



# UNITED FISHERMEN OF ALASKA

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February 14, 2017

Representative Paul Seaton, Co-Chair  
Representative Neil Foster, Co-Chair  
House Finance Committee  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801

## **RE: Concerns with HB 115 – Income tax –Withholding of Crew Income**

Dear Co-Chairs Seaton and Foster, and Committee Members,

UFA does not currently have a position of support or opposition to HB 115 regarding a state income tax. However, we have serious concerns with the current bill as introduced. Many or most fishermen will have major difficulties with the provisions of HB 115 relating to withholding requirements on payments to fishing crew.

Generally, most fishing businesses operate as contractors with the crew paid as a percentage of the catch, based on a contract, and reported at the end of the year to the payee and to IRS with form 1099-Misc. Fishermen and crew are not treated as employers and employees, they are all considered self-employed, and few would be prepared to withhold an estimated state tax payment based on a percentage of federal income tax.

Our specific concerns are:

### **Section 43.22.050 Tax withholding on wages of individuals**

(a) Page 8, lines 7 to 10 - Withholding on fishing crew.

The bill would have fishermen skippers subject to requirements to withhold a portion of crew share payments “computed in a manner to approximate the amount of tax due...” This is unworkable because:

-Skippers don't have the information they would need to estimate a crew member's potential federal tax liability.

-The typical crew share for most fisheries falls below income thresholds for federal tax liability.

-Many crew members may have federal tax liability through combined income of other employment (which would be subject to withholding by that employer), through fishing on multiple vessels throughout the year, or other sources of income. This information is not available to a skipper, or if it were would only be based on the crew member's word. In the common case of crew working a summer job, even the crew member may not know their own

estimated tax liability during the summer season when the fishing income takes place, as it would be affected by potential employment in the remainder of the calendar year.


-Even in the cases of crew who work year around with the same skipper in multiple fisheries, where the payments may exceed the threshold for federal taxable income, the tax liability includes marital status and number of dependent allowances in the calculation formula.


For actual employers, number of dependents, and filing status are included in formulas that calculate FICA withholding, and the functions for withholding income taxes and Social Security and Medicare are worth the cost of the overhead expense of accounting software. The 15% of federal tax obligation can be estimated easily as a percentage of federal withholding tables for actual employers, but these do not exist for 1099 contractors, and the short term nature of many fisheries results in payment amounts that would fall below minimum income levels for federal withholding. A crew member receiving a 1099 form is considered self-employed and as such are allowed to take many expenses as deductions that reduces their federal liability and makes it impossible for a skipper to determine the amount to withhold from a crew's payment.

If a state income tax is to be implemented as part of a comprehensive fiscal package to address the current situation, the only viable treatment of commercial fishing income is through treatment **the same as other self employed business owners**. The State could require any business that provides a contractor with a 1099 form to provide a duplicate of the IRS form 1099-Misc to the state, with the responsibility for payment of the tax remaining with the individual payee.

**We recommend that HB 115 be amended to remove passages that treat fishermen and crew differently than other contractors or IRS form 1099 payees.**

Thank you for your consideration,

  
Jerry McCune  
President

  
Mark Vinsel  
Executive Administrator

#### MEMBER ORGANIZATIONS

Alaska Bering Sea Crabbers • Alaska Independent Tendermen's Association • Alaska Longline Fishermen's Association • Alaska Scallop Association  
Alaska Trollers Association • Alaska Whitefish Trawlers Association • Armstrong Keta • At-sea Processors Association • Bristol Bay Fishermen's Association  
Bristol Bay Reserve • Concerned Area "M" Fishermen • Cook Inlet Aquaculture Association • Cordova District Fishermen United  
Douglas Island Pink and Chum • Freezer Longline Coalition • Golden King Crab Coalition • Groundfish Forum • Kenai Peninsula Fishermen's Association  
Kodiak Regional Aquaculture Association • North Pacific Fisheries Association • Northern Southeast Regional Aquaculture Association  
Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owner Association  
Seafood Producers Cooperative • Southeast Alaska Herring Conservation Alliance • Southeast Alaska Fisherman's Alliance  
Southeast Alaska Regional Dive Fisheries Association • Southeast Alaska Seiners • Southern Southeast Regional Aquaculture Association  
United Cook Inlet Drift Association • United Southeast Alaska Gillnetters • Valdez Fisheries Development Association



# ALASKA TRUST COMPANY

Complete Trust & Investment Solutions™

December 31, 2015

Honorable Bill Walker  
Governor, State of Alaska  
State Capitol  
P.O. Box 110001  
Juneau, AK 99811-0001

Re: Alaska Income Tax on Trusts

Dear Governor Walker:

I am writing to you about the possible enactment of an Alaska state income tax. While we understand the need for additional revenue into the State and do not question the validity of an income tax, we would like to inform you of a potential unintended consequence this tax would have on the trust and estate planning industry of Alaska.

