

Alaska Net Income Tax

Article 1
Individual Net Income Tax and Withholding

15 AAC 20.010. Persons not within the military exemption
Repealed.

15 AAC 20.020. Returns and payment of tax
Repealed.

15 AAC 20.030. Amount of withholding
Repealed.

15 AAC 20.040. Overpayment, credits, and refund
Repealed.

15 AAC 20.042. Filing requirements for payment of and determination of amount of individual tax credits
Repealed.

15 AAC 20.044. Filing requirements for refund of 1979 individual net income tax
Repealed.

15 AAC 20.046. Filing requirements for refund of 1980 Alaska withholding or estimated taxes paid
Repealed.

15 AAC 20.050. Allocation and apportionment of income
Relocated 4/14/82.

15 AAC 20.060. Deposit and payment requirements by employers in connection with income and school tax withholding
Repealed.

15 AAC 20.070. Timeliness of monthly deposit
Repealed.

15 AAC 20.080. - 15 AAC 20.090
Deleted.

Article 2
Corporate Net Income Tax; Administration and Credits

15 AAC 20.100. Returns

(a) Each taxpayer shall file a return except that two or more taxpayers that engage in a unitary business and that join in filing a consolidated federal return shall file a consolidated Alaska return.

(b) Two or more taxpayers that do not join in a consolidated federal return may file a consolidated Alaska return if they are engaged in a unitary business and are eligible to file a consolidated federal return. For purposes of this subsection, the provisions of subsections (b)(3), (b)(4), or (b)(7) of Internal Revenue Code section 1504 (26 U.S.C. 1504(b)(3), (b)(4), or (b)(7)) that disqualify a corporation from the definition of "includible corporation" in Internal Revenue Code section 1504(b) (26 U.S.C. 1504(b)) for the purpose of filing a consolidated federal tax return do not apply to disqualify a corporation from joining in filing a consolidated Alaska return under AS 43.20 and this chapter.

(c) If, under this section, two or more taxpayers file a consolidated Alaska return, all includible taxpayers engaged in the unitary business shall join in the consolidated Alaska return.

(d) Taxpayers that join in filing a consolidated Alaska return under this section shall apply Internal Revenue Code sections 1502 - 1552 (26 U.S.C. 1502 - 26 U.S.C. 1552) to consolidate taxable income and determine tax payable. In a consolidated Alaska return the separate taxable income of each taxpayer shall be combined and the consolidated group's net operating loss, net capital gain, section 1231 loss, charitable contribution, and dividends received deduction shall be determined on a consolidated basis.

(e) For the purpose of illustrating the making of a consolidated Alaska return under (d) of this section, the following example is offered:

EXAMPLE

Taxpayer A and Taxpayer B join in the filing of a consolidated Alaska return. The unitary business realized a business net capital gain of \$100, made charitable contributions of \$40, and generated apportionable business income (excluding capital gains and charitable contributions) of \$200. Taxpayer A realized a \$25 non-business capital loss allocable to Alaska. The apportionment factors of Taxpayers A and B are 10 percent and 15 percent respectively. The individual apportioned and allocated income or loss of Taxpayer A and Taxpayer B under the combined reporting method are as follows:

A

B

30	Ordinary Income	20
	Capital Gain or (Loss)	(15)
15	Excess Capital Loss	15
0	Charitable Contributions	4
6	Contribution Deduction	2
5	Taxable Income	18

In the consolidated return of Taxpayer A and Taxpayer B, the net capital gain or loss and charitable contribution deduction are consolidated items determined on a consolidated basis:

Consolidated	A	B	Combined	Adjusted
dated				
Separate Taxable Income	20	30	50	
Capital Gain or (Loss)	(15)	15	0	
Contributions	4	6	10	(5)
Taxable Income			40	5
Contributions Carryforward				
Excess Capital Loss				

(f) A taxpayer shall determine its charitable contribution limitation by applying Internal Revenue Code section 170 (26 U.S.C. 170) based upon its Alaska taxable income. The charitable contributions subject to limitation for a taxpayer required to use the combined method of reporting are the current charitable contributions of the unitary business before the federal Internal Revenue Code section 170(b) (26 U.S.C. 170(b)) limitation, multiplied by its apportionment factor plus the Alaska charitable contribution carryforward of the taxpayer, if any. For purposes of determining the education credit under AS 43.20.014, qualified contributions are limited to charitable contributions as defined in Internal Revenue Code section 170(c) (26 U.S.C. 170(c)) that also meet the requirements of AS 43.20.014. A taxpayer may not deduct any part of qualified contributions upon which a credit claimed under AS 43.20.014 is based.

(g) For purposes of illustrating the determination of the taxpayer's Alaska charitable contribution limitation and deduction under (f) of this section, the following example is offered:

EXAMPLE

Taxpayer A made a \$100 contribution that qualified for the Alaska education credit under AS 43.20.014 and generated a \$50 education credit. Taxpayer A made \$500 of other charitable contributions during the tax year. The \$600 of contributions may not be deducted in the determination of apportionable income. None of Taxpayer A's contributions were currently deductible in its federal return as a result of the limitation imposed by Internal Revenue Code section 170 (26 U.S.C. 170). Taxpayer A has an Alaska apportionment factor of 15 percent and its apportioned and allocated Alaska income measured under Internal Revenue Code section 170(b) (26 U.S.C. 170(b)) is \$900. Taxpayer A's charitable contribution limitation is \$90 (\$900 X 10 percent) and its entire \$75 (\$500 X 15 percent) of apportioned charitable contributions may be deducted in determining its taxable income. No part of taxpayer A's \$100 contribution applied to generate its education credit under AS 43.20.014 may be deducted.

(h) A taxpayer shall determine its dividends received deduction by applying Internal Revenue Code sections 243, 244, 246, 246A, and 247 (26 U.S.C. 243, 244, 246, 246A, and 247) to dividends included in its taxable income as if the dividend payor and payee were domestic corporations. A taxpayer shall apply the limitation imposed by Internal Revenue Code section 246(b) (26 U.S.C. 246(b)) by reference to its Alaska taxable income. A taxpayer using the combined reporting method shall apply this subsection only to its dividend income as apportioned and allocated to Alaska. A dividends received deduction shall not be allowed with respect to a dividend eliminated or excluded from income under 15 AAC 20.300(n) or AS 43.20.145(b), or gain treated as a dividend for federal tax purposes under Internal Revenue Code section 1248 (26 U.S.C. 1248).

(i) The sum of a taxpayer's apportioned and allocated income or loss, if a net loss, is the taxpayer's net operating loss. A taxpayer shall carry forward or carry back its net operating loss in accordance with the Internal Revenue Code.

(j) A taxpayer that is required to file a federal return shall submit a copy of its complete federal return with the return required under AS 43.20; the Alaska return is not complete unless the complete federal return is submitted. A taxpayer that joins in the filing of a consolidated federal return shall submit a copy of the consolidated federal return; a pro forma separate company return does not establish a complete return. A taxpayer may comply with this subsection by submitting, in lieu of the complete federal return, only the portions of the federal return that are specified by the department in the written instructions for the return required under AS 43.20.

15 AAC 20.110. Investment tax credit

(a) For tax years beginning after June 30, 1980, a taxpayer may apply as a credit against his tax liability computed under AS 43.20 18 percent of the investment credit allowed under Internal Revenue Code section 38 upon only the first \$20,000,000 of qualified investment put into use in the state for each taxable year.

(b) For calendar year 1980 and for any fiscal tax year which includes July 1, 1980, expenditures made before July 1, 1980 shall be used in calculating the credit upon only the first \$500,000 of qualified investment put into use. Expenditures made after June 30, 1980 must be used in calculating the credit upon only the first \$20,000,000 of qualified investment put into use in the state. For tax years which include July 1, 1980, the total qualified investment upon which credit may be claimed may not exceed \$20,000,000 under any circumstances.

(c) Expenditures qualifying for the investment credit and subject to the \$20,000,000 limitation must

(1) qualify for federal investment credit under section 38 of the Internal Revenue Code;

(2) be cash expenditures or binding payment agreements entered into after June 30, 1980; and

(3) be made for assets placed in service in the state.

(d) For purposes of this section, "placed in service in the state" means that the first use of the qualified investment is in this state. If the property is used elsewhere in the taxable year of acquisition and brought to this state during that same year, that property is considered used property and is subject to the limitations as provided in the Internal Revenue Code. If the property is to be used elsewhere during the taxable year of acquisition and brought to this state in another taxable year, the property does not qualify for the investment credit. Transportation equipment used within and outside of this state whose use commences in this state is considered new property. The qualified expenditure for interstate transportation equipment must be based on a prorated formula of days used in this state compared to days used elsewhere.

(e) The recapture of any credit taken must be done under Internal Revenue Code section 47 and must apply when the property is sold, transferred, abandoned, or removed from the state. Transportation equipment used in interstate transportation in this state on a regular basis which originally qualified for investment credit but which is subsequently not used in this state on a regular basis is subject to the recapture provisions of Internal Revenue Code section 47 at that subsequent time.

15 AAC 20.120. Alternative energy expenditure credit; eligibility
Repealed.

15 AAC 20.122. Alternative energy system substantiation
Repealed.

15 AAC 20.124. Energy conservation improvement substantiation
Repealed.

15 AAC 20.130. Rates of tax

If a provision of the Internal Revenue Code that is adopted by reference under AS 43.20.021(a) refers to the highest rate of tax under Internal Revenue Code section 11 (26 U.S.C. 11), a taxpayer shall use the highest rate of tax specified under AS 43.20.011(e).

