

S B

385

Alaska State Legislature

Senate Advisory Council



P.O. Box V
State Capitol
Juneau, Alaska 99811
Phone: (907) 465-3114

MEMORANDUM

TO: Senator Zharoff
Alaska State Senate

FROM: Sheila F. Helgath, PhD *SFH*
Richard Rainery
Senate Advisory Council

DATE: February 8, 1988

SUBJECT: Municipal Fisheries Taxes IR# 88-003223

You requested that the municipalities that collect an additional "raw fish tax" besides the State collected Fisheries Business Tax be identified and the methods for collection and verification be explained. The municipalities and boroughs that are collecting a raw fish tax are listed in Table One, Borough and Community Fisheries Taxation in Addition to Alaska State Fisheries Business Tax. Appendix Table One is an expanded version of Table One which lists all the communities who have processors in the state and who could potentially collect a raw fish tax. This taxation approach has been primarily implemented in Southwest Alaska where the volume of the raw fish is large. A few communities, Sitka, in particular, are considering it in Southeast Alaska. Many of the Southeast communities and the larger Southcentral and Southwest communities collect a property tax. Only 7 of the 56 communities who receive the shared revenues from Alaska State collected Fisheries Business Tax, collect additional raw fish taxes.

The advantages of the sales tax are the relative ease and lack of expense in collecting it. The disadvantage of the tax is that enforcement of the tax on offshore processors is difficult. Bristol Bay Borough had the most vigorous enforcement while Akutan relied on voluntary compliance. Enforcement ranged from audits conducted outside of the State (an expensive proposition), to reviewing Fish and Game catch data, to random audits of a few processors, to reliance on voluntary compliance. In areas where the value of the fish was high, such as Bristol Bay, monthly reports were required, in other areas quarterly reports were required.

Nearly all of the community leaders commented that they believed that offshore processors were under reporting their catch and that if the municipalities could work cooperatively with the Alaska Department of Revenue State and Local revenues would be increased. This comment was made by

officials in communities as diverse as Yakutat, King Cove, and Valdez. Another consistent complaint was the inability to project revenues without Alaska Department of Revenue data.

Table One
Borough and Community Fisheries Taxation in Addition to Alaska State
Fisheries Business Tax

<u>Communities and Boroughs</u>	<u>Municipal Fish Tax</u>	<u>Procedures & Verification</u>
Aleutians East Borough	2% Sale Use Raw Fish	No Policy Established Yet
Bristol Bay Borough	3% Raw Fish	Monthly reports from processors. Use variety of means audits, local police, and ADF&G data.
Akutan	.5% Raw Fish	Quarterly report. Unable to verify.
Clark's Point	3% Raw Fish	
King Cove	2% Raw Fish	Quarterly report. Voluntary compliance with an onshore processor.
Sandpoint	2% Sales & Fish Use	
Unalaska	1% Raw Fish	Monthly report. By annual random audits.

Source: Telephone Interviews with Municipal Officer February 1988.

Appendix Table One. Borough and Community Fisheries Taxation in Addition to Alaska State Fisheries Business Tax

Communities and Boroughs w/Processors	# Processors in 1987	Received Fisheries Business Tax from State in 1986	Additional Municipal Sales Taxes on Raw Fish in 1988	Verification
BOROUGHS				
Anchorage Municipality	29	yes	no	
Juneau	30	yes	no	
Sitka	25	yes	no but possibility of fish tax this October	
Aleutians East		no	2% sales & use raw fish	
Bristol Bay	41	yes	3% raw fish	ADF&G, audits, late penalties and personal inspections.
North Star	2	yes	no	
Haines	11	yes	no	
Kenai Peninsula	24	yes	no unless sold directly to public then sales tax applies	
Ketchikan Gateway	9	yes	no	
Kodiak Island	10	yes	no	
Matanuska-Susitna	1	yes	no	
COMMUNITIES				
Akutan	6	yes	.5% raw fish	not able to verify quarterly reports
Aniak	1	yes	no	
Anvik	1	yes	no	
Bethel	6	yes	5%	
Chignik	4	yes	no	

Communities and Boroughs w/Processors	# Processors in 1987	Received Fisheries Business Tax from State in 1986	Additional Municipal Sales Taxes on Raw Fish in 1988	Verification
Clark's Point	2	yes	3% raw fish	
Cordova	18	yes	no	
Cordova	18	yes	specifically exempts fish taxes	
Craig	1	no	no but will if some kind of landing fee isn't imposed	
Dillingham	7	yes	no	
Emmonak	1	yes	considered it for future	
Fairbanks	1	yes	no	
Fortuna Ledge	1	yes	no	
Galena	2	yes	no	
Haines	11	yes	no	
Homer	8	yes	no	
Hoonah	3	yes	no	
Hydaburg	1	yes	no	
Kake	2	yes	no	
Kaltag	1	yes	no	
Kenai	11	yes	no	
Ketchikan	37	yes	no	
King Cove	2	yes	2% raw fish	voluntary compliance onshore no compliance offshore
Klawock	2	yes	no	
Kodiak	27	yes	no	

Table One continued.

Communities and Boroughs w/Processors	# Processors in 1987	Received Fisheries Business Tax from State in 1986	Additional Municipal Sales Taxes on Raw Fish in 1988	Verification
Mountain Village	2	yes	uk	
Pelican	3	yes	no	
Petersburg	19	yes	no	
Port Alexander	2	yes	no	
Port Heiden	2	yes	no	
Saint George	1	yes	no	
Saint Marys	2	yes	3%	
Sand Point	3	yes	2% sales and fish use	
Selawik	1	yes	3%	
Seldovia	1	yes	4%	
Seward	10	yes	3%	
So]dotna	2	yes	3%	
Tenakee Springs	2	yes	1%	
Togiak	3	no	2%	
Unalakleet	1	yes	no	
Unalaska	12	yes	1% raw fish	By random audit monthly reports
Valdez	11	yes	no	

Communities and Boroughs w/Processors	# Processors 1987	Received Fisheries Business Tax from State in 1986	Additional Municipal Sales Taxes on Raw Fish	Verification
Whittier	9	yes	no	
Wrangell	21	yes	no	
Yakutat	7	yes	no	

Sources: Telephone Interviews of Municipal Officials by Senate Advisory Council February 1988, Alaska
Municipal Officials Directory, Alaska Department of Environmental Conservation Processors List

ALEUTIANS EAST BOROUGH

SERVING THE COMMUNITIES OF

■ KING COVE ■ SAND POINT ■ AKUTAN ■ COLD BAY ■ FALSE PASS ■ NELSON LAGOON

February 29, 1988

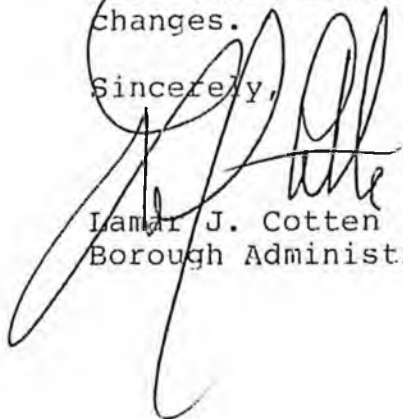
Senator Arliss Sturgulewski
P.O. Box V
Juneau, Alaska 99811

RE: SB-385 - Confidentiality Bill

Dear Senator Sturgulewski:

Just a short note to say that the Aleutians East Borough supports the Senate Bill 385. It will help close loop-holes in current State law while insuring a taxation policy which treats all entities equally. The bill is well overdue and will help alleviate a number of problems which communities will face in coming years as the fishing industry evolves and changes.

Sincerely,



Lamar J. Cotten
Borough Administrator

Alaska State Legislature

ARLISS STURGULEWSKI, Chairman
TIM KELLY, Vice Chairman
RICK HALFORD
MIKE SZYMANSKI
FRED ZHAROFF



February 11, 1988
P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4989

Senate Community and Regional Affairs Committee

SCHEDULE

Tuesday, February 16, 1988

HB 93 - "An Act establishing six recreation rivers; and providing for an effective date."

HCR 33 - "Relating to annexations recommended by the Local Boundary Commission."

Executive Order 69 - Reassigning the functions of the division of housing assistance to the Department of Community and Regional Affairs.

Presentation by the Department of Community and Regional Affairs on its Regional Government Study.

Thursday, February 18, 1988

SB 303 - "An Act relating to additions to the Marine Park system."

SB 385 - "An Act relating to fisheries tax returns; and providing for an effective date."

Exec. Order 69 - ~~reassigning~~ Reassigning duties of Housing Assistance
All meetings in the Butrovich Room, 3:30pm - 5:00 pm

*DIVISION Jo
DC + RA*

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 2/11/88 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: Resources
Finance

**FISCAL NOTE(S) ATTACHED yes **
IN ACCORDANCE WITH AS 24.08.035
(see below)

2/2/88
Mr. President:

DATE TURNED INTO OFFICE 2/18/88

C&RA _____ Committee considered SB 385

fisheries tax returns; efd

and recommended:

[] replace with CS _____ [] same title
[] attached amendment(s) and [] new title

do pass

[] do not pass

[] no recommendation

individual recommendations

[] further referral to _____

[] letter of intent adopted and attached

** Committee attached or [] adopted fiscal note(s)
[] zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Fred T. Ziegler
Mike Zyglidopoulos

Arlen Sturgulinski Do Pass
Chairman signature and recommendation

Committee Backup Attached

Alaska State Legislature

ARLISS STURGULEWSKI, Chairman
TIM KELLY, Vice Chairman
RICK HALFORD
MIKE SZYMANSKI
FRED ZHAROFF



P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4989

Senate Community and Regional Affairs Committee

February 17, 1983

TO: Senate Community and Regional Affairs Committee Members

FROM: Senate C&RA Staff *MEL*

RE: SB 385 "An Act relating to fisheries tax returns; and providing for an effective date."

SB 385 would allow the Department of Revenue to share confidential information regarding raw fish tax with municipalities under certain circumstances.

Senator Zharoff will be at the committee to explain the bill as will representatives of the Department of Revenue. The Department of Revenue supports the bill. A fiscal note and good analysis from the department is in the packet.

Also included in the packet is a memo and sectional analysis from Senator Zharoff, a letter and resolution in support from the Alaska Municipal League, a letter and resolution of support from the Southwest Alaska Municipal Conference, and a copy of the existing relevant statutes.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to fisheries tax returns; and providing for an effective
Sponsor: Zharoff, Binkley, Fischer, etal
Requestor: C & RA, Resources and Finance

Agency Affected: Revenue
BRU: Income and Excise Audit Division

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	.5	.5	.5	.5	.5
CONTRACTUAL	-	.5	.5	.5	.5	.5
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	1.0	1.0	1.0	1.0	1.0
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	1.0	1.0	1.0	1.0	1.0
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	0	0	0	0	0
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Steven E. Kettel, Director Phone: (907) 465-2320
Division: Income and Excise Audit Division Date: February 3, 1988

Approved by Commissioner: [Signature] Date: 2/5/88
Agency: _____

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

SB 385 Analysis

Prepared By: Steven E. Kettel
Income and Excise Audit
February 3, 1988

Travel

Regulation Hearing Travel to Anchorage	\$.5
--	-------

Contractual

Regulation Advertising/Printing	\$.2
Exchange of Information Forms	\$.2
Postage	\$.1

ANALYSIS OF SB 385

Prepared By: Steven E. Kettel
Income and Excise Audit Division
February 3, 1988

Present Alaska law prohibits the Department from sharing confidential tax information with the general public, other state or local governmental agencies or the legislature.

Also, the statutes governing the fisheries business (raw fish) tax provides that the State will share up to 50% of that tax with the communities in which the fish are processed. To many communities, this is a significant source of revenues, and with the decline in municipal assistance funding programs, many city and borough managers are becoming increasingly interested in whether they are receiving their fair share of the fish tax.

Often times, these cities have information concerning the processors that enter their jurisdictions and process fish, and in some instances, they possess detailed information concerning the amount or value of fish processed. With this information in hand, these managers have desired to exchange this information with the Department to insure that the State's fish tax is being reported correctly and that their municipality is being properly credited for revenue sharing purposes. Prohibition against disclosure at the state level has frustrated city and state administrators alike in their efforts to collect all taxes due and properly share them among the effected communities.

SB 385 provides a mechanism for the Department of Revenue to share sufficient information with municipalities to allow for enhanced compliance with the new fish tax law at both the state and local level. The law applies to two classes of information and two classes of municipalities.

