

HB

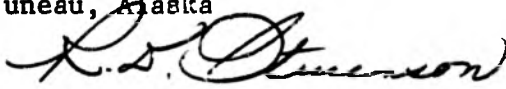
401

# MEMORANDUM

## State of Alaska

TO:  The Honorable Mike Miller, Chairman  
Local Government Committee  
Alaska State House of Representatives  
Juneau, Alaska

DATE : April 13, 1971

FROM:   
R. D. Stevenson  
Deputy Commissioner  
Department of Revenue  
Juneau, Alaska

SUBJECT: House Bill No. 401  
Business License Tax

I am transmitting eight copies of a report prepared by L. P. Carroll, Chief, Miscellaneous Tax Section, Department of Revenue, concerning the effect on Treasury as concerns House Bill No. 401, an Act relating to business license tax.

If you have any questions on the materia<sup>s</sup> submitted, kindly advise and Mr. Carroll will be available.

RDS:eh

Attachments (8)

## MEMORANDUM

## State of Alaska

TO: 

R. D. Stevenson  
Deputy Commissioner  
Department of Revenue

DATE : April 12, 1971

FROM:

L. P. Carroll, Chief *LR*  
Miscellaneous Tax Section

SUBJECT: Legislative Research  
House Bill 401

House Bill 401 accomplishes the following:

1. Repeals collection of the gross receipts tax (other than the original \$25.00 license fee) by the State in all organized cities and boroughs.
2. Permits organized boroughs, cities of any class within boroughs, or cities in the unorganized borough which are school districts to impose, by ordinance, a gross receipts tax levied at one-half of one percent on all gross receipts.
3. Permits the State to collect and retain gross receipts tax based at one-half of one percent on all gross earned within the unorganized borough and provides for assessment of 100% penalty in cases where returns are not filed or fees paid, unless it is shown that the failure is due to reasonable cause and not to wilful neglect.

Effect on Treasury:

As the effective date of the Legislation is 1/1/72, we can anticipate little or no changes in the revenues estimated for F/Y 1972. The gross receipts tax due on the 1971 gross is received in this office during the period February 28, 1972 through April 30, 1972 and added to the revenues derived from the sale of an estimated 18,000 licenses valued at \$450,000 should result in our estimate of \$6,150,000.

F/Y 1973 will be the first year reflecting impact to the Treasury and to the revenues derived by cities and boroughs.

At this time we have not prepared estimates of the business license shared revenues for F/Y 1973 based on present rates and methods of collection and distribution. For purposes of this report the following assumptions are made.

F/Y 1973 Cities	\$1,779.440	= Estimated Sharing Present Plan
F/Y 1973 Boroughs	\$1,120.560	= Estimated Sharing Present Plan
F/Y 1973 Total	\$2,900,000	

April 12, 1971

Further reference is made to the attached copy of the business license revenue estimates through F/Y 1976. The revised estimate for F/Y 1973 discloses \$6,695,000.

Accordingly, under present rates and distribution formula the following may be illustrated:

<u>Shares</u>	<u>Amounts</u>	<u>% of Total</u>
Cities	\$1,779,440	
Boroughs	1,030,000	
SubTotal	\$2,900,000	43.34
State Portion	3,795,000	56.66
Total Estimate	\$6.695,000	100.00%

We estimate that 75% of the tax in excess of the basic \$25.00 license fee is attributable to those businesses grossing in excess of \$100,000.00. Accordingly, the following is illustrated at the increased rate of 1/2% on all gross:

<u>F/Y</u>	<u>Estimated # of Licenses</u>	<u>Basic Fee \$</u>	<u>Balance \$ To Gross Tax</u>	<u>75% to Taxpayers Over 100,000</u>	<u>At New Rate</u>	<u>Total Tax Excluding Lic. Fee</u>
1973	19,000	475,000	6,220,000	4,665,000	9,330,000	10,885,000

Applying present allocation figures on the revised tax shown above which excludes the basic license fee, and adding an estimated amount for those taxpayers now grossing less than \$20,000 and paying no tax, who would be liable under the proposed legislation the following may be shown:

Total Taxes Excluding License Fees	- \$10,885,000
Estimated Amount for Present Non-Due Returns	- 150,000
Total Subject to Sharing	<u>\$11,035,000</u>

* Based on Present Distribution Percentage	
* Total Share to Cities & Boroughs	----- \$ 4,781,465
* Total Share to State	----- 6,253,535
Total Taxes at 1/2%	----- <u>\$11,035,000</u>

Realizing that the figures shown above for Cities and Boroughs represents only 60% or 3/5 of the actual tax involved, if the local governments were to impose, administer and collect the tax at a full rate of 1/2 of 1% and retain 100% of such taxes the estimated results for F/Y 1973 would be as follows:

A. Shared Revenue to Cities & Boroughs (New Rate - Self Administered)	----- \$ 7,969,110
B. Balance for State	----- 3,065,890
C. Total Tax at 1/2%	<u>\$11,035,000</u>

Thus, the following may be shown for F/Y 1973:

Cities & Boroughs New Rate (Self Administered)	-	\$7,969,110
Cities & Boroughs Under Present Formula	-	<u>2,900,000</u>
Increase to Cities & Boroughs (Self Administered)		\$5,069,110
Estimated State Revenue (Present System)		\$3,795,000
Estimated State Revenue Proposed System Tax Only	\$3,065,890	
Estimated State Revenue Proposed System License Fees	<u>475,000</u>	
Total State Revenue Proposed System		\$3,540,890
Estimated Loss to General Fund		<u>\$ (254,110)</u>

Problems of Administration:

Assuming that we will collect and share the 1971 gross receipts tax (due 2/28/72) under our existing procedure, there is sufficient time to allow for the redesign of the tax reporting form for calendar year 1972 due 2/28/73. We will no doubt mail reporting forms to all licensees in the State and require only those businesses that earned gross in the unorganized borough to file returns. The 100% penalty clause should assist in assuring that businesses fitting this category file returns.

It should be made a part of this Legislation that all licenses, returns, and taxes due under the Business License Act for years prior to the effective date of the Legislation (including the 1971 gross receipts tax), are valid and that the Department of Revenue is fully empowered to collect all delinquent accounts including any which may be disclosed in subsequent audit investigations.

It is noted that a full three year period should be allowed for completion of business under the existing Business License Act and shared revenue program. Adoption of this Legislation will preclude the preparation of the annual gross receipt report beyond calendar year 1972.

We feel that the Legislation is manageable and will rely on field audit staff for assistance in taxpayer compliance. Barring inception of the field audit program, we will require the addition of a Revenue Agent and Tax Examiner II to our existing staff for field audit work and orderly phase-in of the new program. A complete administrative cost analysis will be made available upon request.

The Miscellaneous Tax Section Chief is available should any questions arise concerning the estimates contained herein.

LPC:fd

Attachments

STATE OF ALASKA  
Dept. of Administration  
Budget & Management Div.

SCHEDULE OF REVENUES  
5-Year Projection

AGENCY	Revenue	04
OPERATING PROGRAM	Collection & Receipt	00
ACTIVITY	State General	00
FUNCTION	Receipt	00

CASH FLOW FOR THE FISCAL YEAR ENDING JUNE 30, 1972

RECEIPT TITLE Alaska Business License Tax RECEIPT CODE 105 FUND 100

ACTUAL	ESTIMATED						
F.Y. 1970 (1)	F.Y. 1971 Budget Estimate (2)	F.Y. 1971 Revised Estimate (3)	F.Y. 1972 Revised Estimate (4)	F.Y. 1973 Revised Estimate (5)	F.Y. 1974 Revised Estimate (6)	F.Y. 1975 Revised Estimate (7)	F.Y. 1976 (8)
\$ 5,060,522	\$ 5,300,000	\$ 5,414,000	\$ 6,150,000	\$ 6,695,000	\$ 7,029,000	\$ 7,141,000	\$ 7,594,000

F.Y. 1971-1972 CASH FLOW BY MONTH - (Block (4) Above)

JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	
\$ 82,410	\$ 59,650	\$ 46,130	\$ 39,980	\$ 39,980	\$ 49,200	
JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	TOTAL
\$ 222,630	\$ 511,060	\$ 3,736,740	\$ 261,990	\$ 995,070	\$ 105,160	\$ 6,150,000

CITATION: AS 43.70.010-120

RATE: The initial license fee for businesses is \$25.00 per year.  
Additional rates on gross receipts are:  
\$20,000 to \$100,000      1/2 of 1 per cent  
\$100,000 and Over      1/4 of 1 per cent

A 2 per cent rate is levied on the net income of banks, trust companies and savings and loan associations.