15 AAC 20.135. Alternative minimum tax and credit for prior year minimum tax

(a) The Alaska alternative minimum tax is 18 percent of the applicable alternative minimum federal tax determined under (b) and (c) of this section and is in addition to, and independent of, the income tax imposed at the rates set out by AS 43.20.011(e).

(b) The applicable alternative minimum federal tax is the taxpayer's actual federal alternative minimum tax or, if the taxpayer is taxable both inside and outside Alaska, the applicable alternative minimum federal tax is the actual federal alternative minimum tax of the taxpayer's unitary business multiplied by the taxpayer's apportionment factor.

(c) If a corporation included in the taxpayer's combined report is a member of a federal consolidated group that incurs the federal alternative minimum tax and that federal consolidated group includes one or more corporations that are not included in the combined report, the federal alternative minimum tax of the federal consolidated group must be allocated between members inside and outside the taxpayer's combined group. The allocation shall be made by multiplying the actual federal alternative minimum tax of the federal consolidated group by a fraction, the numerator of which is the pro forma alternative minimum tax of the corporations included in the taxpayer's combined group that are also members of the federal consolidated group, and the denominator of which is the sum of the pro forma alternative minimum tax for the corporations included in the taxpayer's combined group that are also members of the federal consolidated group plus the pro forma alternative minimum tax for the remaining corporations included in the consolidated federal return. For purposes of allocating the federal consolidated alternative minimum tax under this subsection, the pro forma alternative minimum tax of the corporations inside the taxpayer's combined group and of the corporations outside the taxpayer's combined group shall be computed on a consolidated basis for each group and may not be less

than zero.

(d) For purposes of illustrating the method of determining the amount of a federal consolidated alternative minimum tax that is allocable to a unitary business under (c) of this section, the following example is offered:

EXAMPLE

Taxpayer A joins in the filing of a federal consolidated return with corporations B, C, and D. The federal alternative minimum tax of the consolidated group is \$1,000. Corporation B is part of Taxpayer A's unitary business and is included in the combined report of Taxpayer A. Corporations C and D are not part of the unitary business conducted in this state and are not included in the combined report of Taxpayer A. The pro forma federal alternative minimum tax of Taxpayer A and corporation B is \$480. The pro forma federal alternative minimum tax of corporations C and D is \$720. Taxpayer A's apportionment factor is 50 percent. The applicable federal alternative minimum tax allocable to the unitary business of Taxpayer A is $\$1,000 \times (\$480/(\$480+\$720))$ or \$400. Taxpayer A's Alaska alternative minimum tax is $\$36 (\$400 \times 50 \text{ percent} \times 18 \text{ percent})$.

(e) Except as provided in (g) of this section, a taxpayer's Alaska credit for prior year minimum tax is 18 percent of the taxpayer's actual federal credit for prior year minimum tax or, if the taxpayer is taxable both inside and outside Alaska, the credit is 18 percent of the actual federal credit of the taxpayer's unitary business multiplied by the taxpayer's Alaska apportionment factor.

(f) If a corporation included in the taxpayer's combined group is a member of a federal consolidated group that applied a federal credit for prior year minimum tax against consolidated federal income tax payable and the federal consolidated group also includes one or more corporations that are not included in the combined report of the taxpayer, the federal credit for prior year minimum tax of the federal consolidated group shall be allocated between the members inside and outside the taxpayer's combined group. The allocation shall be made by multiplying the federal credit for prior year minimum tax of the federal consolidated group by a fraction, the numerator of which is the pro forma credit for prior year minimum tax for the corporations included in the taxpayer's combined group that are also members of the federal consolidated group, and the denominator of which is the sum of the pro forma credit for prior year minimum tax for the corporations included in the taxpayer's combined group that are also members of the federal consolidated group plus the pro forma credit for prior year minimum tax for the remaining corporations included in the federal consolidated group. For the purpose of making a determination required by this subsection, a group's pro forma credit for prior year minimum tax is the credit allowable to that group determined on a consolidated basis and limited by Internal Revenue Code section 53(c) (26 U.S.C. 53(c)). The Alaska credit for prior year minimum tax is the resulting amount multiplied by the taxpayer's apportionment factor and then by 18 percent.

(g) The Alaska credit for prior year minimum tax is limited to the cumulative Alaska alternative minimum tax paid by the taxpayer for tax years after 1986 less the Alaska prior year minimum tax credits allowed in prior years.

15 AAC 20.140. Determination of net capital gain or loss

(a) A taxpayer's net capital gain may be taxed at the alternative tax rate as provided in AS 43.20.021(c). A taxpayer may not deduct its net capital loss in determining taxable income. A taxpayer shall carry back or carry forward its net capital loss in accordance with Internal Revenue Code section 1212 (26 U.S.C. 1212).

(b) A taxpayer shall determine its net capital gain and net capital loss by applying Internal Revenue Code sections 1201 - 1259 (26 U.S.C. 1201 - 26 U.S.C. 1259) to its gains and losses as apportioned and allocated to Alaska.

(c) For purposes of illustrating the method of determining the taxpayer's net capital gain and loss under (b) of this section, the following example is offered:

EXAMPLE

Taxpayer A realized \$100 of business capital gain and \$200 of non-business capital loss, which is allocable to another state. Taxpayer A's Alaska apportionment factor is 15 percent. Taxpayer A has no federal or Alaska capital loss carryforward from prior years. Taxpayer A has a federal net capital gain of zero, and a federal excess capital loss of \$100. Taxpayer A's apportioned business capital gain is \$15 ($\$100 \times 15 \text{ percent}$). Its Alaska net capital gain is \$15, the sum of its Alaska allocated capital gain or loss of zero and its apportioned business capital gain of \$15.

(d) For purposes of determining net capital gain or loss, the department will, in its discretion, exclude from the determination the gains and losses realized by all foreign corporations, as defined in Internal Revenue Code section 7701(a) (26 U.S.C. 7701(a)), that are included in the combined report if a taxpayer cannot substantiate with reasonable certainty a full and accurate accounting for gains and losses of each foreign corporation sufficient to determine the taxpayer's net capital gain or loss under this section. A taxpayer may elect to treat the capital gains and losses of all foreign corporations that are included in its combined report as ordinary gains and losses. An election to treat the capital gains and losses of all foreign corporations as ordinary gains and losses shall be deemed to have been made by the taxpayer if the taxpayer fails to maintain records sufficient for the department to determine with reasonable certainty that there has been a full and accurate accounting for the gains and losses of each foreign corporation. An election under this subsection is irrevocable for the current and subsequent tax years without the consent of the department.

15 AAC 20.145. Credits adopted by reference

(a) A credit may be attributed to Alaska only if the credit is claimed on a federal return. For purposes of this section, a federal credit is generated in the year it is originally claimed on a federal return. A federal credit need not be applied to reduce federal tax in the year generated for the credit to be attributed to Alaska. A federal credit claimed and disallowed, such as a credit disallowed by the Internal Revenue Service at audit, is not attributable to Alaska.

(b) For purposes of illustrating the attribution of a federal credit to Alaska under AS 43.20.021(d) and (a) of this section, the following example is offered:

EXAMPLE

Taxpayer A does business in Alaska and does not conduct business in any other state. Taxpayer A's business activities in 1998 generated a federal research credit of \$100. In 1998, Taxpayer A is subject to the federal alternative minimum tax and cannot claim its federal credit of \$100 against federal income tax in 1998. The federal research credit is attributable to Alaska under AS 43.20.021(d) and (a) of this section. Taxpayer A's 1998 Alaska credit is \$18, 18 percent of the federal credit generated during 1998.

(c) The credit attributable to Alaska is the taxpayer's actual federal credit generated in the current year or, if the taxpayer is taxable both inside and outside Alaska, is the credit calculated by apportioning the actual federal credits generated in the current year by the taxpayer's unitary business using the apportionment factor applicable to the taxpayer under AS 43.20.

(d) For purposes of illustrating the attribution of federal credits of a unitary business in a combined report under (c) of this section, the following example is offered:

EXAMPLE

Taxpayer B is engaged in a unitary business, part of which is conducted inside Alaska. Corporation C is part of the unitary business of Taxpayer B and is included in the combined report of Taxpayer B. Corporation C's business activities generated a federal research credit of \$100. No other federal credits were generated by the unitary business of Taxpayer B. Taxpayer B has an Alaska apportionment factor of 50 percent. Taxpayer B's federal credit attributable to Alaska is the \$100 federal credit generated by its unitary business multiplied by its apportionment factor of 50 percent, or \$50. Taxpayer B's Alaska research credit is \$9, which is 18 percent of the \$50 federal credit attributed to Alaska.

(e) A taxpayer shall apply credits attributable to Alaska against the income tax set out in AS 43.20.011(e) before any other credits. A taxpayer may not apply credits attributable to Alaska against Alaska alternative minimum tax or other taxes. A taxpayer shall carry back or carry forward unused credits attributable to Alaska as provided under the Internal Revenue Code.

(f) Federal credits allowed under the Internal Revenue Code that represent, in whole or in part, a refund of federal taxes are not attributable to Alaska. The part of a federal credit not subject to carryforward under the Internal Revenue Code that increases net minimum tax under Internal Revenue Code section 53 (26 U.S.C. 53) may not be attributed to Alaska as a credit under AS 43.20.021(d).

15 AAC 20.200. Definitions

Relocated.

15 AAC 20.260. Film production tax credit.

(a) Upon notification from the film office of the award, under AS 44.33.231 - 44.33.239 and 3 AAC 188, of a film production tax credit to a producer, and as provided under AS 43.98.030, the department will issue the producer a film production tax credit certificate.