I. City/Boroughs which do not levy a tax on fish resources processed in their jurisdiction may request and receive from the Department only the names of the fisheries businesses which have reported fish processing activities for that city or borough on the State's fish tax returns. No financial information contained in the return will be disclosed.

II. City/Boroughs which levy a fish tax on the value of fish processed in their jurisdiction may request the Department to verify that values reported on their tax returns are substantially the same as values reported on the State's return. If the values are not the same, the Department will give the municipality a copy of the State tax return, provided the municipality safeguards the information and uses it only for tax collection purposes.



SENATOR FRED F. ZHAROFF
ALASKA STATE LEGISLATURE

P.O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:

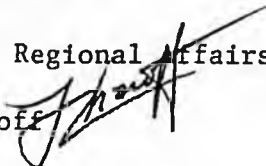
P.O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

TO: Senator Arliss Sturgulewski
Chair
Senate Community and Regional Affairs Committee

FROM: Senator Fred F. Zharoff 

DATE: February 3, 1988

RE: Senate Bill 385 - "An Act relating to fisheries tax returns; and providing for an effective date."

I respectfully request that SB 385 be scheduled for consideration at the Senate Community and Regional Affairs Committee's earliest convenience.

SB 385 allows municipalities to have access to specific fisheries tax information -- now held confidential by the Department of Revenue -- so the municipalities can obtain the names of all the fisheries businesses that have filed returns for fish processed within their boundaries and verify that the municipalities received the correct amount from the collection of their own fish taxes.

SB 385 was introduced in response to local government complaints there was no way to independently check and confirm that the local governments have received all the fish tax funds they are entitled to receive. Under 43.75.130 (Refund to local governments), the state provides the municipalities with 50 percent of the state fish taxes collected from fish processed within municipal boundaries. The funds are distributed in lump sum payments. The municipalities, however, cannot find out which fisheries businesses this revenue came from and if it, in fact, includes every business that actually processed fish within its boundaries. This is particularly critical in the case of mobile floating processing vessels, which frequently move in and out of municipal boundaries.

In addition, SB 385 would allow municipalities and the state to check to see if they are both collecting taxes on the same number of pounds of fish.

The bill would be of benefit to the Department of Revenue, in that the municipalities would be in a position to assist the department in enforcing the fish tax statutes.

Background information for SB 385 is attached, as follows:

1. Sectional analysis.

2. Resolution of support from the Southwest Alaska Municipal Conference, passed March 1, 1987.
3. Letter from Mr. John Levy, executive director of the Southwest Alaska Municipal Conference, to my staff describing the problem (see page 2), dated April 13, 1987.
4. Resolution addressing the problem from the Alaska Municipal League, dated Nov. 13, 1987.
5. Fisheries Tax statutes.



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

P.O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:

P.O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

SECTIONAL ANALYSIS

Senate Bill No. 385 -- "An Act relating to fisheries tax returns; and providing for an effective date."

SECTION 1

43.75 (Fisheries Taxes) is amended to add a new section.

43.75.133: PROVISION OF INFORMATION TO MUNICIPALITIES.

- (a) Allows the Department of Revenue, upon written request, to furnish a mayor, manager, or administrator with a list of all the fisheries businesses that have filed tax returns in which they listed the municipality as a location where they processed fish. This would allow a municipality to check its records against state records to determine if it collected taxes from all the processors that processed fish within its boundaries. This provision would be particularly helpful to municipalities in keeping track of mobile floating processors. In addition, municipalities would be able to inform the department about floating processors they know operated within their boundaries, but for which the department has no record.
- (b) Requires the department -- upon written request by the mayor, manager, or administrator of a municipality -- to verify from its records the amount of fisheries tax levied or collected by the municipality. If the amounts are not substantially the same, the mayor, manager, or administrator can inspect or obtain copies of the tax returns in question in order to use them for the purpose of tax collection only. The department does not need to provide this information unless it is satisfied the municipality provides adequate safeguards to protect the confidentiality of the tax returns. "Substantially the same" is defined as the amounts (values) being "equal or the variance between them does not exceed one percent of the greater value."

SECTION 2

APPLICABILITY.

43.75.133 only applies to fisheries business tax returns filed after December 31, 1986. This saves the Department of Revenue

the time and expense of researching requests for information from its old tax return files.

SECTION 3

Immediate effective date.


Alaska
MUNICIPAL
League

TELEPHONE
(907) 586-1325

105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

MEMORANDUM

TO: Senator Arliss Sturgulewski, Chair
Members of the Community and Regional Affairs Committee

FROM: Scott A. Burgess, Executive Director 

DATE: February 17, 1988

SUBJECT: SB 385 - Fisheries Tax Returns

The Alaska Municipal League strongly supports SB 385 - relating to fisheries tax returns - Subsection (a) permits municipalities to determine whether fisheries businesses operating within their boundaries are properly reporting the location of their activities. Inaccurate or improper reporting of location adversely affects the entitlement of an affected municipality to its share of the fisheries license tax.

Subsection (b) is extremely important to municipalities that levy sales and use taxes on the sale or use of fisheries products. It provides an enforcement mechanism that will provide enforcement information to both the state and the municipality without violating the purpose for which the confidentiality of these records was established. The practice of taxing jurisdictions of exchanging taxpayer information for enforcement purposes is well established and should be extended to this situation.

I have enclosed a related resolution adopted by the AML membership at our annual conference in November. The resolution supports the need to share fisheries tax information between the State and municipalities. It also request adequate funding for the Department of Fish and Game to properly collect, report, and manage fish ticket information.

The AML strongly supports SB 385.

Thank you.

SAB:ph1

Enclosure

RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE

RESOLUTION NO. 88-8

A RESOLUTION CONCERNING RAW FISH TAX COLLECTIONS.

WHEREAS, the collection of raw fish tax is a critical source of revenue for the local municipalities and the State of Alaska, and

WHEREAS, the municipalities have been unable to obtain any data concerning collection of raw fish tax, and

WHEREAS, the municipalities would provide considerable information and assistance to the Department of Revenue if given the opportunity, and

WHEREAS, the municipalities have been effectively managing confidential information for many years, and

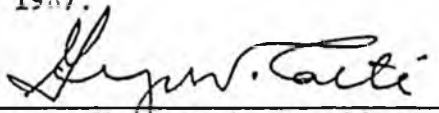
WHEREAS, the municipalities concur with the sensitivity of the processor information and agree to treat the information as confidential information, and

WHEREAS, the Department of Fish and Game fish tickets for bottomfish have not been processed for several months, which means no catch verification or fish tax verification is taking place at this time, and

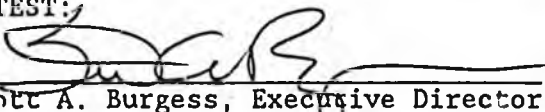
WHEREAS, this information is critical for both management of the fish resource and accurate management of the fish tax collections;

NOW, THEREFORE, BE IT RESOLVED by the Alaska Municipal League that Governor Cowper and the Alaska Legislature adopt legislation to fund adequate staff positions within the Department of Fish and Game to properly manage the information provided on the fish tickets for all species in a timely manner to allow verification and quality information to the municipalities and an accurate accounting for the raw fish tax.

Adopted this 13th day of November 1987.


George W. Carte, President

ATTEST:


Scott A. Burgess, Executive Director



SOUTHWEST ALASKA MUNICIPAL CONFERENCE

Box 89 • Unalaska • Alaska 99685

April 13, 1987

Carl Ohs
c/o Senator Fred Zharoff
Senate District N
Pouch V
Juneau, Ak. 99801

Dear Carl,

Thank you for meeting with Wayne, Lamar and I last week on issues of concern for the Southwest Municipal Conference. You asked that I send you a summary of the main points.

You will recall that our discussion focused on four themes.

1. Fish Tax
2. Confidentiality
3. Monitoring
4. Observer Program

Fish Tax

At the annual spring meeting in Dillingham, the Southwest Municipal Conference delegates resolved to work with legislators to develop a fish tax program that structurally benefits municipally-located processors regardless of fishery. Delegates cited the importance of shore-based and near shore-based plants for local economies. Specifically, delegates proposed the following tiered structure.

Onshore Processors	3%
Floating Processors Within Municipal Boundaries	5%
Processors Outside of Municipal Boundaries	8%

The Conference asks that this tax policy be managed to allow municipalities to retain the same percentage they presently receive in shared taxes for operations within municipal boundaries. The State will receive an increase in revenues from higher tax rates on processors operating outside municipal boundaries.

Our goal is to have legislation introduced this Session that addresses the above-listed structure. ^{Legislative}~~House~~ Research could analyze the legislation during the interim. Modified to reflect their recommendations we would work toward passing a bill next Session.

Confidentiality

Many municipal officials complain about the veil of secrecy surrounding fish processing records. Lacking access to these records, municipalities cannot verify processors' production records. It would be in the State's interest to share these records with municipalities so that we can assist the State in its collection of unreported/underreported taxes. Local officials repeatedly testified to the discrepancies in collections within their jurisdictions.

Some argue that if municipalities had access to records it would jeopardize the competitive edge that some processors enjoy. As municipal officials we frequently handle issues sensitive in nature. Our public's trust hinges on ensuring the confidentiality of these issues and records. We do not foresee a danger to any firm's records being made public.

The Southwest Municipal Conference is requesting your assistance to:

1. Authorize the Department of Revenue to share information on fish tax collected per processor with municipalities.
2. Require the Department of Revenue to work cooperatively with municipalities in verification and collection of raw fish tax. The Conference supports giving the Department of Revenue the option to allow the municipality to assume collection duties within municipal boundaries. This option would include provisions for the municipality to retain a reasonable fee to cover costs.
3. Fund adequate Alaska Department of Fish and Game staff positions to analyze fish tickets in a timely manner for all species. This link in the system is essential to ensure accurate accounting of the raw fish tax.

Monitoring

Southwestern communities fear that bottomfish resources could be devastated through lack of proper data analysis, monitoring and observation. Although many of the management aspects of this industry are federal, the State must work with the Federal government so that the future of pollock and cod is not negotiated for concessions in other international trading issues. We understand that millions of dollars may potentially go uncollected. This figure is the difference between what Fish and Game estimates is actually processed and what Revenue reports is collected.

Observer Program

Southwest Conference delegates continue to support a required domestic observer program. Conference recommendations include:

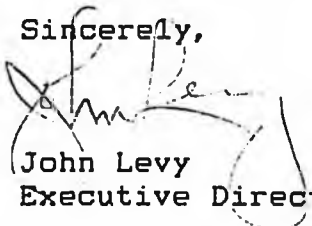
1. The State commit \$1.4 million in FY88 State share of Fish Business Tax receipts to fund the domestic observer program recommended by the Department of Fish and Game.

2. The State approach private and public bodies to assist in funding this program for the future. This includes supporting fishermen's efforts to form a non-profit-organization that can contribute funds for an observer program by using State taxing authority to collect assessments on fishermen.
3. The State contract with private groups, such as the Southwest Municipal Conference, to operate and manage the domestic observer program.
4. The State include The Southwest Municipal Conference on any advisory board that may be established to monitor the observer program.

You indicated that the Attorney General ruled that any observer program must hire state employees under A.P.E.A. We ask that Senator Zharoff work with the Governor and the Department of Law to come up with a legal, affordable program.

If you would like further information on the Southwest Municipal Conference or our position on various issues call President Paul Fuhs at 581-1357, I may be reached at 640 W. 36th Ave., #4, Anchorage 99503 or 562-1400.

Sincerely,



John Levy
Executive Director

cc: Southwest Municipal Conference Executive Officers
Rep. Cliff Davidson
Rep. Adelheid Herrmann



**SOUTHWEST ALASKA
MUNICIPAL CONFERENCE**

Box 89 • Unalaska • Alaska 99685

RESOLUTION 87-06

A RESOLUTION OF THE SOUTHWEST ALASKA MUNICIPAL CONFERENCE
CONCERNING RAW FISH TAX COLLECTIONS.

