

## ESTATE TAX

AS 43.31

### DESCRIPTION

Historically, Alaska levied an estate tax on the transfer of an estate upon death. However, in 2001, the federal Economic Growth and Tax Relief Reconciliation Act was enacted. As a consequence of the federal act, the state tax credit was phased out gradually over a four-year period. The state tax credit no longer applies to estates of decedents whose date of death is January 1, 2005 or

later. However, the Division may continue to collect tax from estates greater than the \$1.5 million exemption where the date of death was prior to January 1, 2005, as a result of returns filed, audits, or other enforcement activities.

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## FISHERIES BUSINESS TAX

AS 43.75

### DESCRIPTION

Alaska levies a fisheries business tax (also known as the “raw fish tax”) on fisheries businesses and persons who process fisheries resources in, or export unprocessed fisheries resources from Alaska. The tax is based on the price paid to commercial fishermen for the raw resource, or fair market value when there is no arms-length transaction prior to processing or export. The Division collects fisheries business taxes from processors and persons who export unprocessed fishery resources from Alaska.

### RATE

Fisheries business tax rates are based on the location and type of processing activity and whether a fishery resource is classified as “established” or “developing” by the Alaska Department of Fish and Game. Rates are as follows:

#### PROCESSING ACTIVITY

ESTABLISHED	RATE
Floating	5%
Salmon Cannery	4.5%
Shore-based	3%
DEVELOPING	RATE
Floating	3%
Shore-based	1%

### RETURNS

Fisheries businesses file calendar year returns that are due with payment on March 31 of the following year.

After filing the calendar year return, taxpayers file returns to report post-season bonus payments made to fishermen. Returns for these payments are due with additional taxes by the last day of the month following the month of bonus payments.

### EXCLUSION

Commercial fishermen who process fish on board their vessels are excluded from the tax if they sell to a licensed processor.

### CREDITS

The following credits are available for use against the liability of this specific tax education, scholarship contributions, scholarship contributions, and salmon product development tax credits.

For specific information concerning these credits, see the Description of Credits section.

### DISPOSITION OF REVENUE

The Division deposits all revenue derived from the fisheries business tax into the General Fund. The legislature may appropriate revenue from the tax for revenue sharing described below:

#### PROCESSING ACTIVITY INSIDE MUNICIPALITY

The Division shares 50% of tax collected with the incorporated city or organized borough in which the processing took place. If an incorporated city is within an organized borough, the Division divides the 50% shareable amount equally between the incorporated city and the organized borough equally.

FY 2014 STATISTICS

**Tax Collections and License Fees**

\$51,552,226

*Including penalties, interest and credits.*

FISHERIES BUSINESS LICENSES ISSUED	ONLINE	PAPER	TOTAL
Direct Marketer	194	10	204
Shore-based	148	4	152
Catch/Processor	46	1	47
Floating	34	0	34
Cannery	24	0	24
Exporter	15	0	15
<b>Total</b>	<b>461</b>	<b>15</b>	<b>476</b>

  

Number of Returns	915
Number of Taxpayers	420

**PROCESSING ACTIVITY OUTSIDE MUNICIPALITY**

The Division shares 50% of tax collected from processing activities outside an incorporated city or an organized borough through an allocation program administered by the Department of Commerce, Community and Economic Development.

**HISTORY**

1899 - The U.S. Congress adopted a “salmon case” tax to fund fisheries-related activities in pre-territorial Alaska. The Organic Act passed in 1912 established an organized territorial government in Alaska. In 1913, the First Territorial Legislature adopted the “salmon pack” tax which applied to salmon canneries based on canned salmon (\$0.07 per case); and the “cold storage” tax which applied to other fisheries and was based on business receipts. Between 1913 and 1949, the legislature amended the tax several times by changing tax rates and expanding the tax base to include different fisheries.

1949 - The territorial legislature restructured the fisheries business tax to be based on value of the fisheries rather than volumes (case or business receipts). The new “raw fish” tax applied to salmon (4%), crab and clams (2%), and other fishery products (1%) processed in canneries.

1951 - The territorial legislature enacted a fishery business license requirement with a \$25 license fee, a tax

on floating processors at 4% of value and increased the tax rate for salmon canneries to 6%.

1962 - The legislature adopted provisions for sharing taxes (10%) and requiring calendar year returns for all businesses.

1967 - The tax rate on salmon canneries was amended to 3% and provisions were adopted requiring security for a fishery business license under certain conditions.

1979 - The legislature adopted the modern tax structure with different tax rates for established and developing species, as well as increasing the shared tax percentage to 20%.

1981 - The shared tax percentage was increased to 50%.

1986 - The legislature authorized a fisheries business tax credit of up to 50% of fisheries business taxes for capital expenditures associated with constructing and improving shore-side processing operations. The tax credit program was effective for 1987 through 1989 with a carryforward provision through 1991. Taxpayers claimed approximately \$47.5 million of credits under this program. The legislature also enacted the A.W. “Winn” Brindle scholarship credit allowing a credit of up to 5% of fisheries business taxes due.

