

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86/2

422 SCOMM11: INTERIM COMM. ON TAXATION & REVENUE 1975-76

appropriate tax. The tax paid on the royalty portion would be considered as part of the royalty payment and as an adjustment to the royalty interest's income tax due to crude oil and gas production activities.

Conclusion

The above issues must be settled before the final form of the tax can be determined. The preliminary revenue estimates found in the appendix use the asterisk marked alternatives and allow no deductions for interest payments. The various alternatives can have significant impact on how soon and how much revenue will be received by the state. The goal is to develop a tax approach that is basically fair to both the petroleum producers and the state.

III. Tax Proposal One: A Basic Profitability Tax on Producing Properties, "Oil and Gas Properties Net Proceeds Tax"

Once the tax base is determined, this tax will be applied to the "adjusted value of production." Since this tax is designed to tax the profitability of properties which the net income tax does not tax, the income tax rate of 9.4 percent would be appropriate. This would treat the profitability of the taxed properties in basically the same way as the current state income tax treats other corporate profits. The preliminary revenue estimates are based on the use of the 9.4 percent rate.

IV. Tax Proposal Two: An "Excess" Value Approach

There is a basic feeling among many people that profits from non-reproducible property, be they from real estate "speculation" or crude oil production, can be in some sense "too high" or "excessive." Such an excessive income is often expressed in terms of too high a return on capital investment. At first glance this seems fairly straight forward. However, there are two basic problems with this approach, the first of which kept the excess profits taxes of the Korean War in litigation into 1974.

First, one must determine just what the capital base is. Does the base include only equity capital or all capital? Are exploration costs part of the capital base? Is capital valued at original value or replacement value? These and other problems with the estimation of the capital base make such an approach a legal, administrative and enforcement nightmare.

Second, even if the capital base could be defined, a determination of just what is a "reasonable profit" is most difficult at best. Return rates vary from industry to industry and even within sectors of industries.

In hearings before the U. S. Senate Committee on Finance, January 22 and 23, 1974, a unanimous criticism (a rare event among Washington "experts") of such a tax was heard. Sheldon S. Cohen, former Chief Counsel, Treasury Dept., Charles W. Davis, former Commissioner of Internal Revenue Service, and William E. Simon, Secretary of Treasury, all concluded that an excess profits tax

based on historical profits or "reasonable profits" is basically unadministrable (pages 97, 105, and 63-4 respectively). For a more extensive discussion of determining the capital base and profit rate of return, please refer to Measurement of Corporate Profits, prepared by J. W. Allen, Economics Division, Library of Congress for the Senate Committee on Interior and Insular Affairs, March 1974 (Govt. Documents No. Y4. In. 8/13:93-39). There is fortunately another means to determine at least approximately when excess profits begin. It does not appear as straight forward as the returns to capital approach, but it avoids the litigation problems of the capital approach.

The alternative approach is a "long term price approach." The extensive back-up research for the Project Independence Report, issued November 1974 (Govt. Document FE 1:2:In 2/3 back-ups FE1:18 series), consistently indicates that a wide variety of energy resources can draw sufficient capital and compete with oil that is priced at a world level of \$7.00/bbl (FOB New York City). In other words, any price for a barrel of oil or its energy equivalent of more than \$7.00/bbl will yield profits in excess of those needed to develop the nation's energy resources. Inflation, since the report was issued, has probably increased this price to approximately \$7.50 to \$8.00/bbl. In its recent estimates of United States recoverable oil reserves, the American Petroleum Institute used a price of seven dollars per barrel (Oil and Gas Journal, 4/7/75, p. 45).

William L. Henry, vice president, Gulf Oil Corporation, in testimony before the Senate Committee on Finance (Feb. 13-14, 1975, also available as API reprint), also seems to accept as reasonable the administration's proposal to recognize a \$7.00 price in 1977 (page 50 of reprint). Secretary Simon stated on Jan. 22, 1975, "We have made an estimate -- a judgment -- as to the 'long-term supply price,' i.e., the minimum price to producers that will be sufficient to induce an increase in our supplies of oil sufficient to make us energy independent by 1985. Our judgment is that the price required for this is around \$7 to \$8 at today's price levels, assuming the continuation of percentage depletion." (House Ways and Means Comm. Hearing, 1/22/75, H782-2, p. 83) At the European Common Market Summit, Dec. 1 and 2, 1975, in preparation for the Dec. 16 energy negotiations, Common Market leaders agreed upon a \$7 per barrel price support. The Organization for Economic Cooperation and Development in its 240 page report suggests that oil can in general be obtained from offshore depths of 300-400 meters for \$4/bbl, from depths of 400-2,000 meters for \$5-8/bbl, and shale oil can be obtained for \$4-7/bbl. The report also suggests that by 1980, landed costs for both North Sea and Alaskan (Prudhoe Bay) oil may be between \$1.25 and \$1.50 per barrel at 1973 prices (The Economist, 3/1/75, pp. 75-76). The OECD proposed a price floor of \$4-6 per barrel. From industry, government, and independent sources, comes

the strong indication that the long term price of energy is probably around \$7/bbl of oil or its energy equivalent, and even that may have to be artificially supported just as current oil prices are artificially supported by OPEC.

Faced with the possibility of falling energy prices, at least in real purchasing terms, an investor will look to investment which will yield an acceptable rate of return at the expected lower price. Investments will only be made in projects which require a higher than long term price if the investor thinks the capital can be recovered and a profit made before the price falls to the long term level. This may explain in part the low level of exploratory drilling in Alaska as compared to other parts of the nation. In Alaska, the lead time for bringing a new field into commercial production is often years. In Oklahoma or Texas the lead time may be months, not years, and profits are assured before any possible fall in energy prices. For a short term Alaska investment, accelerated depreciation could sometimes be allowed to enable faster, tax-free recovery of capital investment.

Thus, profits due to prices above the long term price are "excess" in the sense that they may enrich the investor, but they will not cause him to increase his investment in areas that will not earn an acceptable rate of return at the long term price.

Specifically, if Alaska oil investment cannot yield an acceptable rate of return given a \$7 or \$8 California price for oil, then only short term oil investment will be made in Alaska.

The state's royalty, its gross severance tax, and state and local property taxes, being costs of production, and even the state's net income tax or a substitute for it, on income due to the long term price, all help determine whether or not Alaska oil development at a \$7 price is worthwhile. If royalties, severance taxes, property taxes, and net worth taxes were all zero, the capital investment and operating costs could be much higher than they are now and still be competitive. However, there is a tax which does not have a bearing on whether oil development at the long term price is worthwhile -- a tax on income due to a price above the long term level. In this case, it is a tax on income due to a price of more than \$7-8/bbl of oil or its energy equivalent in gas. Thus, in addition to the increase in severance tax rates, and the net property tax, it is proposed that an "excess value surtax" also be instituted.