(b) To use a film production tax credit provided under AS 43.98.030 to offset taxes imposed under AS 43.20 (Alaska Net Income Tax Act), the current holder of the film production tax credit certificate must use the credit no later than three years after the date on which the department initially issued the certificate. On the certificate, the department will identify the date of initial issuance, transfer date, if applicable, and the expiration date. If the current holder is the first person to whom the certificate was issued, the credit may be taken on one or more of the returns required under AS 43.20 for a tax period that occurred, in whole or in part, no earlier than the date on which the department initially issued the certificate and no later than the date on which the certificate expires. If the current holder acquired the certificate through a transfer, the credit may be taken on one or more of the returns required under AS 43.20 for a tax period that occurred, in whole or in part, no earlier than the date on which the department transferred the certificate to the current holder and no later than the date on which the certificate expires. The current holder must attach the original certificate to the tax return on which the credit is claimed. If the original certificate is lost, stolen, or misplaced, an affidavit signed under penalty of perjury stating that the original certificate was lost, stolen, or misplaced must be attached to the tax return on which the credit is claimed.

(c) Transfer under AS 43.98.030(b) of a film production tax credit is subject to department approval under this subsection and (d) of this section. To request approval, the transferor must

- (1) make a request for transfer on a form or in a format prescribed by the department, and must include on the request
 - (A) the number assigned by the department of the film production tax credit certificate being transferred;
 - (B) the transferor's name, address, and federal tax identification number;
 - (C) the transferor's name, address, and

federal tax identification number;

- (D) the date of the transfer; and
- (E) the amount of the credit being

transferred;

(2) include with the request the original film production tax credit certificate or, if the original certificate is lost, stolen, or misplaced, an affidavit signed under penalty of perjury stating that the original certificate was lost, stolen, or misplaced; and

(3) include with the request, if the transferor is the producer, a sworn certification that neither the producer nor the production is the subject of an investigation or administrative proceeding concerning alleged violations by the producer or the production of the laws or regulations of this state, and that neither the producer nor the production is involved in a legal action filed in a federal court or a court in this state concerning alleged violations by the producer or the production of the laws or regulations of this state.

(d) The department will approve a request for transfer if

(1) the transferor provides the information and items required under (c) of this section; and

(2) in the case of a transferor that is a producer, there is not

(A) a filed, but unresolved, legal action in the state involving the producer or production; or

(B) an outstanding liability due to the state or a political subdivision of the state as a result of damages caused by an act or omission of the producer or production.

(e) Upon approval of the request for transfer, the department will issue a film production tax credit certificate to the transferee. The department will also issue a certificate to the transferor to the extent that the transferor retains a portion of the film production tax credit. The transfer of the credit in whole or in part does not extend the three-year period during which the credit may be used.

(f) A film production tax credit is subject to reduction, withholding, or recovery under AS 44.33.235(f) - (h) and 44.33.237. However, the department will not reduce the amount of a credit transferred in a transaction in which the transferor and transferee act independently and do not have a relationship to each other.

(g) In this section,

(1) "film office" has the meaning given in AS 44.33.239;

(2) "producer" has the meaning given in AS 44.33.239.

Article 3

Corporate Net Income Tax;

Combination and Apportionment Rules

15 AAC 20.300. Combination and apportionment

(a) A taxpayer that is not part of a unitary business and that has income from business activity or other sources taxable both inside and outside the state shall allocate and apportion its worldwide net income as provided in AS 43.20.142.

(b) A taxpayer that is part of a unitary business that has income from business activity or other sources both inside and outside the state shall use the worldwide combined method of reporting and apportionment as provided in AS 43.20.031(i) and AS 43.20.142, except as specified in AS 43.20.145.

(c) A taxpayer that is engaged in a unitary business with another corporation that is subject to AS 43.20.144 is also subject to AS 43.20.144 and may not file a water's edge report or return under AS 43.20.145.

(d) Federal taxable income subject to apportionment for a domestic corporation that is a taxpayer or is included in the taxpayer's combined report is taxable income before net operating loss determined under the Internal Revenue Code as excepted to or modified by AS 43.20.

(e) Except as provided in (f) of this section, federal taxable income subject to apportionment for a foreign corporation that is a taxpayer or is included in the taxpayer's combined report is taxable income before net operating loss determined under the Internal Revenue Code as excepted to or modified by AS 43.20 and this section as if the corporation were a domestic corporation. The taxpayer shall determine taxable income before net operating loss by adjusting financial statement income according to generally accepted accounting principles that are used in the United States to conform to the provisions of the Internal Revenue Code.

(f) A taxpayer may elect to report financial statement income, modified by AS 43.20 and this section, as federal taxable income under (e) of this section for foreign corporations included in its combined report. A taxpayer may elect to report earnings and profits required to be reported on the "Information Return of U.S. Person With Respect to Certain Foreign Corporations," as modified by AS 43.20 and this section, as federal taxable income under (e) of this section for all controlled foreign corporations included in its combined report. The basis of reporting income under (e) of this section, including the methods allowed under this subsection, is the taxpayer's overall method of reporting federal taxable income. The taxpayer shall make an election on a return filed under AS 43.20 and disclose the overall method of reporting federal taxable income of each group of foreign corporations.

(g) A taxpayer shall consistently apply a single overall method of reporting federal taxable income in its combined report for controlled foreign corporations and a single overall method of

reporting federal taxable income for foreign corporations that are not controlled foreign corporations. The members of a consolidated group of Alaska taxpayers shall use the same overall methods of reporting federal taxable income for all controlled foreign corporations and for all foreign corporations that are not controlled foreign corporations included in the combined report. Taxpayers joining in the making of an Alaska consolidated return for the first time shall apply the method of reporting federal taxable income established by the parent taxpayer, if any. If there is no parent taxpayer, the consolidated group shall use the method of reporting federal taxable income in place for the taxpayer having the largest presence in this state during the initial year of consolidation, as measured by the property numerator. A taxpayer entering an existing Alaska consolidated group shall conform to the existing group's methods of reporting federal taxable income. A corporation that ceases to be subject to AS 43.20 and in a subsequent tax year again becomes subject to AS 43.20 shall apply the methods of reporting federal taxable income that applied during the last previous tax period in which it was subject to AS 43.20 unless it is required by this subsection to use other methods established by a pre-existing consolidated group of Alaska taxpayers.

(h) Notwithstanding the portion of (i) of this section barring a taxpayer from changing an overall method of reporting federal taxable income without the prior approval of the department, a taxpayer may change its overall method of reporting federal taxable income in its return for its first taxable year beginning on or after January 1, 1998, to conform to this section without the prior approval of the department. The taxpayer shall include in its return:

(1) a declaration that the taxpayer is changing its method of reporting federal taxable income to conform to this section;

(2) a disclosure of the taxpayer's new and old methods of reporting federal taxable income by group or by company if all members of the group did not apply the same method; and

(3) a calculation of the adjustment required under (i) of this section for each member of the combined group.

(i) A taxpayer may not change an overall method of reporting federal taxable income without the prior approval of the department except when a taxpayer is required to change an overall method of reporting federal taxable income upon consolidation under (g) of this section. If a taxpayer changes an overall method of reporting federal taxable income for any corporation included in its combined report, including a change under (h) or (k) of this section, it shall report and include in its income in the year of change and the four tax years thereafter an equal amount representing the cumulative effect of the change necessary to prevent amounts of income and deduction from being duplicated or omitted in the determination of apportionable income. The taxpayer shall apportion the adjustment using the higher of the taxpayer's apportionment factor for the tax year before the change in method or its apportionment factor for the tax year of change.

(j) For purposes of illustrating the adjustment required to prevent the duplication or omission of income or deduction resulting from a change in the method of reporting federal taxable income under (i) of this section, the following example is offered:

EXAMPLE

Taxpayer A, in accordance with (h) of this section, is changing its method of reporting the federal taxable income of Corporation C in its combined report from the financial statement income method to income based upon the application of the Internal Revenue Code as modified or excepted to by AS 43.20. Taxpayer A's apportionment factors for the year prior to the change and the year of change are 10 percent and 9 percent respectively. Corporation C's historical balance sheet under Taxpayer A's old and new method of reporting at the beginning of the year of change are:

Account	Financial Statement Method	IRC Method
Difference		
Accounts receivable	100	100
0		
Allowance for Doubtful Accounts	(10)	0
10		
Investments	90	100
10		
Accrued Liabilities	(100)	(20)
80		
Deferred Income Tax	10	0
(10)		
Equity	(90)	(180)
(90)		

Because income taxes are not deductible under any method of reporting income, timing differences with respect to income taxes between the new and old methods do not represent amounts that would be duplicated or omitted as a result of the change in method. Thus, the (\$10) cumulative difference attributable to deferred income taxes is not included in the adjustment calculation. The adjustment required to prevent the duplication or omission of income or deductions resulting from the change in the overall method of reporting income of Corporation C is an increase in income of \$100. This is the sum of the cumulative differences for the items that affect apportionable income: \$10 for the allowance for doubtful accounts, \$10 for financial statement write down of investments, and \$80 of reserves expensed for financial statement purposes but not yet deductible under the Internal Revenue Code. Taxpayer A's annual adjustment is one-fifth of the \$100 total adjustment multiplied by its apportionment factor during the year prior to the change. Taxpayer C must include \$2 (10 percent X \$100/5) in its taxable income in the year of change and in each of the

following four tax years.

