

SB

83

<TARGET><BILL>SB 83</BILL><SUBJECT>SB
83</SUBJECT><COMM>HFIN28</COMM></TARGET>

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: CSSB 83(FIN)
Fiscal Note Number: 1
(S) Publish Date: 3/28/13

Identifier: SB083-DOR-TAX-03-21-13
Title: INTEREST ON CORPORATION INCOME TAX
Sponsor: MICCICHE
Requester: (S) FIN

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)

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates					
			FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues		***	***	***	***	***	***	***
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial version.

Prepared By: Johanna Bales, Deputy Director
Division: Tax
Approved By: Alicia Egan, Legislative Liaison
Department of Revenue

Phone: (907)269-6628
Date: 03/25/2013 04:00 PM
Date: 03/21/13

FISCAL NOTE ANALYSIS #1

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. CSSB 83(FIN)

Analysis

Bill Language:

This bill would allow Alaska corporations that are required to report income from long-term contracts using the percentage of completion method, to calculate the additional tax due, on this income, using the current federal interest rates, instead of the current Alaska interest rates. Alaska's interest rate is significantly higher than the current federal rate and this bill would result in a tax savings to those companies that have income from long-term contracts. This bill would primarily affect those corporations engaged in the construction business.

Revenues:

There is a provision within the Internal Revenue Code that requires corporations to use the percentage of completion method to report income from long-term contracts. As part of this requirement, corporations must calculate interest on the difference between actual income received and estimated income reported. The interest is then included as an additional tax or a reduction in tax (if the estimated income is higher than actual income) on their corporate tax return. Since Alaska adopts the Internal Revenue Code, this provision is applicable to Alaska corporate income taxpayers as well. However, Alaska law requires that we substitute Alaska's interest rate in place of the federal interest rate. Over the past 22 years, Alaska's interest rate has been significantly higher than the federal interest rate. Currently, Alaska's interest rate is 11% and the federal interest rate under 26 U.S.C. 460 (Internal Revenue Code) is only 2%. This provision proposes to change Alaska's law and allow the use of the lower federal interest rate when calculating this additional tax due.

There are some corporations in Alaska that are subject to this provision. However, since we do not currently have an automated system from which we can pull this specific information, it is difficult for us to determine the full fiscal impact of this provision. However, the division conducted a manual review of tax returns filed by approximately 100 construction companies for calendar years 2010 and 2011. Based on this review, the division discovered that more than 50% of these companies filed S Corporation tax returns and, therefore, were exempt from Alaska corporate income tax. Of the remaining corporations, the division found that only a few had ever reported additional income tax due to the federal provision described above. Of those that had reported additional tax, the division found the difference in the tax due calculated using Alaska's interest rate and calculated using the federal corporate interest rate was less than \$50,000 in the last two calendar years. Although it is possible that there are other corporations subject to this provision that were not identified during the manual review, we believe that the effect of this bill on Alaska's corporate income tax revenues will be minimal.

Expenditures:

The department can implement the provisions of this bill using existing resources.

**HOUSE CS FOR CS FOR SENATE BILL NO. 83(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-EIGHTH LEGISLATURE - FIRST SESSION**

BY THE HOUSE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATOR MICCICHE

A BILL

FOR AN ACT ENTITLED

1 **"An Act making the income received by a regional aquaculture association or a salmon**
2 **hatchery permit holder from the sale of salmon or salmon eggs under or from a cost**
3 **recovery fishery exempt from the corporation income tax; relating to the corporation**
4 **income tax; relating to the computation of interest under the look-back method**
5 **applicable to long-term contracts in the Internal Revenue Code; relating to the**
6 **assignment of certain tax credits; providing for an effective date by repealing the**
7 **effective date of sec. 8, ch. 51, SLA 2012; and providing for an effective date."**

8 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

9 *** Section 1.** AS 43.20.012(a) is amended to read:

10 (a) The tax imposed by this chapter does not

11 (1) apply to an individual;

12 (2) apply to a fiduciary; [OR]

13 (3) for a tax year beginning after December 31, 2012, apply to an

1 Alaska corporation that is a qualified small business and that meets the active business
2 requirement in 26 U.S.C. 1202(e) as that subsection read on January 1, 2012; or

3 (4) for a tax year beginning after June 30, 2007, apply to the
4 income received by a regional association qualified under AS 16.10.380 or
5 nonprofit corporation holding a hatchery permit under AS 16.10.400 from the
6 sale of salmon or salmon eggs under AS 16.10.450 or from a cost recovery fishery
7 under AS 16.10.455.

8 * **Sec. 2.** AS 43.20.012(a), as amended by sec. 1 of this Act, is repealed and reenacted to
9 read:

10 (a) The tax imposed by this chapter does not apply to

11 (1) an individual;

12 (2) a fiduciary; or

13 (3) the income received by a regional association qualified under
14 AS 16.10.380 or nonprofit corporation holding a hatchery permit under AS 16.10.400
15 from the sale of salmon or salmon eggs under AS 16.10.450 or from a cost recovery
16 fishery under AS 16.10.455.

17 * **Sec. 3.** AS 43.20.021 is amended by adding a new subsection to read:

18 (j) For purposes of calculating interest under the look-back method in 26
19 U.S.C. 460 (Internal Revenue Code), the rate of interest shall be as provided in that
20 section.

21 * **Sec. 4.** AS 43.55 is amended by adding a new section to read:

22 **Sec. 43.55.029. Assignment of tax credit certificate.** (a) An explorer or
23 producer that has applied for a production tax credit under AS 43.55.023(a), (b), or (l)
24 or 43.55.025(a) may make a present assignment of the production tax credit certificate
25 expected to be issued by the department to a third-party assignee. The assignment may
26 be made either at the time the application is filed with the department or not later than
27 30 days after the date of filing with the department. Once a notice of assignment in
28 compliance with this section is filed with the department, the assignment is irrevocable
29 and cannot be modified by the explorer or producer without the written consent of the
30 assignee named in the assignment. If a production tax credit certificate is issued to the
31 explorer or producer, the notice of assignment remains effective and shall be filed with

1 the department by the explorer or producer together with any application for the
2 department to purchase the certificate under AS 43.55.028(e).

3 (b) To be effective, the assignment does not require the approval or consent of
4 the department. The assignment must, at a minimum,

5 (1) be made in writing and signed by an officer or legally qualified
6 agent of the explorer or producer making the assignment and the assignee,
7 respectively;

8 (2) identify the explorer or producer making the assignment, the
9 assignee in whose favor the assignment is being made, and the production tax credit
10 application that is the subject of the assignment;

11 (3) define the interest in the production tax credit being assigned,
12 expressed as either an amount in dollars, which may not exceed 90 percent of the
13 credit applied for, or a percentage of the credit to be issued by the department;

14 (4) specify an account with a bank located in the state, with sufficient
15 information for the electronic transfer of funds, to receive any future proceeds from
16 the purchase of the tax credit certificate under AS 43.55.028(e);

17 (5) cite this section and acknowledge that, once filed with the
18 department, the assignment is irrevocable and cannot be modified without the written
19 consent of the assignee.

20 (c) An assignment complying with this section creates a property interest
21 owned by the assignee in the application and any production tax credit certificates
22 issued by the department to the explorer or producer and any future proceeds resulting
23 from the application, in the amount or to the extent set out in the assignment. An
24 assignee may create a valid and enforceable security interest in that property as
25 otherwise provided by law.

26 (d) Notwithstanding any other provision of law, and to the maximum extent
27 permitted under federal laws, an assignment complying with this section shall give the
28 assignee a first priority claim, not dischargeable in bankruptcy, against the proceeds
29 received by the explorer or producer, including its estate, trustee or other
30 representative, resulting from the production tax credit application that is the subject
31 of the assignment under this section, if the assignee has taken the steps necessary

1 under state and federal law to perfect a security interest in the assignment.

2 (e) Nothing in this section affects the terms and conditions otherwise required
3 for an explorer or producer to qualify for a production tax credit or the determination
4 by the department of the amount of credit the explorer or producer is qualified to
5 receive.

