

**ALASKA STATE LEGISLATURE**  
**HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS**

February 4, 2005

8:09 a.m.

**MEMBERS PRESENT**

Representative Ralph Samuels  
Representative Paul Seaton  
Representative Peggy Wilson  
Representative Max Gruenberg  
Representative Carl Moses

**MEMBERS ABSENT**

Representative Bruce Weyhrauch, Chair  
Representative Norman Rokeberg

**COMMITTEE CALENDAR**

OVERVIEW BY DEPARTMENT OF REVENUE

- HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

TOMAS H. BOUTIN, Deputy Commissioner  
Office of the Commissioner Department of Revenue  
Juneau, Alaska

POSITION STATEMENT: Presented an overview regarding the Department of Revenue's fall forecast.

DAN DICKINSON, Director  
Department of Revenue Tax Division  
Anchorage, Alaska

POSITION STATEMENT: Answered questions and further explained the Department of Revenue oil and gas tax structure.

MARK GRABER, Income Audit Manager  
Tax Division Department of Revenue  
Anchorage, Alaska

POSITION STATEMENT: Explained the Alaska corporate income tax structure.

JOHANNA BALES, Excise Audit Manager  
Tax Division Department of Revenue  
Anchorage, Alaska  
POSITION STATEMENT: Discussed excise taxes.

BRETT FRIED, Chief Petroleum Economist  
Department of Revenue  
Anchorage, Alaska  
POSITION STATEMENT: Discussed mining taxes, timber taxes,  
tourism taxes, occupational taxes, and the business license fee.

TIM COTTONGIM, Manager Fish Group  
Tax Division Department of Revenue  
Juneau, Alaska  
POSITION STATEMENT: Discussed the fisher taxes.

CHUCK HARLAMENT, Juneau Section Chief  
Tax Division Department of Revenue  
Juneau, Alaska  
POSITION STATEMENT: Discussed the specifics of the fish tax.

#### **ACTION NARRATIVE**

**VICE CHAIR PEGGY WILSON** called the House Special Committee on Ways and Means meeting to order at [8:09:34 AM](#). Representatives Seaton and Moses were present at the call to order. Representatives Samuels and Gruenberg arrived as the meeting was in progress.

#### OVERVIEW BY DEPARTMENT OF REVENUE

VICE CHAIR WILSON announced that the only order of business would be the overview by the Department of Revenue.

[8:11:34 AM](#)

TOMAS H. BOUTIN, Deputy Commissioner, Office of the Commissioner Department of Revenue, recapped the Department of Revenue's overview meeting with the House Special Committee on Ways and Means. He reminded the committee that during the previous meetings the department discussed: the financial condition of state government, cash flow reserves and liquidity, credit ratings, the revenue forecast, ELF [economic limit factor], and oil taxes. He related that Commissioner Corbus has said that the short-term and very long-term financial condition of the

state is "good," but the period in between could be bad. In discussing solutions for the fiscal gap, Commissioner Corbus has discussed the percent of market value (POMV) and the development of natural resources. He indicated that the POMV is still a solution worthy of review.

8:13:06 AM

DAN DICKINSON, Director, Tax Division, Department of Revenue, discussed the structure of taxes. He presented a visual diagram of a pie chart entitled, "Tax Division Responsibilities for General Fund Unrestricted Revenue, FY 2004," detailing the general fund revenues totaled \$4.6 billion and the Tax Division divided the revenue amongst four categories. The largest category is the federal dollars that total \$1.9 billion, which is followed by taxes administered by the Tax Division that total \$1.2 billion. The third category, administered by the Department of Natural Resources, is the [oil and gas] royalties in the amount of \$1.1 billion, and lastly is the all-purpose "other General Fund revenue raised by the state" totaling \$400 million. Of the \$1.2 billion of taxes administered by the division about \$1 billion are oil and gas taxes. He said the focus would be on the \$200 million remaining. The tax programs administered by the division are: oil and gas taxes, excise taxes, other taxes, corporate income tax (non-oil and gas), and fisheries taxes. The other responsibilities of the Tax Division include administering charitable gaming, issuing the salmon pricing report, and revenue sources reporting, he related.

8:17:12 AM

MARK GRABER, Income Audit Manager, Tax Division Department of Revenue, discussed the Alaska corporate income tax statute/regulation AS 43.20.073/15 ACC 20. In FY 04, the Tax Division collected \$39.5 million from corporate income tax. The taxpayers subject to the corporate income tax structure are generally large multi state corporations. The basic features of the tax include water's edge, combination, and apportionment of federal taxable income. The term "apportionment" refers to the taxable income determined by formula, as opposed to separate accounting of the income and expenses within Alaska. "Combination" refers to the apportionment formula applied to the total taxable income of a combined group of corporations, not just the affiliate doing business in Alaska. "Water's edge" refers only to the income and factors of the affiliates doing business in the U.S., as opposed to the worldwide combination and apportionment that is used for the oil and gas companies.