ALLOCATION: All revenues from the Alaska Business License Tax are paid into the General Fund. Sixty per cent of the amounts collected within the boundaries of any municipality or organized borough are returned to that political subdivision by Legislative appropriation.

STATE OF ALASKA  
 Dept. of Administration  
 Budget & Management Div.

STATEMENT OF PROGRAM

AGENCY	Revenue	04
OPERATING PROGRAM	Collection & Receipt	00
ACTIVITY	State General	00
FUNCTION	Receipt	00

For the Fiscal Year Ending Juno 30, 1972

**BASIS FOR ESTIMATE:** Revenue Estimates reflect net collections before sharing with political subdivisions and are based on present license fees considering all statutorily allowed exemptions. Estimates of revenue shown are computed on the basis of a 7% growth rate compounded annually to cover normal anticipated growth plus additional revenues in Fiscal Years 1972, 1973, 1974 and 1975 to cover the non-recurring impact of the North Slope Pipeline Construction Project. These estimates are based on the best available information secured from the Industry and could be substantially effected in the event that the pipeline permit is not forthcoming within a reasonably early time schedule. The estimate for FY 1975 and FY 1976 represents residual receipts and are based on a more normal growth pattern.

A review of actual and estimated revenues for the past five fiscal years is as follows:

<u>Fiscal Year</u>	<u>Actual Net Collections</u>	<u>Revenue Estimates</u>	<u>% of Revenue Estimate Realized</u>
1969-70	\$ 5,060,522	\$ 4,500,000	112.46%
1968-69	4,148,756	3,897,000	106.46%
1967-68	3,833,223	3,411,400	112.37%
1966-67	3,328,030	3,660,000	90.93%
1965-66	3,223,557	3,034,000	106.22%
Totals	\$ 19,594,088	\$ 18,502,400	105.69%

A review of the growth rate of actual revenues for the past five fiscal years is as follows:


<u>Fiscal Year</u>	<u>Actual Net Collections</u>	<u>Dollar Increase Over Preceding Fiscal Year</u>	<u>% Increase Over Preceding Fiscal Year</u>
1969-70	\$ 5,060,522	\$ 911,766	21.97%
1968-69	4,148,756	315,533	8.23%
1967-68	3,833,223	505,193	15.18%
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1965-66	3,223,557	281,305	9.56%
1964-65	2,942,252	Base Year	Base Year

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Alaska State House of Representatives  
Juneau, Alaska

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Total Subject to Sharing	<u>\$11,035,000</u>

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The Miscellaneous Tax Section Chief is available should any questions arise concerning the estimates contained herein.

LPC:fd

Attachments

STATE OF ALASKA  
 Dept. of Administration  
 Budget & Management Div.

SCHEDULE OF REVENUES  
 5-Year Projection

CODE

AGENCY	Revenue	04
OPERATING PROGRAM	Collection & Receipt	00
ACTIVITY	State General	00
FUNCTION	Receipt	00

CASH FLOW FOR THE FISCAL YEAR ENDING JUNE 30, 1972

RECEIPT TITLE Alaska Business License Tax RECEIPT CODE 105 FUND 100

ACTUAL	ESTIMATED						
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STATE OF ALASKA  
 Dept. of Administration  
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STATEMENT OF PROGRAM

For the Fiscal Year Ending June 30, 1972

		CODE
AGENCY	Revenue	04
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ACTIVITY	State General	00
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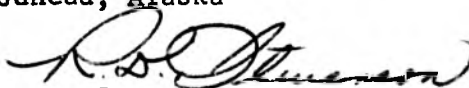
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We feel that the Legislation is manageable and will rely on field audit staff for assistance in taxpayer compliance. Barring inception of the field audit program, we will require the addition of a Revenue Agent and Tax Examiner II to our existing staff for field audit work and orderly phase-in of the new program. A complete administrative cost analysis will be made available upon request.

The Miscellaneous Tax Section Chief is available should any questions arise concerning the estimates contained herein.

LPC:fd

Attachments

STATE OF ALASKA  
Dept. of Administration  
Budget & Management Div.

SCHEDULE OF REVENUES  
5-Year Projection

AGENCY	Revenue	04
OPERATING PROGRAM	Collection & Receipt	00
ACTIVITY	State General	00
FUNCTION	Receipt	00

CASH FLOW FOR THE FISCAL YEAR ENDING JUNE 30, 1972

RECEIPT TITLE Alaska Business License Tax RECEIPT CODE 105 FUND 100

ACTUAL	ESTIMATED						
F.Y. 1970 (1)	F.Y. 1971 Budget Estimate (2)	F.Y. 1971 Revised Estimate (3)	F.Y. 1972 Revised Estimate (4)	F.Y. 1973 Revised Estimate (5)	F.Y. 1974 Revised Estimate (6)	F.Y. 1975 Revised Estimate (7)	F.Y. 1976 (8)
\$ 5,060,522	\$ 5,300,000	\$ 5,414,000	\$ 6,150,000	\$ 6,695,000	\$ 7,029,000	\$ 7,141,000	\$ 7,594,000

F.Y. 1971-1972 CASH FLOW BY MONTH - (Block (4) Above)

JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	TOTAL
\$ 82,410	\$ 59,650	\$ 46,130	\$ 39,980	\$ 39,980	\$ 49,200	
JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	TOTAL
\$ 222,630	\$ 511,060	\$ 3,736,740	\$ 261,990	\$ 995,070	\$ 105,160	\$ 6,150,000

CITATION: AS 43.70.010-120

RATE: The initial license fee for businesses is \$25.00 per year.  
Additional rates on gross receipts are:  
\$20,000 to \$100,000                      1/2 of 1 per cent  
\$100,000 and Over                         1/4 of 1 per cent

A 2 per cent rate is levied on the net income of banks, trust companies and savings and loan associations.

ALLOCATION: All revenues from the Alaska Business License Tax are paid into the General Fund. Sixty per cent of the amounts collected within the boundaries of any municipality or organized borough are returned to that political subdivision by Legislative appropriation.

STATEMENT OF PROGRAM

		CODE
AGENCY	Revenue	04
OPERATING PROGRAM	Collection & Receipt	00
ACTIVITY	State General	00
FUNCTION	Receipt	00

For the Fiscal Year Ending Juno 30, 1972

BASIS FOR ESTIMATE: Revenue Estimates reflect net collections before sharing with political subdivisions and are based on present license fees considering all statutorily allowed exemptions. Estimates of revenue shown are computed on the basis of a 7% growth rate compounded annually to cover normal anticipated growth plus additional revenues in Fiscal Years 1972, 1973, 1974 and 1975 to cover the non-recurring impact of the North Slope Pipeline Construction Project. These estimates are based on the best available information secured from the Industry and could be substantially effected in the event that the pipeline permit is not forthcoming within a reasonably early time schedule. The estimate for FY 1975 and FY 1976 represents residual receipts and are based on a more normal growth pattern.

A review of actual and estimated revenues for the past five fiscal years is as follows:

<u>Fiscal Year</u>	<u>Actual Net Collections</u>	<u>Revenue Estimates</u>	<u>% of Revenue Estimate Realized</u>
1969-70	\$ 5,060,522	\$ 4,500,000	112.46%
1968-69	4,148,756	3,897,000	106.46%
1967-68	3,833,223	3,411,400	112.37%
1966-67	3,328,030	3,660,000	90.93%
1965-66	3,223,557	3,034,000	106.22%
Totals	\$ 19,594,088	\$ 18,502,400	105.69%

A review of the growth rate of actual revenues for the past five fiscal years is as follows:

<u>Fiscal Year</u>	<u>Actual Net Collections</u>	<u>Dollar Increase Over Preceding Fiscal Year</u>	<u>% Increase Over Preceding Fiscal Year</u>
1969-70	\$ 5,060,522	\$ 911,766	21.97%
1968-69	4,148,756	315,533	8.23%
1967-68	3,833,223	505,193	15.18%
1966-67	3,328,030	104,473	3.24%
1965-66	3,223,557	281,305	9.56%
1964-65	2,922,252	Base Year	Base Year

THE FOLLOWING PAGES WERE TREATED AS  
A UNIT IN THE ORIGINAL FILE.