6 (f) Neither the state nor the department, or any other agency, officer, or
7 employee of the state, shall be subject to suit or any claim arising out of or in
8 connection with an assignment made under this section, whether by act or omission.

9 (g) The department may adopt regulations to carry out the purposes of this
10 section.

11 * **Sec. 5.** AS 43.20.012(c) and 43.20.012(d) are repealed July 1, 2023.

12 * **Sec. 6.** Section 8, ch. 51, SLA 2012, is repealed.

13 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

15 **TRANSITION; CLAIM FOR CREDIT OR REFUND.** Notwithstanding the limitation
16 on the period in which a person may file a claim for credit or refund of a tax paid under
17 AS 43.20, a person that has paid a tax under AS 43.20 on income that is exempt under
18 AS 43.20.012(a)(4), as enacted by sec. 1 of this Act, may file a claim for credit or refund on
19 the tax paid on the exempt income within two years after the effective date of sec. 1 of this
20 Act.

21 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
22 read:

23 **RETROACTIVITY.** Section 3 of this Act is retroactive to January 1, 2013.

24 * **Sec. 9.** Section 45, ch. 51, SLA 2012, is repealed.

25 * **Sec. 10.** Section 2 of this Act takes effect July 1, 2023.

26 * **Sec. 11.** Except as provided in sec. 10 of this Act, this Act takes effect immediately under
27 AS 01.10.070(c).

HOUSE CONCURRENT RESOLUTION NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE PEGGY WILSON

Introduced:

Referred:

A RESOLUTION

1 **Suspending Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State**
2 **Legislature, concerning Senate Bill No. 83, relating to the corporation income tax; and**
3 **relating to the computation of interest under the look-back method applicable to long-**
4 **term contracts in the Internal Revenue Code.**

5 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 That under Rule 54, Uniform Rules of the Alaska State Legislature, the provisions of
7 Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State Legislature, regarding
8 changes to the title of a bill, are suspended in consideration of Senate Bill No. 83, relating to
9 the corporation income tax; and relating to the computation of interest under the look-back
10 method applicable to long-term contracts in the Internal Revenue Code.

Adopted 4.12.13

RIP 40/mes

28-LS0634\N.3
Bullock
4/11/13

AMENDMENT #1

OFFERED IN THE HOUSE

TO: CSSB 83(FIN)

1 Page 1, line 3, following "Code;":

2 Insert "relating to the assignment of certain tax credits;"

3

4 Page 1, following line 8:

5 Insert a new bill section to read:

6 "* **Sec. 2.** AS 43.55 is amended by adding a new section to read:

7 **Sec. 43.55.029. Assignment of tax credit certificate.** (a) An explorer or
8 producer that has applied for a production tax credit under AS 43.55.023(a), (b), or (d)
9 or 43.55.025(a) may make a present assignment of the production tax credit certificate
10 expected to be issued by the department to a third-party assignee. The assignment may
11 be made either at the time the application is filed with the department or not later than
12 30 days after the date of filing with the department. Once a notice of assignment in
13 compliance with this section is filed with the department, the assignment is irrevocable
14 and cannot be modified by the explorer or producer without the written consent of the
15 assignee named in the assignment. If a production tax credit certificate is issued to the
16 explorer or producer, the notice of assignment remains effective and shall be filed with
17 the department by the explorer or producer together with any application for the
18 department to purchase the certificate under AS 43.55.028(e).

19 (b) To be effective, the assignment does not require the approval or consent of
20 the department. The assignment must, at a minimum,

21 (1) be made in writing and signed by an officer or legally qualified
22 agent of the explorer or producer making the assignment and the assignee,
23 respectively;

1 (2) identify the explorer or producer making the assignment, the
2 assignee in whose favor the assignment is being made, and the production tax credit
3 application that is the subject of the assignment;

4 (3) define the interest in the production tax credit being assigned,
5 expressed as either an amount in dollars, which may not exceed 90 percent of the
6 credit applied for, or a percentage of the credit to be issued by the department;

7 (4) specify an account with a bank located in the state, with sufficient
8 information for the electronic transfer of funds, to receive any future proceeds from
9 the purchase of the tax credit certificate under AS 43.55.028(e);

10 (5) cite this section and acknowledge that, once filed with the
11 department, the assignment is irrevocable and cannot be modified without the written
12 consent of the assignee.

13 (c) An assignment complying with this section creates a property interest
14 owned by the assignee in the application and any production tax credit certificates
15 issued by the department to the explorer or producer and any future proceeds resulting
16 from the application, in the amount or to the extent set out in the assignment. An
17 assignee may create a valid and enforceable security interest in that property as
18 otherwise provided by law.

19 (d) Notwithstanding any other provision of law, and to the maximum extent
20 permitted under federal laws, an assignment complying with this section shall give the
21 assignee a first priority claim, not dischargeable in bankruptcy, against the proceeds
22 received by the explorer or producer, including its estate, trustee or other
23 representative, resulting from the production tax credit application that is the subject
24 of the assignment under this section, if the assignee has taken the steps necessary
25 under state and federal law to perfect a security interest in the assignment.

26 (e) Nothing in this section affects the terms and conditions otherwise required
27 for an explorer or producer to qualify for a production tax credit or the determination
28 by the department of the amount of credit the explorer or producer is qualified to
29 receive.

30 (f) Neither the state nor the department, or any other agency, officer, or
31 employee of the state, shall be subject to suit or any claim arising out of or in

1 connection with an assignment made under this section, whether by act or omission.

2 (g) The department may adopt regulations to carry out the purposes of this
3 section."

4

5 Renumber the following bill sections accordingly.

Adopted 4-12-13

28-LS0634\N.2
Bullock
4/11/13

AMENDMENT

#2

OFFERED BY
Rep. Munoz

OFFERED IN THE HOUSE

TO: CSSB 83(FIN)

1 Page 1, line 1, following "Act":

2 Insert "making the income received by a regional aquaculture association or a
3 salmon hatchery permit holder from the sale of salmon or salmon eggs under or from a
4 cost recovery fishery exempt from the corporation income tax;"

5

6 Page 1, line 3, following "Code":

7 Insert "providing for an effective date by repealing the effective date of sec. 8, ch.
8 51, SLA 2012;"

9

10 Page 1, following line 4:

11 Insert new bill sections to read:

12 "** Section 1. AS 43.20.012(a) is amended to read:

13 (a) The tax imposed by this chapter does not

14 (1) apply to an individual;

15 (2) apply to a fiduciary; [OR]

16 (3) for a tax year beginning after December 31, 2012, apply to an
17 Alaska corporation that is a qualified small business and that meets the active business
18 requirement in 26 U.S.C. 1202(e) as that subsection read on January 1, 2012; or

19 (4) for a tax year beginning after June 30, 2007, apply to the
20 income received by a regional association qualified under AS 16.10.380 or
21 nonprofit corporation holding a hatchery permit under AS 16.10.400 from the
22 sale of salmon or salmon eggs under AS 16.10.450 or from a cost recovery fishery
23 under AS 16.10.455.

1 * **Sec. 2.** AS 43.20.012(a), as amended by sec. 1 of this Act, is repealed and reenacted to
2 read:

3 (a) The tax imposed by this chapter does not apply to

4 (1) an individual;

5 (2) a fiduciary; or

6 (3) the income received by a regional association qualified under
7 AS 16.10.380 or nonprofit corporation holding a hatchery permit under AS 16.10.400
8 from the sale of salmon or salmon eggs under AS 16.10.450 or from a cost recovery
9 fishery under AS 16.10.455."

10
11 Renumber the following bill sections accordingly.

12
13 Page 1, line 5:

14 Delete "**Section 1**"

15 Insert "**Sec. 3**"

16
17 Page 1, following line 8:

18 Insert new bill sections to read:

19 ** **Sec. 4.** AS 43.20.012(c) and 43.20.012(d) are repealed July 1, 2023.

20 * **Sec. 5.** Section 8, ch. 51, SLA 2012, is repealed.