(k) If the department finds that a taxpayer has made a material error in reporting the federal taxable income of foreign corporations included in its combined report under (e) of this section, or failed to maintain adequate records with respect to the measure of federal taxable income for those corporations, the department will, in its discretion, require the taxpayer to report the income of foreign corporations under this section on the basis of financial statement income or earnings and profits under (f) of this section. A material error is a misstatement of apportionable income calculated by combining the absolute value of all errors resulting from the application of, or failure to apply, the Internal Revenue Code that exceeds \$40,000,000 or exceeds the greater of 25 percent of the reported apportionable income or one percent of the reported gross receipts of the foreign corporations that are not reported under (f) of this section. Records are inadequate if they fail to demonstrate the application of the Internal Revenue Code for any item or account with a nominal value that exceeds \$5,000,000 or if the taxpayer fails to provide the records within 60 days after a request by the department, unless the department agrees to an extension of time to produce the records requested. Adequate records include the following:

(1) income statement and balance sheet maintained on the basis of the Internal Revenue Code as excepted to or modified by AS 43.20, on a historical basis; and

(2) records sufficient to determine, by account, the amount and period of the origination and reversal of current and cumulative timing differences, and permanent differences generated from the conversion from financial statement income to historical federal taxable income reported under (e) of this section.

(l) For purposes of determining federal taxable income of a domestic corporation under (d) of this section:

(1) a taxpayer shall apply accounting methods and tax elections in place for federal tax purposes unless this chapter provides for, and the taxpayer makes, a separate election; and

(2) the federal tax attributes of an entity at the time the entity becomes an Alaska taxpayer or part of the unitary business of an Alaska taxpayer are the entity's Alaska tax attributes, including basis, accounting methods, and history for purposes of applying the tax benefit rule, except that investment adjustments under 26 C.F.R. 1.1502-32 are disregarded.

(m) In making a combined report, a taxpayer shall account for intercompany transactions between corporations included in a consolidated federal return by the method of accounting applied in the consolidated federal return. In accounting for all other intercompany transactions in a combined report, a taxpayer shall:

(1) eliminate intercompany profits from beginning and ending inventory;

(2) defer gain or loss on intercompany sales or exchanges of assets and on capitalized intercompany charges or expenditures until the time immediately preceding disposition outside the combined group or when either corporation ceases to be a member of the combined group;

(3) reduce gain deferred under (2) of this subsection by an amount of depreciation, amortization, or depletion attributable to the property under the purchaser's method of accounting calculated by multiplying the deferred gain by a fraction, the numerator of which is the depreciation, amortization, or depletion allowable under the purchaser's method of accounting and the denominator of which is the basis of the property immediately after the intercompany transaction; and

(4) reduce the deduction for depreciation, amortization, or depletion otherwise allowable under the purchaser's method of accounting by an amount equal to the reduction of deferred gain under (3) of this subsection.

(n) Federal taxable income subject to apportionment does not include:

(1) dividends received from corporations included in the combined report;

(2) amounts treated as dividends under Internal Revenue Code section 78 (26 U.S.C. 78) ("foreign dividend gross-up"); and

(3) income or loss allocated under AS 43.19.

(o) For purposes of this section, a gain that is included in gross income as a dividend under Internal Revenue Code section 1248 (26 U.S.C. 1248) may not be treated as a dividend and shall be treated as a gain.

15 AAC 20.310. Unitary business

(a) A business is unitary if the entity or entities involved are owned, centrally managed, or controlled, directly or indirectly, under one common direction which can be formal or informal, direct or indirect, or if the operation of the portion of the business done within the state is dependent upon or contributes to the operation of the business outside the state.

(b) The unitary nature of a business is a case-by-case factual determination and applicable statutes, regulations, and administrative and judicial precedent will be used as guidelines for making the determination.

(c) If a corporation is owned by a sovereign, head of state, government, or governmental agency, the unitary business does not include the sovereign, head of state, government, or governmental agency for purposes of this chapter.

15 AAC 20.320. Attribution of income

(a) The income, expenses, assets, and apportionment factors

of an enterprise involving undivided joint ownership must be attributed to the joint owners of that enterprise on the basis of their respective ownership interests, as may be modified by agreement among those joint owners. For purposes of this section, partnerships, joint ventures, trusts with joint beneficiaries and similar legal entities but not a single corporation, are enterprises involving undivided joint ownership.

(b) If a corporation conducts business in the state through a noncorporate intermediary, then that corporation is presumed to derive income subject to tax under this chapter from those operations in the amount of the income earned by the intermediary which corresponds to the corporation's respective interest in the profits and losses of the intermediary. The corporation's tax is calculated using that portion of the total revenues and deductions of the intermediary which correspond to the corporation's respective interest in the profits and losses of the intermediary, as if the corporation were directly conducting the operations actually conducted by the intermediary. This subsection only applies if the income earned by the intermediary has not already been included in the corporation's income. The corporation's respective interest in the profits and losses of an intermediary shall be as determined under sec. 704 of the Internal Revenue Code (26 U.S.C. sec. 704). In this section, "intermediary" includes "intermediaries."

15 AAC 20.330. Water's edge combined reporting method

(a) A corporation, except a corporation required to be included in a return under AS 43.20.144, must file a return under AS 43.20.145 using the water's edge combined reporting method if that corporation is a member of an affiliated group as defined in 15 AAC 20.335.

(b) A corporation that is a member of an affiliated group and that has nexus with the State of Alaska shall file a return under (a) of this section even if that corporation could not be included in the water's edge combined report of an affiliated corporation under AS 43.20.145.

(c) A taxpayer required to file a water's edge return under AS 43.20.145 shall instead file a worldwide combined return under AS 43.20.142 if the department determines that the taxpayer has not

(1) complied with the domestic disclosure spreadsheet requirements of 15 AAC 20.390;

(2) substantially complied with the requirements of 15 AAC 20.330 - 15 AAC 20.390; or

(3) provided, within 120 days after receipt of the department's request, the information necessary for the department to audit the taxpayer's return; the department will, in the department's discretion, extend the 120 day period for good cause as determined by the department.

(d) If a worldwide combined return is required under (c) of this section, the period of limitation for assessment under AS 43.05.260 does not begin to run until the filing of the worldwide combined return with the department.

15 AAC 20.335. Affiliated group

(a) For purposes of 15 AAC 20.330 - 15 AAC 20.395, an affiliated group consists of two or more corporations in which 50 percent or more of the voting stock of one or more member corporations in the group is owned, directly or indirectly, by one or more corporate or noncorporate owners or by other members of the group. The group includes

(1) a corporate owner;

(2) any corporation with 50 percent or more of the voting stock that is directly or indirectly owned by one or more of those owners;

(3) any corporation with 50 percent or more of the voting stock that is directly or indirectly owned by the corporate or noncorporate owners or by one or more members of the group.

(b) The ownership of voting stock may be determined by reference to related persons and constructive ownership as provided in Internal Revenue Code section 267 (26 U.S.C. 267).

(c) Membership in an affiliated group of corporations applies without regard to the country in which the members are incorporated or to the taxpayer's ability to include them in a federal consolidated return.

15 AAC 20.340. Worldwide combined reporting

Repealed.

15 AAC 20.345. Water's edge returns

(a) A water's edge return filed under AS 43.20.145 must separately identify the income and apportionment factors of each corporation included in the return. The corporations included in the return comprise the water's edge combined group.

(b) The income and apportionment factors of a corporation not included in the water's edge combined report must be excluded from the return filed under AS 43.20.145.

(c) A water's edge combined report must include each corporation and each tax haven corporation that is part of the taxpayer's affiliated group and is part of the taxpayer's unitary business.

(d) A taxpayer claiming that an affiliated corporation meets the 80 percent foreign business requirements of Internal Revenue Code section 861(c) (26 U.S.C. 861(c)) must provide proof of such treatment in the federal return.

15 AAC 20.350. Intercompany transactions

(a) Income from intercompany transactions between members of the water's edge combined group shall be eliminated from the water's edge return.

(b) Income from transactions between a member of the water's edge combined group and a corporation outside the water's edge combined group, whether domestic or foreign, must be included in the water's edge return.

15 AAC 20.355. Adjustments to intercompany transactions

(a) The department will, in its discretion, adjust the transfer price of any goods or services transferred to or from a water's edge combined group corporation and an affiliate not in the water's edge combined group as follows:

(1) if the transferor corporation had more than 10 percent of its transfers during the tax year to nonaffiliated corporations, the department will, in its discretion, use the average price at which the goods or services were sold to nonaffiliated corporations; and

(2) if the transferor corporation had 10 percent or less of its transfers during the tax year to nonaffiliated corporations, the department will, in its discretion, require that the net income attributable to the transfers be apportioned to the transferor and the transferee based on book inventory costs.

(b) If the department determines that a transfer between affiliated corporations was intended to decrease or increase a corporation's factors, the department will, in its discretion, attribute the sales, property, or payroll of the corporation to the affiliated corporation which, if not for the transfer, would have reported the factors.

(c) Nothing in this section precludes adjustments by the department under Internal Revenue Code section 482 (26 U.S.C. 482) or AS 43.19.010, Article IV, sec. 18.

