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Via e-mail: Senator.Tom.Begich@akleg.gov

The Honorable Tom Begich
Senate Minority Leader
The Alaska State Legislature
State Capitol Room 11
Juneau, AK 99801

Re: Senate Bill 11

Dear Senator Begich:

On behalf of our law firm, Shaftel Delman, LLC, we would like to support the passage of Senate Bill 11—"an Act relating to community property and to community property trusts; and providing for an effective date."

This bill is necessary in order to correct a "trap for the unwary" which exists in Alaska's Community Property Act. The primary tax purpose of the enactment of Alaska's optional community property system was to obtain the income tax benefit of a full adjustment of basis at the death of the first spouse to die. This primary purpose is firmly established by the intent of the drafter of the act and the legislative history. This purpose is accomplished by including income and appreciation in community property. This default inclusion was the intent of the drafters of the Uniform Marital Property Act upon which Alaska's community property system is based.

The Alaska Community Property Act is very popular and is used by almost all of the married couples which our firm has as estate planning clients. Many Alaska residents and nonresidents who have chosen to use Alaska's Community Property Act may well have failed to have been aware of Alaska Statute 34.77.030(h). As a result, they may not have overridden that provision in their estate planning documents. The result is that appreciation and income from the community property will not be considered community property. This will have the effect of negating the income tax benefit of an adjustment of basis at the death of the first spouse. This truly is a "trap for the unwary." This "trap" needs to be corrected so that it does not do harm to the estate planning of Alaskans and others.

We urge the Legislature's support for correcting this existing issue with Alaska's popular community property system.

Sincerely,

SHAFTEL DELMAN, LLC


David G. Shaftel