21 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
22 read:

23 **TRANSITION; CLAIM FOR CREDIT OR REFUND.** Notwithstanding the limitation
24 on the period in which a person may file a claim for credit or refund of a tax paid under
25 AS 43.20, a person that has paid a tax under AS 43.20 on income that is exempt under
26 AS 43.20.012(a)(4), as enacted by sec. 1 of this Act, may file a claim for credit or refund on
27 the tax paid on the exempt income within two years after the effective date of sec. 1 of this
28 Act."

29
30 Renumber the following bill sections accordingly.

31

1 Page 1, line 11:

2 Delete "Section 1"

3 Insert "Section 3"

4

5 Page 1, line 12:

6 Delete all material and insert:

7 "* **Sec. 8.** Section 45, ch. 51, SLA 2012, is repealed.

8 * **Sec. 9.** Section 2 of this Act takes effect July 1, 2023.

9 * **Sec. 10.** Except as provided in sec. 9 of this Act, this Act takes effect immediately under
10 AS 01.10.070(c)."

April 11, 2013

State of Alaska
House of Representatives
House Finance Committee
Juneau, Alaska

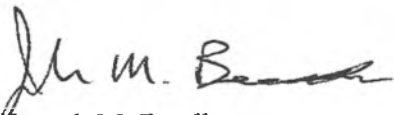
Regarding: Support for CSSB 83 – Amendment Relating to the Assignment of Certain Tax Credits

On behalf of Northrim Bank, please accept this letter as evidence of our support for an amendment to SB83 that allows for assignment of production tax credit/tax credit certificate.

Northrim Bank has been approached on several occasions by energy exploration companies who would like to offer earned production tax credits as collateral for a short-term loan. That would allow the companies attempting to increase oil and gas production in Alaska access to more working capital to fund their activities. However, the Bank has been unable to perfect our interest in such tax credit as security against the funds we lend. We support this effort for the State to recognize the assignment of the production tax credits to a third-party assignee. This should improve the financing options available to many explorers to achieve our common goal of increasing energy production in Alaska.

Your support is greatly appreciated.

Sincerely,



Joseph M. Beedle
President and CEO

ALASKA STATE LEGISLATURE

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SENATOR PETER A. MICCICHE

Sponsor Statement

CS SB 83 (FIN)-INTEREST ON CORPORATION INCOME TAX

DISTRICT Q

Anchor Point

Under AS 43.05.225, the State of Alaska is required to charge contractors undertaking long-term projects an interest rate on all delinquent taxes of 5 points above the current annual rate charged by banks for advances or 11%, whichever is greater. Due to low interest rates, the rate in effect has been 11% for a number of years.

Clam Gulch

Cohoe

Diamond Ridge

Fox River

This delinquent tax penalty has created a negative impact to the construction industry, due to the way contractors are required to account for long-term contracts by the IRS and Generally Accepted Accounting Principles (GAAP).

Fritz Creek

Funny River

Many of our larger construction projects in Alaska are multi-year projects. They are accounted for as long-term contracts and are required to use a percentage of completion reporting method. Specifically, contractors calculate the estimated profit of a project that is completed within a single tax year and pay the tax on the estimated profit, as detailed in Title 26, Section 460 of the IRS Code.

Halibut Cove

Happy Valley

Homer

Kachemak City

Although contractors do their best to estimate project costs and potential profits at the beginning of a project, as the project progresses and the risks are reduced, estimated profits can rise. At the end of a project when the actual profit is known, contractors are required to file look-back taxes and either pay on the increased profit or receive a refund on any overpayment. It is common practice within the construction business is to estimate conservatively and thus have additional taxes to pay when "looking back." These payments under long-term contracts should be considered amended tax returns not delinquent payments subject to such severe penalty.

Kachemak Selo

Kalifornsky

Kasilof

Kenai

Nikolaevsk

Nimilchik

Under the same IRS code which requires long-term contracts to be based upon a percentage of completion method, interest rates are established for both overpayments and underpayments. Overpayments and underpayments are assessed an interest rate of the Federal short-term rate plus 2 percent if under \$10,000, and plus .5 percent if over \$10,000.

Razdolna

Ridgeway

Seldovia

Soldotna

For the purposes of paying state corporate income taxes, this bill applies the interest rates established under 26 U.S.C. 460 on all long-term contracts covered by 26 U.S.C. 460 beginning with the 2013 tax year. This is accomplished by adding a new subsection to AS 43.20.021, the Department of Revenue's statutes governing the adoption of IRS code by reference.

Voznesenka

respect to which the taxpayer has made the election.

(3) Period to which election applies

An election under this section shall be effective for the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

(4) Treatment as method of accounting

Except to the extent inconsistent with the provisions of this section, for purposes of this subtitle, the computation of taxable income under an election made under this section shall be treated as a method of accounting.

(d) 5-year spread of transitional adjustments for magazines

In applying section 481(c) with respect to any election under this section which applies to magazines, the period for taking into account any decrease in taxable income resulting from the application of section 481(a)(2) shall be the taxable year for which the election is made and the 4 succeeding taxable years.

(e) Suspense account for paperbacks and records

(1) In general

In the case of any election under this section which applies to paperbacks or records, in lieu of applying section 481, the taxpayer shall establish a suspense account for the trade or business for the taxable year for which the election is made.

(2) Initial opening balance

The opening balance of the account described in paragraph (1) for the first taxable year to which the election applies shall be the largest dollar amount of returned merchandise which would have been taken into account under this section for any of the 3 immediately preceding taxable years if this section had applied to such preceding 3 taxable years. This paragraph and paragraph (3) shall be applied by taking into account only amounts attributable to the trade or business for which such account is established.

(3) Adjustments in suspense account

At the close of each taxable year the suspense account shall be—

(A) reduced the excess (if any) of—

(i) the opening balance of the suspense account for the taxable year, over

(ii) the amount excluded from gross income for the taxable year under subsection (a), or

(B) increased (but not in excess of the initial opening balance) by the excess (if any) of—

(i) the amount excluded from gross income for the taxable year under subsection (a), over

(ii) the opening balance of the account for the taxable year.

(4) Gross income adjustments

(A) Reductions excluded from gross income

In the case of any reduction under paragraph (3)(A) in the account for the taxable

year, an amount equal to such reduction shall be excluded from gross income for such taxable year.

(B) Increases added to gross income

In the case of any increase under paragraph (3)(B) in the account for the taxable year, an amount equal to such increase shall be included in gross income for such taxable year.

If the initial opening balance exceeds the dollar amount of returned merchandise which would have been taken into account under subsection (a) for the taxable year preceding the first taxable year for which the election is effective if this section had applied to such preceding taxable year, then an amount equal to the amount of such excess shall be included in gross income for such first taxable year.

(5) Subchapter C transactions

The application of this subsection with respect to a taxpayer which is a party to any transaction with respect to which there is nonrecognition of gain or loss to any party to the transaction by reason of subchapter C shall be determined under regulations prescribed by the Secretary.

(Added Pub. L. 95-600, title III, §372(a), Nov. 6, 1978, 92 Stat. 2660.)

EFFECTIVE DATE

Section 372(c) of Pub. L. 95-600 provided that: "The amendments made by this section [affecting this section] shall apply to taxable years beginning after September 30, 1979."

§ 460. Special rules for long-term contracts

(a) Requirement that percentage of completion method be used

In the case of any long-term contract, the taxable income from such contract shall be determined under the percentage of completion method (as modified by subsection (b)).

(b) Percentage of completion method

(1) Requirements of percentage of completion method

Except as provided in paragraph (3), in the case of any long-term contract with respect to which the percentage of completion method is used—

(A) the percentage of completion shall be determined by comparing costs allocated to the contract under subsection (c) and incurred before the close of the taxable year with the estimated total contract costs, and

(B) upon completion of the contract (or, with respect to any amount properly taken into account after completion of the contract, when such amount is so properly taken into account), the taxpayer shall pay (or shall be entitled to receive) interest computed under the look-back method of paragraph (2).

In the case of any long-term contract with respect to which the percentage of completion method is used, except for purposes of applying the look-back method of paragraph (2), any income under the contract (to the extent

not previously includible in gross income) shall be included in gross income for the taxable year following the taxable year in which the contract was completed. For purposes of subtitle F (other than sections 6854 and 6855), any interest required to be paid by the taxpayer under subparagraph (B) shall be treated as an increase in the tax imposed by this chapter for the taxable year in which the contract is completed (or, in the case of interest payable with respect to any amount properly taken into account after completion of the contract, for the taxable year in which the amount is so properly taken into account).