1987 - The legislature enacted the Alaska education tax credit program allowing a tax credit on educational

contributions of up to \$100,000 against fisheries business taxes due.

**1990** - The legislature enacted provisions for a civil penalty for processing without a license. The Division may progressively assess penalties in increments of up to \$5,000 for each infraction to a maximum of \$25,000 for the fifth and subsequent assessments. The legislature also enacted a provision that authorized sharing of 50% of taxes sourced from processing activities in the unorganized borough, effective July 1992.

**1991** - The legislature restructured the Alaska education credit and increased the maximum amount to \$150,000.

**1993** - The Department of Labor surety bond program transferred to the Department of Revenue under Executive Order 85, effective July 1, 1994.

**1995** - The legislature reduced the amount of surety bonding for small processors from \$10,000 to \$2,000.

**2001** - The legislature modified the tax payment security requirements necessary to obtain a fisheries business tax license. The legislature expanded the existing requirement for a whole-salmon exporter to include any exporter of any unprocessed fisheries resource. Under the legislation, exporters of unprocessed fish can obtain a fisheries business license by posting a \$50,000 surety bond and paying their taxes monthly.

**2002** - The legislature authorized credits of up to 50% for contributions of not more than \$100,000 and 75% of the next \$100,000 in contributions made to the Alaska Veterans' Memorial Endowment Fund. The tax credit expired July 1, 2003.

**2003** - The legislature authorized a Salmon Product Development/Utilization (SPDU) Credit that allows tax credits against fisheries business taxes for expenditures promoting the value added processing of salmon products and the utilization of salmon waste in Alaska. The amount of the tax credit cannot exceed 50% of the taxpayer's fisheries business liability for processing of salmon during the tax year.

- Effective June 11, 2003, and retroactive to January 1, 2003, the SPDU legislation sunsetted on December 31, 2005. Unused credits earned may be carried forward for three years.

- The legislature authorized monthly payment of the fisheries taxes in lieu of existing forms of security or

prepayment as a prerequisite to being licensed. Fisheries businesses that elect the monthly payment option must post a \$50,000 bond or have \$100,000 equity in real property in the state. The provisions of this legislation took effect September 8, 2003.

**2004** - Legislation authorized a new Direct Marketing Fisheries Business License and tax structure set at the shore based rate of 1% of the value of developing fish species and 3% of the value of established fish species. The provisions of this legislation took effect January 1, 2005.

**2005** - Effective May 18, 2005, the legislature modified the surety and tax payment requirements for obtaining a fisheries business license. The legislature reduced the amount of surety bonding for small primary fish buyers from \$10,000 to \$2,000. The legislation also added requisites for obtaining a fisheries business license. Before being issued a license, a fisheries business must have fully paid (including penalties and interest) taxes administered by the Division, seafood marketing assessments, employment security contributions, OSHA penalties, and municipal fishery taxes.

**2006** - The legislature extended the Salmon Product Development Credit for expenditures made through December 31, 2008. The Salmon Utilization Credit was not extended.

**2008** - The legislature amended education credit provisions to include cash contributions accepted for secondary level vocational courses and programs by a school district in Alaska and by a state-operated vocational technical education and training school.

- The legislature extended the salmon product development tax credit program by three years. The legislation extended the ending date for placing specified property in service to qualify for the credit from December 31, 2008 to December 31, 2011. This legislation expanded the list of qualified property to include conveyors used for producing value-added salmon products and requires that the Department of Revenue develop and implement procedures for pre-determining if investments qualify for the salmon product development tax credit.

**2010** - The legislature amended the education credit by increasing the maximum credit allowed from \$150,000 to \$5 million effective January 1, 2011. In addition,

the legislature expanded contributions eligible for the credit to include contributions made for construction and maintenance of facilities by state operated vocational education schools and two or four-year colleges. The increase in the credit from \$150,000 to \$5 million expires December 31, 2013. The maximum credit allowed was to revert to \$150,000 on January 1, 2014. That date was extended in 2011 (see below).

- The legislature extended the salmon product development tax credit program by four years. The legislation extended the last date for placing qualified property in service from December 31, 2011 to December 31, 2015. The legislation expanded the list of qualified property to include ice making machines.

- The legislature authorized the Department to withhold or suspend a fisheries business license if a fisheries

business fails to pay the permit buyback fee imposed by the National Marine Fisheries Service under 16 U.S.C. 1861a.

**2011** - The legislature extended the date that the \$5 million annual education credit limit expires from January 1, 2014 to January 1, 2021. It is then scheduled to return to \$150,000. In addition, the legislature expanded contributions eligible for the credit to include contributions made after June 30, 2011 to annual intercollegiate sports tournaments, Alaska Native cultural or heritage programs for public school staff and students, and a facility in the state that qualifies as a coastal ecosystem learning center under the Coastal American Partnership.

