

HB

209

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER / POUCH 5 — JUNEAU 99801

W  
File for 209  
WILLIAM A. EGAN, GOVERNOR

March 6, 1975

The Honorable Terry Gardiner  
Chairman  
House Judiciary Committee  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99811

Dear Mr. Gardiner:

re House Bill No. 209

House Bill No. 209, an Act relating to penalties under the Alaska income tax was introduced on February 26, 1975 and referred to the House Commerce and Judiciary Committees.

For the consideration of the Judiciary Committee, I am enclosing a copy of a memorandum dated March 5, 1975 from Frederick P. Boetsch, Deputy Commissioner, Department of Revenue outlining present violation problems of the withholding tax laws by non-resident workers employed in the construction of the Trans-Alaska pipeline and setting forth the necessity of the proposed legislation for protection of the State Treasury.

If you or any members of your Committee have any questions on the material submitted, kindly advise the writer by telephone at 465-2397 and I will contact Mr. Boetsch for further material or testimony.

Very truly yours,



R. D. Stevenson  
Special Assistant

RDS:lw

Enclosure

cc Frederick P. Boetsch  
Deputy Commissioner  
Department of Revenue

# MEMORANDUM

# State of Alaska

TO: R. D. Stevenson, Special Asst.  
Office of the Commissioner  
Department of Revenue

DATE: March 5, 1975

FILE NO:

TELEPHONE NO:

FROM: Frederick P. Boetsch *FPB*  
Deputy Commissioner  
Department of Revenue

SUBJECT: House Bill 209

A recent survey by auditors and enforcement officers of the Department of Revenue indicated that there was a substantial violation of the withholding tax laws by non-resident workers connected with the Trans-Alaska Pipeline. The violation consisted of submitting a Form W-4 (the withholding tax declaration) with an unreasonable number of exemptions claimed which led to a zero withholding tax. In some cases we found as many as 50 or 60 exemptions had been claimed. The obvious objective of claiming so many exemptions would be to insure that there would be no state income taxes withheld from their pay checks. Without withholding it is unlikely that we would ever receive any tax from these individuals.

Although it would be possible to prosecute these individuals under our existing fraud statutes, the standard of proof is quite complicated and the time required to conduct an investigation would be such that many of these individuals may have left the state by the time any action could be brought. In reviewing the federal Internal Revenue Code with respect to this problem we find that they have a specific statute which addresses itself to the question of persons supplying false information to an employer for withholding purposes. The proposed bill is consistent with that provision of the Internal Revenue Code. Basically it allows us to prosecute for fraud, an individual who supplies false information or willfully fails to supply information to his employer for purposes of withholding the Alaska Income Tax. With this kind of provision it is merely necessary for us to establish that such false information was provided to the employer or that such information was withheld. It is not necessary to address ourselves to the more complex question of income tax evasion as such.

Although the punishment is a misdemeanor, and the jail term is for one year, we felt that a \$5000 maximum fine was necessary in order to encourage compliance since in most cases that would be more than the tax itself. A person then would run the risk of having to pay the tax and a fine as well as possibly serving some time in jail.

We feel that a statute providing for a direct penalty for submitting false information to an employer for withholding purposes will allow us to proceed more swiftly against violators and thereby curtail the problem before it gets out of hand.

March 5, 1975

It is difficult to measure the effects on Treasury of this bill since we do not have a total grasp of the extent of the problem or how much money might come in as a result of withholding on these individuals. However, obviously the effect will be positive since it will bring many more people under the withholding provisions.

We anticipate no additional administrative costs administering this bill since Withholding Tax Audits, in connection with the pipeline project, are a part of the Pipeline Impact Budget.

FPB:lw

A M E N D M E N T

TO: HOUSE BILL NO. 209

BY ELIASON

Page 1, line 7: before the period add: "; and providing for an effective date"

Page 2, line 18: add the following:

\* Sec. 2. AS 43.20.335(g) is amended to read:

(g) A person required to collect or truthfully account for a tax imposed by this chapter who wilfully fails to collect the tax or to truthfully account for and pay over the tax, or wilfully attempts in any manner to evade the tax or the payment of it is, in addition to other penalties provided by law, liable to a civil penalty equal to the total amount of the tax evaded, not collected, not accounted for, or not paid over. This penalty is in place of the tax not otherwise paid to the state. The civil penalty shall be paid upon demand by the commissioner or his designee, and shall be assessed and collected in the same manner as taxes are assessed and collected under this chapter. Any reference in (a) - (f) of this section to "tax" imposed refers also to the civil penalty provided under this subsection.

\* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-070(c).