(3) Look-back method

The interest computed under the look-back method of this paragraph shall be determined by—

(A) first¹ allocating income under the contract among taxable years before the year in which the contract is completed on the basis of the actual contract price and costs instead of the estimated contract price and costs,

(B) second, determining (solely for purposes of computing such interest) the overpayment or underpayment of tax for each taxable year referred to in subparagraph (A) which would result solely from the application of subparagraph (A), and

(C) then using the adjusted overpayment rate (as defined in paragraph (7)), compounded daily, on the overpayment or underpayment determined under subparagraph (B).

For purposes of the preceding sentence, any amount properly taken into account after completion of the contract shall be taken into account by discounting (using the Federal mid-term rate determined under section 1274(d) as of the time such amount was properly taken into account) such amount to its value as of the completion of the contract. The taxpayer may elect with respect to any contract to have the preceding sentence not apply to such contract.

(3) Special rules

(A) Simplified method of cost allocation

In the case of any long-term contract, the Secretary may prescribe a simplified procedure for allocation of costs to such contract in lieu of the method of allocation under subsection (c).

(B) Look-back method not to apply to certain contracts

Paragraph (1)(B) shall not apply to any contract—

(i) the gross price of which (as of the completion of the contract) does not exceed the lesser of—

(I) \$1,000,000, or

(II) 1 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the contract was completed, and

(ii) which is completed within 2 years of the contract commencement date.

For purposes of this subparagraph, rules similar to the rules of subsections (e)(2) and (f)(3) shall apply.

(4) Simplified look-back method for pass-thru entities

(A) In general

In the case of a pass-thru entity—

(i) the look-back method of paragraph (2) shall be applied at the entity level,

(ii) in determining overpayments and underpayments for purposes of applying paragraph (2)(B)—

(I) any increase in the income under the contract for any taxable year by reason of the allocation under paragraph (2)(A) shall be treated as giving rise to an underpayment determined by applying the highest rate for such year to such increase, and

(II) any decrease in such income for any taxable year by reason of such allocation shall be treated as giving rise to an overpayment determined by applying the highest rate for such year to such decrease, and

(iii) any interest required to be paid by the taxpayer under paragraph (2) shall be paid by such entity (and any interest entitled to be received by the taxpayer under paragraph (2) shall be paid to such entity).

(B) Exceptions

(i) Closely held pass-thru entities

This paragraph shall not apply to any closely held pass-thru entity.

(ii) Foreign contracts

This paragraph shall not apply to any contract unless substantially all of the income from such contract is from sources in the United States.

(C) Other definitions

For purposes of this paragraph—

(i) Highest rate

The term "highest rate" means—

(I) the highest rate of tax specified in section 11, or

(II) if at all times during the year involved more than 50 percent of the interests in the entity are held by individuals directly or through 1 or more other pass-thru entities, the highest rate of tax specified in section 1.

(ii) Pass-thru entity

The term "pass-thru entity" means any—

(I) partnership,
(II) S corporation, or
(III) trust.

(iii) Closely held pass-thru entity

The term "closely held pass-thru entity" means any pass-thru entity if, at any time during any taxable year for which there is income under the contract, 50 percent or more (by value) of the beneficial interests

¹ So in original. Probably should be followed by a comma.

in such entity are held (directly or indirectly) by or for 5 or fewer persons. For purposes of the preceding sentence, rules similar to the constructive ownership rules of section 1563(e) shall apply.

(5) Election to use 10-percent method

(A) General rule

In the case of any long-term contract with respect to which an election under this paragraph is in effect, the 10-percent method shall apply in determining the taxable income from such contract.

(B) 10-percent method

For purposes of this paragraph—

(i) In general

The 10-percent method is the percentage of completion method, modified so that any item which would otherwise be taken into account in computing taxable income with respect to a contract for any taxable year before the 10-percent year is taken into account in the 10-percent year.

(ii) 10-percent year

The term "10-percent year" means the 1st taxable year as of the close of which at least 10 percent of the estimated total contract costs have been incurred.

(C) Election

An election under this paragraph shall apply to all long-term contracts of the taxpayer which are entered into during the taxable year in which the election is made or any subsequent taxable year.

(D) Coordination with other provisions

(i) Simplified method of cost allocation

This paragraph shall not apply to any taxpayer which uses a simplified procedure for allocation of costs under paragraph (3)(A).

(ii) Look-back method

The 10-percent method shall be taken into account for purposes of applying the look-back method of paragraph (2) to any taxpayer making an election under this paragraph.

(6) Election to have look-back method not apply in de minimis cases

(A) Amounts taken into account after completion of contract

Paragraph (1)(B) shall not apply with respect to any taxable year (beginning after the taxable year in which the contract is completed) if—

(i) the cumulative taxable income (or loss) under the contract as of the close of such taxable year, is within

(ii) 10 percent of the cumulative look-back taxable income (or loss) under the contract as of the close of the most recent taxable year to which paragraph (1)(B) applied (or would have applied but for subparagraph (B)).

(B) De minimis discrepancies

Paragraph (1)(B) shall not apply in any case to which it would otherwise apply if—

(i) the cumulative taxable income (or loss) under the contract as of the close of each prior contract year, is within

(ii) 10 percent of the cumulative look-back income (or loss) under the contract as of the close of such prior contract year.

(C) Definitions

For purposes of this paragraph—

(i) Contract year

The term "contract year" means any taxable year for which income is taken into account under the contract.

(ii) Look-back income or loss

The look-back income (or loss) is the amount which would be the taxable income (or loss) under the contract if the allocation method set forth in paragraph (2)(A) were used in determining taxable income.

(iii) Discounting not applicable

The amounts taken into account after the completion of the contract shall be determined without regard to any discounting under the 2nd sentence of paragraph (2).

(D) Contracts to which paragraph applies

This paragraph shall only apply if the taxpayer makes an election under this subparagraph. Unless revoked with the consent of the Secretary, such an election shall apply to all long-term contracts completed during the taxable year for which election is made or during any subsequent taxable year.

(7) Adjusted overpayment rate

(A) In general

The adjusted overpayment rate for any interest accrual period is the overpayment rate in effect under section 6621 for the calendar quarter in which such interest accrual period begins.

(B) Interest accrual period

For purposes of subparagraph (A), the term "interest accrual period" means the period—

(i) beginning on the day after the return due date for any taxable year of the taxpayer, and

(ii) ending on the return due date for the following taxable year.

For purposes of the preceding sentence, the term "return due date" means the date prescribed for filing the return of the tax imposed by this chapter (determined without regard to extensions).

(e) Allocation of costs to contract

(1) Direct and certain indirect costs

In the case of a long-term contract, all costs (including research and experimental costs) which directly benefit, or are incurred by reason of, the long-term contract activities of the taxpayer shall be allocated to such contract in the same manner as costs are allocated to extended period long-term contracts under section 451 and the regulations thereunder.

(2) Costs identified under cost-plus and certain Federal contracts

In the case of a cost-plus long-term contract or a Federal long-term contract, any cost not

68A Stat. 464, as amended, which is classified generally to chapter 23 (§ 3301 et seq.) of this title. For complete classification of this Act to the Code, see section 3311 of this title and Tables.

AMENDMENTS

2001—Subsec. (c), Pub. L. 107-18, § 632(c)(12), 901, temporarily struck out "section 2011(c) (relating to refunds due to credit for State taxes)," after "see". See Effective and Termination Dates of 2001 Amendment note below.

1956—Subsec. (c), Act June 29, 1956, inserted reference to section 6421 of this title.

Act Apr. 2, 1956, inserted reference to section 6420 of this title.

EFFECTIVE AND TERMINATION DATES OF 2001 AMENDMENT

Amendment by Pub. L. 107-18 applicable to estates of decedents dying, and generation-skipping transfers, after Dec. 31, 2004, see section 632(d) of Pub. L. 107-18, set out as a note under section 2011 of this title.

