

Offered: 3/26/90  
Referred: Rules

go0179sE

Original sponsor(s): Rules/Governor

1 IN THE SENATE BY THE FINANCE COMMITTEE  
2 CS FOR SENATE BILL NO. 119 (Finance)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL

6 For an Act entitled: "An Act relating to the water's edge method of cal-  
7 culating income taxes for certain corporations other  
8 than corporations engaged in the production of oil or  
9 gas from a lease or property in the state or in the  
10 transportation of oil or gas by regulated pipeline in  
11 the state; and providing for an effective date."

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

13 \* Section 1. It is the purpose of this Act to promote investment and  
14 trade opportunities in the state.

15 \* Sec. 2. AS 43.20 is amended by adding a new section to read:

16 Sec. 43.20.073. AFFILIATED GROUPS. (a) A corporation that is a  
17 member of an affiliated group shall file a return using the water's  
18 edge combined reporting method. A return under this section must  
19 include the following corporations if the corporations are part of a  
20 unitary business with the filing corporation:

21 (1) an affiliated corporation that is eligible to be in-  
22 cluded in a federal consolidated return under 26 U.S.C. 1501 - 1505  
23 (Internal Revenue Code) if the corporation's property, payroll, and  
24 sales factors in the United States average

25 (A) 20 percent or more; or

26 (B) under 20 percent, if the corporation does not meet  
27 the requirements of 26 U.S.C. 861(c);

28 (2) a domestic international sales corporation; in this  
29 paragraph, "domestic international sales corporation" has the meaning

1 given in 26 U.S.C. 992(a);

2 (3) a foreign sales corporation; in this paragraph,  
3 "foreign sales corporation" has the meaning given in 26 U.S.C. 922(a);

4 (4) a corporation, regardless of the place where the corpo-  
5 ration was incorporated, if the corporation's property, payroll, and  
6 sales factors in the United States average 20 percent or more;

7 (5) a corporation that is incorporated in or does business  
8 in a country that does not impose an income tax, or that imposes an  
9 income tax at a rate lower than 90 percent of the United States income  
10 tax rate on the income tax base of the corporation in the United  
11 States, if

12 (A) 50 percent or more of the sales, purchases, or  
13 payments of income or expenses, exclusive of payments for intan-  
14 gible property, of the corporation are made directly or indirect-  
15 ly to one or more members of a group of corporations filing under  
16 the water's edge combined reporting method;

17 (B) the corporation does not conduct significant  
18 economic activity.

19 (b) When computing taxable income for a corporation under (a) of  
20 this section, the following amounts shall be excluded:

21 (1) 80 percent of dividend income received from foreign  
22 corporations;

23 (2) an amount treated as a dividend under 26 U.S.C. 78;

24 (3) 80 percent of the royalties accrued or received from a  
25 foreign corporation.

26 (c) In (b)(1) and (3) of this section, a payment is considered  
27 to be received from a corporation that is part of the unitary business  
28 if the payment is received

29 (1) by a member of an affiliated group included in a

1 water's edge combined report filed under this section; and

2 (2) from a corporation in which the recipient owns 50  
3 percent or more of the stock of the corporation.

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

7 (e) The department may require a corporation that files under  
8 (a) of this section to file a worldwide combined report instead, if  
9 the corporation or an affiliated corporation

10 (1) fails to comply with regulations adopted under this  
11 chapter, including domestic disclosure spread sheet filing require-  
12 ments; or

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

16 (f) This section does not apply to taxpayers subject to AS 43.-  
17 20.072 engaged in the production of oil or gas from a lease or proper-  
18 ty in the state or engaged in the transportation of oil or gas by  
19 regulated pipeline in the state.

20 (g) In this section,

21 (1) "affiliated corporation" means a member of an affili-  
22 ated group to which the taxpayer filing a return under (a) of this  
23 section belongs;

24 (2) "affiliated group" means a group of two or more corpo-  
25 rations, in which 50 percent or more of the voting stock of each  
26 member of the group is directly or indirectly owned by one or more  
27 corporate or noncorporate common owners, or by one or more of the  
28 members of the group;

29 (3) "foreign corporation" means a corporation created or

1 organized outside of the United States, the District of Columbia, the  
2 Commonwealth of Puerto Rico, or a possession of the United States;

3 (4) "water's edge combined reporting method" means a re-  
4 porting method in which the only corporations besides the taxpayer  
5 that may be included in the return are the corporations listed in (a)  
6 of this section.

7 \* Sec. 3. This Act applies to tax years beginning after December 31,  
8 1989.

9 \* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).