8:20:09 AM

MR. GRABER, in response to Representative Seaton, clarified the details of water's edge. He relayed that in 1991 the Alaska State Legislature passed the Water's Edge legislation. Prior to that legislation, the Tax Division combined and processed its calculation based on the worldwide group of corporations, which means that foreign subsidiaries of the unitary group were included in the formula. He stated that under the Water's Edge legislation, foreign corporations are excluded so that only corporations that do business in the United States are included. In further response to Representative Seaton, Mr. Graber confirmed that water's edge essentially refers to anything controlled by the United States.

MR. GRABER described the basic formula the Tax Division uses for corporate income tax. The basic formula starts with U.S. federal consolidated taxable income, multiplied by the Alaska apportionment factor, which equals the Alaska taxable income. The Alaska taxable income is then multiplied by a tax rate - the corporate rates graduate up to a maximum of 9.4 percent - to arrive at the Alaska tax. The apportionment factor is an average of three factors that are considered to be the activities that produce income. The formula for the three apportionment factors adds: the Alaska property divided by the U.S. property, the Alaska payroll divided by the U.S. payroll, and the Alaska sales divided by the U.S. sales. Add the three factors and divide by three to arrive at an average factor, which is the percentage applied to the corporation's total income to attribute income to Alaska.

8:22:42 AM

MR. GRABER, in response to Representative Wilson, relayed that he was not able to answer whether the current tax structure has encouraged more companies to do business in Alaska.

8:23:11 AM

REPRESENTATIVE WILSON mentioned that Alaska has to be careful with its tax structure so as to not discourage companies from conducting business in Alaska. She asked if Alaska's current structure was similar to other states.

MR. GRABER relayed that 38 of the 50 states apportion income. He informed the committee that Alaska uses the traditional formula, which he characterized as fairly neutral.

[8:24:53 AM](#)

REPRESENTATIVE SEATON asked about the specific exclusions included in the non-oil and gas corporate tax.

[8:25:16 AM](#)

MR. GRABER explained that the Tax Division generally follows the Internal Revenue Code's guidelines, and therefore non profits and charitable organizations are tax exempt. He added that some of the larger industries are exempt by Alaska statute, such as the cruise ship industry and any company involved in air transportation or cargo transportation.

[8:26:02 AM](#)

MR. DICKINSON clarified that the cruise ship industry is not fully exempt; it is merely the foreign flag carriers that are exempt.

MR. GRABER noted that the same applies for foreign air carriers and foreign transportation companies.

[8:26:33 AM](#)

REPRESENTATIVE SEATON surmised then that a U.S. airlines carrying freight through the state on international flights would be subject to the corporate tax, while a foreign airline flying the same route would not be subject to the corporate tax.

[8:26:56 AM](#)

MR. GRABER stated that Representative Seaton was correct. The federal government has arrangements with foreign governments such that each country taxes its own transportation company.

[8:27:39 AM](#)

MR. GRABER added that S Corporations are not subject to Alaska's Corporate income tax. According to the Internal Revenue Code, S Corporations include Subchapter S corporations which are treated as partnerships and corporate income is passed through to the individual shareholders, he noted.

[8:28:16 AM](#)

REPRESENTATIVE GRUENBERG asked for a comprehensive statement about every type of fee and revenue raising measure upheld against the cruise ship industry in the country.

MR. GRABER stated that he would try to get that information.

REPRESENTATIVE GRUENBERG stated that he was interested "in those that have been upheld and ... those that have been struck down and the courts reasoning in each case."

MR. DICKINSON noted that the latter discussion on tourism taxes might answer those questions.

[8:29:34 AM](#)

MR. GRABER relayed the status report of the Tax Division: the non-oil and gas corporations are second priority to oil and gas. Since the division has limited audit resources, it focuses on known problems by using the IRS tax shelter information and single issues referred to as "slam dunk issues." He noted that the division is looking at the inclusion of tax haven corporations in [the water's edge group].

[8:31:31 AM](#)

MR. DICKINSON, in response to Representative Seaton, relayed that the administration has been asked to analyze the issue of S Corporations, but currently there are no proposals on the table.

[8:32:08 AM](#)

MR. GRABER continued by stating that the division needs to rebuild auditor ranks. He related that [the division] is considering and developing a professional contract to review the water's edge audit procedures.

[8:33:01 AM](#)

MR. DICKINSON, in response to Representative Gruenberg, agreed to provide the committee with the division's request for the Audit Division's increased funding.