15 AAC 20.360. Records of intercompany transactions

An affiliated corporation included in a taxpayer's water's edge return shall maintain records of intercompany transactions. Upon notification by the department of the department's intent to perform an audit of the taxpayer, an affiliated corporation shall make available to the department, within 120 days of notification, records sufficient to show the following:

(1) for each transfer of goods or services between a corporation in the water's edge combined group and a corporation not in the water's edge combined group that was an affiliated corporation at any time during the tax year, the

(A) identity of the goods or services transferred, including the model number, description, property identification number, and account code, if applicable;

(B) number or amount of goods or services transferred;

(C) identity of the transferor and the transferee; and

(D) price and any other consideration for the transfer;

(2) for each transfer of the types of goods or services identified in this section to nonaffiliated corporations during the tax year or the immediately preceding tax year,

(A) the number or amount of goods or services transferred; and

(B) the price of those goods or services.

15 AAC 20.375. Income for the water's edge combined group

(a) The total water's edge business income of the unitary business subject to apportionment is the federal taxable income of the water's edge combined group as determined under AS 43.20.145(b) and 15 AAC 20.300.

(b) Royalties and dividends not excluded from taxable income under AS 43.20.145(b)(1) and (3) replace the attribution of expenses to the dividend and royalty income excluded under AS 43.20.145 and are in lieu of any disallowance of expenses.

15 AAC 20.380. Factors assignable to locations within the United States

In determining a corporation's payroll, property and sales factors in the United States under AS 43.20.145(a)(1) and (4), the following rules apply:

(1) the rules for inclusion, value, and attribution of apportionment factors for the water's edge combined group must be determined under AS 43.19 and the regulations adopted under that chapter;

(2) when computing the apportionment factors of the water's edge combined group, an intercompany transaction between members of the group must be eliminated;

(3) a transaction between a member of the water's edge combined group and a corporation not included in the group must be included when determining apportionment factors; and

(4) the average of the factors is calculated under AS 43.19.010, Article IV, except that each factor is determined by placing in the numerator the elements of the factor in the United States and by placing in the denominator the elements of the factor worldwide; if a corporation has no sales, property, or payroll, the average is determined by eliminating that factor or factors from the computation, and dividing by the remaining number of factors.

15 AAC 20.385. Treatment of foreign dividends and royalties

(a) Income from intercompany transactions, including the receipt or payment of dividends and royalties, among members of the water's edge combined group must be eliminated.

(b) Dividends and royalties received by members of the water's edge combined group from a corporation incorporated outside the United States that is not included in the water's edge combined return

(1) are business income if they are received from an affiliated corporation or meet the requirements of 15 AAC 19.031; and

(2) must be included as business income of the water's edge combined group even if paid from earnings of years before the current tax year when the payors were members of the taxpayer's worldwide combined group.

(c) Proration of a deduction under 15 AAC 19.041 will not be made to the foreign dividends and royalties excluded by AS 43.20.145(b)(1) and (3).

(d) Under Internal Revenue Code section 482 (26 U.S.C. 482), the department will, in its discretion, reallocate a deduction to a corporation excluded from the water's edge combined group.

15 AAC 20.390. Domestic disclosure spreadsheet

(a) For a return to be complete, a taxpayer shall submit within six months of the date of initial filing of a return under the water's edge reporting method, a copy of all domestic disclosure spreadsheets that included any member of the water's edge combined group filed in other states for the current tax year.

(b) The department will, in its discretion, require the filing of a domestic disclosure spreadsheet for Alaska tax purposes that contains the information the department considers necessary in order to evaluate audit potential or to perform an audit of the return. A spreadsheet required under this subsection must be filed within 120 days from the date that the department makes the request.

(c) A spreadsheet is complete when filed unless, within 180 days after the spreadsheet was filed, the department notifies the taxpayer that the spreadsheet requirements have not been met. This notice must be sent by certified mail and must inform the taxpayer why the spreadsheet is not complete. A taxpayer must correct the deficiencies in its spreadsheet within 120 days after receiving the notice of the deficiency. A taxpayer may file a written request for an extension of time with the department within 90 days after receiving the notice of deficiency. The request is filed on the date it is sent by certified mail to the department. The request for an extension of time must state the grounds for the request. The department will, in the department's discretion, extend the 120 day period for good cause as determined by the department.

Article 4

Corporate Net Income Tax; Special Rules for Oil and Gas Corporations

15 AAC 20.410. Corporations engaged in oil or gas production or pipeline transportation

(a) A taxpayer doing business in this state, the unitary business of which derives gross income from a production interest in one or more leases or properties in commercial production that are within this state or the transportation of oil or gas or both by means of a regulated pipeline or pipeline system of which part or all is within this state, is subject to AS 43.20.144.

(b) A taxpayer subject to AS 43.20.144 shall apportion its business income in accordance with 15 AAC 20.410 - 15 AAC 20.520 even if that taxpayer does business only in this state and its apportionment factors equal one.

(c) The right under 43 U.S.C. 1606(i) and 43 U.S.C. 1606(j) (sections 7(i) and 7(j) of the Alaska Native Claims Settlement Act) to share in revenue from oil or gas production from a regional Native corporation's land is not a production interest in that property and a corporation deriving income from oil and gas production solely by virtue of 43 U.S.C. 1606(i) and 43 U.S.C. 1606(j) is not made subject to provisions of AS 42.20.144 as a result of that income. However, income from 43 U.S.C. 1606(i) and 43 U.S.C. 1606(j) is subject to tax under applicable provisions of AS 43.19 and AS 43.20.

15 AAC 20.420. Reporting requirements

Repealed.

15 AAC 20.421. Apportionment of petroleum business income of a taxpayer subject to AS 43.20.144

(a) A taxpayer that is subject to AS 43.20.144, the unitary business of which is predominantly a petroleum business, shall apportion all unitary business income determined under AS 43.20.144 to this state using the apportionment factor of the entire unitary business determined under AS 43.20.144 and applicable regulations.

(b) If the unitary business of a taxpayer that is subject to 43.20.144 is not predominantly a petroleum business, the taxpayer:

(1) shall segregate its business income determined under AS 43.20.144 and apportion the petroleum business income of its unitary business to this state using the apportionment factor of the entire unitary business determined under AS 43.20.144 and applicable regulations and shall apportion the other business income of its unitary business to this state using the apportionment factor of the entire unitary business determined under AS 43.19 and 15 AAC 19.131 - 15 AAC 19.900;

(2) shall apportion the general overhead and administrative expenses of its unitary business as a part of the taxpayer's other business income; and

(3) may, for assets of domestic corporations included in its combined report, depreciate assets used principally for its other business, using the methods employed for those assets for federal income tax purposes.

(c) For purposes of (a) and (b) of this section, a taxpayer's unitary business is predominantly a petroleum business if the sum of the gross receipts of the petroleum business divided by the gross receipts of the entire unitary business, plus the payroll of the petroleum business divided by the payroll of the entire unitary business, plus the average property and capitalized rents of the petroleum business divided by the average property and capitalized rents of the entire unitary business, divided by three exceeds 50 percent. The gross receipts, payroll, and average property and capitalized rents of the petroleum business and of the entire unitary business shall be determined under AS 43.19 and 15 AAC 19.131 - 15 AAC 19.900.

(d) In this section, "petroleum business" means oil and gas operations and business activities that are related to or incidental to oil and gas operations, in which

(1) "oil and gas operations" include the following activities: exploration, production, refining, manufacturing, processing, transportation, and marketing of oil and gas or any commodity, product, or feedstock derived from oil or gas, including petrochemicals, whether or not acquired from or transferred between parts of the unitary business; and

(2) a business activity is related to or incidental to oil and gas operations if the activity is conducted in the regular course of oil and gas operations, is customary in the oil and gas business, is within the scope of what an oil and gas business does, or is an integral, functional, necessary or operative component of oil and gas operations; activities that are related to or incidental to oil and gas operations include:

(A) sales of non-petroleum goods at gasoline stations or similar wholesale or retail outlets;

(B) centralized financing, insurance, or other service activities that finance, insure, or otherwise provide services to the oil and gas operations; and

(C) sales of tangible and intangible assets used in or acquired for oil and gas operations.

15 AAC 20.422. Transition rule for taxpayers subject to 43.20.144 for estimated tax payments for tax years beginning in calendar year 1998
For purposes of calculating the estimated tax penalty, Internal Revenue Code section 6655(d)(2) (26 U.S.C. 6655(d)(2)) does not apply for the tax year beginning in calendar year 1998. This section applies to a taxpayer that is subject to AS 43.20.144 for the tax years beginning in calendar year 1997 and 1998.

15 AAC 20.430. Taxable income

Repealed.

15 AAC 20.440. Section 72 business income

Repealed.

15 AAC 20.445. Intangible drilling and development costs

A taxpayer subject to AS 43.20.144 shall capitalize, and depreciate under 15 AAC 20.480, intangible drilling and development costs that are not subject to capitalization and depletion in the determination of federal taxable income as a result of an election under Internal Revenue Code section 263(c) (26 U.S.C. 263(c)), including intangible drilling and development costs subject to capitalization and amortization under Internal Revenue Code sections 59(e), 291(b), and 312(n) (26 U.S.C. 59(e), 291(b), and 312(n)), but not Internal Revenue Code section 263(i) (26 U.S.C. 263(i)). A taxpayer may elect to capitalize, and depreciate under 15 AAC 20.480, intangible drilling costs capitalized under Internal Revenue Code section 263(i) (26 U.S.C. 263(i)) and may make a separate election for each group of combined corporations set out in 15 AAC 20.480(d).

15 AAC 20.450. Federal taxable income

Repealed.

15 AAC 20.460. Attribution of income

Repealed.

15 AAC 20.470. Allocation of general overhead and administrative expense

Repealed.

15 AAC 20.480. Depreciation expense for oil and gas taxpayers

(a) This section applies to taxpayers subject to AS 43.20.144.