(5) "ordinary treatment processes" includes

(A) in the case of coal: cleaning, breaking, sizing, and loading for shipment,

(B) in the case of sulphur: pumping to vats, cooling, breaking and loading for shipment,

(C) in the case of iron ore, bauxite, ball and sagger clay, rock asphalt, and minerals which are customarily sold in the form of crude mineral product: sorting, concentrating and sintering to bring to shipping grade and form, and loading for shipment, and

(D) in the case of lead, zinc, copper, gold, silver, platinum metals or fluorspar ores, potash and ores which are not customarily sold in the form of the crude mineral product: crushing, grinding, and beneficiation by concentration (gravity, flotation, amalgamation, electrostatic, or magnetic), cyanidation, leaching, crystallization, precipitation (but excluding electrolytic deposition roasting, thermal or electric smelting or refining), or by substantially equivalent processes or combination of processes used in the separation or extraction of a product from the ore, including the furnacing or quicksilver ore;

(6) "production" means the date on which the initial shipment of products from mining operations is made. (§ 35-1-21(a) (d) (e) ACLA 1949; am § 1 ch 64 SLA 1951; am §§ 1, 2 ch 26 SLA 1953; am § 1 ch 14 SLA 1962)

### Chapter 70. Alaska Business License Act.

Section	Section
10. Exemptions	60. Civil penalty
20. Application for license	70. Security
30. Levy and computation of license fee	80. Disposal of money
40. Review and determination of license tax	90. Regulations
50. Appeals	100. Penal provisions
	110. Definitions
	120. Short title

Sec. 43.70.010. Exemptions. (a) The following gross receipts are exempt from taxation under this chapter:

(1) gross receipts from educational, religious, benevolent, fraternal, or charitable activities, where the entire amount of the receipts is held or expended for these activities, except receipts which are the result of a continuous engaging in a business or occupation otherwise subject to this chapter;

(2) gross receipts from the operation of a hospital;

(3) gross receipts from a municipally owned and operated utility and from operation of a utility by an incorporated utility district, nonprofit association, or nonprofit cooperative;

(4) gross receipts from home handicrafts up to \$500;

(5) gross receipts of a resident wholesale firm registered in the state as a domestic corporation, or otherwise identifiable as a resi-

dent wholesaler, from sale of a finished product to dealers for resale to consumers, where the resale is subject to tax under this chapter;

(6) gross receipts derived from a sale made to a person in a foreign country for shipment out of the United States, except when the goods or products sold are exported in bond for re-entry into the United States;

(7) gross receipts of a manufacturer or processor derived from the sale of his product manufactured or processed in the state, except where the products are sold directly to the consumer;

(8) gross receipts subject to the gross production tax imposed by ch. 55 of this title, except that a person subject to the gross production tax shall obtain a business license and pay the initial \$25 license fee;

(9) gross receipts from the taxes imposed by the state upon the sale of motor fuel;

(10) gross receipts from a consumers' sales tax collected by a taxpayer for the state or a political subdivision of this state.

(b) The word "consumer" as used in this section means the person who, in the ordinary common meaning of the term, ultimately uses goods, and diminishes or destroys their utility.

(c) The exemption from taxation of certain gross receipts as provided in this chapter does not exempt a person from the \$25 initial license fee. (§ 3 ch 43 SLA 1949; am § 2 ch 172 SLA 1957; am § 1 ch 152 SLA 1962)

**Constitutionality.** — See *United States v. Binn*, 1 Alaska 553 (1902), aff'd, 194 U.S. 285, 24 S. Ct. 816, 48 L. Ed. 1087 (1904); *United States v. Standard Oil Co.*, 6 Alaska 351 (1921).

There is nothing in this chapter or the means of enforcement thereof which violates any constitutional privilege. *Territory of Alaska v. Journal Printing Co.*, 15 Alaska 676, 135 P. Supp. 169 (D. Alas. 1955).

**Construction of tax laws and license statutes.**—Tax laws and license statutes should be so construed, if possible, as to avoid double taxation. *United States v. Hill*, 4 Alaska 626 (1912).

**Nature of Business License Act.**—The Alaska Business License Act is an act providing for a tax measured by gross receipts. It is nothing more than that. The statute is a tax statute. It has no regulatory features and is not designed to limit the doing of business in Alaska on the basis of any determination of the fitness of the person subject to the tax to

engage in his business or profession. 1959 Op. Att'y Gen., No. 3.

This chapter is primarily an act for the imposition and collection of a tax for revenue purposes only. *State v. Baker*, Sup. Ct. Op. No. 227 (File No. 428), 399 P.2d 833 (1964), citing *Alaska v. Baker*, 64 Wash. 2d 297, 399 P.2d 1039 (1964).

And construction thereof. — This chapter must be reasonably construed as permitting the collection of an income tax based upon the gross receipts of one engaged in doing business in this state, within the meaning and intent of the Buck Act (4 USC §§ 195—110). *State v. Baker*, Sup. Ct. Op. No. 227 (File No. 428), 399 P.2d 833 (1964), citing *Alaska v. Baker*, 64 Wash. 2d 297, 399 P.2d 1039 (1964).

The highest court of the state of Washington has now ruled that this chapter must be basically construed as an income tax measure within the purview of the Buck Act (4 USC §§ 195—110), from which any regu-

atory provisions for the collection of the tax are severable by AS 09.10.070. *State v. Baker*, Sup. Ct. Op. No. 227 (File No. 428), 393 P.2d 893 (1964).

Act does not conflict with any interest of federal government.—There is nothing in the Alaska Business License Act which is in conflict with any interest of the federal government. 1959 Op. Att'y Gen., No. 3.

It is within ambit of the Buck Act.—The Alaska Business License Act is a tax act which clearly falls within the ambit of the "Buck Act" (4 USC §§ 105-110). 1959 Op. Att'y Gen., No. 3.

Purpose of 1957 amendment.—The content of the 1957 amendment to the Business License Act strongly suggests that the purpose was simply to clarify the 1949 act, and to make it more accurately represent the intent of the legislature. *Ketchikan Spruce Mills v. Dewey*, 17 Alaska 336 (1957).

"Consumer".—The legislature intended the word "consumer" to include only the final purchaser of the finished product. *Ketchikan Spruce Mills v. Dewey*, 17 Alaska 336 (1957).

Form, not substance, is the controlling element under the "legal incidence" test. *Ketchikan Spruce Mills v. Dewey*, 17 Alaska 336 (1957).

Economic burden alone will not vitiate a tax under this section as applied to the federal government. *Ketchikan Spruce Mills v. Dewey*, 17 Alaska 336 (1957).

Legal incidence on seller precludes excluding sales to United States from gross receipts.—Where the legal incidence of the business license tax was upon a corporation engaged in

manufacturing and selling lumber products, its sales to the United States were not excludable from gross receipts because of federal immunity from state taxation. *Ketchikan Spruce Mills v. Dewey*, 17 Alaska 336 (1957).

Where purchaser is final user.—Sales of lumber to the Army and Air Force for the construction of installations in Alaska were not excluded from gross receipts, as the purchasers were the final users and consumers of the lumber. *Ketchikan Spruce Mills v. Dewey*, 17 Alaska 336 (1957).

Gross receipts derived from business done on military reservations are taxable under the Alaska business license tax. 1959 Op. Att'y Gen., No. 3.

Exemptions do not encompass excise taxes.—None of the exemptions listed under this section would encompass excise taxes paid by the taxpayer. 1961 Op. Att'y Gen., No. 8.

Rental receipts for apartments not exempt.—Rental receipts for apartments owned by a religious corporation, or any other corporation, because they are "receipts which are the result of a continuous engaging in a business or occupation otherwise subject to this chapter," are not exempt. 1960 Op. Att'y Gen., No. 25.

Nor business fee profit on Indian reserve.—No individuals operating any business for profit on an Indian reserve are exempt for that reason from the provisions of this chapter. 1959 Op. Att'y Gen., No. 11.

Liability of nonresident for company under the Business License Act.—See 1959 Op. Att'y Gen., No. 22.

Sec. 43.70.020. Application for license. (a) For the privilege of engaging in a business in the state, a person shall first apply, upon forms prescribed by the commissioner, and obtain a license so to do, and pay the license fee provided for in § 39 of this chapter. A license issued to a firm for a particular line of business covers all its operations in the state in the line of business regardless of the number of its establishments.

(b) Application for a renewal of a license and payment of the initial fee shall be made before February 1 of each year.

(c) No license may be issued for a period extending beyond the end of the calendar year for which it is issued.

(d) A person engaging in a business subject to licensing provisions of a regulatory nature (for example, the requirement of

posting a bond before beginning business as a collection agency) must, in addition to filing the regular application, required by this section, comply with those regulatory provisions before being entitled to a license under this chapter. (§ 4 ch 43 SLA 1949)

A license confers no right of property. *Ticket Packing Co. v. Harris & Co.*, 5 Alaska 471 (1916).