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## FISHERY RESOURCE LANDING TAX

AS 43.77

### DESCRIPTION

Alaska levies a fishery resource landing tax on fishery resources processed outside of and first landed in Alaska, based on the unprocessed value of the resource. The unprocessed value is determined by multiplying a statewide average price per pound (derived from Alaska Department of Fish and Game data) by the unprocessed weight.

The Division collects the fishery resource landing tax primarily from factory trawlers and floating processors that process fishery resources outside of the state's 3-mile limit and bring their products into Alaska for transshipment.

### RATE

Tax rates are based on whether the resource is classified as "established" or "developing" by the Alaska Department of Fish and Game. Tax rates are:

### RETURNS

Taxpayers file returns and pay tax on a calendar year basis with a due date of March 31 of the following year. Taxpayers are required to make quarterly estimated tax payments that are due on the last day of each calendar quarter.

The Division grants an automatic extension to file the landing return if it does not provide statewide average prices to taxpayers at least 30 days prior to the due date. If the extension applies, the due date is the last day of the month following the month in which the Division issues statewide average prices.

### EXEMPTIONS

Unprocessed fishery resources landed in the state are exempt from the fishery resource landing tax, but may be subject to the fisheries business tax.

### CREDITS

The following are available for use against the liability of this specific tax: education, scholarship contributions, CDQ, and other taxes credits.

For specific information concerning these credits, see the Description of Credits section.

### DISPOSITION OF REVENUE

The Division deposits all revenue from the fishery resource landing tax into the General Fund. The legislature may appropriate revenue from the tax for revenue sharing as described below:

**Landings Inside Municipality** - The Division shares 50% of taxes from landings within a municipality with the respective municipalities in which landings occurred. If a municipality is within a borough, the

Division divides the 50% shareable amount between the municipality and borough.

**Landings Outside Municipality** - The Division shares 50% of the taxes from landings outside a municipality (unorganized borough) through an allocation program administered by the Alaska Department of Commerce, Community and Economic Development.

**HISTORY**

**1993** - The legislature enacted the fishery resource landing tax effective January 1994. The rate was 3.3% of the unprocessed value of the resource. The Department of Revenue adopted regulations regarding administration of the tax, effective April 1994.

**1994** - The American Factory Trawler Association (AFTA) filed litigation challenging the constitutionality of the landing tax.

**1995** - The Alaska Supreme Court rejected AFTA's request based on AFTA's failure to exhaust administrative remedies with the Department of Revenue.

**1996** - The landing tax was restructured to mirror the fisheries business tax program. The legislature revised the tax rate to 3% for established species and 1% for developing species. The 0.3% portion of the previous 3.3% tax rate was incorporated into seafood marketing assessment statutes (AS 16.51). The legislature also amended the landing tax statutes to provide for tax credits for education and A.W. "Winn" Brindle scholarship contributions. All changes were retroactive to January 1994, the inception date of the landing tax.

**1997** - AFTA dismissed its challenge to the landing tax and in June, the state issued a formal hearing decision upholding the constitutionality of the tax. Shared tax amounts from calendar year 1994 and 1995 returns, previously held in escrow, were released to municipalities.

**1999** - The American Fisheries Act (P.L. 105-277) required a fishery cooperative to execute a contract with each cooperative member that obligated the member to make a payment to the state for pollock harvested in the Alaska pollock fishery that is not landed in Alaska. AS 43.77.015 required that those payments are treated as if they were landing taxes.

**2001** - The legislature amended landing tax statutes to require quarterly payment of estimated fishery resource landing taxes, effective calendar year 2002.

**2002** - The legislature authorized credits of up to 50% for contributions of not more than \$100,000 and 75% of the next \$100,000 in contributions made to the Alaska Veterans' Memorial Endowment Fund. The tax credit expired July 1, 2003.

**2008** - The legislature amended education credit provisions to include cash contributions accepted for secondary level vocational courses and programs by a school district in Alaska and by a state-operated vocational technical education and training school.

**2010** - The legislature amended the education credit by increasing the maximum credit allowed from \$150,000 to \$5 million effective January 1, 2011. In addition, the legislature expanded contributions eligible for the credit to include contributions made for construction and maintenance of facilities by state operated vocational education schools and two or four-year colleges. The increase in the credit from \$150,000 to \$5 million expires December 31, 2013. The maximum credit allowed was to revert to \$150,000 on January 1, 2014. That date was extended in 2011 (see below).

**2011** - The legislature enacted legislation extending the date that the \$5 million annual education credit limit expires from January 1, 2014 to January 1, 2021. It is then scheduled to return to \$150,000. In addition, the legislature expanded contributions eligible for the credit to include contributions made after June 30, 2011 to annual intercollegiate sports tournaments, Alaska Native cultural or heritage programs for public school staff and students, and a facility in the state that qualifies as a coastal ecosystem learning center under the Coastal American Partnership.

**FY 2014 STATISTICS**

<b>Tax Collections</b>	<b>\$12,583,645</b>
<i>Including penalties, interest and credits.</i>	
Number of Returns	78
Number of Taxpayers	63