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Jonathan E. Iversen is the managing partner of Stoel Rives LLP's office in Anchorage, Alaska. He provides tax planning and tax structuring advice and represents clients in tax audits and appeals. His practice emphasizes Alaska state and local taxation. Previously, Iversen served as director of the Alaska Department of Revenue's Tax Division.

In this installment of Alaska Tax: The Last Frontier, Iversen reviews tax legislation approved by the Alaska State Legislature in 2024 and forecasts what tax issues might be on lawmakers' plates in the current session.



Although we don't get an abundance of sunshine at this time of year, Alaskans push themselves to get outside to skate, ski, or just take a walk to get a breath of fresh air, and the holiday lights are definitely uplifting.

For those of us focused on state revenues — more specifically, taxes and royalties — the annual Alaska merry-go-round has started spinning again. The 34th Alaska State Legislature convened its regular legislative session in mid-January, and because it's a new Legislature, bills that did not pass in the last session are not carried over. However, many of the same legislators have been reelected, and the same political agendas will reemerge — including taxes, which will likely be front and center, particularly on the oil and gas industry.

The Department of Revenue published its Fall 2024 Revenue Sources Book with the revenue forecast.[1] Gov. Mike Dunleavy (R) has issued his proposed fiscal 2026 budget — a starting point for the debates that will occupy the Legislature and the Dunleavy administration for several months.[2] This always feels like a lot of information to absorb, even for us veterans of the debate.

## The Revenue Forecast

Oil is one of Alaska's main revenue sources, and oil and gas production taxes, royalties, and corporate income taxes are all sensitive to prices and production volumes. The oil and gas production tax is levied on oil and gas produced in the state, with a base rate of 35 percent of the net proceeds of production.[3] The corporate income tax is a net income tax of up to 9.4 percent on corporations. For an oil and gas corporation, Alaska taxable income is determined by apportioning its worldwide income to Alaska relative to the rest of the world based on tariffs and sales, oil and gas production, and oil and gas property.[4]

There is also the oil and gas property tax, an ad valorem tax of 20 mills (2 percent) levied on the assessed value of oil and gas exploration, production, and pipeline transportation properties in the state. Municipalities and boroughs receive proceeds based on their mill rates, with the remainder allocated to the state.[5]

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[1] Alaska Department of Revenue — Tax Division, "Fall 2024 Revenue Sources Book" (Dec. 12, 2024) (including letter from Revenue Commissioner Adam Crum to the governor).

[2] Office of Gov. Mike Dunleavy, "FY 2026 Budget at a Glance" (last visited Jan. 3, 2025).

[3] Alaska Stat. section 43.55.011 et seq.

[4] Alaska Stat. section 43.20.011 et seq.

[5] Alaska Stat. section 43.56.010 et seq.

In its fall forecast, the DOR predicted that prices will be $73.86 per barrel for fiscal 2025 and $70 per barrel for fiscal 2026, leveling out at $73 per barrel until 2035, based on futures market prices through 2032.[6] Alaska North Slope oil production averaged 461,000 barrels per day in fiscal 2024. The DOR forecasts that this will increase to 466,600 barrels per day in fiscal 2025 and 469,500 barrels per day in fiscal 2026, then reach 656,900 barrels per day by fiscal 2034.[7] Compared with the Spring 2024 Revenue Forecast, this is a decrease in both oil prices and production, resulting in projected general fund revenues (the funds used for government operations) falling by $220 million for fiscal 2025 and by $232 million for fiscal 2026.

Any discussion of Alaska's revenue must include its permanent fund, and it is helpful to understand its genesis and ties to the state's oil wealth. Discussions about the fund were sparked by concerns in the late 1960s and early 1970s that North Slope oil production revenue would be consumed by government spending rather than preserved for Alaskans, but directing these funds to a dedicated account not readily accessible by the Legislature would violate the state constitution.[8] This led voters to approve a constitutional amendment in 1976 to establish the permanent fund:

> At least twenty-five percent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State shall be placed in a permanent fund, the principal of which shall be used only for those income-producing investments specifically designated by law as eligible for permanent fund investments. All income from the permanent fund shall be deposited in the general fund unless otherwise provided by law.[9]

Accordingly, a portion of mineral revenues must be deposited in the permanent fund, and the corpus of the fund cannot be spent by the Legislature without voter approval.[10] The DOR's forecast states that the permanent fund will transfer $3.7 billion to the general fund for fiscal 2025 and $3.8 billion for fiscal 2026, which includes money for government spending as well as the permanent fund dividends distributed to Alaska residents.[11] Dunleavy's proposed budget includes a permanent fund dividend that is estimated to be over $3,800 per eligible Alaskan — creating a deficit of more than $1.5 billion proposed to be covered by the constitutional budget reserve, a state savings account.[12]

### Debates in Juneau

Reflecting on the past seems to be a good way to prepare for the future. With that in mind, a recap of tax legislation that did and did not pass the Legislature last year is helpful.

Several pieces of legislation that at least touched on taxes were approved in the 2024 session.

H.B. 50 established a carbon capture, utilization, and storage (CCUS) leasing and regulatory program for the state. The bill created a framework for the Department of Natural Resources and the Alaska Oil and Gas Conservation Commission (AOGCC) to permit and regulate carbon storage facilities on state lands. The law also allows the AOGCC to establish criteria to determine the carbon storage capacity of storage reservoirs. These criteria will be used to calculate the amount of stored carbon dioxide, including for carbon credits. The Department of Natural Resources has issued regulations to implement the program for the carbon offset project at Alaska Admin. Code tit. 11, section 78, and the AOGCC has solicited comments on its intention to pursue primacy over Class VI wells and revisions to its regulations regarding CCUS.[13]

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[6] Alaska DOR, *supra* note 1.

