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HOUSE CS FOR CS FOR SENATE BILL NO. 33(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/4/22

Referred: Rules

Sponsor(s): SENATORS STEVENS, Kiehl, Hoffman, Stedman, Bishop, Olson, Revak, Micciche

REPRESENTATIVES Foster, Merrick, Tarr, McCarty, Josephson, Wool, Tuck

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a fisheries product development tax credit; and providing for an
2 effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 40.25.100(a) is amended to read:

5 (a) Information in the possession of the Department of Revenue that discloses
6 the particulars of the business or affairs of a taxpayer or other person, including
7 information under AS 38.05.020(b)(11) that is subject to a confidentiality agreement
8 under AS 38.05.020(b)(12), is not a matter of public record, except as provided in
9 AS 43.05.230(i) - (m) [AS 43.05.230(i) - (l)] or for purposes of investigation and law
10 enforcement. The information shall be kept confidential except when its production is
11 required in an official investigation, administrative adjudication under AS 43.05.405 -
12 43.05.499, or court proceeding. These restrictions do not prohibit the publication of
13 statistics presented in a manner that prevents the identification of particular reports
14 and items, prohibit the publication of tax lists showing the names of taxpayers who are

1 delinquent and relevant information that may assist in the collection of delinquent
 2 taxes, or prohibit the publication of records, proceedings, and decisions under
 3 AS 43.05.405 - 43.05.499.

4 * **Sec. 2.** AS 40.25.100(a), as amended by sec. 1 of this Act, is amended to read:

5 (a) Information in the possession of the Department of Revenue that discloses
 6 the particulars of the business or affairs of a taxpayer or other person, including
 7 information under AS 38.05.020(b)(11) that is subject to a confidentiality agreement
 8 under AS 38.05.020(b)(12), is not a matter of public record, except as provided in
 9 AS 43.05.230(i) - (l) [AS 43.05.230(i) - (m)] or for purposes of investigation and law
 10 enforcement. The information shall be kept confidential except when its production is
 11 required in an official investigation, administrative adjudication under AS 43.05.405 -
 12 43.05.499, or court proceeding. These restrictions do not prohibit the publication of
 13 statistics presented in a manner that prevents the identification of particular reports
 14 and items, prohibit the publication of tax lists showing the names of taxpayers who are
 15 delinquent and relevant information that may assist in the collection of delinquent
 16 taxes, or prohibit the publication of records, proceedings, and decisions under
 17 AS 43.05.405 - 43.05.499.

18 * **Sec. 3.** AS 43.05.230 is amended by adding a new subsection to read:

19 (m) The number of recipients and the total amount of tax credits claimed for
 20 each type of eligible fish under AS 43.75.037 is public information. In this subsection,
 21 "eligible fish" has the meaning given in AS 43.75.037(k).

22 * **Sec. 4.** AS 43.75 is amended by adding a new section to read:

23 **Sec. 43.75.037. Fisheries product development tax credit.** (a) Except as
 24 provided in (f) of this section, a taxpayer that is a fisheries business may claim a
 25 product development tax credit of 50 percent of qualified investment in new property
 26 first placed into service in a shore-based plant or on a vessel in the state in the tax
 27 year.

28 (b) The amount of the tax credit applied against taxes under this section may
 29 not

30 (1) exceed 50 percent of the taxpayer's tax liability incurred under this
 31 chapter for processing of eligible fish during the tax year; or

1 (2) be claimed for property first placed into service after December 31,
2 2026.

3 (c) If the property for which a tax credit is claimed is installed on a vessel, the
4 amount of qualified investment under (a) of this section is determined by multiplying
5 the investment cost of the qualified investment property by a fraction, the numerator
6 of which is the weight of raw eligible fish processed on the vessel by the taxpayer in
7 the state in the tax year in which the property is first placed into service, and the
8 denominator of which is the weight of raw eligible fish processed on the vessel by the
9 taxpayer in and outside of the state in the tax year in which the property is first placed
10 into service. In this subsection, "eligible fish" does not include pollock, sablefish, or
11 Pacific cod.

12 (d) An unused credit under this section may be carried forward and applied
13 against the tax liability incurred on eligible fish in the following three tax years.

14 (e) Qualified investment costs on which a tax credit is claimed under this
15 section may not be considered for another tax credit in this title.

16 (f) A taxpayer may not claim the tax credit allowed under this section

17 (1) if the taxpayer is in arrears in the payment of assessments under
18 AS 16.51.120, contributions under AS 23.20, or taxes or assessments collected or
19 owed under this title; for purposes of this paragraph, a taxpayer is not in arrears if the
20 liability for the assessment, contribution, or tax is under administrative or judicial
21 appeal;

22 (2) for property that is the same type of property as property

23 (A) on which a tax credit has been claimed under this section;

24 (B) that has been removed from the state; and

25 (C) that was purchased in the previous 10 years; or

26 (3) for property installed on a vessel used primarily to process pollock,
27 sablefish, or Pacific cod.

28 (g) If, during a tax year, property for which a credit was claimed under this
29 section is disposed of by the taxpayer, ceases to be qualified investment property, or is
30 removed from service in the state, the tax due under this chapter is increased by the
31 recapture percentage of the aggregate decrease in the credit allowed under this section

1 for all prior tax years that would have resulted solely from reducing to zero the credit
2 allowed for the qualified investment property under this section. The amount of tax
3 credit attributable to the qualified investment that is carried forward from prior tax
4 years is terminated as of the first day of the tax year in which the qualified investment
5 property is disposed of by the taxpayer, ceases to be qualified investment property, or
6 is removed from service in the state. For purposes of this subsection,

7 (1) the recapture percentage during the year in which the property is
8 first placed into service or during the first year following the year in which the
9 property is first placed into service is 100 percent;

10 (2) the recapture percentage during the second year following the year
11 in which the property is first placed into service is 75 percent;

12 (3) the recapture percentage during the third year following the year in
13 which the property is first placed into service is 50 percent;

14 (4) the recapture percentage during the fourth or later year following
15 the year in which the property is first placed into service is zero percent;

16 (5) qualified investment property used on a vessel is considered to
17 have been removed from the state on the first day of a tax year in which the proportion
18 of raw eligible fish processed in the state on the vessel is less than 50 percent of total
19 weight of raw eligible fish processed on the vessel in and outside of the state.