Since the passage of the Alaska Trust Act in 1997, Alaska has become a premier jurisdiction for trust planning and administration. Our distinctive statutes have made Alaska a top destination for trust business and have provided Alaska with increased revenue, job creation and great benefits for our residents. A small benefactor of these statutes has been Alaska Trust Company ("ATC") which helped pioneer these great laws in Alaska. ATC administers approximately 2,500 trust relationships, the majority of which are from non-Alaskan residents. Since 1996, ATC has grown to a 19 team member organization and currently generates approximately \$2 million in payroll. Additionally, assets from our clients have been deposited with Northrim Bank and are now in excess of \$55 million. This growth is only one story amongst many. It has been estimated that tens of dozens of jobs have been created in Alaska on account of its trust laws, ranging from attorneys and CPAs, to managers and assistants.

If an income tax is adopted, I respectfully urge that it be imposed on trusts only as the state of Delaware or the state of New York imposes its income tax on trusts. The trust business has long been an important industry in Delaware and New York. Both states recognized that the imposition of an income tax on non-resident trusts would effectively eliminate them from receiving any out-of-state business. To combat this adverse effect, Delaware imposes its income tax only on trusts that have a Delaware resident as a beneficiary and New York imposes its income tax only on trusts created by residents of the state and not trusts created by non-New Yorkers.

The benefits of favorable trust laws have been studied and quantified in recent industry publications. One such report was written by Harvard Law School Professor Robert Sitkoff and Northwestern Law School Professor Max Schanzenbach which pointed out that favorable trust

laws produce significant business for the states that have them. See "Jurisdictional Competition for Trust Funds: An Empirical Analysis of Perpetuities and Taxes," 115 *Yale Law Journal* 356 (2005). Here is a link to the article which says, among other things, "The official synopsis of the Delaware bill states that it 'is similar to legislation recently enacted in Alaska. It is intended to maintain Delaware's role as the most favored domestic jurisdiction for the establishment of trusts.' \*\*\* Rose Ragsdale, *Opposing Parties Join Forces To Attract Family Trust Industry to Alaska*, Alaska J. Com., Apr. 14, 1997, at 6. On passage of the Act the local media and Alaska lawyers and bankers predicted a substantial inflow of trust business. See Katharine Fraser, *With New Law, Alaska Aiming To Be Trust Capital*, Am. Banker, Apr. 21, 1997, at 1; Carrie Lehman, *Legislation Changes Alaska Tax, Trust Laws, Attracts New Investors to State*, Alaska J. Com., Aug. 18, 1997, at 6; Deanna Thomas, *Trust Bill Could Mean Boon*, Alaska Star, Mar. 20, 1997, at 1."

[http://www.law.harvard.edu/programs/olin\\_center/papers/pdf/Sitkoff\\_Schanzenbach\\_609.pdf](http://www.law.harvard.edu/programs/olin_center/papers/pdf/Sitkoff_Schanzenbach_609.pdf)

A critical factor to garner and keep trust business in a state is to avoid the imposition of a state income tax.

If Alaska attempts to impose an income tax on trusts merely because they are administered here, those trusts will leave the state and virtually no tax will be collected. It will cause individuals who work here to lose their jobs and they too will leave, meaning Alaska will not be able to impose an income tax on them. For ATC, we would have to shutter our business and relocate to another more favorable state. This would result in Alaska losing out on the income tax generated by our \$2 million in payroll and Northrim Bank would lose over \$55 million in deposits, thus reducing their profits and the profits of other Alaska financial institutions all while decreasing the capital available for loans to Alaska businesses and individuals.

The substantial revenue and business brought to Alaska by these laws over the past nearly 20 years have cost the State nothing. This industry is "green" and has generated quality, skilled jobs. It would be a shame to forfeit the efforts of Alaskans and our Legislature to adopt and continually improve our trust laws.

We and our advisers would welcome an opportunity to work with you and your staff on this important matter.

Thank you for the opportunity to express my views. We continue to work to try to improve Alaska's environment for trust business. We appreciate your support in that endeavor.

Respectfully yours,



Douglas J. Blattmachr  
Chairman and CEO

CC: Commissioner of Revenue Randall Hoffbeck