[8:33:56 AM](#)

JOHANNA BALES, Audit Manager, Tax Division Department of Revenue, related that she is responsible for administering five of the excise tax types administered by the department. She turned to the motor fuel tax, which is levied on all motor fuel sold, transferred, or used within Alaska. The Division collects motor fuel taxes primarily from the wholesalers and distributors who hold "qualified dealer" licenses issued by the division. In FY 2004, the number of taxpayers for this tax type was 255. The tax rates for the motor fuel tax are: highway use is \$0.08 per gallon, marine use is \$0.05 per gallon, aviation gasoline is \$0.47 per gallon, jet fuel is \$0.032 per gallon, and off-highway use is taxed at \$0.02 per gallon. The actual revenue received for the motor fuel program in FY 04 was \$41,367,326. The division projects revenue in the amount of \$39.5 million for the next two years.

[8:36:46 AM](#)

REPRESENTATIVE GRUENBERG asked why the projected revenue [for the motor fuel tax] is decreasing for FY 05 and FY 06.

MS. BALES deferred to Mr. Fried.

[8:37:36 AM](#)

DAN DICKINSON, Director, Tax Division Department of Revenue, answered that the projections are not trending down. He explained that in FY 04 the Tax Division had larger than normal assessment. Therefore, it's are actually a level trend, he noted. In response to Representative Gruenberg, Mr. Fried specified that the assessment had to do with a single taxpayer.

[8:38:15 AM](#)

MS. BALES, in response to Representative Seaton, related that the last increase for jet fuel and aviation gasoline was in 1994, while the last increase for highway fuel was in 1970. Marine fuel was last increased in 1977.

[8:39:13 AM](#)

MS. BALES continued her discussion of excise tax types by explaining the tire fee. The effective date for the tire fee was September 26, 2003. The tire fee is assessed on all new tires sold in the state that are for use on a motor vehicle. For the sale of new tires the price is \$2.50 per tire. An additional fee for studded tires became effective July 1, 2004.

The studded tire fee is \$2.50 per new tire. Heavy studs, which weigh more than 1.1 grams, incur an additional fee of \$5.00 per tire. In addition, the \$5.00 fee applies to stud installation services.

[8:41:01 AM](#)

REPRESENTATIVE WILSON asked if the weight of studs make a difference in regard to the size of the tires.

[8:41:25 AM](#)

MS. BALES relayed that most of the aluminum studs weigh less than 1.1 grams, regardless of the tire size. However, regardless of the tire size, all of the steel studs weigh more than 1.1 grams. The intent of this law was to get Alaskans to use aluminum studs because they are road friendly and do not cause the damage that the steel studs do, she noted.

[8:42:41 AM](#)

MS. BALES continued her explanation of the tire fee. In FY 04, the number of taxpayers was 131 and the tire fee generated \$126,000. The expectation for FY 05 and FY 06 is that the tire fee will generated \$2.6 million. The reason for the additional increase is attributed to the studded tire fee, which was not in effect in FY 04.

[8:43:27 AM](#)

MS. BALES turned to the vehicle rental tax, which became effective January 1, 2004. The vehicle rental tax is assessed at the rate of 10 percent on the rental of passenger vehicles and 3 percent on rentals of recreational vehicles. If the vehicle is rented for more than 90 days, no vehicle rental tax is assessed at that time. The number of vehicle rental taxpayers is 122. In FY 2004, the actual revenue generated was \$2.7 million and the expected revenue generated going forward will be \$6.7 million per year.

[8:44:44 AM](#)

MS. BALES moved to the tobacco tax, which she characterized as one the most complex taxes the department administers. Alaska levies a tax on cigarettes imported into the state for sale or personal consumption. The tobacco products tax is levied on

other tobacco products imported into the state for sale. The division collects tobacco taxes primarily from licensed wholesalers, distributors, and retailers. The tax rates for the cigarette tax were \$0.05 per cigarette thru December 31, 2004. However, the new legislation effective January 1, 2005, through June 30, 2006, will increase the tax rate to \$0.08 per cigarette. There will be an increase of \$0.09 per cigarette from July 1, 2006, through June 30, 2007. An additional increase of \$0.10 per cigarette will occur July 1, 2007. In addition to the aforementioned tax increases, Senate Bill 1001 of the twenty-third legislature imposes an additional tax of \$0.25 per pack on cigarettes that are manufactured by non-participating tobacco manufacturers, which are the manufacturers that didn't sign the Tobacco Masters Settlement Agreement. Beginning July 1, 2007, after the full graduated tax becomes effective, the tax for non-participating manufacturer products will be \$2.25 per pack.

[8:47:31 AM](#)

REPRESENTATIVE WILSON asked a question regarding the non-participating manufacturers. She asked which of the non-participating manufacturers did not sign the Tobacco Masters Settlement Agreement.

MS. BALES answered that of the thousands of cigarette manufacturers, the majority of those companies did not sign the agreement. Some of the large companies who signed the agreement were Phillip Morris, RJ Reynolds, Lorillard Tobacco, Liggett, and Brown and Williamson.