Excess Value Surtax:

1. FOB price(s) at Alaska border or other convenient point times quantity
- MINUS
2. Long term price of oil or gas equivalent times quantity produced and sold at the long term price or greater, plus any other quantities of oil or gas sold at less than the long term price times their respective prices. The prices are determined at same FOB point as item 1.
- EQUALS
3. "Excess Value"

MINUS

4. Gross severance taxes or royalties to which the excess value is subject

EQUALS

5. "Excess Value" subject to surtax
- 5a. Royalties reported under 4, are also subject to Excess Value Surtax.

or if it can be shown that
for a specific field:

1. The long term price at FOB point times quantity produced

MINUS

2. Costs directly attributable to the field as determined under items 2 through 6 of the net properties tax, not including indirect administrative costs, even if incurred in Alaska, or royalty payments or gross severance tax payments due to a value higher than the long term price

EQUALS

3. Less than \$1.00 per barrel of producer's equity (non-royalty) oil or gas equivalent produced from the field

THEN

4. "Excess Value" equals the quantity produced by the field and sold at a price equal to or greater than the price needed to yield net proceeds of \$1.00 per barrel of producer's equity oil or gas equivalent times the actual price(s) at FOB point.

MINUS

5. The long term price plus the amount needed to yield net proceeds of \$1.00 per barrel of producer's equity oil or gas equivalent times the quantity sold at a price equal to or greater than such a price.

MINUS

6. Gross severance taxes or royalties to which the excess value, as calculated under items 4 and 5, is subject.

EQUALS

7. "Excess Value" subject to surtax.

NOTE: The tax on the royalty share sold at more than the long term price would almost certainly be based on the first method, since costs charged to royalty interests, such as transportation, would not reach the \$6.00/bbl mark.

COMMENTS

The excess value tax, as suggested, strives to tax only the income which does not have a direct impact upon the investor's long term plans. The alternative calculation is offered to provide for any short term investments which may be made in spite of their higher costs. The indirect administration or exploration costs allowed under the Oil and Gas Properties Net Proceeds Tax are not allowed under the surtax because this special alternative is aimed

at the extraordinary capital and direct operating costs of marginal fields. This alternative assures producers that the first dollar per barrel of profit on marginal fields will be taxed only at the net property value tax level, not the higher excess value level(s).

Should a producer find that his overall costs are greater than the long term price, it is unlikely that he will continue to explore in Alaska. It is next to impossible for the producer's operating costs to exceed the long term price. For a producer in the worst position of having direct costs for every field greater than the revenues which the long term price will yield, the tax would still exempt the first dollar per barrel of net worth from extraordinary taxation. Even if indirect administrative costs are as high as ten cents per barrel, this tax still exempts ninety cents. Furthermore, since even the higher excess value tax rates will leave a substantial part of the profit for the producer, he will still be able to recover other indirect costs such as unsuccessful exploration. These will be recovered after, rather than before, taxes are paid.

Possible Excess Value Surtax Rates

The Federal Administration proposal suggests rates for the "windfall" income which quickly rise to approximately 85-90 percent (House Comm. on Ways and Means, hearings Jan. 22, 1975, p. 46). Indonesia has imposed an excess profits tax on prices in excess of \$5.83/bbl of 85 to 95 percent (Oil and Gas Journal, Jan. 20, 1975, p. 45).

It is apparent that other governments feel that very high tax rates can be sustained by the industry. Since the base upon which this tax would be calculated is not a true net income base, it is felt that the state rates should be at lower levels.

The calculations in the appendix are based on a 41 percent rate, in addition to the nine percent net property value tax, produces a total tax rate of 50 percent. Even this rate would not be too heavy, since the tax may be written off against the Federal income tax at a rate of 48 percent. In the appendix, the 41 percent rate is levied on value due to a price of more than \$7.00 per barrel, or the net value greater than \$1.00/bbl if costs are greater than \$6.00/bbl. It would be possible to have graduated rates with a 20 percent surtax on the first dollar, or part of a dollar, of excess value per barrel, 30 percent on the second dollar, on up to 60 percent on the fifth dollar or part of a dollar or more. This would give some recognition to the fact that the long term price is an estimate.

The graduated rates would add some administrative complexity if oil and gas prices change frequently or multi-tiered price systems are maintained. The graduated system would make it in the state's interest not to have prices averaged and would require the Department of Revenue to have the operators report their production by each quantity and price level. For example, if two barrels of oil are sold at seven and thirteen dollars under the graduated tax, the first barrel has no excess tax, the second \$2.60. If these

prices are averaged at \$10/bbl, then the tax due on each barrel is \$.90 or a total of \$1.80. Under the flat 41 percent tax, both methods would yield \$2.46 and it makes no difference (41 percent of \$6.00 excess value).

Based on a \$7.00 base and a \$12.00 sales price the two approaches would be comparable:

	<u>41 Percent Tax</u>	<u>Graduated Tax</u>	
\$7-8.00 (1st Dollar)	0.41	20%	0.20
8-9.00	0.41	30%	0.30
9-10.00	0.41	40%	0.40
10-11.00	0.41	50%	0.50
11-12.00	0.41	60%	<u>0.60</u>
Total	2.05		2.00

At eleven dollars per barrel the 41 percent and graduated taxes would yield \$1.64 and \$1.40 per barrel respectively and at thirteen dollars, \$2.46 and \$2.60 respectively.

An Example of the Surtax Alternatives
Given the 41 Percent Rate

A producer sells twenty five barrels of Alaskan oil or gas equivalent in California, five barrels for \$12 each, five barrels for \$9 each, five for \$7.50 each, five for \$7 each, and five for \$5 each. Royalty interests own 12.5 percent of production and no severance tax is shown to simplify the example. Whenever oil or

gas is sold at less than the long term price, or under the alternatives, at a price not subject to the excess value tax, it is dropped from the calculation. This is indicated by a dash in the example. They are dropped so that oil or gas which is sold due to contracts or controls at a price lower than the long term price may not be averaged with higher priced oil or gas to reduce the excess value tax owed on production sold at higher than the long term price.