It merely authorizes the holder to carry on a certain business, but does not grant to the holder any piece of business, any more than the issuance of a saloon license grants to the holder a building in which to conduct a saloon, or the issuance of a mercantile license, a building in which to conduct a store. *Columbia Salmon Co. v. Berg*, 5 Alaska 538 (1916).

Purpose of tax is to raise revenue not to regulate business. — Although this section requires a license for the "privilege" of engaging in a business in Alaska, this language does not render it invalid nor destroy the legislative intent that the purpose of the tax is to raise revenue, and not to regulate any business. *Territory of Alaska v. Journal Printing Co.*, 15 Alaska 676, 135 F. Supp. 169 (D. Alas. 1955).

Only subsection (d) is regulatory. — Subsection (d) of this section of the Alaska Business License Act is clearly regulatory, even though the other provisions of the act are not. The rest of the Alaska Business License Act is a revenue raising law and is not designed for purposes of regulation of business. 1960 Op. Att'y Gen., No. 27.

Sec. 43.70.030. Levy and computation of license fee. (a) The license fee for each business is \$25 plus a sum equal to one-half of one per cent of the gross receipts in excess of \$20,000 from the business during the year for which the license is issued, except that all gross volume in excess of \$100,000 a year is taxed at the rate of one-quarter of one per cent. The annual license fee paid by a professional person to his professional board shall be credited against the initial fee required under this chapter.

(b) The license fee for each national bank and state bank, trust company and savings and loan association is two per cent of its net income. Net income means the taxable income of each such taxpayer before net operating loss deduction and special deductions, computed as required under the Internal Revenue Code of the United States and includes all other income including income from federal, state or municipal obligation. Each of these taxpayers shall submit a copy of the income tax return which it files

Bond requirement is condition precedent to acquiring or retaining license. — Subsection (d) of this section reaffirms the legislature's intent to make fulfillment of the bond requirement a condition precedent to acquiring or retaining a business license. 1960 Op. Att'y Gen., No. 27.

Religious corporation doing business not exempt. — AS 43.70.110 and this section make no provision for the exemption from the license requirement of a religious corporation which is doing business. 1960 Op. Att'y Gen., No. 25.

A religious corporation receiving rents from the renting of an apartment or apartments must obtain an Alaska business license as a condition precedent to engaging in such business. 1960 Op. Att'y Gen., No. 25.

Revocation of license of collection agency. — The state may revoke the license of a collection agency which does not have a proper bond on file with the tax commission. 1960 Op. Att'y Gen., No. 27.

Revocation procedure. — A guide to a workable procedure for license revocation is found in chapter 2 of the Alaska Administrative Procedure Act. 1960 Op. Att'y Gen., No. 27.

Am. Jur. reference. — 33 Am. Jur., Licenses, §§ 32, 31.

with the United States Collector of Internal Revenue and shall notify the commissioner of revenue in writing of any alteration or modification of the federal income tax return and of a recomputation of tax or determination of deficiency. The taxpayer who files his federal return on a fiscal year basis shall in addition submit a statement setting out all information which would be required and reported in a federal income tax return prepared for the calendar year. This statement shall be in the same form as a federal income tax return and the net income shall be computed as required under the Internal Revenue Code. The statement shall be submitted to the commissioner of revenue before the sixteenth day of April after the close of the calendar year.

(c) The license for the privilege of taking orders through use of catalogs and by mail order offices in the state is the same as set out in this chapter for business generally and gross volume of business of those offices includes all orders taken at them whether delivery of the merchandise is made through the offices or not.

(d) The initial fee of \$25 applies to all of the provisions of this section, and shall accompany the application. The balance is due and payable on December 31st of each year and shall be paid before the first day of March following, except that the department may extend the time until the 30th of the following April upon application showing that the extension is necessary to enable the applicant to ascertain the amount of license money due. To enable accurate determination of the balance of the tax due at the end of each year, each person to whom this chapter applies shall keep records, give statements under oath, and make returns which the department requires. Returns are made under penalty of perjury. (§ 5 ch 43 SLA 1949; am § 1 ch 123 SLA 1955; am § 1 ch 101 SLA 1960)

Stated in *State v. Baker*, Sup. Ct. Op. No. 227 (File No. 428), 393 P.2d 893 (1964).

**Sec. 43.70.010. Review and determination of license tax.** (a) As soon as practical after the final payment of the tax, the department shall examine the return and determine the correct amount of the tax and, if an error is found, shall notify the taxpayer of the error and examine the taxpayer's records as authorized in AS 43.05.010, and take other proper steps to determine the amount due.

(b) If an agreement cannot be reached with the taxpayer as to the amount of a license tax, the department may set a time and place of hearing on the question, upon at least 30 days' notice of the hearing by mail to the taxpayer. At the hearing, a person may be required to appear and testify and produce records and other papers as provided in AS 43.05.010.

(c) A person aggrieved by an action of the department may apply in writing to the department within 60 days from the date of the notice of the action, giving notice of the grievance and requesting a hearing.

(d) If the department determines that a fee in excess of the amount due was paid, he shall allow a refund or permit a credit at the option of the taxpayer. If refund is allowed, it shall be made out of the general fund by a voucher approved by the department. (§ 6 ch 43 SLA 1949)

Subsection (b) extends no rights beyond statute of limitations.—It is doubtful that subsection (b) of this section would extend any rights to the taxpayer beyond the time specified in the applicable statute of limitations. *Ketchikan Spruce Mills v. Dewey*, 17 Alaska 336 (1957).

But it does allow raising of question of overpayment after return approved.—Subsection (b) of this section seems to indicate an intention to allow the taxpayer to raise the question of an overpayment of taxes even after the return has been approved by the department under subsection (a). *Ketchikan Spruce Mills v. Dewey*, 17 Alaska 336 (1957).

Taxes voluntarily paid under a mistake of law cannot be recovered. *Ketchikan Spruce Mills v. Dewey*, 17 Alaska 336 (1957).

But the legislature may enact additional remedies for the recovery of illegal or excessive taxes. *Ketchikan Spruce Mills v. Dewey*, 17 Alaska 336 (1957).

And subsection (c) of this section creates such an additional remedy.—*Ketchikan Spruce Mills v. Dewey*, 17 Alaska 336 (1957).

Voluntary payment or payment under mistake of law not a defense in action for partial refund. — In the light of subsection (c) of this section,

proof that the payment was made voluntarily or under a mistake of law is no defense in an action for partial refund of taxes. *Ketchikan Spruce Mills v. Dewey*, 17 Alaska 336 (1957).

Refund due on showing of payment in excess of amount due.—Under this section a taxpayer is entitled to a refund upon the bare showing that he paid an amount in excess of the tax which was due. *Ketchikan Spruce Mills v. Dewey*, 17 Alaska 336 (1957).

And there is no requirement that the tax be paid under protest. *Ketchikan Spruce Mills v. Dewey*, 17 Alaska 336 (1957).

Or that showing of duress must be made.—*Ketchikan Spruce Mills v. Dewey*, 17 Alaska 336 (1957).

Running of interest against sovereign.—Equitable motives have led the majority of courts to recognize tax refunds as an exception to the general rule that interest does not run against a sovereign in the absence of an express statute creating such liability. *Ketchikan Spruce Mills v. Dewey*, 17 Alaska 336 (1957).

Costs against sovereign.—But costs may not be assessed against a sovereign without statutory authority therefor. *Ketchikan Spruce Mills v. Dewey*, 17 Alaska 336 (1957).

**Sec. 43.70.050. Appeals.** If the person is aggrieved by the decision of the department, he may appeal to the superior court in the judicial district where he conducts his business. (§ 7 ch 43 SLA 1949)

Collateral estoppel. — If a later proceeding is concerned with a similar or unlike claim relating to a different tax year, a prior judgment nets as a collateral estoppel only as to those matters in the second proceeding which were actually presented and determined in the first

suit. *State v. Baker*, Sup. Ct. Op. No. 227 (File No. 428), 303 P.2d 893 (1961).

Res judicata. — If a claim of liability or nonliability relating to a particular tax year is litigated, a judgment on the merits is res judicata as to any subsequent proceeding involv-

ing the same claim and the same tax year. *State v. Baker*, Sup. Ct. Op. No. 227 (File No. 428), 393 P.2d 893 (1964).

If another state is called upon to construe a provision of this chapter, that decision is res judicata in an action brought in this state by the

same parties on the same or related issues, until such time as the highest court of that state or an appropriate court of this state places a different construction upon the provision. *State v. Baker*, Sup. Ct. Op. No. 227 (File No. 428), 393 P.2d 893 (1964).