Amendment by Pub. L. 107-18 inapplicable to estates of decedents dying, gifts made, or generation skipping transfers, after Dec. 31, 2012, and the Internal Revenue Code of 1986 to be applied and administered to such estates, gifts, and transfers as if such amendment had never been enacted, see section 901 of Pub. L. 107-18, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act June 29, 1956, effective June 29, 1956, see section 211 of act June 29, 1956, set out as an Effective Date note under section 4041 of this title.

Subchapter C—Determination of Interest Rate; Compounding of Interest

6621.	Determination of rate of interest.
6622.	Interest compounded daily.

AMENDMENTS

1982—Pub. L. 97-248, title III, § 344(b)(3)(A), Sept. 3, 1982, 96 Stat. 636, inserted "; Compounding of Interest" after "Rate" in heading for subchapter C.

Pub. L. 97-248, title III, § 344(b)(2), Sept. 3, 1982, 96 Stat. 636, added item 6622.

§ 6621. Determination of rate of interest

(a) General rule

(1) Overpayment rate

The overpayment rate established under this section shall be the sum of—

- (A) the Federal short-term rate determined under subsection (b), plus
- (B) 3 percentage points (3 percentage points in the case of a corporation).

To the extent that an overpayment of tax by a corporation for any taxable period (as defined in subsection (c)(3), applied by substituting "overpayment" for "underpayment") exceeds \$10,000, subparagraph (B) shall be applied by substituting "0.5 percentage point" for "2 percentage points".

(2) Underpayment rate

The underpayment rate established under this section shall be the sum of—

- (A) the Federal short-term rate determined under subsection (b), plus
- (B) 3 percentage points.

(b) Federal short-term rate

For purposes of this section—

(1) General rule

The Secretary shall determine the Federal short-term rate for the first month in each calendar quarter.

(2) Period during which rate applies

(A) In general

Except as provided in subparagraph (B), the Federal short-term rate determined under paragraph (1) for any month shall apply during the first calendar quarter beginning after such month.

(B) Special rule for individual estimated tax

In determining the addition to tax under section 6654 for failure to pay estimated tax for any taxable year, the Federal short-term rate which applies during the 3rd month following such taxable year shall also apply during the first 15 days of the 4th month following such taxable year.

(3) Federal short-term rate

The Federal short-term rate for any month shall be the Federal short-term rate determined during such month by the Secretary in accordance with section 1274(d). Any such rate shall be rounded to the nearest full percent (or, if a multiple of $\frac{1}{4}$ of 1 percent, such rate shall be increased to the next highest full percent).

(c) Increase in underpayment rate for large corporate underpayments

(1) In general

For purposes of determining the amount of interest payable under section 6801 on any large corporate underpayment for periods after the applicable date, paragraph (2) of subsection (a) shall be applied by substituting "5 percentage points" for "3 percentage points".

(2) Applicable date

For purposes of this subsection—

(A) In general

The applicable date is the 30th day after the earlier of—

- (i) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent, or
- (ii) the date on which the deficiency notice under section 6212 is sent.

The preceding sentence shall be applied without regard to any such letter or notice which is withdrawn by the Secretary.

(B) Special rules

(i) Nondeficiency procedures

In the case of any underpayment of any tax imposed by this title to which the deficiency procedures do not apply, subparagraph (A) shall be applied by taking into account any letter or notice provided by the Secretary which notifies the taxpayer of the assessment or proposed assessment of the tax.

(ii) Exception where amounts paid in full

For purposes of subparagraph (A), a letter or notice shall be disregarded if, during

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Interest on Underpayments and Overpayments of Federal Taxes

(Current through March 2013)

Interest on underpayments of federal tax must accrue interest, compounded daily, at rates published quarterly by the Internal Revenue Service in accordance with section 6621 of the Internal Revenue Code. (See Rev. Proc. 95-17, 1995-1 C.B. 556, for rules on how to calculate compounded interest.)

The rates for the most recent twelve calendar quarters are as follows:

Rates for Underpayments and Overpayments of Tax

Calendar Quarter	Underpayments	Noncorporate Overpayments	Corporate Overpayments	Large Corp. Overpayments	Large Corp. Underpayments
Apr-Jun 2010	4%	4%	3%	1.5%	6%
Jul-Sep 2010	4%	4%	3%	1.5%	6%
Oct-Dec 2010	4%	4%	3%	1.5%	6%
Jan-Mar 2011	3%	3%	2%	0.5%	5%
Apr-Jun 2011	4%	4%	3%	1.5%	6%
Jul-Sep 2011	4%	4%	3%	1.5%	6%
Oct-Dec 2011	3%	3%	2%	0.5%	5%
Jan-Mar 2012	3%	3%	2%	0.5%	5%
Apr-Jun 2012	3%	3%	2%	0.5%	5%
Jul-Sep 2012	3%	3%	2%	0.5%	5%
Oct-Dec 2012	3%	3%	2%	0.5%	5%
Jan-Mar 2013	3%	3%	2%	0.5%	5%

As can be seen from the above table, the interest rate that applies to overpayments of tax by individuals (and other noncorporate taxpayers) is the same rate that applies to underpayments of tax.

For corporations, the interest rate on overpayments of \$10,000 or less is 1 point less than the rate for underpayments, and the interest rate on the portion of the overpayment in excess of \$10,000 (i.e., "large" overpayments) is 2.5 points less than the rate on underpayments. Corporations also pay interest that is 2 points higher for "large corporate underpayments" (i.e., underpayments of more than \$100,000).

The underpayment interest rates that have applied since 1987 are shown below.

Rates for Underpayments

Year	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
1987	9%	9%	9%	10%
1988	11%	10%	10%	11%
1989	11%	12%	12%	11%
1990	11%	11%	11%	11%
1991	11%	10%	10%	10%
1992	9%	8%	8%	7%
1993	7%	7%	7%	7%
1994	7%	7%	8%	9%
1995	9%	10%	9%	9%
1996	9%	8%	9%	9%
1997	9%	9%	9%	9%
1998	9%	8%	8%	8%
1999	7%	8%	8%	8%
2000	8%	9%	9%	9%
2001	9%	8%	7%	7%
2002	6%	6%	6%	6%
2003	5%	5%	5%	4%
2004	4%	5%	4%	5%
2005	5%	6%	6%	7%
2006	7%	7%	8%	8%
2007	8%	8%	8%	8%
2008	7%	6%	5%	6%
2009	5%	4%	4%	4%
2010	4%	4%	4%	4%
2011	3%	4%	4%	3%
2012	3%	3%	3%	3%
2013	3%			