[8:49:06 AM](#)

REPRESENTATIVE WILSON asked if there was a significant amount of non-participating manufacturing cigarette products in the state.

MS. BALES relayed that across the world there a "quite a few" non-participating manufacturers and several of those do sell cigarettes in the country. However, in Alaska the non-participating manufacturer product makes up less than .4 percent of the total cigarettes consumed in Alaska.

[8:49:43 AM](#)

REPRESENTATIVE GRUENBERG asked about how the division was able to collect taxes from the tobacco products sold over the Internet.

8:50:02 AM

MS. BALES stated that the Internet sales can be difficult. However, a federal law called the Jenkins Act "requires that anyone who sells cigarettes in interstate commerce, is required to notify the tax administrator in the state where the cigarettes were sold." The Jenkins Act allows the division to collect the tax from the individual who imported the product in the state. Despite the federal law not many companies voluntarily comply with the law. However, over the past few years stronger enforcement by the federal government has occurred. The National Association of Attorneys General is currently trying to get credit card companies to provide information about tobacco sales purchased with credit cards.

8:51:56 AM

MS. BALES returned to her overview, and relayed that the actual revenue in FY 2004 for cigarette and tobacco products tax was \$48.8 million. The expected revenue for FY 2005 is \$51.8 million and in FY 2006 \$64 million.

8:52:36 AM

MS. BALES continued explaining the alcoholic beverage tax. Alaska levies a tax on the first sale of alcoholic beverages made in Alaska. The division collects alcoholic beverage taxes primarily from the wholesalers and distributors. The tax rate on alcoholic beverages is as follows: liquor, alcohol with an alcoholic content greater than 21 percent by volume, has a tax rate of \$12.80 per gallon; wine and other beverages with an alcoholic content of 21 percent or less by volume have a tax rate of \$2.50 per gallon; malt beverages such as beer and hard cider have a tax rate of \$1.07; and small breweries have a tax rate of \$0.35 per gallon. The division piggybacked the federal law to decide what qualifies as a small brewery. She explained that under the federal law, a small brewery is defined as a company that produces no more than 2 million barrels of beer per year, which is the equivalent of 62 million gallons of beer. The first 60,000 barrels, which is the equivalent of 1.8 million gallons, of the product that the company sells qualifies for the reduced rate of tax.

8:54:26 AM

MS. BALES, in response to Representative Wilson, stated that no small breweries exceed the aforementioned amount of production.

MS. BALES continued by stating that the revenue generated in FY 04 was \$32.7 million. The projected revenues are \$31.8 million going forward, she related.

[8:54:55 AM](#)

MS. BALES, in response to Representative Seaton, stated that the tax per serving is \$0.10 cents per drink. The [division] defines "drink" as follows: wine is 5 ounces per drink, beer is 12 ounces per drink, and liquor is 1 ounce per drink.

[8:55:35 AM](#)

MR. FRIED, in response to Representative Gruenberg, related that the reason for the declining projected revenue is because the division added an additional 15 days of accrual, which accounts for the difference between FY 04 and FY 05. The change in the accounting accrual was to accommodate the quarterly taxes.

[8:56:23 AM](#)

MS. BALES, in response to Representative Samuels, relayed that the division is unable to provide small brewery examples due to confidentiality reasons.

[8:56:43 AM](#)

MS. BALES, in response to Representative Seaton, stated that there are no large breweries in Alaska. During the prior tax increase, the small brewery exemption was pushed by the Alaskan Brewing Company, she noted.

[8:57:16 AM](#)

REPRESENTATIVE SEATON asked whether any of the excise taxes are exclusive, or could they be applied at the local level.

MS. BALES related that the state statute regarding alcoholic beverages details that the local level can only levy a property tax on alcoholic beverage inventories and a sales tax. However, the sales can only be levied if the localities levy a sales tax on some other commodity. For example, if a municipality had a vehicle rental tax or a bed tax it could then have a sales tax on alcoholic beverages, she noted. Municipalities are

prohibited from levying their own excise tax on alcoholic beverages although she was unaware of any prohibition on any other [excise] tax types.

[8:58:41 AM](#)

MR. DICKINSON related his belief that Fairbanks, Anchorage, and Yakutat, have a vehicle rental tax. Fairbanks and Anchorage have tobacco taxes, but he is unaware of any other municipalities that have a tire fee or motor fuel taxes.

[8:59:06 AM](#)

REPRESENTATIVE SEATON asked, "Motor fuel is not a state category as well, individual communities can also have a motor fuel tax?"

[8:59:23 AM](#)

MR. DICKINSON related that, "I do not believe that it is specifically excluded, and in fact, if the community has a general sales tax, typically that would be included."

MS. BALES agreed with Mr. Dickinson, and related that she isn't aware of anything that prohibits municipalities from assessing a motor fuel tax.