**Sec. 43.70.060. Civil penalty.** (a) If a person fails to file a business license return or pay the fee, as finally determined by the department, unless it is shown that the failure is due to reasonable cause and not to wilful neglect, five per cent is added to the fee for each additional 30 days, or fraction of 30 days, during which the failure continues, but not exceeding 25 per cent in the aggregate. The amount added to the fee shall be collected at the same time and in the same manner and as a part of the fee. If the fee is paid before the discovery of the neglect, the amount added shall be collected in the same manner as the fee. In case of delinquency interest shall be assessed at the rate of six per cent a year. If payment is made by check, bill of exchange, or note which is later returned by the drawee as uncollectible because of insufficient funds or is dishonored by the drawee for any reason, the dishonor is prima facie evidence of nonpayment of the license fee.

(b) If a person fails to apply for a license at the required time or makes, wilfully or otherwise, an erroneous or fraudulent return, the department shall assess the fee from any information it can obtain. This assessment is prima facie good and sufficient for all legal purposes under this chapter. (§ 8 ch 43 SLA 1949; am § 2 ch 128 SLA 1955; am § 6 ch 58 SLA 1971)

**Effect of amendment.** — The 1971 amendment, in the third sentence of subsection (a), deleted "the legal rate of" preceding "interest" and added "at the rate of six per cent a year."

**Section merely regulatory.** — See same catchline in note to AS 43.10.160.

**And severable from other revenue**

**provisions.**—See *State v. Baker*, Sup. Ct. Op. No. 227 (File No. 428), 393 P.2d 893 (1964), citing *Alaska v. Baker*, 61 Wash. 2d 207, 390 P.2d 1009 (1964).

It is designed to persuade taxpayer to comply with chapter. *State v. Baker*, Sup. Ct. Op. No. 227 (File No. 428), 393 P.2d 893 (1964).

**Sec. 43.70.070. Security.** (a) The amount of the fee, interest charge, and penalty imposed under this chapter constitutes a lien in favor of the state upon all the person's property located in the state. The lien arises upon delinquency and continues until the liability for the amount is satisfied or the property is sold at foreclosure sale. The lien is not valid as against a mortgagee, pledgee, purchaser, or judgment creditor until notice of the lien is filed in the office of the recorder in the manner provided for federal tax liens in AS 43.10.090—43.10.150. AS 43.10.090—43.10.150 apply to the tax liens arising under this chapter.

(b) A nonresident person who starts to perform a construction

contract or subcontract, or other line of business in the state and is not known by the department to be the holder of adequate property in the state to secure collection of the license money which will probably accrue under this chapter by virtue of the business shall, in or with his application, state under oath the extent of lienable real and personal property against which the tax may be collected, and other information with respect to description, location and value of the property which the department prescribes. If the value of the property is not equal to three times the amount of the tax for which the applicant will probably be liable to the state, the department shall not issue the license until the applicant files with him a surety bond approved by the attorney general in a penal sum equal to twice the probable amount of the tax for which the applicant will be liable, conditioned upon payment of the tax in full when due, and with interest if not paid before delinquency. The department may waive the bond requirement if the applicant posts other security in the form of collateral acceptable to the department. (§ 9 ch 43 SLA 1949)

Section merely regulatory. — See Ct. Op. No. 227 (File No. 428), 393 P.2d 893 (1964), citing *Alaska v. Baker*, 61 Wash. 2d 267, 390 P.2d 1009 (1964).

And severable from other revenue provisions. — See *State v. Baker*, Sup.

**Sec. 43.70.080. Disposal of money.** All money collected by the department under this chapter shall be deposited in the general fund. The Department of Revenue shall refund to each organized borough and each city of any class 60 per cent of the money collected in the local government. (§ 11 ch 43 SLA 1949; am § 4 ch 155 SLA 1962; am § 74 ch 69 SLA 1970)

Effect of amendment. — The 1970 amendment substituted "each" for "an" preceding "organized borough," inserted "and each," and deleted "incorporated or independent school district, or public utility districts" preceding "60 per cent" in the second sentence.

Legislative committee report. — For report on ch. 69, SLA 1970 (HB 694), see 1970 House Journal Supplement No. 2, p. 7.

Validity of refunds to incorporated cities. — See 1960 Op. Atty Gen., No. 5.

**Sec. 43.70.090. Regulations.** The department may adopt regulations necessary to determine and collect the fees imposed and to enforce this chapter. (§ 12 ch 43 SLA 1949)

**Sec. 43.70.100. Penal provisions.** (a) It is unlawful for a person to (1) willfully evade a tax under this chapter; (2) fail to make a return or keep or produce a record required under § 30 of this chapter; (3) make a false or fraudulent return or false statement with intent to defraud the state or evade payment of the tax; or (4) aid or abet another in an attempt to evade payment of the tax.

(b) It is unlawful for an executive officer or agent of a corpo-

ration or agent of a person to make or permit to be made for his principal a false return or false statement in answer to an inquiry from the department with the intent to evade the payment of the tax under this chapter.

(c) A person who violates this section is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both.

(d) In a prosecution under this chapter, no person otherwise competent as a witness is privileged from testifying on the ground that his testimony may incriminate him. However, no indictment or prosecution shall afterwards be brought against the witness on account of an offense or transaction concerning which he testifies as a witness. In a prosecution under this chapter, the attorney general may, with the consent of the department, compromise the case by accepting from the defendant a sum not less than the tax, interest on the tax, and all costs and expenses. (§ 10 ch 43 SLA 1949)

**Exclusiveness of remedy.**--Where a statute provides for the payment of a license fee as the condition of doing any specified business, and also provides that a violator of the act shall, upon conviction, be punished by fine or imprisonment, the remedy by prosecution and punishment so prescribed by the statute is exclusive, unless there is some special provision of law which permits the prosecution of a civil action to recover the license fee. *United States v. Jourden*, 193 F. 975 (9th Cir. 1912).

**Sec. 43.70.110. Definitions.** In this chapter, unless the context otherwise requires, the following words have the meanings indicated.

(1) "Business" includes all activities or acts, personal, professional, or corporate, engaged in or caused to be engaged in, or following or engaging in a trade, profession, or business, including receipts from advertising services, rental of personal or real property, construction, processing, or manufacturing, but excluding fisheries businesses, fishermen, liquor licenses, insurance businesses, mining, and coin-operated amusement and gaming machines, calling or vocation, with the object of financial or pecuniary gain, profit or benefit, either direct or indirect, and not exempting subactivities producing marketable commodities or services used or consumed in the main business activity, each of which subactivities shall be considered business. The giving or supplying of services as an employee and the furnishing of property, services, substances, or things, by a person who does not hold himself out as regularly engaging in those transactions, does not constitute business under the meaning of this chapter.

(2) "Gross receipts" means receipts from sources in the state, whether in the form of money, credits, or other valuable consideration received from engaging in or conducting a business without de-

ducting the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, taxes, losses, or any other expense, except that "gross receipts" does not include cash discounts allowed and taken on sales, and sales refunds, either in cash or by credit, uncollectible accounts written off, and payments received in final liquidation of accounts included in the gross receipts of a previous return made by the person. Receipts from sales, wherever made, of goods, wares, and merchandise manufactured or processed or originating in the state are considered a part of gross receipts from sources in the state, and the holder of a state license under this chapter doing business inside and outside the state is liable under this chapter as to that portion of his gross receipts attributable to his Alaska operation. "Gross receipts" also includes all amounts paid or assigned to subcontractors. Individuals representing firms taxed under this chapter on volume of business done, working as agents on commission instead of as employees, may compute their gross receipts as equal to their gross commissions.

(3) "Income year" means calendar year. If a person carries on business during a part only of the income year, "income year" means the period within the income year during which the person carries on business.

(4) "Person" includes an individual, firm, partnership, joint adventure, association, corporation, estate trust, business trust, receiver, or any group or combination acting as a unit. (§ 2 ch 43 SLA 1949; am § 1 ch 172 SLA 1957)

Intent to tax all businesses proportionately. — It is apparent that the legislature intended to discard license taxes on specifically enumerated businesses and to tax all businesses proportionately. *Territory of Alaska v. Journal Printing Co.*, 15 Alaska 676, 135 F. Supp. 169 (D. Alas. 1955).

Newspapers are within purview of chapter. — The inclusion of newspapers, along with other businesses, is within the purview of this chapter. *Territory of Alaska v. Journal Printing Co.*, 15 Alaska 676, 135 F. Supp. 169 (D. Alas. 1955).