<u>Quantity</u>	<u>Price</u>	<u>Gross Value</u>	<u>Long Term Value(7xQ)</u>	<u>Excess Value</u>	<u>Producer Equity</u>	<u>Producer Excess Value</u>
5	12	60	35	25	.875	21.875
5	9	45	35	10	.875	8.75
5	7.50	37.50	35	2.5	.875	2.187
5	7	35	35	0	.875	0
5	5	25	35	--	--	--
Total						32.81

If the cost of production and shipping to California totaled more than \$6 per barrel, the alternate formula would be used. In this case, \$7 costs are used.

<u>Price</u>	<u>Gross Value</u>	<u>Costs/bbl + \$1.00</u>	<u>Excess Value</u>	<u>Producer Equity</u>	<u>Producer Excess Val.</u>
12	60	40	20	.875	17.50
9	45	40	5	.875	4.375
7.50	37.50	40	--	--	--
7	35	40	--	--	--
5	25	40	--	--	--
TOTAL					21.88

Tax owed by the producer equals 21.88 times .41 = 8.97

The royalty owner would be subject to the first alternative in both cases since he only incurs transportation costs, which should not equal the long term price by themselves. Taking the total excess value from the first alternative, 37.5, times the royalty interest, .125, equals the royalty holder's excess value of 4.69. This value times the tax rate, .41, equals the royalty holder's surtax liability of \$1.92.

Under the first alternative a total of \$15.37 is paid on an excess value of \$37.50. Under the second alternative, a total of \$10.89 is paid on an excess value of \$25.00.

It should continually be recognized that the excess value surtax is based on an estimate of the long term price of energy. Thus, the tax should have a provision for periodic correction and inflation adjustments of the long term price base. It is tentatively proposed that the Department of Revenue be empowered to make adjustments, up or down, in the base price each year. The proposed adjustments must be proposed along with the Administration's annual budget proposals and, unless disapproved or reduced by the Legislature, would automatically become effective within the next fiscal year. In no event, could the adjustment exceed the total increase in the national wholesale price index since the tax went into effect, minus any previous adjustment. Such a correction provision should cause the tax to disappear as the "windfall" disappears. Note that

the correction is not tied to the oil wholesale price index since oil prices can be manipulated by government or the OPEC cartel. This would probably bear less relation to the true long term price than the admittedly approximate correction based on the general wholesale price index.

V. Conclusion

This review presents the basic considerations behind the proposed oil taxation legislation. The basic "Oil and Gas Properties Net Proceeds Tax" is designed to allow producers to recover their costs before being taxed above the floor set by the severance tax, while avoiding the fatal loopholes of state net income taxation. The second tax, the "Excess Value Surtax," is designed to tax those profits not needed to cause long-term investment in Alaska at a higher rate.

If prices and costs were to stabilize, perhaps the gross severance tax could be made equitable enough to remain the sole major source of petroleum tax revenue. Even a matrix system of severance tax rates related to both prices and quantities produced might be used. No gross tax, however, can reflect the significant difference between the development costs, operation costs, and commercial lives of various fields. Only some form of net value tax can reflect such variations.

In the near future, the State of Alaska will very likely be receiving one to two billion dollars in petroleum royalties and tax

revenues annually. This comes to \$2,500 to \$5,000 for every man, woman, and child in the state, putting Alaska in the ranks with Saudi Arabia and Libya and surpassed only by Kuwait and Abu Dhabi.

If Alaska is to avoid the ire of the rest of the nation (which could react by fixing Alaska petroleum prices separately), it must be able to show that its revenue is fairly obtained and does not have significant impacts upon national energy prices or supplies.

The proposed package of increased severance taxes, the "Oil and Gas Properties Net Proceeds Tax," and the "Excess Value Surtax" should be defensible and acceptable to the nation; defensible and reluctantly acceptable to private oil interests and most importantly fair to the people of Alaska and its future citizens, who must bear the impact of petroleum production in the state.

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

**ALASKA
STATE LEGISLATURE**

MEMORANDUM

December 22, 1975

TO: Senator John Huber
FROM: Franklin D. Fleeks
Tax Counsel
SUBJECT: Committee Staff Review of the Wholesale Liquor Industry

Submitted for your review and approval are the findings of the staff in regards to the wholesale liquor industry. The basic research was done by Janis C. Gull. I have prepared a synopsis of the findings. Since there is one important missing link, how the manufacturing distillers deal with the wholesale dealers, you will find our recommendations qualified.

FDF/kab

AGO 529674 +

State of Alaska
Legislative Council
Subcommittee on Taxation and Revenue
Chairman, Senator John Huber

Members:

Senator Joe Orsini
Senator Pat Rodey
Representative Nels A. Anderson, Jr.
Representative Steve Cowper
Representative Jim Duncan
Representative Clark Gruening

This study is in response to the directive of the Legislative Council to perform taxation and revenue studies in conjunction with the Senate Special Committee on Taxation and Revenue as charged by Senate President Chancy Croft, in a January 24, 1975 letter to Governor Hammond.

Approved:

Taxation and Revenue Report #1
Wholesale Liquor Industry

By: Franklin D. Fleeks, committee tax
counsel; and Janis C. Gull, committee
researcher

AGO 529675 +

December, 1975

Table of Contents

	<u>Page</u>
Introduction	2
Corporate Structures	3
Current Statutes	6
Conclusion	7
 <u>Charts</u>	
Percentage of Industry Market by firms	2
Corporate Structure of Odom Group	2
Taxes and License Fees Collected by the Department of Revenue	3
1974 Fees paid by Wholesalers	after page 5
Comparison of old rates and proposed rates	8

Attachments

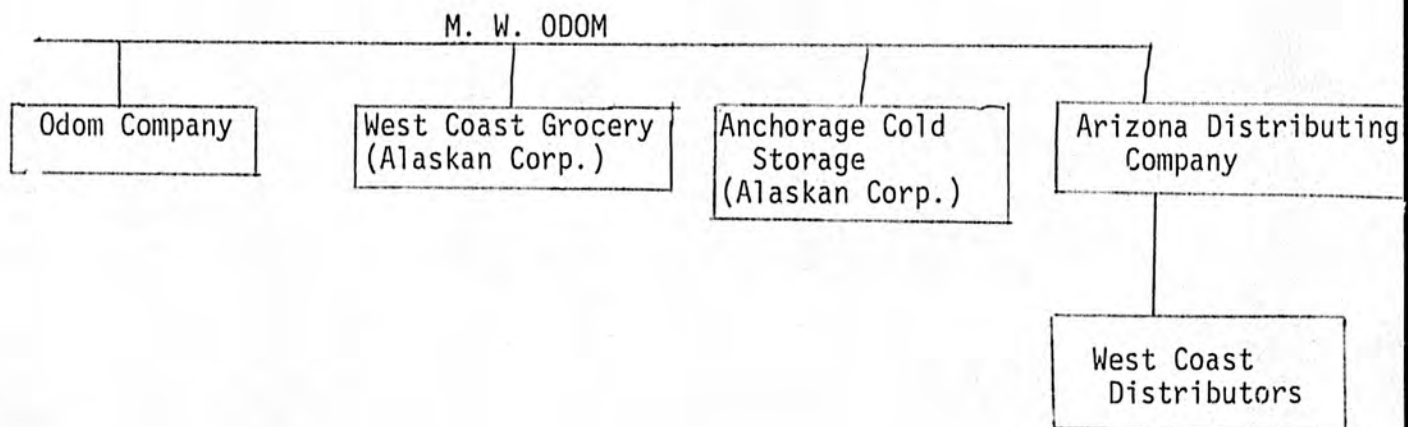
1. Memorandum from P. A. Wall, Director, Administrative Services Division, Department of Revenue, dated May 15, 1975
2. Copy of CSHB 246 am
3. Copy of HB 309