(b) Except as provided for by 15 AAC 20.421(b)(3), a taxpayer shall report depreciation expense for all unitary corporations using the class life asset depreciation range system as applied under Internal Revenue Code section 167 (26 U.S.C. 167) as that section read on June 30, 1981, applied to the depreciable basis determined under the taxpayer's method of reporting federal taxable income for that corporation as if all assets were used inside the United States.

However, a taxpayer may elect to report depreciation expense for foreign assets of domestic corporations using a method of reporting depreciation expense under the class life asset depreciation range system as applied to foreign assets if that rate of depreciation is slower than the rate of depreciation otherwise reportable under this section.

(c) A taxpayer that reports financial statement income as federal taxable income of foreign corporations under 15 AAC 20.300(f) may elect to report the depreciation used to determine financial statement income for those corporations. A taxpayer that reports earnings and profits as federal taxable income of controlled foreign corporations under 15 AAC 20.300(f) may elect to report the depreciation used to determine the earnings and profits for those controlled foreign corporations.

(d) Depreciation methods shall be treated as methods of accounting. Under this section, the taxpayer shall segregate its combined group into domestic corporations, controlled foreign corporations, and foreign corporations that are not controlled foreign corporations. A taxpayer shall report depreciation for each segregated group of corporations using a single overall method allowed under this section for that group: the class life asset depreciation range system, the depreciation used to determine financial statement income, or the depreciation used to determine earnings and profits. A taxpayer may apply the class life asset depreciation range system to determine depreciation for any group of corporations. Subject to an election under this section, for foreign corporations, including controlled foreign corporations, a taxpayer may use the depreciation used to determine financial statement income, and for controlled foreign corporations, a taxpayer may use the depreciation used to determine earnings and profits.

(e) A taxpayer filing a return under AS 43.20.144 for the first time shall elect on its return a depreciation method under this section for controlled foreign corporations, and a depreciation method for foreign corporations that are not controlled foreign corporations. The taxpayer shall apply the method it elects under this subsection as if it had been in place on the date of acquisition of each asset.

(f) The members of a consolidated group of Alaska taxpayers shall use the same depreciation methods. Taxpayers joining in the making of an Alaska consolidated return for the first time shall apply the depreciation methods established by a parent taxpayer, if any. If there is no parent taxpayer, the consolidated group shall use the depreciation methods in place for the taxpayer having the largest presence in this state during the initial year of consolidation, as measured by its property numerator. A taxpayer entering an existing Alaska consolidated group shall conform to the existing group's depreciation methods. A corporation that ceases to be subject to AS 43.20.144 and in a subsequent tax year again becomes subject to AS 43.20.144 shall apply the depreciation methods applicable during the last previous tax period in which it was subject to AS 43.20.144 unless it is required to use the depreciation methods established by a pre-existing consolidated group of Alaska taxpayers of which it is part when it again becomes subject to AS 43.20.144.

(g) Notwithstanding the provisions of (h) of this section barring a taxpayer from changing a depreciation method without the prior approval of the department, a taxpayer may change a depreciation method in its return for its first tax year beginning on or after January 1, 1998, to conform to this section without the prior approval of the department. The return reporting the change must include

(1) a declaration that the taxpayer is changing its depreciation method to conform to this section;

(2) a disclosure of the taxpayer's new and old depreciation methods by group or by company if all members of a group did not apply the same method; and

(3) a calculation of the adjustment required under (h) of this section for each member of the unitary group.

(h) Except as required upon consolidation under (f) of this section, a taxpayer may not change a depreciation method without the prior approval of the department. If a taxpayer changes a depreciation method, including a change under (g) of this section, it shall report and include in its income in the year of change and the four tax years thereafter an equal amount representing the cumulative effect of the change necessary to prevent depreciation from being duplicated or omitted in the determination of apportionable income. The adjustment shall be apportioned using the higher of the taxpayer's apportionment factor for the year prior to the change in method or its apportionment factor for the year of change. If an existing taxpayer becomes an oil and gas taxpayer subject to AS 43.20.144 for the first time, the reporting of depreciation under AS 43.20.144 is not a change in method under this section.

(i) A taxpayer shall maintain complete records for each asset of each unitary foreign corporation for which depreciation is reported using the class life asset depreciation range system. Two or more assets properly aggregated in a vintage account shall be treated as a single asset under this subsection. The records maintained by the taxpayer must contain

(1) an adequate description of the asset to determine the asset guideline class;

(2) the date the asset was first placed in service and the first year convention used to calculate depreciation;

(3) an identification of the asset as new or used property;

(4) the depreciable basis of the asset;

(5) the method and rate used to compute depreciation expense under this section and in the determination of federal taxable income under 15 AAC 20.300;

(6) the salvage value of the asset; and

(7) the date of sale or other disposition, the

proceeds or other consideration, and the gain or loss under this section and under the method used in the determination of federal taxable income under 15 AAC 20.300.

(j) The department will, in its discretion, require a taxpayer to report depreciation using the methods of depreciation allowed under (c) of this section consistent with the overall method of reporting federal taxable income upon a finding by the department that the taxpayer has made a material error or failed to maintain complete records under (i) of this section. A material error is a misstatement of depreciation expense that exceeds the lesser of 10 percent of the depreciation expense reported for a group or \$10,000,000, calculated by combining the absolute value of all errors for the group.

(k) A taxpayer that reported other business income in its last tax year ending before January 1, 1998 shall report depreciation of assets placed in service for those operations as follows:

- (1) assets placed in service during a tax year beginning on or after January 1, 1998 shall be depreciated under this section; and
- (2) assets placed in service during a tax year ending before January 1, 1998 shall be depreciated in tax years thereafter using the lives and methods established in the last return filed before January 1, 1998; however, the taxpayer may change its depreciation for assets placed in service during tax years beginning before January 1, 1998 without the prior approval of the department as authorized by (g) of this section.

15 AAC 20.490. Apportionment rules for oil and gas taxpayers

The apportionment factor of a taxpayer subject to AS 43.20.144 shall be determined based upon the business activities of the taxpayer's unitary business conducted within this state. Except as limited by 15 AAC 20.421, a taxpayer subject to AS 43.20.144 shall apportion its business income to this state by multiplying the taxpayer's business income by the apportionment factor applicable to the taxpayer among the following factors:

- (1) the apportionment factor of a taxpayer subject to AS 43.20.144 but whose unitary business is not engaged in the production of oil or gas from a lease or property in this state during the tax period is a fraction, the numerator of which is the sum of the property factor under 15 AAC 20.500(b) and the sales factor under 15 AAC 20.500(a) for the taxpayer for that tax period, and the denominator of which is two;
- (2) the apportionment factor of a taxpayer subject to AS 43.20.144 but whose unitary business is not engaged in the pipeline transportation of oil or gas in this state during the tax period is a fraction, the numerator of which is the sum of the property factor under 15 AAC 20.500(b) and the extraction factor under 15 AAC 20.500(c) for the taxpayer for the tax period, and the denominator of which is two;
- (3) the apportionment factor of a taxpayer subject to AS 43.20.144 whose unitary business is engaged both in the production of oil or gas from a lease or property in this state and in the pipeline transportation of oil or gas in this state during the tax period is a fraction, the numerator of which is the sum of the sales factor under 15 AAC 20.500(a), the property factor under 15 AAC 20.500(b) and the extraction factor under 15 AAC 20.500(c) for the taxpayer for the tax period, and the denominator of which is three.

15 AAC 20.500. Sales, property and extraction factors

(a) The sales factor of a taxpayer subject to AS 43.20.144 is a fraction

(1) the numerator of which is the sum of the following for the tax period:

(A) the tariffs allowed and received by or for the taxpayer for transporting oil or gas by pipeline in this state, regardless of whether the tariffs are paid by third parties or by entities within the taxpayer's unitary business; and

(B) the total sales of the taxpayer's unitary business in this state determined in accordance with the Multistate Tax Compact (AS 43.19), but excluding those sales already included in the tariffs described in (A) of this paragraph; and

(2) the denominator of which is the sum of the following for the tax period:

(A) the tariffs allowed and received by or for the taxpayer's unitary business for transporting oil or gas by pipeline everywhere, regardless of whether the tariffs are paid by third parties or by entities within the taxpayer's unitary business; and

(B) the total sales of the taxpayer's unitary business everywhere, determined in accordance with the Multistate Tax Compact (AS 43.19), but excluding those sales already included in the tariffs described in (A) of this paragraph.

(b) The property factor of a taxpayer subject to AS 43.20.144 is a fraction

(1) the numerator of which is the sum of the following for the tax period:

(A) the average value, determined under the Multistate Tax Compact (AS 43.19) of the taxpayer's real and tangible personal property owned or rented in the taxpayer's unitary business and used in this state during the tax period; and

(B) the average amount of cumulative intangible drilling and development costs capitalized or expensed for federal income tax purposes under Internal revenue Code section 263(c) (26 U.S.C. 263(c)), for the taxpayer's producing oil and gas wells in this state; and

(2) the denominator of which is the sum of the

following for the tax period:

(A) the average value, determined under the Multistate Tax Compact (AS 43.19) of the real and tangible personal property everywhere owned or rented and used by the taxpayer's unitary business during the tax period; and

(B) the average amount of cumulative intangible drilling and development costs capitalized or expensed for federal income tax purposes under Internal Revenue Code section 263(c) (26 U.S.C. 263(c)), for the producing oil and gas wells everywhere of the taxpayer's unitary business.