Newspapers and the business of newspaper publishing are not made exempt from the ordinary forms of taxation for the support of local government by the provisions of the 13<sup>th</sup> and 14<sup>th</sup> amendments to the United States Constitution. *Territory of Alaska v. Journal Printing Co.*, 15 Alaska 676, 135 F. Supp. 169 (D. Alas. 1955).

Contractors' work for federal government not exempt. — Although the

Pribilof Islands constitute a special reservation, within the meaning of the Buck Act, the operations of businesses, including performing contractors' work for the federal government, are not exempt from state taxation. 1959 Op. Att'y Gen., No. 22.

Mere contracts between private persons or corporations and the United States do not necessarily render the former essential governmental agencies and confer upon them freedom from state taxation. 1959 Op. Att'y Gen., No. 22.

The principle of immunity from state and local taxation is generally based upon the direct ownership or use and control of the property by the United States, and does not extend to the business, property, or income of contractors who are doing work for the federal government for the purpose of gain. 1959 Op. Att'y Gen., No. 22.

Use of part of home for business property. — Persons receiving in excess of \$1500 gross per year from the

supplying of part of their home to others and who claim business deductions on their Alaska income tax return for that same part of their home are required to obtain an Alaska business license. 1960 Op. Att'y Gen., No. 20.

When an individual claims that part of his property is business property for income tax purposes, that same part of his property does not come within the meaning of the words "personal home" in §§ 1 and 15 of the business license regulations. 1960 Op. Att'y Gen., No. 20.

An individual may not claim a reduction of state income tax on the grounds that part of his home is business property and then escape the state business license tax on the basis that the same part of his home is not a business property but his personal home. 1960 Op. Att'y Gen., No. 20.

Educational, etc., institutions exempt when not "doing business."—The rule is that educational, religious, etc., institutions and hospitals need not pay the business license tax or the initial license fee as long as they refrain from doing "business" as defined in the business license act. 1960 Op. Att'y Gen., No. 25.

But there is no exemption of religious corporation when "doing business."—This section and AS 43.70.020 make no provision for the exemption from the license requirement of a religious corporation which is doing business. 1960 Op. Att'y Gen., No. 25.

Sec. 43.70.120. Short title. This chapter may be cited as the Alaska Business License Act. (§ 1 ch 43 SLA 1949)

### Chapter 75. Fisheries Taxes.

#### Article

1. Salmon Canneries and Certain Fish Processors (§§ 43.75.010—43.75.055)
2. Cold Storage and Other Fish Processors (§§ 43.75.060—43.75.095)
3. Taking of Fisheries Products Which Are Sold Outside Taxing Jurisdiction (§§ 43.75.100—43.75.120)
4. General Provisions (§§ 43.75.130—43.75.135)

#### Article 1. Salmon Canneries and Certain Fish Processors.

<p>Section</p> <p>10. Fisheries business licenses</p> <p>20. Application for license</p> <p>30. Filing return and payment of tax</p>	<p>Section</p> <p>50. Violations and penalties</p> <p>55. Security for collection of taxes</p>
--	--

Sec. 43.75.010. Fisheries business licenses. (a) A person engaging or attempting to engage in any of the following lines of business

Thus, rents received by religious corporations are not exempted from the Alaska business license tax. 1960 Op. Att'y Gen., No. 25.

Use of indirect allocation formula. —Where most of the business activities of a company took place in Missouri, it being very difficult to directly allocate that portion of the company's profits or income which was derived from its Alaska operations, the company carried on enough activities in Alaska to become subject to state taxation and these activities could be taxed on an indirect allocation formula. 1959 Op. Att'y Gen., No. 22.

"Gross receipts" includes all receipts within a state regardless of form. — The definition of "gross receipts" in this section indicates a clear legislative intent that, for the purposes of the act, gross receipts should include all of the taxpayer's receipts within the state, whether in the form of money or other valuable considerations. 1961 Op. Att'y Gen., No. 8.

No deduction from gross receipts of motor fuel excise taxes. — Oil companies may not deduct from their gross receipts federal or Alaska motor fuel excise taxes paid or collected on oil products sold for purposes of calculating taxable gross receipts under the Alaska Business License Act. 1961 Op. Att'y Gen., No. 8.

Applied in *Ketchikan Spruce Mills v. Dewey*, 47 Alaska 336 (1937).

THE PRECEDING PAGES WERE TREATED AS  
A UNIT IN THE ORIGINAL FILE.

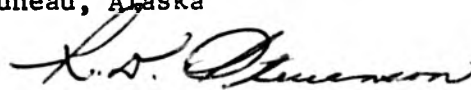
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# MEMORANDUM

## State of Alaska

TO:  The Honorable Mike Miller, Chairman  
Local Government Committee  
Alaska State House of Representatives  
Juneau, Alaska

DATE : April 13, 1971

FROM:   
R. D. Stevenson  
Deputy Commissioner  
Department of Revenue  
Juneau, Alaska

SUBJECT: House Bill No. 401  
Business License Tax

I am transmitting eight copies of a report prepared by L. P. Carroll, Chief, Miscellaneous Tax Section, Department of Revenue, concerning the effect on Treasury as concerns House Bill No. 401, an Act relating to business license tax.

If you have any questions on the material submitted, kindly advise and Mr. Carroll will be available.

RDS:eh

Attachments (8)

## MEMORANDUM

## State of Alaska

TO:  R. D. Stevenson  
Deputy Commissioner  
Department of Revenue

DATE : April 12, 1971

FROM: L. P. Carroll, Chief *LR*  
Miscellaneous Tax Section

SUBJECT: Legislative Research  
House Bill 401

House Bill 401 accomplishes the following:

1. Repeals collection of the gross receipts tax (other than the original \$25.00 license fee) by the State in all organized cities and boroughs.
2. Permits organized boroughs, cities of any class within boroughs, or cities in the unorganized borough which are school districts to impose, by ordinance, a gross receipts tax levied at one-half of one percent on all gross receipts.
3. Permits the State to collect and retain gross receipts tax based at one-half of one percent on all gross earned within the unorganized borough and provides for assessment of 100% penalty in cases where returns are not filed or fees paid, unless it is shown that the failure is due to reasonable cause and not to wilful neglect.

Effect on Treasury:

As the effective date of the Legislation is 1/1/72, we can anticipate little or no changes in the revenues estimated for F/Y 1972. The gross receipts tax due on the 1971 gross is received in this office during the period February 28, 1972 through April 30, 1972 and added to the revenues derived from the sale of an estimated 18,000 licenses valued at \$450,000 should result in our estimate of \$6,150,000.

F/Y 1973 will be the first year reflecting impact to the Treasury and to the revenues derived by cities and boroughs.

At this time we have not prepared estimates of the business license shared revenues for F/Y 1973 based on present rates and methods of collection and distribution. For purposes of this report the following assumptions are made.

F/Y 1973 Cities	\$1,779.440	= Estimated Sharing Present Plan
F/Y 1973 Boroughs	\$1,120.560	= Estimated Sharing Present Plan
F/Y 1973 Total	\$2,900,000	

April 12, 1971

Further reference is made to the attached copy of the business license revenue estimates through F/Y 1976. The revised estimate for F/Y 1973 discloses \$6,695,000.

Accordingly, under present rates and distribution formula the following may be illustrated:

<u>Shares</u>	<u>Amounts</u>	<u>% of Total</u>
Cities	\$1,779,440	
Boroughs	1,030,000	
SubTotal	\$2,900,000	43.34
State Portion	3,795,000	56.66
Total Estimate	\$6,695,000	100.00%

We estimate that 75% of the tax in excess of the basic \$25.00 license fee is attributable to those businesses grossing in excess of \$100,000.00. Accordingly, the following is illustrated at the increased rate of 1/2% on all gross:

<u>F/Y</u>	<u>Estimated # of Licenses</u>	<u>Basic Fee \$</u>	<u>Balance \$ To Gross Tax</u>	<u>75% to Taxpayers Over 100,000</u>	<u>At New Rate</u>	<u>Total Tax Excluding Lic. Fee</u>
1973	19,000	475,000	6,220,000	4,665,000	9,330,000	10,885,000

Applying present allocation figures on the revised tax shown above which excludes the basic license fee, and adding an estimated amount for those taxpayers now grossing less than \$20,000 and paying no tax, who would be liable under the proposed legislation the following may be shown:

Total Taxes Excluding License Fees	- \$10,885,000
Estimated Amount for Present Non-Due Returns	- 150,000
Total Subject to Sharing	<u>\$11,035,000</u>