WHEREAS, the collection of raw fish tax is a critical source
of revenue for the local municipalities and the State of
Alaska, and

WHEREAS, the municipalities have been unable to obtain any
data concerning collection of raw fish tax, and

WHEREAS, the municipalities would provide considerable
information and assistance to the Department of Revenue if
given the opportunity, and

WHEREAS, the municipalities have been effectively managing
confidential information for many years, and

WHEREAS, the municipalities concur with the sensitivity of
the processor information and agree to treat the information
as confidential information, and

WHEREAS, the Department of Fish and Game fish tickets for
bottomfish have not been processed for several months which
means no catch verification or fish tax verification is taking
place at this time, and

WHEREAS, this information is critical for both management
of the fish resource and accurate management of the fish tax
collections, now

THEREFORE, BE IT RESOLVED by the Southwest Alaska Municipal
Conference that Governor Cowper and the Alaska Legislature
adopt legislation to:

1. Authorize the Department of Revenue to share the
confidential information of fish tax collected per
processor to be treated as confidential information
exempt from public disclosure by the local munic-
ipalities.

Southwest Alaska Municipal Conference
Resolution 87-06
Page two

2. Require the Department of Revenue to work cooperatively with local municipalities in verification and collection of raw fish tax including the option for a local municipality to assume the collection duties within their municipal boundaries and retain a reasonable administrative fee to cover the cost of collection.
3. Fund adequate staff positions within the Department of Fish and Game to properly manage the information provided on the fish tickets for all species in a timely manner to allow verification and quality information to the municipalities and an accurate accounting for the raw fish tax.

APPROVED AND ADOPTED this 1st day of March,
1987.



Paul Fuhs, President

Effect of amendment. — The 1987 amendment, effective May 30, 1987, repealed paragraphs (2) and (3), which de-

finied "gross receipts" and "income year." For the text of the subsections, see the main pamphlet.

NOTES TO DECISIONS

- I. General Consideration.
- II. Business.
- III. Gross Receipts.
- IV. Person.

I. GENERAL CONSIDERATION.

No exemption for domestic international sales corporations. — While AS 43.20.036(c) of the Alaska Net Income Tax Act expressly permits taxpayers to apply their federal domestic international sales corporation exemption in calculating the income tax payable under AS 43.20, there is no similar provision carrying the exemption over to taxes under this chapter. State, Dep't of Revenue v. Alaska Pulp Am., Inc., Sup. Ct. Op. No. 2735 (File Nos. 6583, 6594), 674 P.2d 268 (1983).

This chapter, as opposed to the Alaska Net Income Tax Act, AS 43.20, contains no provision giving special tax treatment to domestic international sales corporations, and the court will not create one. State, Dep't of Revenue v. Alaska Pulp Am., Inc., Sup. Ct. Op. No. 2735 (File Nos. 6583, 6594), 674 P.2d 268 (1983).

II. BUSINESS.

Gain, profit or benefit. — "Business" is more broadly defined in paragraph (1) of this section than merely "for-profit" activity; the definition also includes all activities undertaken for financial gain or benefit, even where the possibility of actual profits is foreclosed. Williams v. BP Alaska Exploration, Inc., Sup. Ct. Op. No. 2767 (File No. 7035), 677 P.2d 236 (1983). Efficiency of operation and promotion of goodwill provide adequate benefit to the taxpayers so that the underlying activity can be found to be a business activity. Williams v. BP Alaska Exploration, Inc., Sup. Ct. Op. No. 2767 (File No. 7035), 677 P.2d 236 (1983).

Bookkeeping, banking, receiving commissions and declaring dividends constitute corporate "business" within the state. State, Dep't of Revenue v. Alaska Pulp Am., Inc., Sup. Ct. Op. No. 2735 (File Nos. 6583, 6594), 674 P.2d 268 (1983).

Operators of oil, gas, and mineral leases reimbursed for operating costs by nonoperating cointerest holders were en-

gaged in business, as the term is defined in paragraph (1) of this section. Williams v. BP Alaska Exploration, Inc., Sup. Ct. Op. No. 2767 (File No. 7035), 677 P.2d 236 (1983).

Subsidiary engaged in business. — Where a group of parent corporations created a close corporation that operated at cost as the venture manager for the construction and operation of the Trans-Alaska Pipeline System, the subsidiary's receipts were taxable under this chapter, even though the subsidiary itself made no profit. Alyeska Pipeline Serv. Co. v. Williams, Sup. Ct. Op. No. 2861 (File No. 7890), 687 P.2d 323 (1984).

III. GROSS RECEIPTS.

Editor's notes. — The cases annotated below were decided before the 1987 repeal of AS 43.70.110(2), which defined "gross receipts."

Gross receipts. — See also notes under catchline "Percentage of gross receipts tax," Notes to Decisions, AS 43.70.030.

Reimbursements to subsidiary for construction expenses. — Reimbursement to a subsidiary operating as venture manager in the construction of the Trans-Alaska Pipeline System for out-of-state expenses incurred as part of the pipeline project falls within the definition of "gross receipts," and neither the commerce clause nor the due process clause of the federal constitution prevent the state from taxing the subsidiary's gross receipts. Alyeska Pipeline Serv. Co. v. Williams, Sup. Ct. Op. No. 2861 (File No. 7890), 687 P.2d 323 (1984).

Where a subsidiary owned by a consortium of oil companies that operated as venture manager of the Trans-Alaska Pipeline System was reimbursed by the parent corporations for expenses incurred in construction of the pipeline system, the reimbursements were gross receipts under paragraph (2); the subsidiary was distinct from the parent corporations and was not a mere conduit. Alyeska Pipeline Serv.

(File No. 7890), 687 P.2d 323 (1984).

Reimbursements under lease operating agreements. — Reimbursements to operators of oil, gas and mineral leases by nonoperating cointerest holders for costs incurred in managing, exploring and developing the leases were "gross receipts," taxable under former AS 43.70.030(a). Williams v. BP Alaska Exploration, Inc., Sup. Ct. Op. No. 2767 (File No. 7035), 677 P.2d 236 (1983).

Although certain reimbursable expenditures took place out of Alaska, reimbursements to operators of oil, gas and mineral leases for these expenditures were properly included in calculating gross receipts under paragraph (2) of this section since the license tax was levied against money received from nonoperators in Alaska under Alaska operating agreements. Williams v. BP Alaska Exploration, Inc., Sup. Ct. Op. No. 2767 (File No. 7035), 677 P.2d 236 (1983).

Revenues received by a broadcasting company for the in-state activity of broadcasting network television programs were taxable under former percentage-of-gross-receipts tax as "gross receipts" from sources in the state. State, Dep't of Revenue v. Northern TV, Inc., Sup. Ct. Op. No. 2723 (File Nos. 7037, 7064), 670 P.2d 367 (1983).

The sale of "air time" — the broadcasting of network television programs in Alaska for compensation — constituted a sale of "goods" within the meaning of this section, and any compensation received constituted "gross receipts" subject to taxation. State, Dep't of Revenue v. Northern TV, Inc., Sup. Ct. Op. No. 2723 (File Nos. 7037, 7064), 670 P.2d 367 (1983).

Dividends and commissions are included in "gross receipts." State Dep't of Revenue v. Alaska Pulp Am., Inc., Sup.

674 P.2d 268 (1983).

Money received from the sale of construction equipment should be included in "gross receipts" where the taxpayer is engaged in the "business" of construction; the construction equipment sold was used in connection with that business; a contract provision requiring the taxpayer to sell all of its tools, equipment and property upon completion of its work indicates that the sale of this equipment was contemplated as part of the taxpayer's normal business; and the sale of construction equipment at the end of the equipment's useful life is the normal practice of the taxpayer. Green Constr. Co. v. State, Dep't of Revenue, Sup. Ct. Op. No. 2737 (File No. 7022), 674 P.2d 260 (1983).

Agents. — The exemption provided for "agents" in paragraph (2) of this section is intended to apply to persons working on commissions as sales agents for companies that are engaged in the retail sale of business and pay taxes under this chapter on the volume of business done. Green Constr. Co. v. State, Dep't of Revenue, Sup. Ct. Op. No. 2737 (File No. 7022), 674 P.2d 260 (1983).

There is no indication that the exemption for agents is intended to apply to contractors working on the standard "cost-plus fixed fee" construction contract. Green Constr. Co. v. State, Dep't of Revenue, Sup. Ct. Op. No. 2737 (File No. 7022), 674 P.2d 260 (1983).

IV. PERSON.

Affiliated corporation, even if commonly owned and managed, are separately taxable under this chapter. State, Dep't of Revenue v. Alaska Pulp Am., Inc., Sup. Ct. Op. No. 2735 (File Nos. 6583, 6594), 674 P.2d 268 (1983).

Chapter 75. Fisheries Taxes.

Article

1. Taxes and Licenses (§§ 43.75.016, 43.75.018, 43.75.032, 43.75.034)
3. General Provisions (§§ 43.75.130, 43.75.140)

Article 1. Taxes and Licenses.

Section

17. Fisheries business tax
18. Fisheries business education credit

Section

32. Fisheries business tax credits
34. Tax credit report

Sec. 43.75.015. Fisheries business tax. (a) A person engaged in a fisheries business is liable for and shall pay the tax levied by this section on the value of each of the following fisheries resources processed during the year at the rate set out after each:

- (1) salmon canned at a shore-based fisheries business — four and one-half percent;
- (2) salmon processed by a shore-based fisheries business, except salmon for which the tax is due under (1) of this subsection, and all other fisheries resources processed by a shore-based fisheries business — three percent;
- (3) fisheries resources processed by a floating fisheries business — five percent.

(b) Instead of the taxes levied by (a) of this section, a person who processes a developing commercial fish species is liable for and shall pay a tax equal to

- (1) one percent of the value of the developing commercial fish species processed by a shore-based fisheries business during the year; and
- (2) three percent of the value of the developing commercial fish species processed by a floating fisheries business during the year.

(c) A person engaging or attempting to engage in a fisheries business who first actually and physically processes the fishery resource, or a person who purchases a fishery resource that is frozen from a person excluded by AS 43.75.017 from liability for the tax, is liable for and shall pay to the department the entire tax imposed by this section. In determining this tax liability, the person may deduct from the value of the fishery resources processed the value of fishery resources that are canned or processed for other fisheries businesses. A person taking the deduction authorized by this subsection shall report all information relating to the deduction in accordance with regulations issued by the department. (§ 3 ch 79 SLA 1979; am §§ 5, 6 ch 117 SLA 1981; am § 1 ch 79 SLA 1986)

Effect of amendments. — The 1986 amendment substituted "fisheries business" for "cannery" in paragraph (1) of subsection (a).

Sec. 43.75.018. Fisheries business education credit. (a) A person engaged in a fisheries business is allowed as a credit against the tax due under this chapter 50 percent of cash contributions accepted for direct instruction, research, and educational support purposes, including library and museum acquisitions, by an accredited, nonprofit, public or private, Alaska, two- or four-year, college or university. The credit may not exceed the lesser of 10 percent of the amount of tax due under this chapter or \$100,000. A contribution claimed as a credit under this section may not be claimed as a credit under another provision of this title.

(b) Contributions accepted for endowment purposes are not eligible for the credit under (a) of this section.

(c) By September 30 of each year, the Department of Revenue shall report to the Legislative Budget and Audit Committee on the credits taken under this section. Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used. (§ 7 ch 58 SLA 1987)

Cross references. — For statement of legislative purpose in connection with the enactment of this section, see § 1, ch. 58, SLA 1987 of the Temporary and Special Acts.

Sec. 43.75.032. Fisheries business tax credits [Effective until January 1, 1992]. (a) A fisheries business is entitled to a credit of not more than 50 percent of the business tax liability under AS 43.75.015 for capital expenditures made during the tax year that (1) increase product diversity, or production efficiency and capacity, or improve product quality, at a shore-based fisheries business facility in the state, or (2) contribute to the development of a cooperative seafood industrial park in the state, if an application for the credit is approved by the department in advance of the capital expenditure. A fisheries business may claim a credit under this subsection for a maximum period of three consecutive years. An applicant for the credit may elect to begin the three-year period with any tax year from 1987 through 1989. A tax credit under this subsection may not be approved for more than 50 percent of a capital expenditure, plus any increase required under (b) of this section.

(b) The amount of a credit under (a) of this section for a capital expenditure involving a shore-based fisheries business facility or cooperative seafood industrial park located or to be located in a municipality shall be increased by the amount by which the municipality's fisheries business tax refund is reduced under AS 43.75.130(c). The total amount of a credit increase under this subsection during a three-year period may not exceed 25 percent of the amount of the capital expenditure.

(c) The portion of a capital expenditure that is eligible for a credit under this section but is claimed during a single tax year may not be carried back to a prior tax year but is available for the computation as a credit under this section for a subsequent tax year within the three-year period elected under (a) of this section.