Introduction

The wholesale liquor industry in Alaska is dominated by three firms. Their percentage of the market based on FY 1975 gross receipts from the sale of liquor is as follows:

<u>NAME</u>	<u>GROSS RECEIPTS</u>	<u>PERCENTAGE</u>
K & L Distributors	\$15,643,982	38.00
Alaska Distributors	10,042,458	24.40
Odom Corporation	15,251,651	37.05
All others	244,651	.55
	<u>\$41,162,932</u>	<u>100.00</u>

One of the unique characteristics of the three major groups is outside ownership and control even though some of the corporate members are Alaskan corporations. K & L Distributors is controlled by the Levine Family of Bellevue, Washington, Alaska Distributors is controlled by Alex Shulman of Seattle, Washington, and the Odom Group is controlled by M. W. Odom of Seattle, Washington. The most complex structure is the Odom Group. Its structure is as follows:



There are currently twenty-two (22) wholesale liquor licenses issued. Under current Alaska law, AS 04.10.110, a general wholesale license is required for each distributing point. As shown below, the three major firms have more than one (1) distributing point and are thus multiple licensees.

The taxes and license fees collected by the Department of Revenue for the five past years are as follows:

<u>Fiscal Year</u>	<u>Gross Income</u>	<u>License Fees</u>	<u>Excise Tax</u>	<u>*Income Tax</u>
1975	\$41,162,932	\$81,850	\$6,598,213	\$72,834
1974	33,607,680	81,500	5,690,909	42,195
1973	31,426,323	80,200	5,234,678	52,042
1972	31,379,627	80,350	4,871,156	78,862
1971	30,816,351	80,600	4,936,399	46,045

* Furnished by the Department of Revenue based on 4 companies. Identities of the companies were not furnished

CORPORATE STRUCTURES

Alaska Bay Corp. and Aregah

These two entities hold general wholesale licenses and each has a warehouse. Their operations are located in Anchorage. Their respective gross incomes for 1974 were \$49,430 and \$20,997.

Mosesian Vinters

This wholesaler is owned in full by a religious order. It distills and distributes milk wine from its distillery in Palmer. Its gross receipts for 1974 were \$32,514.

Service Transfer

The base of operations for this company is Sitka. They are the sole distributors of Olympia beer within the Sitka area. The corporation's gross receipts were \$121,990 for 1974.

K & L Distributors

This is a family owned corporation dealing exclusively in alcoholic beverages. The corporation holds five wholesale liquor licenses.

The five distribution points are: Bellevue, Anchorage, Fairbanks, Juneau and Soldotna. Its gross income including some Washington transactions was \$15,643,892.

Alaska Distributors Co.

The corporation maintains three distribution points and hold three licenses. The distribution points are: Seattle, Anchorage and Fairbanks. This is a Washington-based corporation. Its gross income for 1974 was \$10,042,458.

Odom Company

This corporation along with its related corporations, Anchorage Cold Storage, West Coast Distributors, and West Coast Groceries hold the remainder of the Alaskan wholesale licenses. Odom Co. has four distribution points located at: Seattle, Fairbanks, Juneau and Ketchikan. Its gross income for 1974 was \$6,000,022.

West Coast Grocery

This Odom company handles beer and wine in the Ketchikan area. Its gross income for 1974 was \$279,023.

West Coast Distributors

This Odom company has four distribution points located at Seattle, Anchorage, Fairbanks and Juneau. Its gross income for 1974 was \$4,953,451.

Anchorage Cold Storage

This Odom company does its principal business in the Anchorage area. For 1974 its liquor sales were \$3,819,155.

The following chart summarizes the above information. I have combined the Odom Group below for informational purposes.

<u>Name</u>	<u>Location</u>	Wholesale Malt Beverage and Wine			General Wholesale		
		<u>Gross</u>	<u>Excess Fee</u>	<u>License Fee</u>	<u>Gross</u>	<u>Excess Fee</u>	<u>License Fee</u>
Anchorage Cold Storage	Anchorage				3,819,155	\$5,000	\$500
Odom	Seattle				4,308,540	5,000	500
Odom	Fairbanks				1,739,937	5,000	500
Odom	Juneau	83,853	1,000	100			
Odom	Ketchikan	57,692	1,000	100			
West Coast Groceries	Ketchikan	279,023	3,000	100			
West Coast Dist.	Seattle				1,863,310	5,000	500
West Coast Dist.	Anchorage				2,245,975	5,000	500
West Coast Dist.	Fairbanks				833,074	5,000	500
West Coast Dist.	Juneau	15,092	150	100			
Subtotals		445,660	5,150	400	14,805,991	15,000	1,500
Add Malt Bev. and Wine					<u>445,660</u>	<u>5,150</u>	<u>400</u>
TOTAL					15,251,651	20,150	1,900