[8:59:57 AM](#)

REPRESENTATIVE GRUENBERG asked if any jurisdiction exercised an excise tax on Internet sales.

MS. BALES related that there is an excise tax on Internet sales, in that the tax is levied against the person who imports the product. In further response to Representative Gruenberg, Mr. Bales explain that the first person who imports cigarettes, regardless of the importation method, is responsible for the cigarette tax. In contrast, the Alaska law the alcoholic beverage tax details that the tax is only levied on alcoholic beverages sold within the state. Hence, the importation of alcohol for personal consumption means an individual would not pay the alcoholic beverage excise tax, she related.

[9:02:03 AM](#)

REPRESENTATIVE GRUENBERG related his understanding that municipal taxation does not reach sales over the Internet. Therefore, the products purchased on the Internet, regardless of

the municipality's sales tax, are imported into the state tax free, he concluded.

[9:02:47 AM](#)

MS. BALES relayed that the aforementioned depends upon the tax structure. If the municipal code or state law included a "use tax" as a sales tax, then the individual would be required to pay the use tax on the imported product.

MR. DICKINSON noted that Juneau has a use tax. Many communities with sales taxes don't have associated use tax provisions.

[9:03:53 AM](#)

MS. BALES, in response to Representative Gruenberg, confirmed in order to get at [Internet sales] a use tax could be employed.

[9:04:22 AM](#)

TIM COTTONGIM, Manager, Fish Group, Department of Revenue, informed the committee that he is responsible for five fish taxes. In FY 04, the fisheries business tax collected \$29.24 million, of which \$14.39 million was shared with local municipalities, and \$14.84 million was retained by the state. There were 525 taxpayers. This tax is imposed upon processors and exporters of unprocessed fish. The tax is based upon the raw value of the product. There are three tax rates imposed: the highest rate five percent is on floating processors, the next [highest] is for salmon canaries at a rate of 4.5 percent, and lastly the shore-based processors are taxed at a rate of three percent. The tax rates imposed are assuming the product is an established species, he noted. The companies processing and exploring "developing" species are allotted a two percent discount.

[9:06:03 AM](#)

MR. COTTONGIM, in response to Representative Seaton, stated that "developing" species is a designation made by the Alaska Department of Fish and Game (ADF&G) on a yearly basis. The developing species may be a species that is under-fished, so there needs to be further incentive to encourage fishing. The term can also be used to describe a fishery that is not developing except for in a centralized location.

MR. COTTONGIM, in response to Representative Seaton, stated that all the information regarding the types of fish on the developing species list are submitted by the ADF&G, and is available on the Internet website, on the tax return form.

[9:07:13 AM](#)

MR. COTTONGIM, in response to Representative Wilson, stated that some aquatic fisheries are considered new and developing while others are taxed.

[9:07:39 AM](#)

REPRESENTATIVE SEATON clarified that the fisheries business tax is a wild resource tax so farmed fish do not fall under this tax.

MR. COTTONGIM agreed. However, he explained that the tax is an occupation tax so it applies to the occupation of processing or exporting. Therefore, whether the product is farmed or brought in from Canada, if the product is first processed in Alaska, then it is subject to the tax.

[9:08:38 AM](#)

MR. COTTONGIM continued with the next largest tax type, the resource landing tax, AS 43.77. In FY 04, the division collected \$6.86 million, of which \$4.36 million was shared with the local municipalities, and \$2.50 million was retained by the state. The number of taxpayers was 42. This tax is imposed on at-sea processors that are processing outside the three-mile limit and land their fish in the state. The tax is based on the "statewide average price," which is a list from the commercial ADF&G operators' annual report established. Each of the taxpayers are required to pay quarterly estimated tax each year. The tax rate for landing is three percent. However, for "developing" species, it is discounted by two percent.

[9:09:45 AM](#)

MR. COTTONGIM, in response to Representative Seaton, stated that farm products exported from the state unprocessed are subject to the fisheries business tax. The amount shared with local municipalities is shown on table 2 on page 14 of the Tax Division's Annual Report. He noted that the division also publishes the shared taxes report, which reports the specific breakdown of the sharing for the business fisheries tax.

[9:11:21 AM](#)

MR. COTTONGIM continued the presentation by explaining the seafood marketing assessment tax, which "comes from both the fisheries business and the resource landing tax return." He highlighted that there must be a value of \$50,000 or greater before it kicks in. For fisheries business taxpayers, the seafood marketing assessment tax is imposed on all their fish processed in the state and those exported unprocessed. For landing taxpayers, this tax [is imposed] on any fish first landed in the state and processed at sea. Proceeds from this tax help to fund the Alaska Seafood Marketing Institute (ASMI). The tax rate for all processors is 0.5 percent. The aforementioned rate took effect January 1, 2005.