* Based on Present Distribution Percentage	
* Total Share to Cities & Boroughs	----- \$ 4,781,465
* Total Share to State	----- 6,253,535
Total Taxes at 1/2%	----- \$11,035,000

Realizing that the figures shown above for Cities and Boroughs represents only 60% or 3/5 of the actual tax involved, if the local governments were to impose, administer and collect the tax at a full rate of 1/2 of 1% and retain 100% of such taxes the estimated results for F/Y 1973 would be as follows:

A. Shared Revenue to Cities & Boroughs (New Rate - Self Administered)	----- \$ 7,969,110
B. Balance for State	----- 3,065,890
C. Total Tax at 1/2%	<u>\$11,035,000</u>

Thus, the following may be shown for F/Y 1973:

Cities & Boroughs New Rate (Self Administered)	-	\$7,969,110
Cities & Boroughs Under Present Formula	-	<u>2,900,000</u>
Increase to Cities & Boroughs (Self Administered)		\$5,069,110
Estimated State Revenue (Present System)		\$3,795,000
Estimated State Revenue Proposed System Tax Only	\$3,065,890	
Estimated State Revenue Proposed System License Fees	<u>475,000</u>	
Total State Revenue Proposed System		\$3,540,890
Estimated Loss to General Fund		<u>\$ (254,110)</u>

Problems of Administration:

Assuming that we will collect and share the 1971 gross receipts tax (due 2/28/72) under our existing procedure, there is sufficient time to allow for the redesign of the tax reporting form for calendar year 1972 due 2/28/73. We will no doubt mail reporting forms to all licensees in the State and require only those businesses that earned gross in the unorganized borough to file returns. The 100% penalty clause should assist in assuring that businesses fitting this category file returns.

It should be made a part of this Legislation that all licenses, returns, and taxes due under the Business License Act for years prior to the effective date of the Legislation (including the 1971 gross receipts tax), are valid and that the Department of Revenue is fully empowered to collect all delinquent accounts including any which may be disclosed in subsequent audit investigations.

It is noted that a full three year period should be allowed for completion of business under the existing Business License Act and shared revenue program. Adoption of this Legislation will preclude the preparation of the annual gross receipt report beyond calendar year 1972.

We feel that the Legislation is manageable and will rely on field audit staff for assistance in taxpayer compliance. Barring inception of the field audit program, we will require the addition of a Revenue Agent and Tax Examiner II to our existing staff for field audit work and orderly phase-in of the new program. A complete administrative cost analysis will be made available upon request.

The Miscellaneous Tax Section Chief is available should any questions arise concerning the estimates contained herein.

LPC:fd

Attachments

STATE OF ALASKA  
 Dept. of Administration  
 Budget & Management Div.

SCHEDULE OF REVENUES  
 5-Year Projection

AGENCY	Revenue	04
OPERATING PROGRAM	Collection & Receipt	00
ACTIVITY	State General	00
FUNCTION	Receipt	00

CASH FLOW FOR THE FISCAL YEAR ENDING JUNE 30, 1972

RECEIPT TITLE Alaska Business License Tax RECEIPT CODE 105 FUND 100

ACTUAL	ESTIMATED						
F.Y. 1970 (1)	F.Y. 1971 Budget Estimate (2)	F.Y. 1971 Revised Estimate (3)	F.Y. 1972 Revised Estimate (4)	F.Y. 1973 Revised Estimate (5)	F.Y. 1974 Revised Estimate (6)	F.Y. 1975 Revised Estimate (7)	F.Y. 1976 (8)
\$ 5,060,522	\$ 5,300,000	\$ 5,414,000	\$ 6,150,000	\$ 6,695,000	\$ 7,029,000	\$ 7,141,000	\$ 7,594,000

F.Y. 1971-1972 CASH FLOW BY MONTH - (Block (4) Above)

JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	
\$ 82,410	\$ 59,650	\$ 46,130	\$ 39,980	\$ 39,980	\$ 49,200	
JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	TOTAL
\$ 222,630	\$ 511,060	\$ 3,736,740	\$ 261,990	\$ 995,070	\$ 105,160	\$ 6,150,000

CITATION: AS 43.70.010-120

RATE: The initial license fee for businesses is \$25.00 per year.  
 Additional rates on gross receipts are:  
     \$20,000 to \$100,000                      1/2 of 1 per cent  
     \$100,000 and Over                        1/4 of 1 per cent

A 2 per cent rate is levied on the net income of banks, trust companies and savings and loan associations.

ALLOCATION: All revenues from the Alaska Business License Tax are paid into the General Fund. Sixty per cent of the amounts collected within the boundaries of any municipality or organized borough are returned to that political subdivision by Legislative appropriation.

STATE OF ALASKA  
 Dept. of Administration  
 Budget & Management Div.

STATEMENT OF PROGRAM

AGENCY	Revenue	04
OPERATING PROGRAM	Collection & Receipt	00
ACTIVITY	State General	00
FUNCTION	Receipt	00

For the Fiscal Year Ending June 30, 1972

BASIS FOR ESTIMATE: Revenue Estimates reflect net collections before sharing with political subdivisions and are based on present license fees considering all statutorily allowed exemptions. Estimates of revenue shown are computed on the basis of a 7% growth rate compounded annually to cover normal anticipated growth plus additional revenues in Fiscal Years 1972, 1973, 1974 and 1975 to cover the non-recurring impact of the North Slope Pipeline Construction Project. These estimates are based on the best available information secured from the Industry and could be substantially effected in the event that the pipeline permit is not forthcoming within a reasonably early time schedule. The estimate for FY 1975 and FY 1976 represents residual receipts and are based on a more normal growth pattern.

A review of actual and estimated revenues for the past five fiscal years is as follows:

<u>Fiscal Year</u>	<u>Actual Net Collections</u>	<u>Revenue Estimates</u>	<u>% of Revenue Estimate Realized</u>
1969-70	\$ 5,060,522	\$ 4,500,000	112.46%
1968-69	4,148,756	3,897,000	106.46%
1967-68	3,833,223	3,411,400	112.37%
1966-67	3,328,030	3,660,000	90.93%
1965-66	3,223,557	3,034,000	106.22%
Totals	\$ 19,594,088	\$ 18,502,400	105.69%

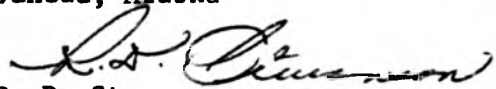
A review of the growth rate of actual revenues for the past five fiscal years is as follows:

<u>Fiscal Year</u>	<u>Actual Net Collections</u>	<u>Dollar Increase Over Preceding Fiscal Year</u>	<u>% Increase Over Preceding Fiscal Year</u>
1969-70	\$ 5,060,522	\$ 911,766	21.97%
1968-69	4,148,756	315,533	8.23%
1967-68	3,833,223	505,193	15.18%
1966-67	3,328,030	104,473	3.24%
1965-66	3,223,557	281,305	9.56%
1964-65	2,942,252	Base Year	Base Year

**MEMORANDUM****State of Alaska**

TO:  The Honorable Mike Miller, Chairman  
Local Government Committee  
Alaska State House of Representatives  
Juneau, Alaska

DATE : April 13, 1971

FROM:   
R. D. Stevenson  
Deputy Commissioner  
Department of Revenue  
Juneau, Alaska

SUBJECT: House Bill No. 401  
Business License Tax

I am transmitting eight copies of a report prepared by L. P. Carroll, Chief, Miscellaneous Tax Section, Department of Revenue, concerning the effect on Treasury as concerns House Bill No. 401, an Act relating to business license tax.

If you have any questions on the material submitted, kindly advise and Mr. Carroll will be available.

RDS:eh

Attachments (8)

## MEMORANDUM

## State of Alaska

TO: 

R. D. Stevenson  
Deputy Commissioner  
Department of Revenue

DATE : April 12, 1971

FROM:

L. P. Carroll, Chief *LC*  
Miscellaneous Tax Section

SUBJECT: Legislative Research  
House Bill 401

House Bill 401 accomplishes the following:

1. Repeals collection of the gross receipts tax (other than the original \$25.00 license fee) by the State in all organized cities and boroughs.
2. Permits organized boroughs, cities of any class within boroughs, or cities in the unorganized borough which are school districts to impose, by ordinance, a gross receipts tax levied at one-half of one percent on all gross receipts.
3. Permits the State to collect and retain gross receipts tax based at one-half of one percent on all gross earned within the unorganized borough and provides for assessment of 100% penalty in cases where returns are not filed or fees paid, unless it is shown that the failure is due to reasonable cause and not to wilful neglect.