(d) Within 10 days after submitting an application for a credit under (a) of this section the applicant shall send a copy of the application to the municipality, if any, in which the shore-based fisheries business facility or cooperative seafood industrial park for which the expenditure is to be made is located or is to be located.

(e) A fisheries business is entitled to a credit of not more than five percent of the business tax liability under AS 43.75.015 for contribu-

tions made during the tax year to the A. W. "Winn" Brindle memorial scholarship account (AS 14.43.250). A fisheries business may claim a credit under this subsection for the 1987 tax year and subsequent tax years. A tax credit under this subsection may not be approved for more than 100 percent of a scholarship contribution.

(f) The total tax credits that may be claimed under this section for a tax year for capital expenditures and scholarship contributions combined may not exceed 50 percent of the taxpayer's business tax liability under AS 43.75.015 for that tax year.

(g) The department may not approve a tax credit under this section if

(1) the property for which the capital expenditure was made was the subject of a previous capital expenditure by another taxpayer for whom a corresponding tax credit under this section has been approved;

(2) the property for which the capital expenditure was made was sold or transferred between fisheries businesses having substantial common ownership; or

(3) the fisheries business claiming the credit is in arrears in the payment of a fisheries business tax under AS 43.75.015; for purposes of this paragraph, a taxpayer is not in arrears if the payment is under administrative or judicial appeal.

(h) The department shall prepare an application form for a credit under this section.

(i) The department shall approve or disapprove an application for a credit under this section not later than 60 days after receiving the application.

(j) In this section

- (1) "cooperative" has the meaning given in AS 10.15.595.
- (2) "seafood industrial park" means a seafood processing center with facilities to land, handle, and process or to ship or transship to any location all marketable species of seafood; a seafood industrial park may contain commercial facilities to support the activities of the park, and the labor force and vessels that operate at or from the park. (§ 2 ch 79 SLA 1986)

Editor's notes. — Effective January 1, 1992, this section will read: "Sec. 43.75.032. Tax credit for scholarship contributions. (a) A fisheries business is entitled to a credit of not more than five percent of the business tax liability under AS 43.75.015 for contributions made during the tax year to the A. W. "Winn" Brindle memorial scholarship account (AS 14.43.250). A tax credit under this section may not be approved for more than 100 percent of a scholarship contribution.

"(b) The department may not approve a

tax credit under this section if the fisheries business claiming the credit is in arrears in the payment of a fisheries business tax under AS 43.75.015; for purposes of this subsection, a taxpayer is not in arrears if the payment is under administrative or judicial appeal.

"(c) The department shall prepare an application form for a credit under this section.

"(d) The department shall approve or disapprove an application for a credit un-

der this section not later than 60 days after receiving the application."

Sec. 43.75.034. Tax credit report [Repealed effective February 15, 1992]. Not later than the 15th legislative day of each regular legislative session the Department of Revenue, in conjunction with the Department of Commerce and Economic Development, shall submit to the legislature a report on the fisheries business tax credit program under AS 43.75.032. The report shall describe the expenditures for which a credit was approved during the previous tax year and, if possible, the increase in employment and processing capacity by the fisheries businesses for which the credit was approved. (§ 2 ch 79 SLA 1986; r § 8 ch 79 SLA 1986)

Postponed repeal. — Section 8, ch. 79, SLA 1986 repeals this section, effective February 15, 1992.

Article 3. General Provisions.

- Section
- 130. Refund to local governments
- 140. Definitions

Sec. 43.75.130. Refund to local governments. (a) Except as provided in (d) of this section, the commissioner of revenue shall pay

(1) to each unified municipality and to each city located in the unorganized borough, 50 percent of the amount of tax revenue collected in the municipality from taxes levied under this chapter;

(2) to each city located within a borough, 25 percent of the amount of tax revenue collected in the city from taxes levied under this chapter; and

(3) to each borough
(A) 50 percent of the amount of tax revenue collected in the area of the borough outside cities from taxes levied under this chapter; and
(B) 25 percent of the amount of tax revenue collected in cities located within the borough from taxes levied under this chapter.

(b) For purposes of this section, tax revenue collected under AS 43.75.015 from a person entitled to a credit under AS 43.75.032 shall be calculated as if the person's tax had been collected without applying the credit.

(c) [Repealed effective January 1, 1992] Within 60 days after a credit is approved under AS 43.75.032 for a capital expenditure involving a shore-based fisheries business facility or cooperative seafood industrial park located or to be located in a municipality, the municipality may adopt an ordinance directing the department to reduce the municipality's refund under this section over a period of not more

than three years by an amount not exceeding 25 percent of the capital expenditure.

(d) Notwithstanding the provisions of (a)(2) and (a)(3)(B) of this section, the commissioner shall pay

(1) to each city that is located in a borough incorporated after June 16, 1987 the following percentages of the tax revenue collected in the city from taxes levied under this chapter:

(A) 45 percent of the taxes collected during the calendar year in which the borough is incorporated;

(B) 40 percent of the taxes collected during the first calendar year after the calendar year in which the borough is incorporated;

(C) 35 percent of the taxes collected during the second calendar year after the calendar year in which the borough is incorporated; and

(D) 30 percent of the taxes collected during the third calendar year after the calendar year in which the borough is incorporated; and

(2) to each borough that is incorporated after June 16, 1987 the following percentages of the tax revenue collected in the cities located within the borough from taxes levied under this chapter:

(A) 5 percent of the taxes collected during the calendar year in which the borough is incorporated;

(B) 10 percent of the taxes collected during the first calendar year after the calendar year in which the borough is incorporated;

(C) 15 percent of the taxes collected during the second calendar year after the calendar year in which the borough is incorporated; and

(D) 20 percent of the taxes collected during the third calendar year after the calendar year in which the borough is incorporated.

(e) Notwithstanding the provisions of (d) of this section, a city may adopt an ordinance to transfer a portion of the funds received under (d)(1) of this section to the borough in which the city is located.

(f) In this section, "tax revenue collected" includes the amount credited against taxes under AS 43.75.018. (§ 6 ch 155 SLA 1962; am § 75 ch 69 SLA 1970; am § 10 ch 218 SLA 1976; am § 11 ch 79 SLA 1979; am § 10 ch 117 SLA 1981; am § 73 ch 74 SLA 1985; am §§ 4, 7 ch 79 SLA 1986; am § 8 ch 58 SLA 1987; am §§ 1, 2 ch 80 SLA 1987)

Postponed repeal. — Section 7, ch. 79, SLA 1986 repeals subsection (c), effective January 1, 1992.

Revisor's notes. — Subsection (f) enacted as (d). Renumbered in 1987.

Effect of amendments. — The 1985 amendment in paragraph (1) substituted "unified Municipality" for "municipality unified under AS 29.68.240 — 29.68.440."

The 1986 amendment added subsections (b) and (c).

The first 1987 amendment added subsection (f).

The second 1987 amendment, effective June 16, 1987, in subsection (a) substituted "Except as provided in (d) of this section, the" for "The" at the beginning of the section and substituted "under" for "by" throughout the subsection and added subsections (d) and (e).

Sec. 43.75.140. Definitions. In this chapter

(1) [Repealed effective January 1, 1992] "capital expenditures" includes the price paid for equipment and the cost of improvements made to depreciable property, but does not include expenditures that are deducted entirely for federal income tax purposes in the year in which they accrued or were paid; in this paragraph, "equipment" and "depreciable property" have the meaning given in regulations adopted by the commissioner of commerce and economic development;

(2) "department" means the Department of Revenue;

(3) "developing commercial fish species" means those species of fish and shellfish annually designated by the commissioner of fish and game under AS 16.05.050(11);

(4) "fisheries business" means a person who engages in processing fisheries resources for sale by freezing, cooking, salting, or other method and includes but is not limited to canneries, cold storages, freezer ships, and processing plants;

(5) "fishery resource" means fin fish, shellfish and fish by-products, including but not limited to salmon, halibut, herring, flounder, crab, clam, cod, shrimp, and pollock;

(6) "floating fisheries business" means a fisheries business which is not a shore-based fisheries business; the term includes, but is not limited to, a shore-based fisheries business as defined in (9)(B) of this section when it is removed from the state;

(7) [Repealed effective January 1, 1992] "product diversity" means the processing of nontraditional fish or other seafood species or products;

(8) [Repealed effective January 1, 1992] "product quality" means the handling of fish or other seafood species or products in order to increase product sales or value.

(9) "shore-based fisheries business" means a fisheries business

(A) operated from a facility which is permanently attached to the land; or

(B) operated from a facility which remains in the same location in the state for the entire tax year;

(10) "taking" means pursuing, fishing, capturing, or harvesting a fisheries resource in any manner;

(11) "value" means the actual price paid for the fisheries resource by the fisheries business, including indirect consideration such as fuel, supplies, or gear, whether paid at the time of purchase of the fisheries resource or tendered as a deferred or delayed payment, except that "value" means the market value of the fishery resource if the taking of the fishery resource is done in company-owned or company-subsidized boats operated by employees of the fisheries business or in boats which are operated under lease or other arrangement. (§ 3 ch 79 SLA 1979; am § 46 ch 94 SLA 1980; am § 46 ch 113 SLA 1980; am §§ 11, 12 ch 117 SLA 1981; am §§ 5, 7 ch 79 SLA 1986)

Postponed repeal. — Section 7, ch. 79, SLA 1986 repeals paragraphs (1), (7) and (8), effective January 1, 1992.

Revisor's notes. — Reorganized in 1986 to alphabetize the defined terms.

Effect of amendments. — The 1986 amendment added paragraphs (1), (7) and (8).

Chapter 76. Salmon Enhancement Act.

<p>Section 10. Three percent salmon enhancement tax 11. Two percent salmon enhancement tax</p>	<p>Section 25. Collection of tax and disposition of proceeds</p>
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Sec. 43.76.010. Three percent salmon enhancement tax. (a) A person holding a limited entry permit under AS 16.43 shall pay a salmon enhancement tax at the rate of three percent of the value of salmon, as defined in AS 43.75.140, that the person removes from the state or transfers to a buyer in the state. The buyer shall collect the salmon enhancement tax at the time the salmon is acquired by the buyer.

(b) A three percent salmon enhancement tax may only be levied or collected under (a) of this section

(1) in a region designated by the commissioner of fish and game for the purpose of salmon production under AS 16.10.375;

(2) if there exists in that region an association determined by the commissioner of fish and game to be a qualified regional association under AS 16.10.380; and

(3) if the qualified regional association approves the three percent salmon enhancement tax under AS 43.76.015. (§ 2 ch 154 SLA 1980; am § 13 ch 117 SLA 1981)

Editor's notes. — This section is set out above to reflect a change in the internal reference because of section reorganization.

Sec. 43.76.011. Two percent salmon enhancement tax. (a) A person holding a limited entry permit under AS 16.43 shall pay a salmon enhancement tax at the rate of two percent of the value of salmon, as defined in AS 43.75.140, that the person removes from the state or transfers to a buyer in the state. The buyer shall collect the salmon enhancement tax at the time the salmon is acquired by the buyer.

(b) A two percent salmon enhancement tax may only be levied or collected under (a) of this section

(1) in a region designated by the commissioner of fish and game for the purpose of salmon production under AS 16.10.375;

(2) if there exists in that region an association determined by the commissioner of fish and game to be a qualified regional association under AS 16.10.380; and

(3) if the qualified regional association approves the two percent salmon enhancement tax under AS 43.76.015. (§ 2 ch 154 SLA 1980; am § 14 ch 117 SLA 1981)

Editor's notes. — This section is set out above to reflect a change in the internal reference because of section reorganization.

Sec. 43.76.025. Collection of tax and disposition of proceeds.

(a) A buyer who acquires fisheries resources which are subject to the salmon enhancement tax imposed by AS 43.76.010 or 43.76.011 shall collect the salmon enhancement tax at the time of purchase, and shall remit the total salmon enhancement tax collected during each month to the Department of Revenue by the last day of the next month.

(b) A buyer who collects the salmon enhancement tax shall

(1) maintain records reflecting the region designated under AS 16.10.375 in which the fishery resource was caught; and

(2) report to the Department of Revenue by March 1 of each year the total value, as defined in AS 43.75.140, of the salmon caught in each region designated under AS 16.10.375 which the buyer has acquired during the preceding year.