[9:12:44 AM](#)

MR. COTTONGIM, in response to Representative Seaton, confirmed that the seafood marketing assessment tax is levied from mariculture farm product that is exported.

MR. COTTONGIM continued by describing the salmon enhancement tax, which collected \$3.3 million. The number of taxpayers was 195. The tax is paid by fisherman on salmon sold in or exported from established aquaculture regions. Proceeds from this tax are appropriated back to the applicable regional aquaculture association, which helps to subsidize the hatcheries in the regions.

[9:13:46 AM](#)

MR. COTTONGIM moved on to explain the dive fishery management assessment tax. The Southeast Dive Fishery Development Association has established a region where they self-impose this tax, because it's appropriated back to the region to subsidize the association. The tax is paid by three dive fisheries on geoducks, sea cucumbers, and sea urchins. The 7 percent tax rate on the geoduck took effect October 1, 2004, and the previous rate was 5 percent.

[9:15:03 AM](#)

MR. COTTONGIM, in response to Representative Gruenberg, answered that plant sea life is not taxed. In further response to Representative Gruenberg, Mr. Cottingim said he didn't know that

such an industry [specifically seaweed harvesting] exists in the state.

MR. COTTONGIM, in response to Representative Samuels, related that herring roe is subject to tax.

[9:15:37 AM](#)

REPRESENTATIVE SEATON inquired as to whether the salmon enhancement tax is taken where the fish was caught or sold.

[9:16:05 AM](#)

MR. COTTONGIM explained that if the product is caught and sold in established aquaculture regions, then the tax return allows [the fisher] to report both where the fish is caught as well as where it is sold. Unless, there is a huge discrepancy, the division usually applies the tax to where the product is sold. However, if there is a huge discrepancy the legislature has the authority, in the appropriation, to compare those figures prepared by the Department of Administration and share the revenue with the place where it was caught rather than where it was sold.

[9:17:19 AM](#)

MR. COTTONGIM added:

Assuming that we [the Tax Division] are given a heads up on the elections ... we're usually working close with the organization to understand how they're going to self-impose the tax, because we need to obviously design our tax returns and have them ready and available as soon as they're [the state] ready to begin to collect the tax.

MR. COTTONGIM said that when elections occur the division works with the ADF&G and others to verify recordings, mapping, and other issues.

[9:18:50 AM](#)

MR. COTTONGIM, in response to Representative Wilson, related that the division's "good relationship" with ADF&G and its willingness to share basic fish ticket information helps with enforcement. Another tool of compliance is comparing the salmon fisheries business tax returns to those of the salmon

enhancement tax returns. The fish tickets are a tool. Lastly, compliance from the industry helps ensure that the proper taxes are collected.

9:19:49 AM

REPRESENTATIVE SEATON asked how the taxes on salmon caught in Southeast Alaska and exported to Prince Rupert for processing would be apportioned.

MR. COTTONGIM responded that salmon caught and exported from Southeast would be subject to the salmon enhancement tax. If the product is unprocessed, then the exporter is responsible for the tax and the same principle would apply to the fisheries business tax. Due to the exportation of the salmon, it would not be subject to tax within an organized borough. Thus, the fisheries business tax is apportioned amongst communities in the pool based upon the formula used.

9:21:09 AM

REPRESENTATIVE SEATON posed a situation in which the fish was caught in a borough and exported unprocessed, and asked what would occur with [the taxation].

MR. COTTONGIM relayed that the division focuses on where the product is taxable. In a situation in which the product was landed in a community and [exported] for processing, the product is subject to tax when it crosses the border. That is where the division looks to share the proceeds, he noted.

9:22:04 AM

REPRESENTATIVE SEATON asked, "So the fish that are caught in Ketchikan go in through their port, transship, whatever and leave on a tender down, and that tax comes in and goes to Department of Commerce, which doesn't share that necessarily back to ... that ... community because it went through a border crossing, so it goes broadly across the state?"

MR. COTTONGIM, in response to Representative Seaton, noted that the sharing information [in regards to border crossing] is voluntarily provided. Most of the companies filing a fisheries business tax return would probably indicate the location and the division honors the provided location as the place the proceeds will be shared back.

[9:22:57 AM](#)

MR. COTTONGIM, in response to Representative Wilson, relayed that the income shared amongst the municipalities is statewide. The Department of Commerce, Community, & Economic Development (DCCED) is responsible for the allocation process.

[9:23:45 AM](#)

CHUCK HARLAMENT, Juneau Section Chief, Tax Division Department of Revenue, in response to Representative Seaton, relayed that any product exported unprocessed is expected to be reported by the taxpayers on a Schedule IV and all the tax associated with that fish is split between the general fund and DCCED. The DCCED distributes the tax to communities across the state. The formula by DCCED is very much based upon the volume of processed product in the regions across the state. A port that's principally a weigh point for fish going out of state isn't going to see any [indisc.] revenue.

