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**Subject:** SB 92 Meeting Follow up  
**Date:** Tuesday, March 4, 2025 4:07:42 PM  
**Attachments:** [SB092 Suggested edits.docx](#)  
[SB0092A - DOR proposed amendments suggestions.pdf](#)

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Hello Senators,

As discussed in our meeting yesterday, please find attached a word doc with together our suggested amendment language, and a pdf with some other edits to clarify “qualified entity” and “taxable income.”

Please let me know if you have any questions.

Respectfully,

**Aimee Bushnell**

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1 AS 43.20.019

2 (e) In this section,

3 (1) "qualified entity" means a(n)

4 (A) sole proprietorship;

5 (B) partnership;

6 (C) limited liability company; or

7 (D) entity that has elected to file federal returns under 26 U.S.C. 1361 – 1379  
8 (Internal Revenue Code).

9 (2) "taxable income" means income from the production of oil or gas from a lease or  
10 property in the state or from the transportation of oil or gas by pipeline in the state as determined  
11 under AS 43.20.144 as if the qualified entity were taxable as a C-corporation under 26 U.S.C.

12 AS 43.20.031 is amended by adding a new subsection to read:

13 (j) For the purpose of calculating income under this chapter, a qualified entity may deduct  
14 from income a payment received from a direct member when

15 (1) the direct member is a taxpayer under this chapter; and

16 (2) the payment was included in the direct member's income for the purposes of  
17 this chapter.

18 AS 43.20.340 is amended by adding new subsections to read:

19 (XX) "direct member" means a partner in a partnership, a member or owner in a limited  
20 liability company, or a shareholder of an S-corporation;

21 (XX) "C-corporation" has the meaning given in 26 U.S.C. 1361 (Internal Revenue Code);

22 (XX) "payment" for the purpose of a deduction under AS 43.20.031(j) means a cash  
23 payment and does not include a transfer or distribution of property.

**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**

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

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

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

Note: the pass-through is the "qualified entity."  
Not the taxable income.

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

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

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

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

(e) In this section,

~~qualified~~ (1) "entity" means a

(A) sole proprietorship;

(B) partnership; ~~or~~

(C) entity that has elected to file federal returns under 26 U.S.C. 1361 - 1379 (Internal Revenue Code); ~~OR~~ (D) limited liability company (LLC)

(2) "qualified taxable income" means 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 for~~

as determined under AS 43.20.144 as if the qualified entity were taxable as a C-corporation under 26 U.S.C.

? (A) dividends and gifts; and

(B) wages, salaries, bonuses, or other similar payments to

owners, partners, members, or shareholders of the entity.

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

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

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

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

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

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

Sec. 4. AS 43.20.031 is amended to add a new subsection (j) - see language from draft 1/8/2021 lines 23-29, referring to a "qualified entity" instead of an oil and gas pass-through entity. See also addition to AS 43.20.340 to define a "direct member"

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

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

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

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

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

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

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

(1) fails to comply with regulations adopted under this chapter, including domestic disclosure spread sheet filing requirements; or

(2) does not provide information that is requested by the department that is necessary for the department to audit the taxpayer's corporate return in a reasonable period of time.

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

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

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

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

1     \* **Sec. 10.** The uncoded 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 uncoded 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 uncoded 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).