(c) The extraction factor of a taxpayer is a fraction

(1) the numerator of which is the sum of the following for the tax period:

(A) the number of barrels of the taxpayer's oil (net of royalty to an unrelated party) produced from or allocated to leases or properties of the taxpayer in this state; and

(B) one-sixth the number of Mcf of the taxpayer's gas (net of royalty to an unrelated party) produced from or allocated to leases or properties of the taxpayer in this state, excluding reinjected gas and gas consumed for production operations for the lease or property from which it is recovered; and

(2) the denominator of which is the sum of the following for the tax period:

(A) the number of barrels of oil of the taxpayer's unitary business (net of royalty to an unrelated party) produced from or allocated to leases or properties of the taxpayer's unitary business everywhere; and

(B) one-sixth of the number of Mcf of gas of the taxpayer's unitary business (net of royalty to an unrelated party) produced from or allocated to leases or properties of the taxpayer's unitary business everywhere, excluding reinjected gas and gas consumed for production operations for the lease or property from which it is recovered.

(d) The factors may not include intercompany income and expenses, except the tariffs allowed under AS 43.20.144(d).

15 AAC 20.510. Records

The taxpayer shall maintain the records necessary to verify the accuracy of computations under AS 43.20, including but not limited to: depreciable basis, depreciation expense, cumulative intangible drilling and development costs, petroleum business income, other business income, and conversion of financial statement income to taxable income. These records are subject to review by the department.

15 AAC 20.520. Relief

If the methods of allocation and apportionment in this chapter do not fairly represent the extent of a corporation's business activity in the state, the corporation may petition for or the department may require, in respect to all or any part of the corporation's business activity, if reasonable, the employment of any method authorized under art. IV, sec. 18, of the Multistate Tax Compact (AS 43.19.010) to effectuate an equitable allocation and apportionment of the corporation's income. If a taxpayer can demonstrate or the department determines that a distortion of income apportioned to the state has arisen, the taxpayer may request, or the department will, in its discretion, require, that the apportionment formula in AS 43.20.144 and 15 AAC 20.490 be modified to provide appropriate relief under the circumstances.

15 AAC 20.530. Gas exploration and development tax credit

(a) For purposes of AS 43.20.043(a), an operator or working interest owner is directly engaging in the exploration for and development of gas if the primary purpose of the activity is to explore for and develop gas and not oil. An operator may claim a credit as a taxpayer only to the extent that the operating agreement directly attributes the qualified capital investments and services to the working interest of the operator.

(b) A taxpayer shall make an irrevocable election to claim the credit under AS 43.20.043 on a timely filed tax return, including filing extensions, for the tax year in which the reservoir first produces gas for sale and delivery. A taxpayer that fails to make a timely election waives the amount of the credit that would have been allowable on the original and all amended tax returns for that tax year. A taxpayer that elects to claim a credit under AS 43.20.043, upon request by the department, shall provide to the department the information necessary to prepare the report required by sec. 4, ch. 61, SLA 2003.

(c) In order to qualify for a credit, the qualified capital investment must be made exclusively for one or more specific gas reservoirs. Indirect or overhead costs, including financing costs, do not qualify for the credit.

(d) Upon making an election as provided in (b) of this section, and subject to the limitations and carryover provisions in AS 43.20.043(c), the taxpayer shall apply the credit against tax liability in the tax year in which the reservoir first produces gas for sale and delivery. The expenditures for assets disposed of, removed from the state, or transferred from the state through the date of first production do not qualify for the credit. Assets disposed of, removed from the state, or transferred from the state after the date of first production do not reduce the available credit. A taxpayer that is entitled to a credit from more than one gas reservoir shall apply the credit from the gas reservoir that first produces gas for sale and delivery until the credit is exhausted, then from the next gas reservoir, until the credit from each successive gas reservoir is

exhausted.

(e) For purposes of AS 43.20.043(e)(1), a taxpayer may convey, assign, or transfer the credit if the conveyance, assignment, or transfer is

(1) in connection with the merger or acquisition of the entire worldwide unitary business of which the taxpayer was a part; and

(2) not the result of a partial liquidation.

(f) For purposes of sec. 3, ch. 61, SLA 2003, the taxpayer may not carry forward any unused portion of the credit to tax years beginning after December 31, 2017.

(g) For purposes of AS 43.20.043 and this section,

(1) "binding payment agreements" means binding contracts that

(A) are entered into after June 30, 2003;

(B) are entered into before the date the reservoir produces gas for sale and delivery; and

(C) provide for payment of an accrued expenditure after the date the reservoir produces gas for sale or delivery;

(2) "first use" means a use in any manner for a property's designed and intended purpose;

(3) "gas for sale and delivery" means the portion of a commercial quantity of gas from the reservoir that is produced for sale and delivery into commerce; "gas for sale and delivery" does not include casinghead gas or gas produced for reinjection or field use on any lease or property;

(4) "operator" means a person holding

(A) a working interest in the lease or property; and

(B) the right to explore for and produce gas from the lease or property;

(5) "taxpayer's total tax liability" means the consolidated business's net income tax liability to this state as finally determined by the department, before the alternative minimum tax imposed by AS 43.20.021(f) and other taxes imposed under AS 43.20.021(a).

15 AAC 20.540. Calculation of tax for taxpayers subject to AS 43.20.144 and 43.20.145 in a tax year

A taxpayer, whose unitary business begins or ceases the oil and gas activities described in AS 43.20.144(a) in a tax year, is subject to both AS 43.20.144 and AS 43.20.145 during the transition year and shall calculate tax for that year as follows:

(1) the taxpayer shall determine income that is subject to tax at ordinary rates before any net operating loss deduction by adding

(A) taxable income under AS 43.20.145, for the entire tax year, multiplied by a ratio, the numerator of which is the number of days the taxpayer was subject to AS 43.20.145 and the denominator of which is the number of days in the tax year; and

(B) taxable income under AS 43.20.144 for the entire tax year, multiplied by a ratio, the numerator of which is the number of days the taxpayer was subject to AS 43.20.144 and the denominator of which is the number of days in the tax year;

(2) the taxpayer shall determine its charitable contribution limitation by applying 26 U.S.C. 170 (Internal Revenue Code) based upon the taxable income calculated under (1) of this section;

(3) the taxpayer shall determine capital gains subject to the alternative rate under AS 43.20.021(c) by adding

(A) capital gains calculated under AS 43.20.145, for the entire tax year, multiplied by a ratio, the numerator of which is the number of days the taxpayer was subject to AS 43.20.145 and the denominator of which is the number of days in the tax year; and

(B) capital gains calculated under AS 43.20.144 for the entire tax year, multiplied by a ratio, the numerator of which is the number of days the taxpayer was subject to AS 43.20.144 and the denominator of which is the number of days in the tax year;

(4) the taxpayer shall apportion allowable federal credits and taxes imposed under AS 43.20.021 by using an apportionment factor that is the sum of

(A) the entire tax year's apportionment factor calculated under AS 43.19.010 (Multistate Tax Compact), Article IX. 9, multiplied by a ratio, the numerator of which is the number of days the taxpayer was subject to AS 43.20.145 and the denominator of which is the number of days in the tax year;

(B) the entire tax year's apportionment factor calculated under AS 43.20.144, multiplied by a ratio, the numerator of which is the number of days the taxpayer was subject to AS 43.20.144 and the denominator of which is the number of days in the tax year;

(5) the taxpayer shall apply the following depreciation rules:

(A) a taxpayer that ceases to be subject to AS 43.20.144 and that becomes subject to AS 43.20.145 shall use the

(i) taxpayer's federal depreciation expense in determining federal taxable income under (1)(A) of this section; and

(ii) the depreciation methods used in the prior year's return in determining federal taxable income under (1)(B) of this section;

(B) a taxpayer that ceases to be subject to AS 43.20.145 and that becomes subject to AS 43.20.144 shall use the

(i) depreciation methods used in the

prior year's return in determining federal taxable income under (1)(A) of this section; and

(ii) depreciation methods under 15 AAC 20.480 as if those methods had been in place on the date of acquisition of each asset in determining federal taxable income under (1)(B) of this section;

(C) the new depreciation methods that the taxpayer uses under this section are the taxpayer's depreciation methods for future tax periods;

(D) a change in depreciation method resulting from a taxpayer's change between AS 43.20.144 and 43.20.145 is not a change in accounting method.

15 AAC 20.550.

Reserved.

Article 5

Corporate Net Income Tax; Transition Rules

15 AAC 20.560. General rule

Repealed.

15 AAC 20.570. Expenses; amortization and depreciation

Repealed.

15 AAC 20.580. Net operating losses under AS 43.20 and net losses under AS 43.21

Repealed.

15 AAC 20.590. Short-year return rule

Repealed.

Article 6

Corporate Net Income Tax; Special Rules for Financial Organizations and for Other Taxpayers with Tax-exempt Income

15 AAC 20.600. Financial organization income

A financial organization that has income from sources both inside and outside the state must apportion the income among the states in which the business is conducted in accordance with the property, payroll, and sales apportionment factors set out in AS 43.19 and in 15 AAC 19 and this chapter, except as modified by 15 AAC 20.610.

15 AAC 20.610. Apportionment factors for financial organizations

(a) The denominator of the property factor is the average value of all of the taxpayer's real and tangible personal property owned or rented and used during the tax year, as defined in AS 43.19.010 (Art. IV, secs. 10 - 12), 15 AAC 19.141, 15 AAC 19.151, and 15 AAC 19.181 - 15 AAC 19.202. In addition, the denominator of the property factor must include the average monthly total of the taxpayer's loans receivable, accounts receivable, and assets having the nature of loans or accounts receivable.

