Fiscal Note

State of Alaska
2023 Legislative Session

Bill Version: SB 122
Fiscal Note Number:
() Publish Date:

Identifier: SB122CS(FIN)-DOR-TAX-05-05-23
Title: APPORTION TAXABLE INCOME;DIGITAL BUSINESS
Sponsor: RLS
Requester: Senate Finance

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)

	FY2024 Appropriation Requested	Included in Governor's FY2024 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY 2024**	**FY 2024**	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**
Personal Services	239.4		239.4	239.4	239.4	239.4	239.4
Travel	2.0		2.0	2.0	2.0	2.0	2.0
Services	227.8		27.8	27.8	27.8	27.8	27.8
Commodities	28.2		0.2	0.2	1.5	1.5	1.5
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	**497.4**	**0.0**	**269.4**	**269.4**	**270.7**	**270.7**	**270.7**

Fund Source (Operating Only)

1004 Gen Fund (UGF)	497.4		269.4	269.4	270.7	270.7	270.7
Total	**497.4**	**0.0**	**269.4**	**269.4**	**270.7**	**270.7**	**270.7**

Positions

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

Change in Revenues

None	***		***	***	***	***	***
Total	*******	**0.0**	*******	*******	*******	*******	*******

Estimated SUPPLEMENTAL (FY2023) cost: 0.0 *(separate supplemental appropriation required)*

Estimated CAPITAL (FY2024) cost: 1,000.0 *(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If yes, by what date are the regulations to be adopted, amended or repealed? 12/31/23

Why this fiscal note differs from previous version/comments:

This is revised to match new committee substitute for Senate Bill 122 (bill version H). The changes were primarily to add the taxation of oil and gas entities, other than existing C-Corporations. This is similar to the language in SB114.

Prepared By:	Colleen M. Glover, Director	Phone:	(907)269-1033
Division:	Tax Division	Date:	05/04/2023 07:00 PM
Approved By:	Eric DeMoulin, Director	Date:	05/05/23
Agency:	Department of Revenue		

STATE OF ALASKA **BILL NO.** CSSB 122(FIN)
2023 LEGISLATIVE SESSION

Analysis

Background Information
Under current law, C-Corporations doing business in the state of Alaska are subject to corporate income tax (CIT) under Alaska Statutes (AS) 43.19 and 43.20. This bill would make modifications to AS 43.19 and 43.20, which is essentially doing two things for non oil and gas taxpayers. First, the bill would make changes to the Multistate Tax Compact language adopted in AS 43.19 to add updated compact terms regarding apportionable income and market-based sourcing for sales, now termed "receipts." Currently, non-oil and gas CIT taxpayers source their sales based on where the costs are incurred. This first change would source the sales of out-of-state corporations to Alaska instead of the Lower 48 where the costs are incurred, which would increase the amount of taxable income in Alaska. Second, the bill would create an apportionment method for "highly digitized businesses" based on a single factor, the receipts factor. The bill includes a specific threshold that a taxpayer must meet to be considered as engaged in a "highly digitized business". Highly digitized businesses would report their income on a water's edge basis. This second change would raise the apportionment factor for non-oil and gas out-of-state corporations which would increase their taxable income in Alaska.

The effective date of the above changes in the proposed legislation is January 1, 2024.

The bill also proposes to tax a newly defined "oil or gas entity" with taxable income over $4,000,000 at a rate of 9.4%. This does not impact any oil and gas C-Corporations.

The effective date of the above change in the proposed legislation is retroactive to January 1, 2023.

The bill provides authority for the Department to adopt regulations to implement and interpret the provisions of this bill.

Revenue Impact – Non Oil and Gas
The revenue impact of the non-oil and gas changes in this bill are indeterminate because there are a lot of unknowns. However, the Department estimates that the bill could generate total revenues to the state from $25 to $65 million annually at full implementation.

As can be seen from the broad range of possible revenues, there is a high degree of uncertainty about how a shift to market-based sourcing and applying a single receipts factor to "highly digitized businesses" will impact revenue. There is also uncertainty about what companies will fall into the definition of "highly digitized business." Therefore, the Department analyzed Securities and Exchange Commission ("SEC") public U.S. income data and applied a simple Alaska households vs. U.S. households scaling factor to estimate how much income would be apportioned to Alaska. The Department then applied the 9.4% tax rate to the Alaska-scaled income to come up with a revenue impact range.

Revenue Impact – Oil and Gas
The revenue impact of the newly added provision related to oil and gas entities, is highly uncertain, as the Department does not have detailed financial information for the companies that would be impacted. Further, the revenue impact would likely be concentrated in a small number of companies.

To prepare the revenue estimate for this legislation, the Department used a fairly simple approach given the uncertainty. First, under the Spring 2023 revenue forecast, the share of oil and gas production estimated to be attributable to pass-through entities was calculated for each fiscal year. Second, the corporate income tax forecast was "scaled up" to assume that pass-through entities would pay corporate income tax at a similar rate as C-Corporations based on production.

STATE OF ALASKA
2023 LEGISLATIVE SESSION

BILL NO. CSSB 122(FIN)

Analysis

See the table below for the breakout of revenues for the non-oil and gas and the oil and gas tax changes:

Estimated Revenue Impacts ($ Millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
1. Change to Market Based Sourcing, Digital Business (Original scope)	***	***	***	***	***	***
2. Extend Oil & Gas C-Corporation Income Tax to non C-Corporations	$ 190.0	$ 121.6	$ 118.6	$ 116.4	$ 106.4	$ 109.7

*** Indeterminate, estimated range of $25 to $65 million per year

Implementation Cost – All Tax Changes

The proposed legislation requires the Department to update its Tax Revenue Management System (TRMS) and Revenue Online (ROL) which allows a taxpayer to file a return online. The $1.0 million capital request reflects an estimate for our contract with FAST Enterprises to significantly change the existing Corporate Income Tax module for these tax changes in TRMS. In addition to changing the tax return filing and examination functions, the contractor will need to provide changes for the associated databases, forms, communications, and integration with our existing imaging, accounting, and collections modules. There would also need to be changes to Revenue Online, the online program that allow taxpayers to file, pay, and request refunds electronically.

The Department will also require expert help in drafting regulations. The FY2024 services cost includes $200,000 to enable the Department to hire an expert, develop a plan, and begin working on regulations. This would also support the additional costs associated with regulation package development with the Department of Law.

The Department expects to also engage in a robust taxpayer outreach and compliance program to ensure taxpayers understand and comply with their filing requirements. This additional workload will require the Department to hire one additional lead auditor and one additional staff auditor. The Department will have additional travel costs for training, outreach, and audit purposes.