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ALASKA STATE LEGISLATURE
House District 35

Sponsor Statement HB 328

Separate Accounting

HB 328 requires international oil producers to pay their 9.4% Alaska Income Tax on profit made in Alaska just like companies operating only in Alaska. HB 328 replaces the current tax method under which oil companies pay a proportion of their worldwide profits calculated for their production from Alaska operations. This worldwide apportionment of corporate income tax allows oil companies to write off less profitable international or Lower 48 domestic production against their highly profitable Alaska production.

HB 328 reinstitutes Separate Accounting which simply means the companies pay on profits made in Alaska. Alaska instituted Separate Accounting from 1978 to 1982 because the state was subsidizing overseas investments by oil companies under the appointment method of calculating income taxes. During the four years that companies paid tax on their Alaska profits, about $1.8 billion dollars more was collected than would have been collected under the worldwide apportionment method. The oil companies sued on numerous grounds and lost on all points at trial. The case was appealed to the Alaska Supreme Court.

There was concern in 1981 over an increasing liability for repayment if Separate Accounting was overturned by the Supreme Court, so the state returned to worldwide apportionment awaiting case resolution. The Alaska Supreme Court upheld the states right to collect Corporate Income Tax via Separate Accounting in 1985. Oil companies then appealed to the U.S. Supreme Court which dismissed the appeal because Alaska's Separate Accounting law did not raise any federal constitutional or statutory question. Since that time, Alaska has not availed itself of its right to calculate oil company corporate income tax based on profits made in Alaska.

It was estimated that, during for the four years in which the state required Separate Accounting, the state received an additional $1.8 billion, or $450 million per year. If we multiply $450 million by the 30 years that we have not collected Corporate Income Tax through Separate Accounting, this equals approximately $13.5 billion in lost revenue to the state.

According to a 2000 testimony by Dan Dickenson with the Department of Revenue, Alaska lost $4.6 Billion from 1982 – 1997 by not utilizing Separate Accounting.

International energy consultant Pedro Van Meurs, who has advised Alaska and numerous jurisdictions on modifications to their petroleum tax regimes, is a strong supporter of calculating state corporate tax based on costs and revenues attributed to oil production in Alaska. Other jurisdictions such as Norway utilize separate accounting. All of the major producers operating in Alaska have been complying with the separate accounting terms in those jurisdictions.

Government Take is used for comparative attractiveness of investment in different jurisdictions. Alaska's rate of 9.4% is used for Corporate Income Tax in these comparisons. Since 9.4% is used for these comparisons we should be collecting the 9.4% tax on the profits made in Alaska.