1974 EXCESS FEES AND LICENSE FEES PAID BY WHOLESALERS

<u>Company</u>	<u>Location</u>	<u>Wholesale Malt Beverage and Wine</u>			<u>General Wholesale</u>		
		<u>Gross</u>	<u>Excess Fee</u>	<u>License Fee</u>	<u>Gross</u>	<u>Excess Fee</u>	<u>License Fee</u>
Alaska Bay	Anchorage				49,430.00	none	500.00
Alaska Dist.	Seattle				2,727,177.03	5,000.00	500.00
Alaska Dist.	Fairbanks				2,327,399.82	5,000.00	500.00
Alaska Dist.	Anchorage				4,987,881.47	5,000.00	500.00
Alaska Dist.	Juneau		no 1974 license				
Anch. Cold Stor.	Anchorage				3,819,154.72	5,000.00	500.00
Aregah	Anchorage				20,996.99	none	500.00
K & L	Bellevue				3,397,189.00	5,000.00	500.00
K & L	Anchorage				8,132,905.00	5,000.00	500.00
K & L	Fairbanks				3,116,862.00	5,000.00	500.00
K & L	Juneau	123,241.00	1,500.00	100.00			
K & L	Soldotna				873,695.00	5,000.00	500.00
Mosesian	Anchorage	32,514.31	500.00	100.00			
Odom	Seattle				4,308,539.59	5,000.00	500.00
Odom	Fairbanks				1,739,936.71	5,000.00	500.00
Odom	Juneau	83,853.49	1,000.00	100.00			
Odom	Ketchikan	67,692.40	1,000.00	100.00			
Service Trans.	Sitka	121,990.10	1,500.00	100.00			
West Coast Dist.	Seattle				1,863,309.73	5,000.00	500.00
West Coast Dist.	Anchorage				2,241,974.84	5,000.00	500.00
West Coast Dist.	Fairbanks				833,074.34	5,000.00	500.00
West Coast Dist.	Juneau	15,091.90	150.00	100.00			
West Coast Gro.	Ketchikan	279,023.00	3,000.00	100.00			
		\$723,406.20	\$8,650.00	\$700.00	\$40,439,526.24	\$65,000.00	\$7,500.00

AGU 529682

CURRENT STATUTES

In the field of taxation and revenue the wholesale liquor industry is covered specifically by the following:

- (a) AS 04.10.110 Wholesale License
- (b) AS 43.60 Excise Tax on Intoxicating Liquor

The wholesale license fee is asserted on two categories: (a) the general license which covers hard liquor and (b) the wholesale malt beverage and wine license. The license fees are based on a sliding scale with the general license ranging from a minimum of \$500 to a maximum of \$5,000 and the wholesale liquor license ranging from a minimum of \$100 to a maximum of \$5,000.

Excise tax rates are based on gallonage. The rates are as follows:

- (a) Malt beverages - 25 cents a gallon or fraction of a gallon.
- (b) Wine or other liquor of 21 percent alcohol by volume or less -- 60 cents a gallon or fraction of a gallon.
- (c) Other liquors having a content of more than 21 percent alcohol by volume - \$4 a gallon.

Factors Favoring an Increase

In a memo dated May 15, 1975, a copy of which is attached, Mr. Wall of the Department of Revenue made an analysis of the liquor licenses and fees. He noted the last change in licenses and fees was in 1959. Since that time the industry under the general license has increased its total business volume from \$15,490,169 to \$40,439,526; a 161.07 percent increase.

Licenses and fees for the general license have gone from \$66,500 in 1959 to \$73,500 in 1974, an increase of \$7,000 or 10.53 percent. It should also be noted that the last excise tax rate increase took place in 1961.

Gross income in the industry from 1971 - 1974 increased at a rate of one percent (1%). With the increase in population and income during the 1974 - 1975 periods, gross income increased twenty two percent (22%). Revenue received by the State from license fees increased less than one percent. Revenue from the excise tax increased by sixteen percent (16%). No judgment can be made in regards to the income tax because of not knowing if the four companies used were the major ones in the industry.

All economic indicators point to growth for Alaska in the years ahead. The wholesale liquor industry, in all certainty, will share in this growth. Each segment of the Alaskan economy should contribute its fair share of tax. Because of the nature of its products, the wholesale liquor industry creates a burdensome monetary and social cost to the State. An increase in rates will insure that the industry is contributing its fair share to the State revenues.

CONCLUSION

At present there are two bills in the legislative hopper, CSHB 246 am and HB 309, which will increase the State revenues. If the rates of excise tax proposed by HB 309 had been in effect for FY 1975, an additional \$2,798,187 in revenue would have been yielded.

Comparison of Old Rates and Proposed Rates:
Base Year FY 1975

Item	Taxable Gallons	Present Rate	Proposed Rate	Tax at Present Rate	Tax At Proposed Rate	Increase
Distilled Spirits	1,122,016	\$4.00	\$4.50	4,488,064	5,049,072	561,008
Wine	766,351	0.60	1.00	459,811	766,351	306,540
Beer	7,702,555	0.25	0.50	<u>1,925,639</u>	<u>3,851,278</u>	<u>1,925,639</u>
				<u>6,873,514</u>	<u>9,666,701</u>	<u>2,793,187</u>

If SCHB 246 am had been in effect, an approximate addition of \$330,000 would have been yielded.

The present system of policing the industry is working reasonably well, administratively. Further efforts by the Department of Revenue should be effected to make sure that the State's return under the Multistate Tax Compact is maximum yield. There is one major question remaining to be answered at the time of this report. The question pertains to the transactions between the manufacturing distiller and the wholesale distributors. During December, our staff will be looking into this question.

The staff recommends that the present bills be supported with the caveat, that if our further investigations reveal improprieties, a new or amended bill will be submitted.

ALASKA
STATE LEGISLATURE /

MEMORANDUM

December 18, 1975

TO: Senator Huber and
Franklin D. Fleeks, tax counsel

FROM: Janis C. Gull

SUBJECT: Wholesale Liquor Industry

On November 18 I received a memorandum containing your Outline of Research Needed for Analysis of Liquor Tax. The following is a copy of that outline and my report on the research and findings of fact that were the direct results of said outline.

The three items indicated in RED are not included in this report as I was not able to obtain conclusive information and statistics relating to them.

I am currently at your disposal to discuss the context of this report and to supply any and all raw data entailed within.

JCG/kb

Janis C. Gull

State of Alaska
Legislative Council
Subcommittee on Taxation and Revenue
Chairman, Senator John Huber

Members:

Senator Joe Orsini
Senator Pat Rodey
Representative Nels A. Anderson, Jr.
Representative Steve Cowper
Representative Jim Duncan
Representative Clark Gruening

This study is in response to the directive of the Legislative Council to perform taxation and revenue studies in conjunction with the Senate Special Committee on Taxation and Revenue as charged by Senate President Chancy Croft, in a January 24, 1975 letter to Governor Hammond.