(c) The salmon enhancement tax collected under AS 43.76.010 — 43.76.030 shall be deposited in the general fund. The legislature may make appropriations based on this revenue to the Department of Commerce and Economic Development for the purpose of providing financing for qualified regional associations. The legislature may base an appropriation for a qualified regional association operating within a region designated under AS 16.10.375 on the value of the fisheries resources caught in that region rather than the value of the fisheries resources sold in that region if those values differ. (§ 2 ch 154 SLA 1980; am §§ 16, 17 ch 117 SLA 1981)

Editor's notes. — This section is set out above to reflect a change in the internal reference because of section reorganization.

Sec. 43.76.030. Accounting of financing received as a result of the salmon enhancement tax.

Revisor's notes. — Enacted as AS 16.10.385. Renumbered in 1980.

(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)

Opinions of attorney general. — Although the Pribilof Islands constitute a special reservation, within the meaning of the Buck Act, 4 USC 105-110, 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.

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.

NOTES TO DECISIONS

Intent to tax all business 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. Alaska 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. Alaska 1955).

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.

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

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.

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.

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.

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 1st and 14th amendments to the United States Constitution. Territory of Alaska v. Journal Printing Co., 15 Alaska 676, 135 F. Supp. 169 (D. Alaska 1955).

Definitions found in AS 21 are not controlling as to paragraph (1) of this section, because of the different purposes of each. Northern Adjusters, Inc. v. Department of Revenue. Sup. Ct. Op. No. 2332

(File No. 5128), 627 P.2d 205 (1981).

The purpose of excluding "insurance businesses" from the coverage of AS 43.70.030(a) by virtue of the definition in paragraph (1) is apparently to avoid taxing these businesses twice, since insurers are subject to a premiums tax imposed by AS 21.09.210. Northern Adjusters, Inc. v. Department of Revenue. Sup. Ct. Op. No. 2332 (File No. 5128), 627 P.2d 205 (1981).

The term "insurance businesses" does not include adjusters. Northern

Adjusters, Inc. v. Department of Revenue, Sup. Ct. Op. No. 2332 (File No. 5128), 627 P.2d 205 (1981).

Because adjusters are not "insurers" subject to the premiums tax, they should not be viewed as "insurance businesses" exempt from the general license tax. Northern Adjusters, Inc. v. Department of Revenue, Sup. Ct. Op. No. 2332 (File No. 5128), 627 P.2d 205 (1981).

Applied in Ketchikan Spruce Mills v. Dewey. 17 Alaska 336 (1957).

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. Taxes and Licenses (§§ 43.75.010 — 43.75.055)
2. Taking of Fisheries Products Which Are Sold Outside Taxing Jurisdiction (§§ 43.75.100 — 43.75.120)
3. General Provisions (§§ 43.75.130 — 43.75.140)

Opinions of attorney general. — A native business enterprise incorporated under the Indian Reorganization Act of 1934, 48 Stat. 987, 25 U.S.C.A. § 476 et seq., whether it be a cooperative store or a cannery, doing business outside of an Indian reservation is subject to the Alaska Business License Act, AS 43.70, and this

chapter, even though those businesses may be operated by Alaska Natives who have incorporated under the Indian Reorganization Act of 1934. Conversely, such native business enterprises doing business within a reservation are not subject to these state taxes. 1978 Op. Att'y Gen., No. 16.

NOTES TO DECISIONS

Cited in Northern Adjusters, Inc. v. Department of Revenue, Sup. Ct. Op. No. 2332 (File No. 5128), 627 P.2d 205 (1981).

Article 1. Taxes and Licenses.

Section

11. Fisheries business license
15. Fisheries business tax
17. Exclusion from fisheries business tax

Section

20. Application for license
30. Filing return and payment of tax
55. Security for collection of taxes

NOTES TO DECISIONS

State license tax on salmon canneries with its revenue sharing provision is not different in kind from general gross receipts tax of Alaska Business License Act. — See *Liberati v. Bristol Bay Borough*, Sup. Ct. Op. No.

1755 (File No. 3365), 585 P.2d 878 (1978). There is no general prohibition against like municipal and state taxes. *Liberati v. Bristol Bay Borough*, Sup. Ct. Op. No. 1755 (File No. 3365), 585 P.2d 878 (1978).

Collateral references. — 35 Am. Jur. 2d, Fish and Game, § 45. 71 Am. Jur. 2d, State and Local Taxation, §§ 392-401.

36A C.J.S., Fish, § 36.

Constitutional exemption from taxation as subject to legislative regulation respecting conditions of its assertion, 4 ALR2d 744.

Power of legislature to remit, release, or compromise tax claim, 28 ALR2d 1425.

When right to refund of state or local taxes accrues, within statute limiting time for applying for refund, 46 ALR2d 1350.

Legislative power to exempt from taxation property, purposes, or uses additional to those specified in constitution, 61 ALR2d 1031.

Financial hardship or inability to pay taxes as rendering inapplicable statutes denying remedy by injunction against assessment or collection of tax, 65 ALR2d 550.

Payment of taxes to prevent closing of, or interference with, business as involuntary so as to permit recovery, 80 ALR2d 1040.

What constitutes manufacturing and who is a manufacturer under tax laws, 17 ALR3d 7.

Validity and construction of state statute making successor corporation liable for taxes of predecessor, 65 ALR3d 1181.

Sec. 43.75.010. Fisheries business licenses. [Repealed, § 13 ch 79 SLA 1979. For current law, see AS 43.75.011.]

NOTES TO DECISIONS

State license tax on salmon canneries with its revenue sharing provision is not different in kind from general gross receipts tax of Alaska Business License Act. — See *Liberati v. Bristol Bay Borough*, Sup. Ct. Op. No.

1755 (File No. 3365), 585 P.2d 878 (1978). There is no general prohibition against like municipal and state taxes. *Liberati v. Bristol Bay Borough*, Sup. Ct. Op. No. 1755 (File No. 3365), 585 P.2d 878 (1978).

Sec. 43.75.011. Fisheries business license. A person engaging or attempting to engage in a fisheries business shall first apply for and obtain a license as provided in AS 43.75.020. (§ 3 ch 79 SLA 1979)

Cross references. — For legislative findings and purpose relating to AS 43.75, see §§ 1 and 2, ch. 79, SLA 1979 in the Temporary and Special Acts.

Sec. 43.75.015. Fisheries business tax. (a) A person engaged in a fisheries business is liable for and shall pay the tax levied by this

section on the value of each of the following fisheries resources processed during the year at the rate set out after each:

(1) salmon canned at a shore-based cannery — four and one-half per cent;

(2) salmon processed by a shore-based fisheries business, except salmon for which the tax is due under (1) of this subsection, and all other fisheries resources processed by a shore-based fisheries business — three per cent;

(3) fisheries resources processed by a floating fisheries business — five per cent.

(b) Instead of the taxes levied by (a) of this section, a person who processes a developing commercial fish species is liable for and shall pay a tax equal to

(1) one percent of the value of the developing commercial fish species processed by a shore-based fisheries business during the year; and

(2) three percent of the value of the developing commercial fish species processed by a floating fisheries business during the year.

(c) A person engaging or attempting to engage in a fisheries business who first actually and physically processes the fishery resource, or a person who purchases a fishery resource that is frozen from a person excluded by AS 43.75.017 from liability for the tax, is liable for and shall pay to the department the entire tax imposed by this section. In determining this tax liability, the person may deduct from the value of the fishery resources processed the value of fishery resources that are canned or processed for other fisheries businesses. A person taking the deduction authorized by this subsection shall report all information relating to the deduction in accordance with regulations issued by the department. (§ 3 ch 79 SLA 1979; am §§ 5, 6 ch 117 SLA 1981)

Effect of amendments. — The 1981 amendment, substituted "who processes" for "engaged in a fishery business which includes processing" preceding "a developing commercial fish" in the introductory language of subsection (b), and in subsection (c), added "or a person who purchases a fishery resource that is frozen from a person excluded by AS

43.75.017 from liability for the tax" following "processes the fishery resource" in the first sentence, deleted "not" preceding "deduct" in the second sentence and substituted the present third sentence for "but shall include that value as part of the value of the fishery resources processed."

NOTES TO DECISIONS

A tax on the business of catching and canning salmon is not a property tax. *Pacific Am. Fisheries v. Territory of Alaska*, 2 F.2d 9 (9th Cir. 1924), aff'd, 269 U.S. 269, 46 S. Ct. 110, 70 L. Ed. 270 (1925).

"Canning" is activity of salmon cannery which is taxed. — Under former AS 43.75.010, the salmon cannery activity which was taxed is that of "canning,"

whether the raw fish were purchased or otherwise obtained. *Arctic Maid v. Territory of Alaska*, 277 F.2d 120 (9th Cir. 1960), rev'd on other grounds, 366 U.S. 199, 81 S. Ct. 929, 6 L. Ed. 2d 227 (1961).

No discrimination in favor of local canners against freezer ships under prior law. — See *Alaska v. Arctic Maid*, 366 U.S. 199, 81 S. Ct. 929, 6 L. Ed. 2d 227 (1961).

Cold storages and other fish processors. — For cases construing former law requiring licenses for cold storages and other fish processors, see *Territory of Alaska v. Arctic Maid*, 16 Alaska 126, 140 F. Supp. 190 (D. Alaska 1956), *aff'd*, 366 U.S. 199, 81 S. Ct. 929, 6 L. Ed. 2d 227 (1961); *State v. Wakefield Fisheries, Inc.*, Sup. Ct. Op. No. 779 (File Nos. 1397, 1399), 495 P.2d 166 (1972); *State v. Reefer King Co.*, Sup. Ct. Op. No. 1344 (File Nos. 2605, 2606, 2607), 559 P.2d 56 (1976).

For case discussing priority of claims for license taxes under prior law in a bankruptcy proceeding, see *In re King Salmon Fisheries Co.*, 7 Alaska 97 (1923).

Constitutionality of former provisions taxing salmon canneries on basis of number of cases packed. — See *Territory of Alaska v. Pacific Am. Fisheries*, 7 Alaska 160, *aff'd*, 2 F.2d 9 (9th Cir. 1924), *aff'd*, 269 U.S. 269, 46 S. Ct. 119, 70 L. Ed. 270 (1925).

Sec. 43.75.017. Exclusion from fisheries business tax. A person is not liable for the fisheries business tax under AS 43.75.015 when the fishery resource is frozen aboard a fishing vessel if

- (1) the vessel is operated as a commercial fishing vessel under a valid commercial fishing license;
- (2) the fishery resource is not processed beyond heading, gutting or cleaning, freezing and glazing;
- (3) the fishery resource was caught by the vessel; and
- (4) the fishery resource is sold by the person claiming an exclusion from the tax to a fisheries business licensed under this chapter. (§ 7 ch 117 SLA 1981)

Sec. 43.75.020. Application for license. (a) Application for a license shall be filed with the department and accompanied by an initial fee of \$25. A separate initial fee is required for each plant specified in the application covered by the license. The application shall contain the name of the applicant, the line of business to be licensed, place of business, and other facts which the department prescribes. The applicant shall state that the applicant agrees to pay the license tax, and that the applicant will make a return and pay the tax at the time provided by law.

(b) Upon receipt of the application in proper form accompanied by the initial fee the department shall issue the license. (§ 2 ch 82 SLA 1949; am § 93 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment deleted "as of the date the application is filed or mailed, and the applicant may carry on the business from

the date the application was actually mailed" following "the license" in subsection (b), and, made other, minor changes.

Sec. 43.75.030. Filing return and payment of tax. (a) A person subject to the tax shall file a return stating the value of fisheries resources processed during the license year, computed as required by this chapter, and such other information as the department prescribes by regulation. The return shall show the license number and shall be signed by the taxpayer or an authorized agent, under penalty of perjury. If a receiver, trustee, or assign is operating the property or busi-

ness, that person shall file the return for the person. A tax due on the basis of such a return shall be collected in the same manner as if collected from the person of whose business the receiver, trustee, or assign has custody and control.

(b) The return shall be made on the basis of the calendar year to the department at Juneau before April 1 after the close of the calendar year.

(c) The department may adopt regulations for the granting of a reasonable extension of time for filing and may grant an extension of time for filing.

(d) The tax shall be paid before April 1 after the close of the calendar year.

(e) Every person engaging or attempting to engage in a business for which a license is required under this chapter shall keep records, make statements under oath, file returns, and comply with all regulations which the commissioner of revenue may adopt.