(b) The numerator of the property factor is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax year, as defined in AS 43.19.010 (Art. IV, secs. 10 - 12) and 15 AAC 19.171. In addition, the numerator of the property factor must include the average monthly total of the taxpayer's loans receivable, accounts receivable, and assets having the nature of loans and accounts receivable, sourced to Alaska.

(c) For purposes of this section, tangible property, including property leased to or from other parties, is located in Alaska and must be attributed to the state if it is physically situated in the state during the taxable period. If the property is mobile property such as motor vehicles, rolling stock, aircraft and vessels, its value must be determined in accordance with AS 43.20.143 and 15 AAC 19.171(c). The value of mobile property other than land transportation equipment, aircraft and vessels must be determined by using the ratio of time spent in the state during the taxable period to time spent in all taxing jurisdictions.

(d) The denominator of the payroll factor is the total compensation paid everywhere by the taxpayer during the tax period, as defined in AS 43.19.010 (Art. IV, secs. 13 and 14), 15 AAC 19.211, and 15 AAC 19.221.

(e) The numerator of the payroll factor is the total amount paid by the taxpayer during the tax period for compensation in the state, as defined in AS 43.19.010 (Art. IV, sec. 14), 15 AAC 19.231, and 15 AAC 19.241.

(f) The denominator of the sales factor includes all receipts derived from transactions and activities in the course of the taxpayer's business as defined in AS 43.19.010 (Art. IV, secs. 15 - 17), 15 AAC 19.251, 15 AAC 19.261 and 15 AAC 19.302, but excludes tax-exempt income.

(g) The numerator of the sales factor includes all receipts derived from transactions and activities in the course of the taxpayer's business in the state, as defined in AS 43.19.010 (Art. IV, secs. 16 and 17) and 15 AAC 19.271 - 15 AAC 19.302, but excludes tax-exempt income. The numerator of the sales factor must include

(1) interest, fees, charges, rents, and compensation for services performed when these amounts are derived from loans or

assets in the nature of loans sourced to Alaska;

(2) gross receipts from services, including trustee, fiduciary, checking account, and bill-paying services, and gross receipts from the use of facilities, including safe deposit box and cash machine transaction fees, if the service is performed in Alaska or if the facility is located in Alaska; if the service is performed partly inside and partly outside the state, the gross receipts that are attributed to Alaska must be determined by the ratio that the time spent in performing the service in the state bears to the total time spent in performing the service everywhere;

(3) receipts from other securities and investments, if the securities and investments are managed from a location in the state;

(4) receipts, including fees and charges, from the issuance of traveler's checks and other negotiable instruments if the negotiable instruments are sold or issued in Alaska;

(5) gross receipts from the operation or management of repossessed real property located in Alaska and personal property if the property is sourced to Alaska.

(h) If receipts from intangible property cannot be readily attributed to a particular taxing jurisdiction, the receipts may not be assigned to the numerator of the sales factor for any state and must be excluded from the denominator of the sales factor.

(i) Personal property in the nature of loans or receivables and receipts from loans or receivables must be sourced to the state if the borrower or cardholder resides in the state. If, in regard to loans, property or receipts are not sourced to the state and are excluded from the property or sales factor by the taxpayer, the department will, in its discretion, attribute the property or the receipts to the state, if the exclusion inaccurately reflects the extent of the taxpayer's activities in the state and if the property pledged as security for the loan is located in the state.

15 AAC 20.620. Exempt income and related expenses

(a) Expenses incurred in acquiring, maintaining, and disposing of tax-exempt assets, including interest expense, may not be deducted in computing taxable income.

(b) For a taxpayer that is a member of a group of unitary corporations, "expenses" and "tax-exempt assets" in (a) of this section mean the expenses and tax-exempt assets of the taxpayer's combined group.

(c) For a taxpayer that is a member of a consolidated group that files a consolidated return, "expenses" and "tax-exempt assets" in (a) of this section mean the expenses and tax-exempt assets of the taxpayer's consolidated group.

15 AAC 20.680. Applicability

15 AAC 20.600 - 15 AAC 20.620 and 15 AAC 20.920 apply to the 1984 taxable year and subsequent years.

Article 7
Reserved

Article 8
Reserved

Article 9
General Provisions

15 AAC 20.900. Definitions

(a) In AS 43.20 and this chapter,

(1) "combined method of reporting" means an accounting method used to determine the income attributable to activities in the state of a taxpayer that is a member of a group of corporations conducting a unitary business; the use of this method requires that information relating to the worldwide unitary income and the denominators of the apportionment factors of all related nexus and non-nexus entities that are members of the unitary group be reported as part of the taxpayer's return; this method is sometimes referred to as the "combined method of accounting;"

(2) "department" means the Department of Revenue;

(3) "does business in" is a nexus standard and includes owning or operating business facilities or property, conducting business activities, being a member of a partnership that transacts business, or any other activity from which income is realized or derived;

(4) "domestic corporation" has the meaning given to it by Internal Revenue Code section 7701(a) (26 U.S.C. 7701(a));

(5) "federal taxable income" is income subject to apportionment under 15 AAC 20.300;

(6) "financial statement" means a statement of income, expenses, assets, liabilities, and stockholders' equity, certified by an independent certified public accountant (or as appropriate, the foreign counterpart of a certified public accountant, such as a chartered accountant), and prepared for the purposes of reporting that year's earnings and profits to the stockholders;

(7) "state" means any state of the United States, the District of Columbia, and Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof;

(8) "taxpayer" means a corporation subject to AS 43.20;

(9) "United States" means the fifty states, the District of Columbia, the Commonwealth of Puerto Rico, and possessions of the United States.

(b) In AS 43.20.145 and 15 AAC 20.330 - 15 AAC 20.390,

(1) "does not conduct significant economic activity" means the corporation's business is substantially limited to transactions that permit favorable tax treatment because of the corporation's presence in the country and that would not otherwise be available to other members of the water's edge combined group;

(2) "income tax at a rate" means the maximum statutory rate of taxes based on or measured by net income or profit actually imposed on the corporation, and includes only taxes levied at the federal or national level;

(3) "payments for intangible property" includes royalties, license fees, and interest, but does not include reimbursed costs such as management fees, accounting fees, service charges, and reimbursed payroll costs;

(4) "tax haven corporation" means a corporation identified in AS 43.20.145(a)(5);

(5) "United States income tax rate on the income tax base of the corporation in the United States" means the maximum federal statutory rate applicable to the taxable income of the corporation before any applicable credits or any other reductions in the tax; if the corporation does not have taxable income in the United States, the rate is the rate that would be applied to income of the corporation if it earned income in the United States.

(c) For purposes of AS 43.20.043, 43.20.144, and 15 AAC 20.410 - 15 AAC 20.530,

(1) "commercial production" means the production of oil or gas for purposes of sale or other beneficial use not associated with the exploration and development of the field in which the lease or property lies, except when the sale or beneficial use is incidental to the testing of an unproved well or unproved completion interval;

(2) "economic interest" has the meaning given to it by 26 C.F.R. 1.611-1(b) on April 14, 1982 and does not include, for example, an interest represented by a supply or service agreement with persons or foreign governments relating to a lease or property if that agreement represents only the right to operate the lease or property or the right to purchase oil or gas from that property;

(3) "lease or property" means any economic interest (as defined in (2) of this subsection) in any right, title, or interest in or right to extract oil or gas including

(A) a mineral interest;

(B) a leasehold interest;

(C) a working interest, royalty interest, overriding royalty interest, production payment, net profit interest, carried interest or any other interest in a lease, sublease, concession, joint venture, sharing arrangement, or other agreement for oil and gas exploration, development, or production;

(D) a working interest, royalty interest, overriding royalty interest, production payment, net profit interest, carried interest or any other interest in an agreement for unitization or pooling under the provisions of Internal Revenue Code section 614(b)(3) (26 U.S.C. 614(b)(3)) as that section read on April 14, 1982;

(4) "oil and gas" means either oil or gas or both, as appropriate;

(5) "production interest" means a royalty interest or a working interest;

(6) "royalty interest" means a basic royalty, overriding royalty, production payment (excluding loan repayment), net profit interest, or carried interest, in the production of oil and gas;

(7) "working interest" means any interest (including fee title) in the production of oil and gas that is not a royalty interest.

15 AAC 20.905. Definitions

Repealed.

15 AAC 20.910. Definitions for 15 AAC 20.410 - 15 AAC 20.590

Repealed.

15 AAC 20.920. Definitions for 15 AAC 20.600 - 15 AAC 20.680

For purposes of 15 AAC 20.600 - 15 AAC 20.680

(1) "commercial domicile" means the principal place from which a trade or business is directed or managed;

(2) "financial organization" means an organization engaged in monetary, lending, or investment activities, and includes banks, savings and loan associations, credit unions, and trust, safe deposit, small loan, sales finance, investment, credit card, and real estate mortgage companies;

(3) "loan" means an extension of credit by financial organization to another person or entity and includes real estate mortgages, collateralized debts, leases that are essentially financing arrangements, personal notes, and credit card borrowings;

(4) "receipts" means gross income derived from the taxpayer's business transactions and activities, but does not include

(A) money received for custody;

(B) principal repayments or amounts received for the purchase of principal;

(C) gross proceeds or net proceeds from the sales of assets; and

(D) gross receipts from tax-exempt income;
(5) "securities" means marketable ownership and creditor interests, including certificates of stock, stock warrants, bonds, government obligations, and any other instrument or interest likely to be accepted for trading on the securities market.