The Pennsylvania Estate and Trust Cybrary

Daniel B. Evans, Attorney at Law

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Philadelphia, PA 19118

Telephone: (866) 348-4250

Email: dan@evans-legal.com

TABLE OF INTEREST RATES
FROM JANUARY 1, 1999 — PRESENT
CORPORATE OVERPAYMENTS AND UNDERPAYMENTS

	OVERPAYMENTS			UNDERPAYMENTS		
	1995-1 C.B.			1995-1 C.B.		
	RATE	TABLE	PG	RATE	TABLE	PG
Jan. 1, 1999—Mar. 31, 1999	6%	17	571	7%	19	573
Apr. 1, 1999—Jun. 30, 1999	7%	19	573	8%	21	575
Jul. 1, 1999—Sep. 30, 1999	7%	19	573	8%	21	575
Oct. 1, 1999—Dec. 31, 1999	7%	19	573	8%	21	575
Jan. 1, 2000—Mar. 31, 2000	7%	67	621	8%	69	623
Apr. 1, 2000—Jun. 30, 2000	8%	69	623	9%	71	625
Jul. 1, 2000—Sep. 30, 2000	8%	69	623	9%	71	625
Oct. 1, 2000—Dec. 31, 2000	8%	69	623	9%	71	625
Jan. 1, 2001—Mar. 31, 2001	8%	21	575	9%	23	577
Apr. 1, 2001—Jun. 30, 2001	7%	19	573	8%	21	575
Jul. 1, 2001—Sep. 30, 2001	6%	17	571	7%	19	573
Oct. 1, 2001—Dec. 31, 2001	6%	17	571	7%	19	573
Jan. 1, 2002—Mar. 31, 2002	5%	15	569	6%	17	571
Apr. 1, 2002—Jun. 30, 2002	5%	15	569	6%	17	571
Jul. 1, 2002—Sep. 30, 2002	5%	15	569	6%	17	571
Oct. 1, 2002—Dec. 31, 2002	5%	15	569	6%	17	571
Jan. 1, 2003—Mar. 31, 2003	4%	13	567	5%	15	569
Apr. 1, 2003—Jun. 30, 2003	4%	13	567	5%	15	569
Jul. 1, 2003—Sep. 30, 2003	4%	13	567	5%	15	569
Oct. 1, 2003—Dec. 31, 2003	3%	11	565	4%	13	567
Jan. 1, 2004—Mar. 31, 2004	3%	59	613	4%	61	615
Apr. 1, 2004—Jun. 30, 2004	4%	61	615	5%	63	617
Jul. 1, 2004—Sep. 30, 2004	3%	59	613	4%	61	615
Oct. 1, 2004—Dec. 31, 2004	4%	61	615	5%	63	617
Jan. 1, 2005—Mar. 31, 2005	4%	13	567	5%	15	569
Apr. 1, 2005—Jun. 30, 2005	5%	15	569	6%	17	571
Jul. 1, 2005—Sep. 30, 2005	5%	15	569	6%	17	571
Oct. 1, 2005—Dec. 31, 2005	6%	17	571	7%	19	573
Jan. 1, 2006—Mar. 31, 2006	6%	17	571	7%	19	573
Apr. 1, 2006—Jun. 30, 2006	6%	17	571	7%	19	573
Jul. 1, 2006—Sep. 30, 2006	7%	19	573	8%	21	575
Oct. 1, 2006—Dec. 31, 2006	7%	19	573	8%	21	575
Jan. 1, 2007—Mar. 31, 2007	7%	19	573	8%	21	575
Apr. 1, 2007—Jun. 30, 2007	7%	19	573	8%	21	575
Jul. 1, 2007—Sep. 30, 2007	7%	19	573	8%	21	575
Oct. 1, 2007—Dec. 31, 2007	7%	19	573	8%	21	575
Jan. 1, 2008—Mar. 31, 2008	6%	65	619	7%	67	621
Apr. 1, 2008—Jun. 30, 2008	5%	63	617	6%	65	619
Jul. 1, 2008—Sep. 30, 2008	4%	61	615	5%	63	617
Oct. 1, 2008—Dec. 31, 2008	5%	63	617	6%	65	619
Jan. 1, 2009—Mar. 31, 2009	4%	13	567	5%	15	569
Apr. 1, 2009—Jun. 30, 2009	3%	11	565	4%	13	567
Jul. 1, 2009—Sep. 30, 2009	3%	11	565	4%	13	567
Oct. 1, 2009—Dec. 31, 2009	3%	11	565	4%	13	567
Jan. 1, 2010—Mar. 31, 2010	3%	11	565	4%	13	567
Apr. 1, 2010—Jun. 30, 2010	3%	11	565	4%	13	567
Jul. 1, 2010—Sep. 30, 2010	3%	11	565	4%	13	567
Oct. 1, 2010—Dec. 31, 2010	3%	11	565	4%	13	567
Jan. 1, 2011—Mar. 31, 2011	2%	9	563	3%	11	565
Apr. 1, 2011—Jun. 30, 2011	3%	11	565	4%	13	567
Jul. 1, 2011—Sep. 30, 2011	3%	11	565	4%	13	567
Oct. 1, 2011—Dec. 31, 2011	2%	9	563	3%	11	565
Jan. 1, 2012—Mar. 31, 2012	2%	57	611	3%	59	613



ASSOCIATED GENERAL CONTRACTORS of ALASKA

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3750 Bonita Street • Fairbanks, Alaska 99706
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Senator Peter Micciche
State Capitol Building, Room 125
Juneau, AK 99801

March 27, 2013

RE: SB 83

Dear Senator ~~Micciche~~ *Peter*

On behalf of the Associated General Contractors of Alaska, a construction industry trade association of 660 construction industry business members, we heartily support SB 83.

As an advocate for our members and the Alaska construction industry, we look for ways to help contractors and other construction related businesses stay competitive and to stay in business. Helping to improve laws on the books is just one of the ways we do that. SB 83 is an excellent example of such an improvement.

Without getting into the complexities of look-back taxes, changing the interest charged on taxes due is a benefit to those contractors who choose to be C-corporations and pay state corporate income tax. While 11% interest rate set in statute may have been a reasonable rate over thirty years ago when it was put in statute, that rate today is considered usurious. Making it consistent with the IRS rate and standards is fair.

I wish this legislation was a benefit to a large number of contractors, but the truth is, it probably benefits less than two dozen. The benefit may be to relatively few, but the benefit to them is big. It helps even the playing field between them and their competitors who are not C-corps and do not pay state corporate income taxes.

This is good legislation and needs to move forward. Thank you for sponsoring SB 83.

Sincerely,

John MacKinnon
Executive Director
Associated General Contractors of Alaska



CONSOLIDATED ENTERPRISES, INC.

633 E. 81ST AVENUE • ANCHORAGE, ALASKA 99518-3145
TELEPHONE (907) 344-4567 • FAX (907) 349-6390

March 27, 2013

Senator Peter Micciche
State Capitol Room 125
Juneau, Alaska 99801

Re: Senate Bill No. 83

Dear Senator Micciche:

Consolidated Enterprises was incorporated as a general contractor in the State of Alaska in 1974. Since that time we have employed many great people and pride ourselves on the successful completion of thousands of projects throughout our great State.

We believe that one of the many reasons we have maintained a strong, successful Company is that our approach has always been a conservative one. As a contractor we account for our long term projects under the percentage of completion method. This approach is extremely appealing to both our bonding company and our bank. Being conservative on our gross profits in one fiscal year, carries forward into the new fiscal year with gross profit gains that the readers of our financial statements desire.

As you are aware, the State of Alaska is currently charging 11% look back interest for taxes due on gross profit gains! The federal government is currently charging 2% interest for increases or decreases in tax of \$10,000 or less and are charging .5% interest if the increase or decrease in tax exceeds \$10,000. Additionally, the State does not currently make a distinction between the IRS required process of estimating taxes based upon the contractor's best knowledge and a tax payer who does not make a timely filing.

In our current economic climate, The State of Alaska's level of interest is extremely high. It has significant financial impact on our Company and most importantly negatively affects the conservative guideline that makes for a successful, profitable Company.


Therefore, our company respectfully requests that you pass Senate Bill No. 83. We believe this bill is fair, promotes conservative estimates and does not penalize corporations that are complying with all tax requirements.

Thank you for your time in this matter and if you should require any additional information, please do not hesitate to contact us.

Sincerely,
CONSOLIDATED ENTERPRISES, INC.


Chris Larson
President

Sincerely,
CONSOLIDATED ENTERPRISES, INC.


Destry Lind
Vice-President



PARKER | SMITH | FEEK

celebrating **75** years

March 26, 2013

Senator Peter Micciche
State Capitol Room 125
Juneau AK, 99801

RE: SB 83

Dear Senator Micciche,

As a surety bond broker who works with many of the largest and most active general contractors in Alaska, and who represents all of the major sureties actively writing bonds in Alaska, I deal with the issue embodied in SB 83 on a regular basis. The issue of interest on look back taxes deals with one of the core elements of the surety underwriting process - reliable, consistent and conservative accounting.

Privately held contractors who are required to post bonds on projects rely on CPA-prepared financial statements to provide a credible third party confirmation of a contractor's financial performance. A contractor's performance is assessed over time, and due to the uncertainties inherent in contracting, namely the constant re-pricing from project to project due to bidding and the inability to fix costs due to differences in suppliers, subcontractors, project locations and other general conditions, determination of profitability on any one project before completion is by definition an estimate.