Taxation and Revenue Report #1
Wholesale Liquor Industry

By: Janis C. Gull, committee researcher

Approved:

December, 1975

ALASKA
STATE LEGISLATURE

9K
JFH 11-18-75
MEMORANDUM

TO : Senator John Huber
FROM : Franklin D. Fleeks, Tax Counsel
SUBJECT: Outline of Research Needed for Analysis of
Liquor Tax

Nov. 18, 1975

The following outline is submitted for your approval. The information sought will give a detailed picture of the wholesale liquor industry in Alaska. The study is limited to the wholesale distributors, most of whom are out of state corporations.

A partial listing of sources to be contacted for information is as follows:

- a. Dept. of Revenue - Excise Tax Division
- b. Dept. of Revenue - Income Tax Division, Multi-state Tax Compact
- c. Dept. of Revenue - Statistics on amount of tax collected
- d. Alcohol Beverage Control Board
- e. Bill McGuire - Adm. Asst. to Sen. Chancy Croft
- f. Tapes of legislative hearings on last sessions bill
- g. Lobbyist for distributors for their position
- h. Washington State Liquor Control Board for comparison of wholesale prices
- i. Transcript of anti-trust suit against the wholesale distributors.

OUTLINE

- I. Identification of the Taxpayers
 - a. Who are the wholesale distributors who operate in Alaska?
 - b. Are they domestic (Alaskan) corporations, subsidiaries of out of state corporations, or completely out of state corporations?
 - c. Where are their major warehouses located; In Alaska or outside of Alaska?
- II. Identification of the Problem
 - a. How long since the rates have been changed?
 - b. What are the present rates of taxation?
 - c. How do Alaska's rates of taxation of the wholesale liquor industry compare to other states?
 - d. What were the total amount of wholesale liquor sales in Alaska for the past five years?
 - e. How many Alaskan employees are there?
- III. Operations of the Wholesalers
 - a. How is the wholesale price of liquor determined?
 - b. Does the out of state corporation raise the wholesale price of liquor sold to its wholly owned Alaskan subsidiary in order to reduce the profit of the subsidiary?
 - c. Is the wholesale price of liquor purchased by the distributors the same as their Seattle price less transportation costs to Alaska?
- IV. Identification of the Type and Amount of Taxes Being Currently Received by the State
 - a. How much was collected from the excise tax on liquor in the past 5 years?
 - b. Are the distributors paying any income tax?
 - c. Does the Multistate Tax Compact reach the distributors net profits from sales in Alaska?
- V. Miscellaneous
 - a. Should the tax be based on gallonage or the wholesale price?
 - b. If the Multistate Tax Compact is not reaching the distributors, is there another way to collect the revenue?
 - c. Should reform of the tax structure be tied to Alcoholic Rehabilitation?
 - d. What increase in the rate of excise tax is recommended?

I. Identification of the Taxpayers

- a. Who are the wholesale distributors who operate in Alaska?
- b. Are they domestic (Alaskan) corporations, subsidiaries of out of state corporations, or completely out of state corporations?
- c. Where are their major warehouses located; in Alaska or outside of Alaska?

The following is a complete list of all wholesalers presently doing business in the State of Alaska.

Alaska Bay Corporation
505 Ocean Dock Road
Anchorage, Alaska
Mail: Box 1872
Fairbanks, Alaska 99701

Mosesian Vinters
Ray N. Mosesian
Mail: Star Route A, Box 217-A
Anchorage, Alaska 99502

Alaska Distributors Company
4601 Sixth Avenue South
Seattle, Washington 98108

Odom Company
1258 First Avenue South
Seattle, Washington 98134

Alaska Distributors Company
P. O. Box 549
Fairbanks, Alaska 99701

Odom Company
Alaska Railroad Industrial Area
Fairbanks, Alaska 99701

Alaska Distributors Company
Box 4-1598
Anchorage, Alaska 99509

Odom Company
Box 410
Juneau, Alaska 99801

Anchorage Cold Storage, Co., Inc.
P. O. Box 39
Anchorage, Alaska 99501

Odom Company
619 Stedman Street
Ketchikan, Alaska 99901

Aregah Corporation
Box 3454
Anchorage, Alaska 99501

Service Transfer, Inc.
Box 178
Sitka, Alaska 99835

K & L Distributors, Inc.
300 120th Avenue, N. E.
Bellevue, Washington 98004

West Coast Distributors, Inc.
1258 First Avenue South
Seattle, Washington 98134

K & L Distributors, Inc.
4504 Lois Drive
Anchorage, Alaska 99503

K & L Distributors, Inc.
17 Adak Street
Fairbanks, Alaska 99701

K & L Distributors, Inc.
490 South Franklin Street
Juneau, Alaska 99801

K & L Distributors, Inc.
P. O. Box 337
Soldotna, Alaska 99669

West Coast Distributors, Inc.
Box 942
Anchorage, Alaska 99510

West Coast Distributors, Inc.
P. O. Box 732
Fairbanks, Alaska 99701

West Coast Distributors, Inc.
490 South Franklin Street
Juneau, Alaska 99801

West Coast Grocery Company
P. O. Box 118
Ketchikan, Alaska 99901

Of the preceding wholesale entities only four are totally Alaskan owned: 1) Alaska Bay Corporation; 2) Aregah; 3) Mosesian Vinters; and 4) Service Transfer. Of these, Alaska Bay Corporation and Aregah hold general wholesale licenses. Each corporation has one only warehouse, both of which are physically located in Anchorage. Their total combined gross income for 1974 was only \$70,426.99. They also paid the minimum in licensing and excess taxes - \$500 each.

Mosesian Vinters distills and distributes milk wine from its distillery in Palmer. They hold a malt- beverage and wine license and are owned in full by a religious order. Their total gross income for 1974 was \$32,541.31.

Service Transfer has only one warehouse located in Sitka. They also hold a malt -beverage and wine license and distribute Olympia Beer solely in Sitka. To my knowledge they do not sell any other beverage. Their total gross 1974 income was \$121,990.10.

The combined gross income for the two domestic malt liquor distributors for 1974 is \$154,504.41. They also paid a total of \$2,000 in excess fees and \$200 in license fees.

Considering the remaining eighteen wholesalers licensed to do business within the State of Alaska I have found that they are all subsidiaries of three larger Washington State corporate entities. The only exception to this might be considered to be the K & L distribution point in Bellevue, Washington. This particular location is the parent corporation to its four separate distribution points in Alaska.

Alaska Distributors Co.
4501 6th Ave. So.
Seattle, Washington

Owner: Alex Shulman

This corporation is based in Seattle, Washington. It maintains three Alaska licensed warehouses -- Seattle, Anchorage, and Fairbanks. Each pays license fees of \$500 and the maximum of \$5,000 in excess fees.