(f) When the department considers it is necessary, it may require a person, by notice served upon the person, to file a return, make such statements under oath, or keep and display to it such records as it considers sufficient to show the tax for which the person is liable. If a person fails to file a return as prescribed by law or by regulation, or makes, wilfully or otherwise, a false or fraudulent return, the department shall make the return from the information which it can obtain. A return made by the department is prima facie good and sufficient for all legal purposes. (§ 2 ch 82 SLA 1949; am §§ 2, 3 ch 146 SLA 1962; am §§ 5, 6 ch 79 SLA 1979)

Effect of amendments. — The 1979 amendment substituted "fisheries resource" for "raw fisheries products" in the first sentence of subsection (a), deleted "AS 43.75.010 — 43.75.050 of" preceding "this chapter" in the first sentence of sub-

section (a) and in subsection (e), deleted "such" preceding "records," preceding "statements," and preceding "returns" in subsection (e), and substituted "all regulations which" for "such regulations as" in subsection (e).

NOTES TO DECISIONS

Applied in *Schlothman v. Territory of Alaska*, 276 F.2d 806 (9th Cir.), cert. denied, 362 U.S. 990, 80 S. Ct. 1079, 4 L. Ed. 2d 1022 (1960).

Sec. 43.75.050. Violations and penalties. [Repealed, § 4 ch 94 SLA 1976; § 3 ch 166 SLA 1976; §§ 45, 46 ch 113 SLA 1980. For current law, see AS 43.05.220 and 43.05.290.]

Sec. 43.75.055. Security for collection of taxes. Each applicant for a license under this chapter shall, in or with the application, state under oath the amount of each of the products which the applicant expects to produce during the license year. The applicant shall further state the extent of lienable real property owned by the applicant in the

state 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 lienable value of the property is not equal to three times the amount of the tax for which the applicant will probably be liable under this section, the department may not issue the license until the applicant files with the department 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, with interest if not paid before delinquency. However, if the applicant purchases salmon for export from Alaska in the round, the amount of the bond is \$50,000 unless the applicant is the owner of lienable real property in the state of a value of at least \$50,000, and the bond must be conditioned upon payment to the fisherman of the full purchase price for the salmon and the payment of the tax in full when due. The department may waive the bond requirement if the applicant posts other security in the form of collateral acceptable to the department or prepays the estimated tax. (§ 4 ch 84 SLA 1967; am § 8 ch 79 SLA 1979)

Effect of amendments. — The 1979 amendment added the present fourth sentence and added "or prepays the estimated tax" to the end of the present fifth sentence.

Secs. 43.75.060 — 43.75.095. Cold storage and other fish processors [Repealed, § 13 ch 79 SLA 1979.]

Article 2. Taking of Fisheries Products Which Are Sold Outside Taxing Jurisdiction.

Section 100. Tax imposed on taking of fishery resource	Section 110. Duty of taxpayer and payment of tax
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Collateral references. — 35 Am. Jur. 2d, Fish and Game, § 45; 71 Am. Jur. 2d, State and Local Taxation, §§ 392-401. 36A C.J.S., Fish, § 36. State tax on or in respect of goods shipped in interstate commerce to consignee for sale on consignor's account without previous sale or order for purchase, 4 ALR2d 244.

Loading or unloading interstate freight in performance of obligation resting upon one other than interstate carrier as interstate commerce as regards local taxation, 10 ALR2d 651. Property destined for removal from state as subject to taxation therein, 11 ALR2d 938.

Sec. 43.75.100. Tax imposed on taking of fishery resource. (a) A person taking, purchasing, or otherwise acquiring a fishery resource covered by this chapter which has not been subject to the tax imposed

in AS 43.75.015 is subject to the tax levied in AS 43.75.015 on the value of the fishery resource if the person

(1) transports the fishery resource to a point outside the taxing jurisdiction of the state for subsequent processing or sale outside the taxing jurisdiction of the state;

(2) sells the fishery resource outside the taxing jurisdiction of the state; or

(3) has the fishery resource processed by a fisheries business in the state.

(b) The rate of tax that shall be paid by a person whose liability for the tax is established by this section is the rate of tax that would have been due under AS 43.75.015 if the fisheries business that first actually and physically processed the fish had been liable to pay the tax. (§ 1 ch 190 SLA 1959; am § 4 ch 79 SLA 1979; am §§ 8, 9 ch 117 SLA 1981)

Effect of amendments. — The 1979 amendment rewrote this section. The 1981 amendment deleted "sold" following "fishery resource" in the introductory language of subsection (a), deleted "to a fisheries business" in paragraphs (1) and (2) of subsection (a), deleted "or" at the end of paragraph (1) and added "or" at the end of paragraph (2) of subsection (a) and added paragraph (3) of that subsection. The amendment also rewrote subsection (b).

Sec. 43.75.110. Duty of taxpayer and payment of tax. A person subject to taxes under AS 43.75.100 shall make a return stating the value of fisheries resources taken, purchased, or otherwise acquired during the license year for sale to fisheries businesses outside of the taxing jurisdiction of the state computed as required by AS 43.75.100, and other information to carry out the provisions of AS 43.75.100 as may be prescribed by the department. The return shall contain the license number and shall be signed by the taxpayer or an authorized agent, under penalty of perjury. If a receiver, trustee, or assign is operating the property or business, that person shall make the return for the person. A tax due on the basis of such return shall be collected in the same manner as if collected from the person of whose business the receiver, trustee, or assign has custody and control. The requirements for time and place of payment of tax, and the obligation to keep records and make the records available to the commissioner of revenue are the same as those prescribed in AS 43.75.011 — 43.75.050. (§ 2 ch 190 SLA 1959; am § 9 ch 79 SLA 1979)

Effect of amendments. — The 1979 amendment substituted "fisheries resources taken, purchased, or otherwise acquired" for "raw fisheries products taken" and "fisheries businesses" for "freezer ships, floating cold storages, or floating canneries" in the first sentence and substituted "AS 43.75.011 — 43.75.050" for "the business license tax law for salmon canneries" at the end of the fifth sentence.

Sec. 43.75.120. Violations and penalties. [Repealed, § 46 ch 113 SLA 1980.]

Article 3. General Provisions.

Section

130. Refund to local governments

140. Definitions

Sec. 43.75.130. Refund to local governments. The commissioner of revenue shall pay

(1) to each municipality unified under AS 29.68.240 — 29.68.440, and to each city located in the unorganized borough, 50 percent of the amount of tax revenue collected in the municipality from taxes levied by this chapter;

(2) to each city located within a borough, 25 percent of the amount of tax revenue collected in the city from taxes levied by this chapter; and

(3) to each borough

(A) 50 percent of the amount of tax revenue collected in the area of the borough outside cities from taxes levied by this chapter; and

(B) 25 percent of the amount of tax revenue collected in cities located within the borough from taxes levied by this chapter. (§ 6 ch 155 SLA 1962; am § 75 ch 69 SLA 1970; am § 10 ch 218 SLA 1976; am § 11 ch 79 SLA 1979; am § 10 ch 117 SLA 1981)

Effect of amendments. — The 1979 amendment rewrote this section. The 1981 amendment substituted "50 percent" for "20 percent" in paragraphs (1) and (3)(A) and substituted "25 percent" for "10 percent" in paragraphs (2) and (3)(B).

NOTES TO DECISIONS

State license tax on salmon canneries with its revenue sharing provision is not different in kind from general gross receipts tax of Alaska Business License Act. — See *Liberati v. Bristol Bay Borough*, Sup. Ct. Op. No. 1755 (File No. 3365), 585 P.2d 878 (1978).

Sec. 43.75.135. Additional refund to boroughs and cities. [Repealed, § 13 ch 79 SLA 1979.]

Sec. 43.75.136. Appropriations to Commercial Fishing and Agriculture Bank. [Repealed, § 20 ch 117 SLA 1981.]

Sec. 43.75.140. Definitions. In this chapter

(1) "department" means the Department of Revenue;

(2) "developing commercial fish species" means those species of fish and shellfish annually designated by the commissioner of fish and game under AS 16.05.050(12);

(3) "fisheries business" means a person who engages in processing fisheries resources for sale by freezing, cooking, salting, or other method and includes but is not limited to canneries, cold storages, freezer ships, and processing plants;

(4) "fishery resource" means fin fish, shellfish and fish by-products, including but not limited to salmon, halibut, herring, flounder, crab, clam, cod, shrimp, and pollock;

(5) "floating fisheries business" means a fisheries business which is not a shore-based fisheries business; the term includes, but is not limited to, a shore-based fisheries business as defined in (6)(B) of this section when it is removed from the state;

(6) "shore-based fisheries business" means a fisheries business

(A) operated from a facility which is permanently attached to the land; or

(B) operated from a facility which remains in the same location in the state for the entire tax year;

(7) "taking" means pursuing, fishing, capturing, or harvesting a fisheries resource in any manner;

(8) "value" means the actual price paid for the fisheries resource by the fisheries business, including indirect consideration such as fuel, supplies, or gear, whether paid at the time of purchase of the fisheries resource or tendered as a deferred or delayed payment, except that "value" means the market value of the fishery resource if the taking of the fishery resource is done in company-owned or company-subsidized boats operated by employees of the fisheries business or in boats which are operated under lease or other arrangement. (§ 3 ch 79 SLA 1979; am § 46 ch 94 SLA 1980; am § 46 ch 113 SLA 1980; am §§ 11, 12 ch 117 SLA 1981)

Revisor's notes. — Reorganized in 1983 to alphabetize the defined terms.

Effect of amendments. — The first and second 1980 amendments both repealed the definition of "year".

The 1981 amendment added "the taking of" preceding "the fishery resource" and substituted "done" for "procured" preceding "in company-owned" in the definition of "value". The amendment also added the definition of "taking".

Chapter 76. Salmon Enhancement Tax.

Section

- 10. Three percent salmon enhancement tax
11. Two percent salmon enhancement tax
15. Election to approve or terminate salmon enhancement tax
20. Termination of salmon enhancement tax
25. Collection of tax and disposition of proceeds

Section

- 28. Liability for tax on salmon shipped from state
30. Accounting of financing received as a result of the salmon enhancement tax
40. Definition

Editor's notes. — For findings and purpose of enacting legislation, see § 1, ch. 154, SLA 1980, in the Temporary and Special Acts



1 IN THE SENATE

BY ZHAROFF

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to fisheries tax returns; and pro-
7 viding for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 43.75 is amended by adding a new section to read:

10 Sec. 43.75.133. PROVISION OF INFORMATION TO MUNICIPALITIES. (a)

11 If the mayor, manager, or administrator of a municipality makes a
12 written request, the department shall furnish the mayor, manager, or
13 administrator of the municipality the names of all fisheries busi-
14 nesses that have filed tax returns under this chapter in which the
15 fisheries business listed the municipality as the location in which
16 the fisheries business processed a fisheries resource subject to the
17 tax imposed under this chapter.

18 (b) If the mayor, manager, or administrator of a municipality
19 makes a written request, the department shall verify that, as to a tax
20 levied and collected by the municipality that is based on the value of
21 fisheries resource processed in or transported to or within the munic-
22 ipality, the value of the fisheries resources reported by a fisheries
23 business to the municipality and the value of the fisheries resources
24 reported by the fisheries business to the department under this chap-
25 ter are substantially the same. If the values are not substantially
26 the same, the department shall permit the mayor, manager, or adminis-
27 trator of the municipality to inspect tax returns filed by the fisher-
28 ies business with the department under this chapter, or shall furnish
29 to the municipal officer a copy of the tax returns, if the department

1 determines that the municipality provides adequate safeguards for the
2 confidentiality of the returns and that the returns will be used by
3 the municipality only for purposes of collection of its tax levied and
4 collected on fisheries resources. In this subsection, the value of
5 the fisheries resources reported by the fisheries business to the
6 department and the value reported to the municipality are substantial-
7 ly the same if the values are equal or the variance between them does
8 not exceed one percent of the greater value.

9 * Sec. 2. APPLICABILITY. AS 43.75.133, added by sec. 1 of this Act,
10 applies to tax returns filed by a fisheries business after December 31,
11 1986.

12 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).
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SENATOR FRED F. ZHAROFF
ALASKA STATE LEGISLATURE

P.O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:


P.O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

TO: Senator Arliss Sturgulewski

FROM: Senator Fred F. Zharoff 

DATE: January 28, 1988

RE: Request for cosponsors for "An Act relating to fisheries tax returns; and providing for an effective date."

OK
ca

Attached is a copy of a bill that will assist local governments in collecting the fish taxes that under the law (both state sharing and local taxes) they are supposed to receive, particularly from floating processors. I plan to introduce the bill on Monday, February 1.