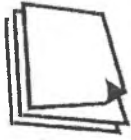
Every responsible contractor will be conservative in these estimates, and their surety demands it, since the contractor who underperforms expectations is a contractor who will not get the full support of their surety. Bonding is the lifeblood of many contractors, and the penalty of underperformance, that is not getting all the bonding that is needed, is simply too great.

Since the difference in profitability is generally due to legitimately conservative estimating, the interest on look back taxes should be considered as a tool to true up, not penalize. The State of Alaska would do well to conform to the Federal Government on this issue.

Respectfully,

Parker Smith & Feek, Inc.

Scott Fisher
Principal, Construction Practice Group Leader



THOMAS, HEAD & GREISEN, PC
CERTIFIED PUBLIC ACCOUNTANTS

Kevin E. Branson, CPA
John A. Letourneau, CPA
Debra K. Mason, CPA/CFF, CFE
Erich R. Lamirand, CPA
Cindy L. Hulquist, CPA

Ronald E. Greisen, CPA/ABV/CFF

March 27, 2013

Senator Peter Micciche
State Capitol Room 125
Juneau, AK 99801

RE: HB 83

Dear Senator Micciche:

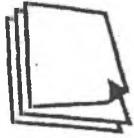
I am writing to you today to encourage you to support Senate Bill 83. Contractors that have elected to be C Corporations pay state corporate taxes. The IRS code has a provision to determine "look back" interest charges, but the Alaska state law of a fixed rate of 11% supersedes the IRS code. This 11% rate penalizes C Corporations as the current rates are far below 11%. We would like Alaska to adopt the IRS rate under 26 U.S.C. 460 for "look back" interest charges. The federal rate is variable as it fluctuates with the current state of the economy.

Senate Bill 83 promotes conservative estimates and would not penalize C Corporations in the State of Alaska that are complying with all tax requirements governing long-term contracts.

Please support HB 83.

Very Truly Yours,

Kevin E. Branson, CPA



THOMAS, HEAD & GREISEN, PC

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March 27, 2013

Senator Peter Micciche
State Capitol Room 125
Juneau, AK 99801

RE: HB 83

Dear Senator Micciche:

I am writing to you today to encourage you to support Senate Bill 83. Contractors that have elected to be C Corporations pay state corporate taxes. The IRS code has a provision to determine "look back" interest charges, but the Alaska state law of a fixed rate of 11% supersedes the IRS code. This 11% rate penalizes C Corporations as the current rates are far below 11%. We would like Alaska to adopt the IRS rate under 26 U.S.C. 460 for "look back" interest charges. The federal rate is variable as it fluctuates with the current state of the economy.

Senate Bill 83 promotes conservative estimates and would not penalize C Corporations in the State of Alaska that are complying with all tax requirements governing long-term contracts.

Please support HB 83.

Very Truly Yours,

Debra K. Mason, CPA/CFF, CFE

March 27, 2013

Senator Peter Micciche
State Capitol Room 125
Juneau, Alaska 99801

Dear Senator Micciche

Davis Constructors & Engineers, Inc. is strongly in support of Senate Bill 83 and appreciates your efforts to address the issue of look-back interest rates charged by the State of Alaska. We employ hundreds of Alaskans, construct government and private buildings in this great state and are proud to direct a portion of our profits to charitable causes that assist members of the communities we work in.

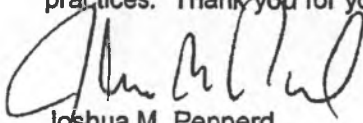
The State of Alaska assesses interest on look-back taxes due from construction contractors on long-term contracts at the delinquent tax rate, set by statute with a floor of 11 percent. The problem is that these taxes due are not "delinquent", but are the result of a successful contractor performing well on a project that bridges multiple years.

Large contractors are required to use the percentage of completion method to account for taxable contract income. Taxes are paid based on income calculated using estimated gross profits until the project is complete. If the estimated gross profit increases over the life of the job, the taxes due for prior periods are recalculated and paid with interest.

Good business practices dictate that contractors are conservative in their initial estimates of long-term projects. As you might imagine, there are many uncertainties in the beginning stages of a project and good contractors will include contingencies for the unexpected. As the project progresses and risks are managed, the gross profit often goes up and that is something that shareholders, banks and bonding companies like to see.

The federal government charges a look-back tax interest rate that fluctuates with the current state of the economy and is subject to change each quarter. The current federal interest rate assessed on look-back taxes is substantially lower than the state's 11 percent and reflects the fact that contractors pay taxes based on estimates. When actual amounts are known and paid, a reasonable interest rate is paid to the federal government to account for the fact that they're paid in later years.

Senate Bill 83 will tie Alaska look-back tax interest rates to the federal rates and help to level the playing field for C Corporation construction contractors in Alaska. We choose to pay state income tax and should not be penalized for having sound business practices. Thank you for your support of Senate Bill 83.


Joshua M. Pepper
President


Idonna Pieper Nelson
CFO

F.M. STRAND & ASSOCIATES

A PROFESSIONAL CORPORATION

3201 C Street, Suite 601
Anchorage, AK 99503
Tel: (907) 563-4425
Fax: (907) 561-0563
www.fmstrandcpas.com

Certified Public Accountants

Serving clients throughout
Alaska since 1973.

March 27, 2013

Senator Peter Micciche
State Capitol, Room 125
Juneau, Alaska 99801

Re: Senate Bill No. 83 House Bill No. 185

Dear Senator Micciche:

F. M. Strand & Associates, P.C. is an Anchorage-based CPA firm serving many Alaskan general contractors. We request your support for Senate Bill No. 83, which would bring the Alaska interest rate used for the computation of interest under the look-back method applicable to long-term contracts in line with the federal interest rate used in that calculation.

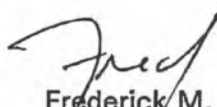
Look-back interest is not income tax. It is the interest on a hypothetical under or over payment of income tax using actual cost rather than estimates for recognition of income from long-term contracts reported with the percentage of completion method. It can be owed to the State or be due from the State, depending on the accuracy of the estimates the contractor used.

Currently, the Alaska interest rate is 11 percent. Federal law sets interest rates for look-back purposes based on the Federal short-term rate. The Federal rate reflects current economic conditions more accurately and is updated quarterly.

Thus, we believe the interest rate used by the State of Alaska for the look-back interest computations should be lowered to match the Federal rates. Please support Senate Bill No. 83.

Very truly yours,

F. M. STRAND & ASSOCIATES, P.C.


Frederick M. Strand

FMS:cb

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First National Bank
A L A S K A

March 26, 2013

Senator Peter Micciche
State Capitol Room 125
Juneau AK, 99801

RE: Senate Bill 83

Dear Senator Micciche,

I work for First National Bank Alaska, a community bank which has served Alaskans for over 90 years with a legacy of helping build strong families, homes and businesses in our great state. As a commercial loan officer, I work with general contractors of all sizes who play major roles in our local construction industry. With respects to Senate Bill 83 regarding the issue of interest charged on look back taxes, I believe conformance to Federal standards would be appropriate.

When we provide financing to contractors, whether it is for working capital or major capital expenditures, we rely on a lot of information to help us make a credit decision. We look at a contractor's performance over time, competency of management, bonding capacity, quality of financial information and financial strength of the business and its owners. A bank line of credit to fund payroll or a term loan to purchase equipment for a project can be an essential part of a contractor's success in completing projects on time and within budget.

With respects to financial information, CPA Prepared financial statements rely on many assumptions and estimates in accordance with Generally Accepted Accounting Principles. In my experience, responsible contractors will be conservative in their estimates of profits on uncompleted jobs. The bank encourages conservative estimates in order to avoid downward swings in profitability from one year to the next because actual financial performance below estimates could have a negative on the bank's willingness to provide future financing. There would be a very high likelihood that it would also negatively impact a contractor's bonding capacity which the bank relies on in many cases when providing financing.

From my perspective, the difference in profitability can be attributed to conservative estimates that are in the best interest of contractors and the current rate of interest charged by the State on look back taxes feels more like a penalty against responsible contractors.

In closing, I would like to thank and applaud you for your support of Senate Bill 83 with respects to the interest rate charged on look back taxes and feel alignment with the Federal rate charged is more appropriate.

