax liability on a per barrel oil equivalent production basis as companies currently subject to corporate income tax. The revenue impacts of this provision are highly uncertain due to lack of data about non-C-corporation profitability.

At full implementation, the federal tax credit modification is estimated to increase revenue by approximately $2.0 million annually. This estimate is based on average estimated impacts over the past several years based on review and analysis of information reported on tax returns. Assuming an even distribution of revenue over a fiscal year, the credit modification would bring in a revenue increase of approximately $1.0 million in FY2022, over the second half of the fiscal year. Revenue estimates are highly uncertain due to the fact that credit claims fluctuate year-to-year based on corporate decisions and performance, as well as outside economic actors.

The elimination of the 80% deduction on royalties for taxpayers that are members of a water's edge combined group is estimated to increase revenue by approximately $1.7 million annually, at full implementation. This estimate is based on average estimated impacts over the past several years using data from tax returns. Assuming an even distribution of revenue over a fiscal year, this provision would increase revenue by approximately $0.8 million in FY2022, over the second half of the fiscal year. Revenue estimates are uncertain due to the fact that it is unknown if the majority of credits claimed by water's edge participants are generated by activity in Alaska or activity outside of Alaska.

DOR included the impact of the CARES Act provisions in the Spring 2021 revenue forecast. Based on this forecast, decoupling from the NOL carryback provision is anticipated to increase FY2022 revenue by $121.4 million. The FY2022 revenue increase is largely "bringing forward" future revenue. This revenue estimate assumes all positive revenue impacts will be realized in FY2022, including impacts attributable to the reversal of refund requests forecasted for FY2021. Revenues are expected to decrease in FY2023 and beyond, as companies can still realize benefits of NOLs and the federal Alternative Minimum Tax credit in future years. These revenue impacts are estimated to result in annual revenue decreases of between $7.8 and $17.1 million from FY2023-2027. These revenue estimates include impacts for both the oil and gas corporate income tax and the non-oil and gas corporate income tax. Revenue estimates are highly uncertain due to the unknowns about tax year 2020 losses which are the biggest component of the revenue estimates.

Implementation Costs
Expanding Alaska's current CIT statutes to additional taxpayers, modifying the federal tax credit and NOL provisions, and eliminating the 80% royalty deduction and stranded gas development act provisions will require the Department to adopt regulations, create and/or amend all necessary forms for taxpayers to file their returns, and update and test its Tax Revenue Management System (TRMS) and Revenue Online (ROL) which allows a taxpayer to file a return online. This would need to be completed by December 31, 2021. Contractor costs for the updates to TRMS and ROL are shown as a capital appropriation for FY2022.

Aside from TRMS and ROL contractor costs, the Department would need to hire two additional corporate income tax auditors at a cost of approximately $125,000 per year per auditor, including salary and benefits.