The bill allows the Department of Revenue to provide municipalities with a list of all the fisheries businesses that processed fish within a municipality's boundaries. In particular, this will help local governments collect the fish taxes owed by floating processing vessels, which frequently move in and out of municipal boundaries without notifying the local government of their presence. The bill also allows the Department of Revenue to verify the amount of taxes collected from municipal fish taxes. If a discrepancy exists, the municipality will be allowed to inspect tax records or obtain a copy of the tax return in question, in order to aid the municipality in the collection of the tax.

The above information is now held in complete confidence by the Department of Revenue, and cannot be given to municipalities. Under the terms of this bill, the information would only be released, upon written request, to the mayor, the manager, or the administrator of the municipality. The tax return information would only be released if the department determined that adequate safeguards existed to ensure its confidentiality.

This bill will be useful to the Department of Revenue, in that it encourages the municipalities to help the department enforce the fish tax statutes. In discussions during the drafting stage, the department expressed its support for this legislation.

If you wish to cosponsor, please let me know or call Karl Ohls in my office, 465-4922.



SENATOR FRED F. ZHAROFF
ALASKA STATE LEGISLATURE

P.O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:

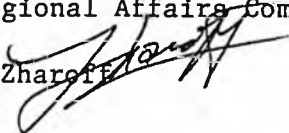
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DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

TO: Senator Arliss Sturgulewski
Chair
Community and Regional Affairs Committee

FROM: Senator Fred F. Zharoff 

DATE: April 21, 1988

RE: House Bill 486 - "An Act relating to fisheries tax returns; and providing for an effective date."

HB 486 was read across the Senate floor on April 20, and referred to the Community and Regional Affairs Committee, the Resources Committee and the Finance Committee. HB 486 is identical to SB 385, which was previously considered and passed out by all the above committees. SB 385 is now in the Senate Rules Committee.

I respectfully request that the referral of HB 486 be waived by your committee so the bill may be calendared and voted on by the full Senate as soon as possible. Because the policy questions in this legislation have already been considered, I feel there is no reason to hold it up for additional committee hearings.

Thank you for your consideration of this request. Copies of the latest (and only) versions of HB 486 and SB 385 are attached.

1 IN THE HOUSE

BY HERRMANN, CATO,
DAVIDSON AND ULMER

2

HOUSE BILL NO. 486

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to fisheries tax returns; and pro-
7 viding for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 43.75 is amended by adding a new section to read:

10 Sec. 43.75.133. PROVISION OF INFORMATION TO MUNICIPALITIES. (a)

11 If the mayor, manager, or administrator of a municipality makes a
12 written request, the department shall furnish the mayor, manager, or
13 administrator of the municipality the names of all fisheries busi-
14 nesses that have filed tax returns under this chapter in which the
15 fisheries business listed the municipality as the location in which
16 the fisheries business processed a fisheries resource subject to the
17 tax imposed under this chapter.

18 (b) If the mayor, manager, or administrator of a municipality
19 makes a written request, the department shall verify that, as to a tax
20 levied and collected by the municipality that is based on the value of
21 fisheries resource processed in or transported to or within the munic-
22 ipality, the value of the fisheries resources reported by a fisheries
23 business to the municipality and the value of the fisheries resources
24 reported by the fisheries business to the department under this chap-
25 ter are substantially the same. If the values are not substantially
26 the same, the department shall permit the mayor, manager, or adminis-
27 trator of the municipality to inspect tax returns filed by the fisher-
28 ies business with the department under this chapter, or shall furnish
29 to the municipal officer a copy of the tax returns, if the department

1 determines that the municipality provides adequate safeguards for the
2 confidentiality of the returns and that the returns will be used by
3 the municipality only for purposes of collection of its tax levied and
4 collected on fisheries resources. In this subsection, the value of
5 the fisheries resources reported by the fisheries business to the
6 department and the value reported to the municipality are substantial-
7 ly the same if the values are equal or the variance between them does
8 not exceed one percent of the greater value.

9 * Sec. 2. APPLICABILITY. AS 43.75.133, added by sec. 1 of this Act,
10 applies to tax returns filed by a fisheries business after December 31,
11 1986.

12 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

1 IN THE SENATE

BY ZHAROFF, BINKLEY, FISCHER,
STURGULEWSKI AND ELIASON

2

SENATE BILL NO. 385

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to fisheries tax returns; and pro-
7 viding for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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14 nesses that have filed tax returns under this chapter in which the
15 fisheries business listed the municipality as the location in which
16 the fisheries business processed a fisheries resource subject to the
17 tax imposed under this chapter.

18 (b) If the mayor, manager, or administrator of a municipality
19 makes a written request, the department shall verify that, as to a tax
20 levied and collected by the municipality that is based on the value of
21 fisheries resource processed in or transported to or within the munic-
22 ipality, the value of the fisheries resources reported by a fisheries
23 business to the municipality and the value of the fisheries resources
24 reported by the fisheries business to the department under this chap-
25 ter are substantially the same. If the values are not substantially
26 the same, the department shall permit the mayor, manager, or adminis-
27 trator of the municipality to inspect tax returns filed by the fisher-
28 ies business with the department under this chapter, or shall furnish
29 to the municipal officer a copy of the tax returns, if the department

1 determines that the municipality provides adequate safeguards for the
2 confidentiality of the returns and that the returns will be used by
3 the municipality only for purposes of collection of its tax levied and
4 collected on fisheries resources. In this subsection, the value of
5 the fisheries resources reported by the fisheries business to the
6 department and the value reported to the municipality are substantial-
7 ly the same if the values are equal or the variance between them does
8 not exceed one percent of the greater value.

9 * Sec. 2. APPLICABILITY. AS 43.75.133, added by sec. 1 of this Act,
10 applies to tax returns filed by a fisheries business after December 31,
11 1986.

12 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).



SENATOR FRED F. ZHAROFF
ALASKA STATE LEGISLATURE

P.O. BOX 405, KODIAK, ALASKA 99815 (907) 486-5259

DURING SESSION:

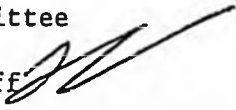
P.O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

TO: Senator Jack Coghill
Chair
Senate Resources Committee

FROM: Senator Fred F. Zharoff 

DATE: March 15, 1988

RE: Senate Bill 385 - "An Act relating to fisheries tax returns; and providing for an effective date."

For the purpose of ensuring that municipalities receive the fish taxes they are entitled to receive, SB 385 allows local government officials to have access to specific fish tax information now held confidential by the Department of Revenue.

Background information for SB 385 is attached, as follows:

1. Sectional analysis.
2. Department of Revenue fiscal note and position paper.
3. Resolution of support from the Southwest Alaska Municipal Conference, March 1, 1987.
4. Letter and resolution of support from the Alaska Municipal League, Feb. 17, 1988.
5. Letter from the Aleutians East Borough, Feb. 29, 1988.
6. Letter from the City of King Cove, March 10, 1988.
7. Letter from the City of Sand Point, March 2, 1988.
8. Letter from Mr. John Levy, executive director of the Southwest Alaska Municipal Conference, to my staff describing the problem (see page 2), April 13, 1987.
9. Research report about municipalities that have their own fish taxes, written by the Senate Advisory Council.



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

P.O. BOX 405, KODIAK, ALASKA 99815 (907) 488-5259

DURING SESSION:

P.O. BOX V. JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

SECTIONAL ANALYSIS

Senate Bill No. 385 -- "An Act relating to fisheries tax returns; and providing for an effective date."

SECTION 1

43.75 (Fisheries Taxes) is amended to add a new section.

43.75.133: PROVISION OF INFORMATION TO MUNICIPALITIES.

- (a) Allows the Department of Revenue, upon written request, to furnish a mayor, manager, or administrator with a list of all the fisheries businesses that have filed tax returns in which they listed the municipality as a location where they processed fish. This would allow a municipality to check its records against state records to determine if it collected taxes from all the processors that processed fish within its boundaries. This provision would be particularly helpful to municipalities in keeping track of mobile floating processors. In addition, municipalities would be able to inform the department about floating processors they know operated within their boundaries, but for which the department has no record.
- (b) Requires the department -- upon written request by the mayor, manager, or administrator of a municipality -- to verify from its records the amount of fisheries tax levied or collected by the municipality. If the amounts are not substantially the same, the mayor, manager, or administrator can inspect or obtain copies of the tax returns in question in order to use them for the purpose of tax collection only. The department does not need to provide this information unless it is satisfied the municipality provides adequate safeguards to protect the confidentiality of the tax returns. "Substantially the same" is defined as the amounts (values) being "equal or the variance between them does not exceed one percent of the greater value."

SECTION 2

APPLICABILITY.

43.75.133 only applies to fisheries business tax returns filed after December 31, 1986. This saves the Department of Revenue

the time and expense of researching requests for information from its old tax return files.

SECTION 3

Immediate effective date.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: SB 385
PUBLISH DATE: 2/2/88

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to fisheries tax returns; and providing for an effective
Sponsor: Zharoff, Binkley, Fischer, etal
Requestor: C & RA, Resources and Finance

Agency Affected: Revenue
BRU: Income and Excise Audit Division
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	.5	.5	.5	.5	.5
CONTRACTUAL	-	.5	.5	.5	.5	.5
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	1.0	1.0	1.0	1.0	1.0
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	1.0	1.0	1.0	1.0	1.0
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	0	0	0	0	0
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Steven E. Kettel, Director Phone: (907) 465-2320
Division: Income and Excise Audit Division Date: February 3, 1988

Approved by Commissioner: [Signature] Date: 2/5/88
Agency: _____

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

SB 385 Analysis

Prepared By: Steven E. Kettel
Income and Excise Audit
February 3, 1988

Travel

Regulation Hearing Travel to Anchorage \$.5

Contractual

Regulation Advertising/Printing \$.2
Exchange of Information Forms \$.2
Postage \$.1

ANALYSIS OF SB 385

Prepared By: Steven E. Kettel
Income and Excise Audit Division
February 3, 1988

Present Alaska law prohibits the Department from sharing confidential tax information with the general public, other state or local governmental agencies or the legislature.

Also, the statutes governing the fisheries business (raw fish) tax provides that the State will share up to 50% of that tax with the communities in which the fish are processed. To many communities, this is a significant source of revenues, and with the decline in municipal assistance funding programs, many city and borough managers are becoming increasingly interested in whether they are receiving their fair share of the fish tax.

Often times, these cities have information concerning the processors that enter their jurisdictions and process fish, and in some instances, they possess detailed information concerning the amount or value of fish processed. With this information in hand, these managers have desired to exchange this information with the Department to insure that the State's fish tax is being reported correctly and that their municipality is being properly credited for revenue sharing purposes. Prohibition against disclosure at the state level has frustrated city and state administrators alike in their efforts to collect all taxes due and properly share them among the effected communities.

SB 385 provides a mechanism for the Department of Revenue to share sufficient information with municipalities to allow for enhanced compliance with the new fish tax law at both the state and local level. The law applies to two classes of information and two classes of municipalities.

I. City/Boroughs which do not levy a tax on fish resources processed in their jurisdiction may request and receive from the Department only the names of the fisheries businesses which have reported fish processing activities for that city or borough on the State's fish tax returns. No financial information contained in the return will be disclosed.

II. City/Boroughs which levy a fish tax on the value of fish processed in their jurisdiction may request the Department to verify that values reported on their tax returns are substantially the same as values reported on the State's return. If the values are not the same, the Department will give the municipality a copy of the State tax return, provided the municipality safeguards the information and uses it only for tax collection purposes.



**SOUTHWEST ALASKA
MUNICIPAL CONFERENCE**

Box 89 • Unalaska • Alaska 99685

RESOLUTION 87-06

A RESOLUTION OF THE SOUTHWEST ALASKA MUNICIPAL CONFERENCE CONCERNING RAW FISH TAX COLLECTIONS.

