



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Revenue

TAX DIVISION

Robert B. Atwood Building
550 West 7th Avenue, Suite 500
Anchorage, Alaska 99501-3566
Main: 907.269.6620
Fax: 907.269.6644

May 3, 2018

The Honorable Anna MacKinnon and Lyman Hoffman
Alaska State Senate
Senate Finance Committee
State Capital
Juneau AK, 99801

Dear Co-Chairs MacKinnon and Hoffman:

The purpose of this letter is to provide you with responses to questions asked of the Department of Revenue, Tax Division during our presentation to the Senate Finance Committee on April 30, 2018 regarding HB 398 – Corp Tax: Public Utility Income Allocation. Please see the request in *italics* and our response immediately below the request.

1. *Which states have required public utilities to conform to that state's standard apportionment formula?*

This is a difficult question to answer because it requires researching the statutes and legislative history of other states as they relate to a narrow and fairly obscure section of tax code. We identified seven other states that have updated their statutes to require public utilities to file using that state's standard apportionment formula (or a modified formula in the case of North Carolina). The list is likely not complete because many states undoubtedly removed any reference to public utilities in their current code—which would effectively require them to apportion their income the same as every other corporation doing business in the state—and would therefore not show up in our quick research of how other states tax public utilities. In the interest of responding to the request timely, we present the below incomplete list of states and how the public utilities are taxed.

Arkansas – apportions public utility income the same as all other corporations—standard three-factor formula with a double weighted sales factor. Statute last modified in 2007.

Iowa – apportions utility income the same as all other corporations—single sales factor apportionment. Statute last modified in 2000.

Kansas – apportions public utility income the same as all other corporations—standard three-factor formula. Statute last modified in 2008.

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North Carolina – apportions public utility income using a single sales factor (all other corporations use the standard three-factor formula with a double weighted sales factor). Statute last modified in 2017.

Oregon – apportions utility income the same as all other corporations—single sales factor apportionment. Public utilities put on same apportionment as other corporations in 1991. General apportionment statutes last modified in 2018.

West Virginia – apportions public utility income the same as all other corporations—standard three-factor formula with a double weighted sales factor. The taxpayer may petition for an alternative apportionment if the provisions of the apportionment statutes don't fairly represent their business in the state (Alaska already has a similar provision in the AS 43.19 for all corporations doing business in the state). Statute last modified in 2008.

Wisconsin – apportions utility income the same as all other corporations—single sales factor apportionment. Statute last modified in 2007.

2. How many public utility corporations file tax returns in Alaska?

This is a simple question on its face. However, we don't have a separate tax return for public utilities. Therefore, we have to rely on the North American Industry Classification System (NAICS) codes reported to us by taxpayers on their tax returns. Using NAICS codes, we identified 15 public utility corporations that currently file tax returns with the state. This list may be incomplete because there are thousands of NAICS codes to choose from and some of the codes are ambiguous and could apply to both public utility companies and non-public utility companies alike. We did our best to get a complete number, but it's possible that our report didn't pick up all filers. The actual number is not likely to be more than 20. Also, there are approximately 50 public utilities that operate as cooperatives and pay the telephone coop or electric coop tax, instead of the corporate income tax under, AS 10.25.540.

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

Sincerely,



Brandon Spanos
Deputy Director
Department of Revenue, Tax Division