The corporation also has eight other distribution points in Alaska. However, these eight are all run by "commissioned sales persons", none of which have licensed warehouses or pay any withholding taxes. They order the exact quantity their customers require and deliver it immediately.

Alaska Distributors as a whole paid a total of \$16,500 in licensing fees in 1974. Their total gross income for the same period was \$10,042,458.32. Because their income tax returns are confidential, I could not find out the exact percentage of their gross or net income that actually went to the State of Alaska.

K & L Distributors, Inc.
300 120th N. E.
P. O. Box 1969
Bellevue, Washington 98004

Owners: The Levine family

K & L Distributors is a family owned corporation with its physical base located in Bellevue, Washington. It has five Alaska licensed warehouses: 1) Bellevue, 2) Anchorage, 3) Fairbanks, 4) Juneau, and 5) Soldotna. The Soldotna distribution point holds a malt-beverage and wine license only. All of the others hold general licenses. K & L pays a total of \$2,100 in license fees as well as \$21,500 in excess fees for these warehouses.

This corporation has set up a series of "sales representatives" to cover the outlying areas. As with Alaska Distributors, K & L's "reps" are "commissioned sales persons." There are eight separate "area" locations for these reps, but the quantitative number of personnel changes monthly.

All K & L products are shipped via the Bellevue warehouse to Alaska. They are not distributed elsewhere. The Bellevue distribution point does do a representative volume of business in Washington. This can be largely attributed to the fact that they are the exclusive distributor of both Budweiser and Olympia beer -- the number 1 and number 2 best sellers respectfully.

The Levine family is not involved in other business endeavors but is solely a liquor distributor. Their basic corporate structure is rather simple and appears to function very well.

ODOM
1258 First Avenue South
Seattle, Washington 98124

Owner: Mr. M. W. Odom

NOTE: M. W. Odom is the owner and president of a corporate conglomerate. He has set up and/or purchased an extensive series of separate corporations -- all of which have separate managerial staff and policies and tax structures. The end net proceeds of each entity is directed to the parent corporation. This creates a steady cash flow both within each corporation as well as the ability to extend monies to other internal corporations.

The following report entails his liquor interests within the State of Alaska and extends only to the "parent" warehouses in Seattle.

West Coast Grocery
P. O. Box 118
Ketchikan, Alaska 99901

President: M. W. Odom

This corporation distributes alcoholic beverages and general groceries in the Ketchikan area. It also does a healthy mail order grocery and liquor business. Hard liquor is handled by "commissioned sales persons" in this area and thusly the Ketchikan warehouse maintains a wholesale malt-beverage and wine license. It pays \$100 in license fees and \$3,000 in excess fees. The total gross income was \$279,023 for 1974.

Anchorage Cold Storage
P. O. Box 39
240 First Avenue
Anchorage, Alaska 99501

President: M. W. Odom

This Odom entity has a standing staff of 185 persons. It handles produce, frozen meats and liquor. They hold one general wholesale license for their Anchorage location and pay the standing \$500 as well as the \$5,000 in excess fees. As indicated by the above address, this particular company was incorporated in the State of Alaska and is a domestic corporation. The total gross liquor sales for 1974 was \$3,819,154.72.

Odom Company
1258 First Avenue South
Seattle, Washington 98134

President: M .W. Odom

This company is what I call Odom with a small "o". It is considered to be a separate corporation, as are the rest of his entities. It is not the parent corporation in Seattle. It appears that M. W. merely wanted to hang his name on it in lieu of Mucktuck Distributors or something else.

The company has four large warehouses. Both the Seattle and Fairbanks locations hold general wholesale licenses and pay the maximum in excess taxes (\$500 - \$5,000 each.) The Juneau and Ketchikan warehouses are malt-beverage and wine distribution points and pay the maximum licensing of \$100 and \$1,000 each. Odom's total 1974 gross income for all four warehouses was \$6,200,022.19. The total licensing fee was \$12,000 excess and \$1,200 licenses. The management also maintains four "commissioned sales persons" in various small communities.

West Coast Distributors
1258 First Avenue South
Seattle, Washington 98134

President: M. W. Odom

This corporate structure is much the same as with the other Odom enterprises. They have four warehouses: Seattle, Anchorage, Fairbanks and Juneau, with the latter being a malt-beverage distribution point. West Coast pays \$1,600 in license fees and \$16,500 in excess fees. The total gross income was \$1,953,450.81. They also distribute groceries, and sundries.

NOTE: Anchorage Cold Storage, West Coast Groceries, Coca-Cola, and West Coast Distributors are all housed in the same structural complex in Anchorage. This appears to facilitate each individual company in that they can and do "share" trucks, secretarial facilities (i.e., MTST, switchboard, etc.) and warehousing footage. The same procedure is used in Fairbanks and Seattle; however, there is a juggling of who is where (i.e., Anchorage Cold Storage is not in Fairbanks, and Odom Co. is not in Anchorage).

It is interesting to note that even though these corporations are located in the same complex, each company has: 1) its own managerial hierarchy; 2) different offices; 3) different phones; and 4) different mailing addresses. But in the process of "combining," during any given day a driver in an Odom truck can deliver Odom beer, Anchorage Cold Storage meat and West Coast sundries and liquor. The only difference is found in the invoices and billing.

ODOM (Big "O") corporation is by far the most complex of all of the distributors. The system does function rather well, and combined they compiled the following available statistics for the year 1974:

TOTAL GROSS SALES INCOME

General Wholesale	\$14,805,989.95
Wholesale Malt and Wine	445,660.79

LICENSE AND FEES

General Wholesale	3,000.00
Excess fee	30,000.00
Malt Beer and Wine	400.00
Excess Fee	5,150.00
Total Licensing and Fees	\$ 38,555.00

Fiscal Year 7-1-74
Through 6-30-75

Beer	1,807,803.7 gallons
Wine	259,456.8 gallons
Liquor	443,187.3 gallons

II. Identification of the Problem.

- a. How long since the rates have been changed?
- b. What are the present rates of taxation?
- c. How do Alaska's rates of taxation of the wholesale liquor industry compare to other states?
- d. What was the total amount of wholesale liquor sales in Alaska for the past five years?

Alaskan Statute 43.60.010 in regards to the liquor industry was instituted in 1961. There have been no changes made since its inception. The taxation rates established in 1961 are: wine: \$0.60 per gallon; malt-beverages: \$0.25 per gallon; hard liquor: \$4.00 per gallon.

Please note that on 3/18/75 House Bill 309 was introduced by the Rules Committee by Request of the Governor and it was referred to the House Finance Committee. At the present time it is still held by Finance.