[9:25:59 AM](#)

MR. HARLAMENT, in response to Representative Seaton, said he was correct. Homer and Craig have a dive fishery that ships out live product in which the high value fishery is distributed to the ports with the highest volume of processing.

[9:26:53 AM](#)

REPRESENTATIVE SEATON stated that:

Under the department's [Department of Revenue] definition of processing the troll caught fish and the direct marketing bill, that we passed to allow more marketing of troll-caught fish, those fish then will go through the same [DCCED] ... formula, instead of through the community where the revenue activity takes place.

[9:27:24 AM](#)

MR. HARLAMENT related that:

A typical troll-caught fish, just princess dressed, isn't frozen, headed, or filleted is not considered processed under the Department of Revenue rules. And yeah, the exact same thing would happen if it got

shipped out fresh princess dressed. The tax associated with that fish wouldn't be attributed to the community for which it got shipped [indisc.].

[9:27:56 AM](#)

REPRESENTATIVE SEATON commented that an issue of interest for the committee should be getting the shared revenue back to the communities that generate the revenue.

[9:28:14 AM](#)

MR. DICKINSON pointed out that for each tax type there is a relatively small number of taxpayers.

[9:34:02 AM](#)

BRETT FRIED discussed the mining license tax. Due to technical difficulties a few seconds of testimony was lost, and the following was reconstructed from the Tax Division FY 2004 Annual Report on page 38:

The mining license tax is levied on mining net income and royalties received in connection with mining properties and activities in Alaska. The division collects mining license taxes primarily from the businesses engaged in coal and hard rock mining.

Mining licensees file annual returns based on the mining business' fiscal year. Calendar year returns and payment of tax are due April 30; fiscal year returns and payment are due before the first day of the fifth month after the close of the fiscal year.

Except for sand and gravel operations, new mining operations are exempt from the mining license tax for a period of three and one half years after production begins.

MR. FRIED pointed out that the mining licensees can receive tax credit for contributions for educational purposes to accredited Alaska universities or colleges. In addition, tax credits may be received on the mineral exploration incentive, which credits eligible costs of exploration activities related to determining the existence, location, extent, or quality of a locatable material. In FY 04, the revenue from the mining license tax was

\$3.2 million and in the previous five years the average was \$1.8 million.

[9:34:49 AM](#)

MR. DICKINSON, in response to Representative Wilson, related that the increase in revenue is due to high commodity prices. For instance, from 2003 to 2004 the commodity price increased for gold by 13 percent, silver by 37 percent, and zinc by over 20 percent.

[9:35:29 AM](#)

REPRESENTATIVE SEATON pointed out that fisheries and oil is a gross extraction tax, while mining is a net tax. He noted that mining brings in a relatively small revenue in comparison averaging only \$1.5 million.

[9:36:22 AM](#)

MR. FRIED related that the mining taxes are only based on the mining properties and activities in Alaska. Thus, mining companies cannot account for income earned in other places outside of Alaska. The mining tax is not the same as the corporate income tax, he noted. In further response to Representative Seaton, Mr. Fried clarified that the mining tax is based on the net income from the mining properties and activities in Alaska. The tax is not apportioned.

[9:37:26 AM](#)

MR. FRIED, in response to Representative Wilson, related that [the taxes] for the oil and gas companies [is based on their] worldwide income and then it's apportioned to Alaska. However, he said, mining taxes are based on the income earned on the specific properties and activities in Alaska.

[9:38:04 AM](#)

REPRESENTATIVE SEATON related that the federal fisheries have a set standardized price by the federal government. Representative Seaton related that the standardized price is to ensure that the extraction industries do not sell their product to subsidiaries at a low rate, make little to no net income, and then shift the profits to another corporation. He said:

It seems like we are leaving ourselves wide-open for tax gains, when we talk about net income, and let people shift profits where they want to declare net income ... unless we're setting, like the federal government does with fisheries, they set a standardized price ... and so that is where the taxes are generated on .... Do we just take their reports and say ... this is the amount of net profit that you report, and therefore that's what you pay on.

[9:39:05 AM](#)

MR. FRIED related that there was no set price specified by the Tax Division.

[9:39:25 AM](#)

REPRESENTATIVE SEATON opined that there seems to be two disparate [tax] systems of resource extraction: one system, fisheries and oil, taxes based on the gross value while the other, mining, taxes based on the net value. He asked why the difference in the taxation. He requested that the division provide figures detailing the difference between the gross extraction and the net income value.

[9:40:04 AM](#)

MR. DICKINSON agreed to provide information on the general issue.

[9:40:26 AM](#)

MR. FRIED, in response to Representative Wilson, agreed the division would investigate if the current taxation for the mining industry is the norm across the world.