20 (h) The amount of a tax credit recaptured under (g)(1) - (3) of this section may
21 not be included in the determination of the amount of that tax credit that is allowable
22 under this section.

23 (i) The department shall develop and implement procedures by which a
24 taxpayer that is a fisheries business may submit the taxpayer's proposed investment to
25 the department and request a preliminary determination of whether the investment
26 qualifies for the product development tax credit under this section. A preliminary
27 determination by the department that the taxpayer's submission qualifies for the credit
28 is binding, unless the department determines that the taxpayer has made a material
29 misrepresentation in the taxpayer's submission.

30 (j) To claim a credit under this section, a taxpayer shall agree that the
31 department may make public the number of recipients and the total amount of tax

1 credits claimed for each type of eligible fish. Notwithstanding any contrary provision
2 in AS 40.25.100 or AS 43.05.230, the number of recipients and the total amount of tax
3 credits claimed for each type of eligible fish is public information.

4 (k) In this section,

5 (1) "eligible fish" means, except as otherwise provided in (c) of this
6 section, salmon, herring, pollock, sablefish, or Pacific cod;

7 (2) "first placed into service" means the moment when property is first
8 used for its intended purpose;

9 (3) "new property" means property whose original use begins with the
10 taxpayer and does not include property first used by another person;

11 (4) "qualified investment" means the investment cost to purchase or
12 convert depreciable tangible personal property with a useful life of three years or more
13 to be used predominantly to perform an ice-making, processing, packaging, or
14 product-finishing function that is a significant component in producing value-added
15 eligible fish, including canned salmon products in can sizes other than 14.75 ounces or
16 7.5 ounces; in this paragraph, "property"

17 (A) includes

18 (i) equipment used to fillet, skin, portion, mince, form,
19 extrude, stuff, inject, mix, marinate, preserve, dry, smoke, brine,
20 package, freeze, scale, grind, separate meat from bone, or remove pin
21 bones;

22 (ii) new parts necessary for, or costs associated with,
23 converting a canned salmon line to produce can sizes other than 14.75
24 ounces or 7.5 ounces;

25 (iii) conveyors used specifically in the act of producing
26 a value-added eligible fish product;

27 (iv) ice-making machines;

28 (v) new canning equipment for herring products; and

29 (vi) equipment used to transform eligible fish byproduct
30 that is discarded as waste into saleable product;

31 (B) does not include

1 (i) vehicles, forklifts, conveyors not used specifically in
 2 the act of producing a value-added eligible fish product, cranes, pumps,
 3 or other equipment used to transport eligible fish, or eligible fish
 4 products, knives, gloves, tools, supplies and materials, equipment, other
 5 than ice-making machines, that is not processing, packaging, or
 6 product-finishing equipment, or other equipment, the use of which is
 7 incidental to the production, packaging, or finishing of value-added
 8 eligible fish products;

9 (ii) the overhaul, retooling, or modification of new or
 10 existing property, except for new parts necessary for, or costs
 11 associated with, converting a canned salmon line to produce can sizes
 12 other than 14.75 ounces or 7.5 ounces; or

13 (iii) property used predominantly to produce an eligible
 14 fish product that is not taxed under this chapter;

15 (5) "tax liability" means the liability for all taxes under this chapter
 16 before all credits allowed by this chapter;

17 (6) "useful life" means the useful life of the property that is or would
 18 be applicable for purposes of depreciation;

19 (7) "value-added eligible fish product" means the product of an eligible
 20 fish that is processed beyond heading, gutting, or separation in a manner that enhances
 21 the value or quality of the eligible fish product, such as shelf-stable, retort pouched,
 22 smoked, pickled, or filleted eligible fish, ikura, leather, jerky, or a saleable product
 23 made from waste byproduct of eligible fish; "value-added eligible fish" does not
 24 include an eligible fish or eligible fish product that

25 (A) has been subjected to only one or more of heading, gutting,
 26 freezing, or packaging;

27 (B) is salmon skeins or other unprocessed salmon, unprocessed
 28 eligible fish products whether fresh or frozen; or

29 (C) is produced outside of the state.

30 * **Sec. 5.** AS 43.75.130 is amended by adding a new subsection to read:

31 (h) For purposes of this section, tax revenue collected under AS 43.75.015

1 from a person entitled to a credit under AS 43.75.037 is calculated as if the person's
2 tax were collected without applying the credit. Tax revenue collected does not include
3 the amount of a tax credit recaptured under AS 43.75.037(g).

4 * **Sec. 6.** AS 43.05.230(m); AS 43.75.037, and 43.75.130(h) are repealed January 1, 2027.

5 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 **APPLICABILITY.** Notwithstanding AS 43.75.037(a), added by sec. 4 of this Act, a
8 taxpayer may only claim a tax credit under AS 43.75.037, added by sec. 4 of this Act, for new
9 property first placed into service on or after the effective date of sec. 4 of this Act.

10 * **Sec. 8.** Section 2 of this Act takes effect January 1, 2027.

11 * **Sec. 9.** Except as provided in sec. 8 of this Act, this Act takes effect immediately under
12 AS 01.10.070(c).