Respectfully,

Stacy Tomuro
Vice President

KC
CORPORATION
GENERAL CONTRACTORS

2964 Commercial Drive
Anchorage, AK 99501

(907) 258-2425 Fax: (907) 278-8018

March 26, 2013


**Alaska State Legislature
State Capitol
Juneau, Alaska 99801**

Dear Legislator:

K-C Corporation is an Alaskan contractor who has been active in the construction field for the past 27 years. We are what is known as a C type corporation and as such account for our long term contracts under the percentage of completion method of accounting as required by the IRS. We estimate our profits at the beginning of each contract and on completion of the first year of work we project what we will earn for that period and pay taxes based on these figures. Upon completion of the contract we frequently find our profits are greater than expected and end up paying additional taxes on the earnings plus what is known as "look back interest" on these earnings. We have no problem with this.

Our problem comes when we see the great variance in the rate or means used by the Internal Revenue Service to determine "look back Interest" charges versus the fixed rate of (11%) charged by the State of Alaska. We would like to see this changed in the state statute to reflect what the IRS has established as a basis for calculating their rates. This is the purpose of Senate Bill 83 which we feel reflects a much fairer basis for establishing the rate. Please support Senate Bill 83.

**Sincerely
K-C CORPORATION**


**Byron D. Kohfield
President**



UDELHOVEN

Oilfield System Services, Incorporated

184 East 53rd Ave.
Anchorage, Alaska 99518-1222
Fax (907) 522-2541
Phone (907) 344-1577

March 27, 2013

Senator Peter Micciche
State Capitol Room 125
Juneau, Alaska 99501

Dear Senator Micciche

I am writing to you with deep concern in general with our legislators in Juneau. It concerns me to see so many laws, rules and statutes on the books that are simply put not good for the State and not business friendly. Thank you for sponsoring Senate Bill 83 and attempting to rectify one of the problem areas.

Alaska statute sets the rate for look-back interest at the same rate as if the taxes were delinquent. This look-back rate charged to us by the State of Alaska is far in excess of the federal rate. The rate imposed by the State of Alaska on look-back taxes is usurious at 11 percent, when even unsecured bank loans are available for much less. I ask you: Is that our goal to collect more interest from good contractors trying to do the right thing than the federal government does?

We as "C" Corps follow GAAP and are required to report income on a percentage of completion method. Often, projects will continue for extended periods of time. Generally we would report conservatively and correctly. At times, if we are lucky, we do a little better than originally planned. Many times we do not do as well.

There is no way we are able to know the actual outcome of a project that would extend over the end of the year with 100% accuracy. The only way to avoid the penalty imposed by the State's look-back interest rate would be to overestimate profits and give the State tax dollars that may or may not be due far in advance. Although the state would owe us interest at the same 11 percent, this practice would take funds away from the company for extended periods of time that could be used to start new projects, create jobs, and make purchases, etc which is what the State really needs. Also, our bonding companies and bankers would not be happy to see such poor performance as our estimated profits faded away at the end of the job.

We adamantly support Senate Bill 83 which will bring the rates down to match the federal rates and thank you for your efforts in bringing this bill forward.

Sincerely

Cathy Duxbury
Controller

An Alaskan Corporation
Established 1970

North District
P.O. Box 340103
Prudhoe Bay, AK 99734
(907) 659-8093

South District
P.O. Box 8349
Nikiski, AK 99635
(907) 776-5185



BlueCrest Energy Inc.

1320 S. University Dr., Suite 825
Fort Worth TX 76107
United States of America
(817) 731-0066

J. Benjamin Johnson
President and CEO

April 10, 2013

The Honorable _____
State Capitol Room _____
Juneau, AK 99801
Delivered via email: _____@akleg.gov

Re: Support for ACES receivable financing language (CSSB 83 (FIN) 4/9/13 draft amendment) proposed by Buccaneer Alaska

Dear _____:

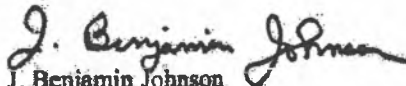
As an independent lessee and developer of state oil and gas resources in the Cook Inlet, we would like to urge you to support new legislation that allows for the assignment of Alaska state tax credits from an explorer/ producer to a third party. We have seen the language suggested for an amendment to CSSB 83(FIN) drafted 4/9/13 (version 28-L-SO634N.1), and we would support any other form which accomplishes these same ends. We believe that this would facilitate a very positive impact on investment activity by independents like ourselves in the state. This new provision would help independent energy firms to obtain vital financing for new Alaska energy projects and would not result in any incremental cost to the state.

Current state law provides for substantial credits to be issued to explorers/producers resulting from capital expenditures, however there is a time delay (from 4-20 months) between the time the producer submits a filing to the state and the time the tax credits payment is eventually received. Explorers/producers must first spend the full cash investment up front, even though a substantial portion will be received back from the state in the form of credits. The cost of capital for independent producers is quite high, since it requires either obtaining the cash from third parties or withholding the cash from other worthy investments. At the present time, lenders/investors are reluctant to loan/invest money to independent producers for the tax credits, because the tax credits are not currently assignable to the lender/investor. Under current law, the future credit cannot be considered as a security, because the Tax Credit Certificate is given by the state to the producer who then may not follow through with its obligation to provide the funds to the lender/investor. For example, if the producer were to become bankrupt between the time the original filing is made to the state and the time the Tax Credit Certificate is issued, the credits received by the producer would be controlled by the bankruptcy court and could potentially be distributed among all the creditors of the producer instead of going to the lender/investor. Assignability of the tax credits will create a property interest for the lender/investor that will provide an improved degree of certainty of being repaid, resulting in more loans/investments in the state.

If the tax credits can be appropriately leveraged by producers, then the level (and speed) of investment and development in the state will be appreciably increased. In our particular situation, BlueCrest Energy owns 75% of the Cosmopolitan assets located just offshore of Anchor Point. The proved recoverable undeveloped oil reserves in the property are approximately 19 million barrels of oil, but the total costs for developing that oil will exceed \$300 million. State tax credits from that investment are expected to be roughly half of the total investment amount, but (without the ability to leverage the amount of tax credits) we will have to initially provide the entire amount in cash up front. If we are able to effectively leverage the tax credits, then that essentially gives us twice the amount of investing capability for Alaska projects. It is important to recognize that this proposed change will not cost the state any more money but could help in promoting additional private oil and gas investments in the state.

Thank you for your diligent efforts to support appropriate development of Alaska's oil and gas resources.

Sincerely,


J. Benjamin Johnson
President and Chief Executive Officer

April 11, 2013

State of Alaska
House of Representatives
House Finance Committee
Juneau, Alaska

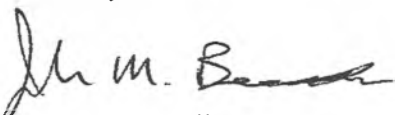
Regarding: Support for CSSB 83 – Amendment Relating to the Assignment of Certain Tax Credits

On behalf of Northrim Bank, please accept this letter as evidence of our support for an amendment to SB83 that allows for assignment of production tax credit/tax credit certificate.

Northrim Bank has been approached on several occasions by energy exploration companies who would like to offer earned production tax credits as collateral for a short-term loan. That would allow the companies attempting to increase oil and gas production in Alaska access to more working capital to fund their activities. However, the Bank has been unable to perfect our interest in such tax credit as security against the funds we lend. We support this effort for the State to recognize the assignment of the production tax credits to a third-party assignee. This should improve the financing options available to many explorers to achieve our common goal of increasing energy production in Alaska.

Your support is greatly appreciated.

Sincerely,



Joseph M. Beedle
President and CEO



BlueCrest Energy Inc.

1320 S. University Dr., Suite 825
Fort Worth TX 76107
United States of America
(817) 731-0066

J. Benjamin Johnson
President and CEO

April 10, 2013

The Honorable _____
State Capitol Room _____
Juneau, AK 99801
Delivered via email: _____@akleg.gov

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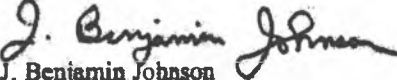
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Sincerely,


J. Benjamin Johnson
President and Chief Executive Officer