[9:41:17 AM](#)

MR. FRIED continued his presentation by relaying that Alaska has no statewide timber tax, while all other states have a property tax on timber. He specified that 38 states base their timber tax on the value of the timber, 11 states base it on the per acre amount, and 18 states have severance taxes on timber. Of those with a severance tax, eight tax on the amount of harvested timber, and ten tax on the value of harvest. In 2003, the export value of timber was \$141 million, which increased to \$120 million in 2002.

9:42:05 AM

REPRESENTATIVE GRUENBERG requested the timber statistics in writing.

9:42:37 AM

MR. FRIED, in response to Representative Wilson, stated that the timber industry has declined over the years and at a later date he could provide the historical data detailing the drop.

REPRESENTATIVE SEATON added that he would like the data to be in spreadsheet form in order to make comparisons between other states' tax structures.

9:43:28 AM

MR. FRIED went on to discuss tourism taxes, specifically the bed tax. Alaska does not have a statewide bed tax, however, 38 Alaska cities have a bed tax including, Anchorage, Fairbanks, and Juneau, he noted. The tax base is about \$300 million, he estimated. Currently, there are 48 states that have either a statewide bed tax or a statewide sales tax.

9:44:42 AM

MR. FRIED, in response to Representative Seaton, said that none of the revenue source books include the statewide bed tax because the books only include taxes that Alaska has.

MR. DICKINSON noted that there is a statistical report, which the division will provide at a later date.

9:45:14 AM

REPRESENTATIVE GRUENBERG added that a request submitted by one member should be transmitted to the full committee body.

9:45:43 AM

MR. FRIED continued discussing tourism taxes, and explained the cruise ship tax. Alaska, and no other state, has a statewide head tax on cruise ship passengers. However, there are six states that have port head taxes. For example, Seattle levies a \$6.00 tax to get on and off a cruise ship. In Alaska there are two communities with cruise ship passenger head taxes: Juneau

has a \$5.00 head tax and Ketchikan has a \$2.00 tax if the passenger is lightered in, and a \$4.00 tax if the cruise ship is docked. In 2004, 876,000 cruise ship passengers passed through Juneau and approximately 99.5 percent of cruise ship passengers go through Juneau. In 2005, 900,000 passengers are expected to come through Juneau. Many other countries, such as the Caribbean, have passenger head taxes, he noted.

[9:47:48 AM](#)

REPRESENTATIVE GRUENBERG asked whether the port cities only tax people who get off the vessel.

MR. FRIED related his understanding that the passengers in Seattle, getting on or off the vessel, are subject to the \$6.00 tax. In further response to Representative Gruenberg, Mr. Fried related his belief that the passenger head tax for Juneau and Ketchikan covers any person aboard the vessel.

[9:48:33 AM](#)

MR. FRIED discussed occupational taxes, specifically the recent increase in the business license fee, which increased from \$50 to \$200. He related that the fee is administered by the DCCED.

[9:49:17 AM](#)

REPRESENTATIVE WILSON asked if most of the business license fees go to the general fund.

MR. FRIED related that the business license fee is a receipts support service so those are general fund revenues available for appropriation by legislative receipt support service.

[9:49:44 AM](#)

MR. FRIED relayed that the number of business licenses issued in FY 03 was 74,600 and decreased to 70,500 in FY 04. The DCCED believes it may drop in revenue in FY 05 to \$4.9 million. In further response to Representative Wilson, Mr. Fried explained that one reason for the revenue loss is the change in statute allowing individuals to obtain a one-year license, as opposed to two-year, license. He stated another reason could be a [decreases in the number of businesses].

[9:50:57 AM](#)

REPRESENTATIVE WILSON commented that in some instances the cost of the license is more than the realized profit, which seems to discourage small businesses.

[9:51:25 AM](#)

MR. FRIED, in response to Representative Gruenberg, related that the DCCED offers an option that an individual could purchase one-year or two-year business license.

[9:51:57 AM](#)

MR. FRIED mentioned that Alaska used to have a school tax that applied to any employee over the age of 19; the tax was \$10 and was repealed in 1980. At the time, the tax raised \$2.6 million per year. Of the estimated 430,000 workers in Alaska he estimated that 16 percent are non-residents. In response to Representative Wilson, Mr. Fried said he did not know how much revenue the employee head tax would generate if it was still in place. He said that if the tax was at the \$10 rate, it would raise about \$4.3 million.

[9:54:04 AM](#)

REPRESENTATIVE SEATON asked if the administrative order for the ELF has gone into effect.

[9:54:25 AM](#)

MR. DICKINSON answered, " ... it was a notice that effective this date, is when we would start considering these properties as one, those returns that will be affected by that decision won't be filed until the last days of March." He said that he was unaware of any formal appeal on that decision.

#### **ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Ways and Means meeting was adjourned at [9:55:04 AM](#).