Effect on Treasury:

As the effective date of the Legislation is 1/1/72, we can anticipate little or no changes in the revenues estimated for F/Y 1972. The gross receipts tax due on the 1971 gross is received in this office during the period February 28, 1972 through April 30, 1972 and added to the revenues derived from the sale of an estimated 18,000 licenses valued at \$450,000 should result in our estimate of \$6,150,000.

F/Y 1973 will be the first year reflecting impact to the Treasury and to the revenues derived by cities and boroughs.

At this time we have not prepared estimates of the business license shared revenues for F/Y 1973 based on present rates and methods of collection and distribution. For purposes of this report the following assumptions are made.

F/Y 1973 Cities	\$1,779,440	= Estimated Sharing Present Plan
F/Y 1973 Boroughs	\$1,120,560	= Estimated Sharing Present Plan
F/Y 1973 Total	\$2,900,000	

April 12, 1971

Further reference is made to the attached copy of the business license revenue estimates through F/Y 1976. The revised estimate for F/Y 1973 discloses \$6,695,000.

Accordingly, under present rates and distribution formula the following may be illustrated:

<u>Shares</u>	<u>Amounts</u>	<u>% of Total</u>
Cities	\$1,779,440	
Boroughs	1,030,000	
SubTotal	<u>\$2,900,000</u>	43.34
State Portion	<u>3,795,000</u>	56.66
Total Estimate	\$6,695,000	100.00%

We estimate that 75% of the tax in excess of the basic \$25.00 license fee is attributable to those businesses grossing in excess of \$100,000.00. Accordingly, the following is illustrated at the increased rate of 1/2% on all gross:

<u>F/Y</u>	<u>Estimated # of Licenses</u>	<u>Basic Fee \$</u>	<u>Balance \$ To Gross Tax</u>	<u>75% to Taxpayers Over 100,000</u>	<u>At New Rate</u>	<u>Total Tax Excluding Lic. Fee</u>
1973	19,000	475,000	6,220,000	4,665,000	9,330,000	10,885,000

Applying present allocation figures on the revised tax shown above which excludes the basic license fee, and adding an estimated amount for those taxpayers now grossing less than \$20,000 and paying no tax, who would be liable under the proposed legislation the following may be shown:

Total Taxes Excluding License Fees	- \$10,885,000
Estimated Amount for Present Non-Due Returns	- <u>150,000</u>
Total Subject to Sharing	<u><u>\$11,035,000</u></u>

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* Total Share to Cities & Boroughs	-----	\$ 4,781,465
* Total Share to State	-----	6,253,535

Total Taxes at 1/2%	-----	\$11,035,000
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Realizing that the figures shown above for Cities and Boroughs represents only 60% or 3/5 of the actual tax involved, if the local governments were to impose, administer and collect the tax at a full rate of 1/2 of 1% and retain 100% of such taxes the estimated results for F/Y 1973 would be as follows:

A. Shared Revenue to Cities & Boroughs (New Rate - Self Administered)	-----	\$ 7,969,110
B. Balance for State	-----	3,065,890
C. Total Tax at 1/2%		<u>\$11,035,000</u>

Thus, the following may be shown for F/Y 1973:

Cities & Boroughs New Rate (Self Administered)	-	\$7,969,110
Cities & Boroughs Under Present Formula	-	<u>2,900,000</u>
Increase to Cities & Boroughs (Self Administered)		\$5,069,110
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Estimated State Revenue Proposed System Tax Only	\$3,065,890	
Estimated State Revenue Proposed System License Fees	<u>475,000</u>	
Total State Revenue Proposed System		\$3,540,890
Estimated Loss to General Fund		\$ (254,110)

Problems of Administration:

Assuming that we will collect and share the 1971 gross receipts tax (due 2/28/72) under our existing procedure, there is sufficient time to allow for the redesign of the tax reporting form for calendar year 1972 due 2/28/73. We will no doubt mail reporting forms to all licensees in the State and require only those businesses that earned gross in the unorganized borough to file returns. The 100% penalty clause should assist in assuring that businesses fitting this category file returns.

It should be made a part of this Legislation that all licenses, returns, and taxes due under the Business License Act for years prior to the effective date of the Legislation (including the 1971 gross receipts tax), are valid and that the Department of Revenue is fully empowered to collect all delinquent accounts including any which may be disclosed in subsequent audit investigations.

It is noted that a full three year period should be allowed for completion of business under the existing Business License Act and shared revenue program. Adoption of this Legislation will preclude the preparation of the annual gross receipt report beyond calendar year 1972.

We feel that the Legislation is manageable and will rely on field audit staff for assistance in taxpayer compliance. Barring inception of the field audit program, we will require the addition of a Revenue Agent and Tax Examiner II to our existing staff for field audit work and orderly phase-in of the new program. A complete administrative cost analysis will be made available upon request.

The Miscellaneous Tax Section Chief is available should any questions arise concerning the estimates contained herein.

LPC:fd

Attachments

STATE OF ALASKA  
 Dept. of Administration  
 Budget & Management Div.

SCHEDULE OF REVENUES  
 5-Year Projection

AGENCY	Revenue	04
OPERATING PROGRAM	Collection & Receipt	00
ACTIVITY	State General	00
FUNCTION	Receipt	00

CASH FLOW FOR THE FISCAL YEAR ENDING JUNE 30, 1972

RECEIPT TITLE Alaska Business License Tax RECEIPT CODE 105 FUND 100

ACTUAL	ESTIMATED						
F.Y. 1970 (1)	F.Y. 1971 Budget Estimate (2)	F.Y. 1971 Revised Estimate (3)	F.Y. 1972 Revised Estimate (4)	F.Y. 1973 Revised Estimate (5)	F.Y. 1974 Revised Estimate (6)	F.Y. 1975 Revised Estimate (7)	F.Y. 1976 (8)
\$ 5,060,522	\$ 5,300,000	\$ 5,414,000	\$ 6,150,000	\$ 6,695,000	\$ 7,029,000	\$ 7,141,000	\$ 7,594,000

F.Y. 1971-1972 CASH FLOW BY MONTH - (Block (4) Above)

JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	
\$ 82,410	\$ 59,650	\$ 46,130	\$ 39,980	\$ 39,980	\$ 49,200	
JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	TOTAL
\$ 222,630	\$ 511,060	\$ 3,736,740	\$ 261,990	\$ 995,070	\$ 105,160	\$ 6,150,000

CITATION: AS 43.70.010-120

RATE: The initial license fee for businesses is \$25.00 per year.  
 Additional rates on gross receipts are:  
 \$20,000 to \$100,000 1/2 of 1 per cent  
 \$100,000 and Over 1/4 of 1 per cent

A 2 per cent rate is levied on the net income of banks, trust companies and savings and loan associations.

ALLOCATION: All revenues from the Alaska Business License Tax are paid into the General Fund. Sixty per cent of the amounts collected within the boundaries of any municipality or organized borough are returned to that political subdivision by Legislative appropriation.

STATEMENT OF PROGRAM

For the Fiscal Year Ending June 30, 1972

AGENCY	Revenue	04
OPERATING PROGRAM	Collection & Receipt	00
ACTIVITY	State General	00
FUNCTION	Receipt	00

**BASIS FOR ESTIMATE:** Revenue Estimates reflect net collections before sharing with political subdivisions and are based on present license fees considering all statutorily allowed exemptions. Estimates of revenue shown are computed on the basis of a 7% growth rate compounded annually to cover normal anticipated growth plus additional revenues in Fiscal Years 1972, 1973, 1974 and 1975 to cover the non-recurring impact of the North Slope Pipeline Construction Project. These estimates are based on the best available information secured from the Industry and could be substantially effected in the event that the pipeline permit is not forthcoming within a reasonably early time schedule. The estimate for FY 1975 and FY 1976 represents residual receipts and are based on a more normal growth pattern.

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1967-68	3,833,223	3,411,400	112.37%
1966-67	3,328,030	3,660,000	90.93%
1965-66	3,223,557	3,034,000	106.22%
Totals	\$ 19,594,088	\$ 18,502,400	105.69%

A review of the growth rate of actual revenues for the past five fiscal years is as follows:

<u>Fiscal Year</u>	<u>Actual Net Collections</u>	<u>Dollar Increase Over Preceding Fiscal Year</u>	<u>% Increase Over Preceding Fiscal Year</u>
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1967-68	3,833,223	505,193	15.18%
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1965-66	3,223,557	281,305	9.56%
1964-65	2,942,252	Base Year	Base Year

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