[7] *Id.*

[8] Alaska Const. Art. IX, section 7 (prohibiting the dedication of proceeds of any state tax or license to any special purpose).

[9] Alaska Const. Art. IX, section 15.

[10] *Id.*

[11] Alaska DOR, *supra* note 1.

[12] Office of Gov. Dunleavy, *supra* note 2; Eric Stone, "Dunleavy Introduces First-Draft Budget With $1.5 Billion Deficit and More Than $3,800 PFD," Alaska Public Media, Dec. 12, 2024.

[13] *See* Alaska Oil and Gas Conservation Commission, AOGCC Carbon Capture Class VI Program (last visited Jan. 3, 2025).

The calculation of the Alaska corporate income tax is based on federal taxable income with Alaska adjustments.[14] For federal taxes, IRC section 45Q allows tax credits for CCUS to be applied against federal tax liability. H.B. 50 specifically precludes taxpayers from applying section 45Q tax credits against Alaska corporate income taxes.

S.B. 179 prohibits the state and municipalities (cities and boroughs) from imposing transfer taxes, fees, or other assessments on sales or other transfers of real property. The new law also added a number of procedural and substantive requirements regarding municipal property taxes, including mandates for local assessors and boards of equalization.

There were also changes to the education tax credits that can be applied against the corporate income tax, the oil and gas production tax, the mining license tax, fisheries taxes, and the property tax on oil and gas exploration, production, and pipeline transportation properties. S.B. 189 expanded the credits to accommodate expenditures for child care facilities for children of employees, payments to employees to offset child care costs, and contributions of cash or equipment to nonprofit child care facilities for children of employees. H.B. 147 expanded the credit for costs for operation of nonprofit educational resource centers for grades 9-12.

H.B. 307 exempts recently constructed electricity generation facilities or electricity storage facilities from state and local ad valorem, income, and excise taxes if the facilities are operated by one or more public utility entity that provides power only to a public utility.[15]

S.B. 127 established a vehicle rental tax of 8 percent on charges for the lease or rental of a passenger vehicle through a vehicle rental platform, defined as "an application, website, offline booking service, or other system, whether online or offline, offered or used by a vehicle rental platform company that enables the prearrangement of motor vehicle rentals with motor vehicle owners that are not related by common ownership or control with the vehicle rental platform."

Though the failed tax bills of the 2024 session will not carry over, some of their underlying policies are likely to be debated again this year. Some of these measures are worth noting:

- S.B. 114 would have imposed a new income tax on a qualified entity of 9.4 percent on qualified taxable income over $4 million per year. The bill defined qualified entity as a partnership, sole proprietorship, or S corporation, and qualified taxable income as income from oil and gas production or transportation in Alaska. It would have also increased the oil and gas production tax by reducing production tax credits available under Alaska Stat. section 43.55.024(i) and Alaska Stat. section 43.55.024(j).
- S.B. 122 would have changed the corporate income tax by: (1) amending the Multistate Tax Compact to adopt market-based sourcing to calculate the portion of a taxpayer's sales subject to Alaska's corporate income tax for purposes of factor apportionment; and (2) apportioning income from highly digitalized businesses based on the sales factor alone, rather than using the standard three-factor apportionment. Like S.B. 114, it also would have imposed an income tax on an oil and gas entity — an entity engaged in oil or gas production or pipeline transportation — including partnerships, sole proprietorships, and S corporations.
- H.B. 70 would have added an exemption from general property taxation for some properties owned or operated by Alaska 501(c) corporations, including parking lots and stores with charitable goals.
- H.B. 84/S.B. 77 would have allowed municipalities to fully exempt economic development properties from property taxes and would have allowed a tax on heavily deteriorated properties.

[14] *See* Alaska DOR — Tax Division, "Corporate Income Tax" (last visited Jan. 3, 2025).

[15] The tax provision of the new law is at Alaska Stat. section 43.98.100.

- The corporate income tax has nine tax brackets and a maximum tax rate of 9.4 percent on taxable income over $222,000.[16] H.B. 109 would have removed eight of the nine tax brackets to leave a single tax rate, such that corporations with taxable income over $25,000 would have been taxed at a flat 2 percent rate.
- H.B. 142 would have imposed a 2 percent tax on all sales of goods and services in Alaska.
- H.B. 144 would have repealed the sunset of the education tax credit.
- H.B. 156 would have imposed a tax on the income of resident individuals, trusts, and estates, as well as the income of nonresident individuals, trusts, and estates derived from or connected with a source in the state. The tax would have been 2 percent of an individual's taxable income over $200,000.
- H.B. 176/S.B. 89 would have established a 25 percent sales tax on electronic smoking products.
- H.B. 185 would have levied an income tax on individuals in the amount of their annual permanent fund dividend.
- S.B. 132 would have imposed an annual employment head tax of $30 on residents, nonresidents, and part-year residents with income from sources in Alaska.

### On the Horizon

The next installment of this column will include an update on legislative activity surrounding Alaska's fiscal regime and any tax and royalty measures and, depending on how much traction any legislation gets, may include a deep dive on a bill of interest. With a new Legislature, the first month or so of the session will focus on agency sessions to educate unseasoned legislators, but as usual, the first half of the year is likely to be intense for Alaska taxpayers. ■

[16] Alaska Stat. section 43.20.011(e).