WHEREAS, the collection of raw fish tax is a critical source of revenue for the local municipalities and the State of Alaska, and

WHEREAS, the municipalities have been unable to obtain any data concerning collection of raw fish tax, and

WHEREAS, the municipalities would provide considerable information and assistance to the Department of Revenue if given the opportunity, and

WHEREAS, the municipalities have been effectively managing confidential information for many years, and

WHEREAS, the municipalities concur with the sensitivity of the processor information and agree to treat the information as confidential information, and

WHEREAS, the Department of Fish and Game fish tickets for bottomfish have not been processed for several months which means no catch verification or fish-tax verification is taking place at this time, and

WHEREAS, this information is critical for both management of the fish resource and accurate management of the fish tax collections, now

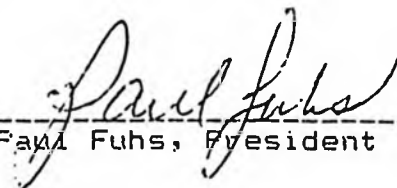
THEREFORE, BE IT RESOLVED by the Southwest Alaska Municipal Conference that Governor Cowper and the Alaska Legislature adopt legislation to:

1. Authorize the Department of Revenue to share the confidential information of fish tax collected per processor to be treated as confidential information exempt from public disclosure by the local municipalities.

Southwest Alaska Municipal Conference
Resolution 87-06
Page two

2. Require the Department of Revenue to work cooperatively with local municipalities in verification and collection of raw fish tax including the option for a local municipality to assume the collection duties within their municipal boundaries and retain a reasonable administrative fee to cover the cost of collection.
3. Fund adequate staff positions within the Department of Fish and Game to properly manage the information provided on the fish tickets for all species in a timely manner to allow verification and quality information to the municipalities and an accurate accounting for the raw fish tax.

APPROVED AND ADOPTED this 1st day of March,
1987.



Paul Fuhs, President


Alaska
MUNICIPAL
League

TELEPHONE
(907) 586-1325

105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

MEMORANDUM

TO: Senator Arliss Sturgulewski, Chair
Members of the Community and Regional Affairs Committee

FROM: Scott A. Burgess, Executive Director 

DATE: February 17, 1988

SUBJECT: SB 385 - Fisheries Tax Returns

The Alaska Municipal League strongly supports SB 385 - relating to fisheries tax returns - Subsection (a) permits municipalities to determine whether fisheries businesses operating within their boundaries are properly reporting the location of their activities. Inaccurate or improper reporting of location adversely affects the entitlement of an affected municipality to its share of the fisheries license tax.

Subsection (b) is extremely important to municipalities that levy sales and use taxes on the sale or use of fisheries products. It provides an enforcement mechanism that will provide enforcement information to both the state and the municipality without violating the purpose for which the confidentiality of these records was established. The practice of taxing jurisdictions of exchanging taxpayer information for enforcement purposes is well established and should be extended to this situation.

I have enclosed a related resolution adopted by the AML membership at our annual conference in November. The resolution supports the need to share fisheries tax information between the State and municipalities. It also request adequate funding for the Department of Fish and Game to properly collect, report, and manage fish ticket information.

The AML strongly supports SB 385.

Thank you.

SAB:ph1

Enclosure

RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE

RESOLUTION NO. 88-8

A RESOLUTION CONCERNING RAW FISH TAX COLLECTIONS.

WHEREAS, the collection of raw fish tax is a critical source of revenue for the local municipalities and the State of Alaska, and

WHEREAS, the municipalities have been unable to obtain any data concerning collection of raw fish tax, and

WHEREAS, the municipalities would provide considerable information and assistance to the Department of Revenue if given the opportunity, and

WHEREAS, the municipalities have been effectively managing confidential information for many years, and

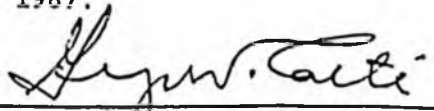
WHEREAS, the municipalities concur with the sensitivity of the processor information and agree to treat the information as confidential information, and

WHEREAS, the Department of Fish and Game fish tickets for bottomfish have not been processed for several months, which means no catch verification or fish tax verification is taking place at this time, and

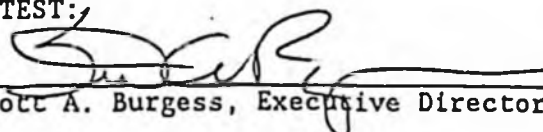
WHEREAS, this information is critical for both management of the fish resource and accurate management of the fish tax collections;

NOW, THEREFORE, BE IT RESOLVED by the Alaska Municipal League that Governor Cowper and the Alaska Legislature adopt legislation to fund adequate staff positions within the Department of Fish and Game to properly manage the information provided on the fish tickets for all species in a timely manner to allow verification and quality information to the municipalities and an accurate accounting for the raw fish tax.

Adopted this 13th day of November 1987.


George W. Carte', President

ATTEST:


Scott A. Burgess, Executive Director

ALEUTIANS EAST BOROUGH

SERVING THE COMMUNITIES OF

■ KING COVE ■ SAND POINT ■ AKUTAN ■ COLD BAY ■ FALSE PASS ■ NELSON LAGOON

February 29, 1988

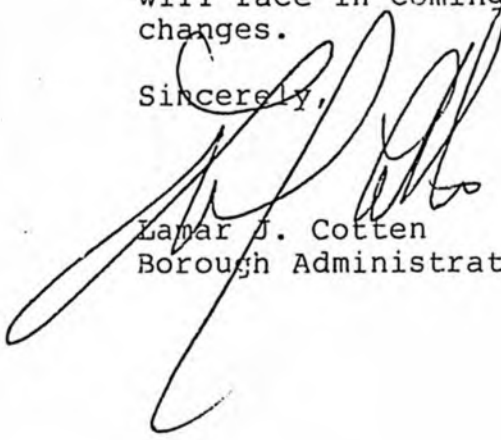
Senator Fred Zharoff
P.O. Box V
Juneau, Alaska 99811

RE: SB-385 - Confidentiality Bill

Dear Senator Zharoff:

Just a short note to say that the Aleutians East Borough supports the Senate Bill 385. It will help close loop-holes in current State law while insuring a taxation policy which treats all entities equally. The bill is well overdue and will help alleviate a number of problems which communities will face in coming years as the fishing industry evolves and changes.

Sincerely,



Lamar J. Cotten
Borough Administrator

CITY OF KING COVE

P.O. Box 37 • King Cove, Alaska 99612 • (907) 497-2340

March 10, 1988

The Honorable Fred Zharoff
Alaska State Senate
P.O. Box V
Juneau, Alaska 99811

RE: SB 385

Dear Senator Zharoff:

The City of King Cove strongly supports the adoption of SB 385 an act relating to fisheries tax returns. The City believes this bill will effectively assist in accomplishing the following:

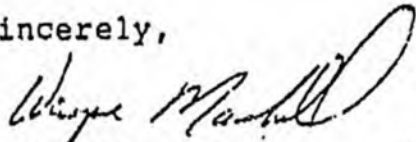
- o Provide municipalities a cost-effective tool in the administration and collection of municipal sales/use taxes, particularly from floating fish processors ; and

- o Provide the State and municipalities an informal avenue to share information and identify processors which are operating in respective areas of the State. This information sharing will enhance the prospects for the State and municipalities to collect tax revenues each is owed, again, particularly from floating processors.

The main problem confronting coastal municipalities are that they are often unaware of floating fish processing activities that occur in their municipal boundaries and cannot verify the amount of fish product a processor processes. Floating fish processors operating in State waters are required to pay State Fisheries Business Taxes and this information could be an essential tool to help a municipality collect the full amount of local tax assessments it is owed. Quite simply, the large amount of territory in some coastal municipalities, particularly boroughs, and the prohibitive cost of operating onsite monitoring program make it difficult for most municipalities to effectively collect taxes from floating processors. SB 385 is not a cure-all for this problem, but it is a very positive step that will immediately benefit municipalities and the State.

The City of King Cove supports SB 385 and urges its adoption this session.

Sincerely,



Wayne Marshall
City Manager

RECEIVED

City of Sand Point

P.O. Box 249
Sand Point, Alaska 99661

(907) 383-2696

March 2, 1988

Honorable Fred Zharoff
P.O. Box V
Juneau, Alaska 99811

Dear Senator Zharoff:

The City of Sand Point supports your efforts through SB 385 to promote the exchange of the fisheries business tax information between cities and the Department of Revenue. Given the declining nature of revenues, it is mutually advantageous for cities and the Department of Revenue to cross check their sales tax figures against the gross receipts shown on the fisheries business tax form.

Sincerely,



Robert S. Juettner
City Administrator



SOUTHWEST ALASKA MUNICIPAL CONFERENCE

Box 89 • Unalaska • Alaska 99685

APR 13 1987

April 13, 1987

Carl Ohs
c/o Senator Fred Zharoff
Senate District N
Pouch V
Juneau, Ak. 99801

Dear Carl,

Thank you for meeting with Wayne, Lamar and I last week on issues of concern for the Southwest Municipal Conference. You asked that I send you a summary of the main points.

You will recall that our discussion focused on four themes.

1. Fish Tax
2. Confidentiality
3. Monitoring
4. Observer Program

Fish Tax

At the annual spring meeting in Dillingham, the Southwest Municipal Conference delegates resolved to work with legislators to develop a fish tax program that structurally benefits municipally-located processors regardless of fishery. Delegates cited the importance of shore-based and near shore-based plants for local economies. Specifically, delegates proposed the following tiered structure.

Onshore Processors	3%
Floating Processors Within Municipal Boundaries	5%
Processors Outside of Municipal Boundaries	8%

The Conference asks that this tax policy be managed to allow municipalities to retain the same percentage they presently receive in shared taxes for operations within municipal boundaries. The State will receive an increase in revenues from higher tax rates on processors operating outside municipal boundaries.

Our goal is to have legislation introduced this Session that addresses the above-listed structure. ~~House~~ ^{House} Research could analyze the legislation during the interim. Modified to reflect their recommendations, we would work toward passing a bill next Session.

Confidentiality

Many municipal officials complain about the veil of secrecy surrounding fish processing records. Lacking access to these records, municipalities cannot verify processors' production records. It would be in the State's interest to share these records with municipalities so that we can assist the State in its collection of unreported/underreported taxes. Local officials repeatedly testified to the discrepancies in collections within their jurisdictions.

Some argue that if municipalities had access to records it would jeopardize the competitive edge that some processors enjoy. As municipal officials we frequently handle issues sensitive in nature. Our public's trust hinges on ensuring the confidentiality of these issues and records. We do not foresee a danger to any firm's records being made public.

The Southwest Municipal Conference is requesting your assistance to:

1. Authorize the Department of Revenue to share information on fish tax collected per processor with municipalities.
2. Require the Department of Revenue to work cooperatively with municipalities in verification and collection of raw fish tax. The Conference supports giving the Department of Revenue the option to allow the municipality to assume collection duties within municipal boundaries. This option would include provisions for the municipality to retain a reasonable fee to cover costs.
3. Fund adequate Alaska Department of Fish and Game staff positions to analyze fish tickets in a timely manner for all species. This link in the system is essential to ensure accurate accounting of the raw fish tax.

Monitoring

Southwestern communities fear that bottomfish resources could be devastated through lack of proper data analysis, monitoring and observation. Although many of the management aspects of this industry are federal, the State must work with the Federal government so that the future of pollock and cod is not negotiated for concessions in other international trading issues. We understand that millions of dollars may potentially go uncollected. This figure is the difference between what Fish and Game estimates is actually processed and what Revenue reports is collected.

Observer Program

Southwest Conference delegates continue to support a required domestic observer program. Conference recommendations include:

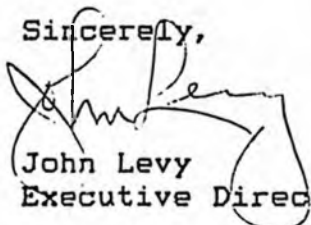
1. The State commit \$1.4 million in FY88 State share of Fish Business Tax receipts to fund the domestic observer program recommended by the Department of Fish and Game.

2. The State approach private and public bodies to assist in funding this program for the future. This includes supporting fishermen's efforts to form a non-profit-organization that can contribute funds for an observer program by using State taxing authority to collect assessments on fishermen.
3. The State contract with private groups, such as the Southwest Municipal Conference, to operate and manage the domestic observer program.
4. The State include The Southwest Municipal Conference on any advisory board that may be established to monitor the observer program.

You indicated that the Attorney General ruled that any observer program must hire state employees under A.P.E.A. We ask that Senator Zharoff work with the Governor and the Department of Law to come up with a legal, affordable program.

If you would like further information on the Southwest Municipal Conference or our position on various issues call President Paul Fuhs at 581-1357, I may be reached at 640 W. 36th Ave., #4, Anchorage 99503 or 562-1400.

Sincerely,



John Levy
Executive Director

cc: Southwest Municipal Conference Executive Officers
Rep. Cliff Davidson
Rep. Adelheid Herrmann