

**Applicable Program**  
Corporate Income Tax

**Indirect Expenditure Name**  
"S" Corporations exclusion

## Department of Revenue Submission per AS 43.05.095

**(1) Description of Provision**

Under Alaska's adoption of the Internal Revenue Code, corporations that have elected S Corporation status ("S" corporations) are generally not subject to tax. Prior to 1980, the stakeholders' share of income was subject to Alaska's personal income tax. Since the 1980 repeal of the state's personal income tax, the income is taxed neither at the corporate level nor at the shareholder level.

**(2) Type**

Exclusion

**(3) Authorizing Statute, Regulation or Other Authority**

AS 43.20.021

**(4) Year Enacted**

N/A

**(5) Sunset or Repeal Date**

None

**(6) Legislative Intent**

The exclusion is intended to support the efficient administration of the corporate income tax through uniformity with the federal income reporting.

**(7) Public Purpose**

To generate state revenue by efficient administration of tax.

**(8) Estimated Revenue Impact**

FY 2015 - Unknown

FY 2016 - Unable to determine revenue impact.

FY 2017 - Unable to determine revenue impact.

FY 2018 - Unable to determine revenue impact.

FY 2019 - Unable to determine revenue impact.

Note: While S Corporations doing business in Alaska are required to submit a tax return, they do not report any income or income tax on the returns, so the estimated revenue impact is unavailable.

**(9) Cost to Administer**

No additional cost; is administered with current resources.

**(10) Number of Beneficiaries / Who Benefits**

Approximately 11,700 companies. The number of companies that would pay tax without this exclusion is unknown.

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## Legislative Finance Analysis per AS 24.20.235

**(1) Estimate of Annual Revenue Foregone by the State**

Unknown

**(2) Estimate of Annual Monetary Benefit to Recipients**

Unknown

## Revenue

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### **Legislative Finance Analysis per AS 24.20.235**

**(3) Legislative Intent Met?**

It is unclear whether the legislature intended to exclude S Corporations from tax.

**(4) Should it be Continued, Modified or Terminated?**

Recommend termination. "S" corporations are exempt from the federal corporate income tax because income from these corporations is taxed under the personal income tax. Without a state personal income tax, these corporations receive the legal benefits of incorporation without any state tax liability.

# Fiscal Note

State of Alaska  
2022 Legislative Session

Bill Version: SB 106  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: SB106-DOR-TAX-4-29-22  
Title: TAX ON INCOME: O&G S-CORP, P'SHIP  
Sponsor: WIELECHOWSKI  
Requester: (S) 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)

	FY2023	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2023 Request	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
<b>OPERATING EXPENDITURES</b>	<b>FY 2023</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>
Personal Services	130.5		130.5	130.5	130.5	130.5	130.5
Travel	2.5						
Services	18.0		18.0	18.0	18.0	18.0	18.0
Commodities	11.1		0.1	0.1	0.1	0.1	0.1
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>162.1</b>	<b>0.0</b>	<b>148.6</b>	<b>148.6</b>	<b>148.6</b>	<b>148.6</b>	<b>148.6</b>

## Fund Source (Operating Only)

1004 Gen Fund (UGF)	162.1		148.6	148.6	148.6	148.6	148.6
<b>Total</b>	<b>162.1</b>	<b>0.0</b>	<b>148.6</b>	<b>148.6</b>	<b>148.6</b>	<b>148.6</b>	<b>148.6</b>

## Positions

Full-time	1.0		1.0	1.0	1.0	1.0	1.0
Part-time							
Temporary							

## Change in Revenues

1004 Gen Fund (UGF)	194,300.0		127,300.0	113,500.0	101,900.0	96,500.0	89,600.0
<b>Total</b>	<b>194,300.0</b>	<b>0.0</b>	<b>127,300.0</b>	<b>113,500.0</b>	<b>101,900.0</b>	<b>96,500.0</b>	<b>89,600.0</b>

Estimated SUPPLEMENTAL (FY2022) cost: 0.0 (separate supplemental appropriation required)

Estimated CAPITAL (FY2023) cost: 850.0 (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? 06/30/22

## Why this fiscal note differs from previous version/comments:

Not applicable, initial version.

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Approved By: Eric DeMoulin, Administrative Services Director  
Agency: Department of Revenue

Phone: (907)269-6736  
Date: 04/29/2022  
Date: 04/29/22

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2022 LEGISLATIVE SESSION

BILL NO. SB 106

### Analysis

#### Background

The proposed legislation extends Alaska's existing corporate income tax (CIT) for oil and gas C-corporations to apply to pass-through entities with qualified taxable income over \$4 million that are engaged in oil and gas exploration or production in Alaska. For purposes of this proposed legislation, a pass-through entity is a sole proprietorship, partnership, or S-Corporation, but the definition does not include limited liability companies with a single owner that are treated for federal income tax purposes as disregarded entities. The bill defines "qualified taxable income" to mean 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. This bill provides authority for the Department of Revenue, Tax Division (Department) to adopt regulations, and establishes a retroactive effective date of July 1, 2021.

#### Revenue Impact

The revenue impact of this legislation 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 that assumes a single non-C-corporation taxpayer and a similar relationship between oil and gas production and Alaska taxable income as existing companies that are subject to CIT.

The existing oil and gas CIT forecast in the Spring 2022 revenue forecast was adjusted to remove one-time impacts of the Coronavirus Aid, Relief, and Economic Security ("CARES") Act. Then, under the Spring 2022 revenue forecast, the share of oil and gas production estimated to be attributable to pass-through entities was calculated for each fiscal year. The CIT forecast was "scaled up" to assume that pass-through entities would have similar taxable income as C-corporations relative to forecasted production. The resulting estimate of taxable income, after accounting for the \$4 million exclusion, was multiplied by the 9.4% tax rate.

Using this approach, the estimated revenue impact of this bill ranges from \$194 million in FY2023 to \$90 million in FY2028. Note, the FY2023 estimate includes estimated revenue attributable to all of tax year 2022, plus half of tax year 2023, given the retroactive effective date of this bill. Companies may react in many different ways in response to being included in the tax base and some of these approaches could have a significant impact on the amount and timing of revenue collected. The revenue impacts of this provision are highly uncertain due to lack of data about non-C-corporation profitability and the concentration of the impacts on a small number of companies.

#### Implementation Cost

Expanding Alaska's current CIT statutes to additional taxpayers will require the Department to adopt regulations, create 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 and make payments. This would need to be completed as soon as possible since the effective date of the legislation is retroactive to July 1, 2021. Taxpayers impacted by this legislation would be required to make estimated quarterly payments beginning in the first half of FY2023. Contractor costs for the updates to TRMS and ROL under this accelerated timeline are shown as a capital appropriation for FY2023.

Aside from one-time costs for programming, the Department would need to hire one additional CIT auditor to absorb the additional workload.