This new bill (309) would increase the current tax rates as follows: (1) malt beverages at a rate of \$0.50 a gallon, (from \$0.25); (2) wine or other liquor at a rate of \$1.00 per gallon, (from \$0.60); and (3) hard liquors at a rate of \$4.50 a gallon (from \$4.00).

In addition to HB 309, House Bill 246 am was introduced. CS for #246 was introduced by Community and Regional Affairs. It was referred to the Judiciary which in turn produced CSHB 246 am which was passed by the House and sent to Senate Commerce and Finance. The bill is currently held in this committee. CSHB 246 am is designed to change the wholesale license fees.

The current statute allows for general wholesale licenses of \$500 per year and a maximum of \$5,000 in excess fees on an income of \$500,000 or over.

Also currently allowed is the malt-beverage and wine license fees of \$100 with \$1,000 maximum in excess fees on an income of \$100,000 or over.

The new bill CSHB 246 am requests the same tax and excess structure and in addition thereto, a sum equal to one percent of the business transacted during the year for which the license is issued on the business transacted during any year. This bill has currently passed the House and is in the Senate Finance Committee.

In answer to question c, how do Alaska's rates of taxation of the wholesale liquor industry compare to other states, the following chart has been compiled:

- 13 -

**Excise Tax Rates on Specified Alcoholic Beverages Levied by
31 License States and the District of Columbia Ranked According to Magnitude,
and by the Federal Government***

As of January-14, 1975

(11-24-75)

Distilled Spirits		Table Wine		Dessert Wine		Beer	
State	Rate Per Gallon	State	Rate Per Gallon	State	Rate Per Gallon	State	Rate Per Gallon
1	2	3	4	5	6	7	8
Minn.	\$4.39	Ga.	\$1.50	Ga.	\$2.50	S. Car.	.768
Alaska	4.00 ②	Fla.	1.15	Fla.	1.60	Ga.	.322
Okla.	4.00	Tenn.	1.10	Tenn.	1.10	La.	.322
Tenn.	4.00	S. Car.	1.08	S. Car.	1.08	Okla.	.322
Fla.	3.75	Ark.	.75	Okla.	1.00	Fla.	.320
Ga.	3.75	Neb.	.75	S. Dak.	.95	S. Dak.	.267
Mass.	3.36	Alaska ⑦	.60	Minn.	.79	Alaska ⑦	.250
N. Y.	3.25	Ky.	.50	Ark.	.75	Ark.	.234
S. Dak.	3.05	N. Dak.	.50	Neb.	.75	Texas	.165
N. J.	2.80	Okla.	.50	Alaska ⑩	.60	N. Dak.	.160
S. Car.	2.72	Mass.	.46	Ill.	.60	Kansas	.150
Wisc.	2.60	Ind.	.45	N. Dak.	.60	Minn.	.129
Ariz.	2.50	Ariz.	.42	Kans.	.50	Tenn.	.110
Ark.	2.50	Del.	.40	Ky.	.50	Neb.	.100
Conn.	2.50	Md.	.40	Nev.	.50	Ind.	.095
L.	2.50	N. Mex.	.40	Mass.	.46	Md.	.090
N. Dak.	2.50	R. I.	.40	Ind.	.45	Mass.	.088
R. I.	2.50	Mo.	.30	Ariz.	.42	Conn.	.081
Ind.	2.28	Nev.	.30	Del.	.40	Ky.	.081
Del.	2.25	N. J.	.30	Md.	.40	Ariz.	.080
Calif.	2.00	S. Dak.	.30	N. Mex.	.40	N. Mex.	.080
D. C.	2.00	Minn.	.27	R. I.	.40	D. C.	.073
Ill.	2.00	Conn.	.25	Wisc.	.39	Ill.	.070
Mo.	2.00	Ill.	.23	Texas	.34	Del.	.065
Neb.	2.00	Colo.	.20	D. C.	.33	R. I.	.065
Texas	2.00	Kans.	.20	Colo.	.30	Wisc.	.065
Ky.	1.92	Wisc.	.195	Mo.	.30	Colo.	.060
Nev.	1.90	Texas	.17	N. J.	.30	Mo.	.060
Colo.	1.80	D. C.	.15	Conn.	.25	Nev.	.060
Kansas	1.50	La.	.11	La.	.21	N. Y.	.044
Md.	1.50	N. Y.	.10	N. Y.	.10	Calif.	.040
N. Mex.	1.50	Calif.	.01	Calif.	.02	N. J.	.033
Median of State Taxes	2.50		.40		.455		.089
Average of State Taxes	2.60		.51		.60		.152
Fed. Tax	10.50**		.17		.67		.29***

*Hawaii, the only other license state, levies an excise tax on alcoholic beverages of 20 percent of the wholesale price.

**Per proof gallon if withdrawn from bond at over 100° proof and per wine gallon if withdrawn from bond at not over 100° proof.

***Actual rate is \$9.00 per 31 gallon barrel.

Source: Commerce Clearing House, State Tax Guide: All States

AGO 529700

As the chart indicates, Alaska ranks second in rates per gallon of distilled spirits, seventh in rates per gallon of table wine, tenth in rates per gallon for dessert wine and seventh in rates per gallon for beer.

Unlike most corporations in Alaska with only one or two "commissioned sales persons," the three large liquor distributors have a fairly large standing staff of them. None of these persons pay withholding taxes through the business. They are not listed as "employees" and their quantitative number varies from month to month. As of December 15, 1975, there appears to be at least 44 "commissioned persons" working in the state. The total number of Alaskans currently paying withholding taxes as full or part time employees is 382 persons, of these approximately 200 work in other capacities besides handling or dealing with liquor.

III. Operations of the Wholesalers

- a. How is the wholesale price of liquor determined?
- b. Does the out of state corporation raise the wholesale price of liquor sold to its Alaskan subsidiary in order to reduce the profit of the subsidiary?
- c. Is the wholesale price of liquor purchased by the distributors the same as their Seattle price less transportation costs to Alaska?

As was indicated at the outset of this report I have not received conclusive information at this time about questions a and b.

Theoretically the wholesale price of liquor sold by distributors is exactly the same between Seattle and Alaska. The higher prices are incurred due to freight and extra handling as well as high overhead.

The Alaska Beverage Analyst (November, 1975) quotes both the Seattle and Anchorage prices as well as the Fairbanks price. On the surface it seems quite fair. However, if price gouging is taking place it appears to be on the true wholesale level. That is to say that the prices listed in the Alaska Beverage Analyst have already been hiked before the magazine was printed.

IV. Identification of the Type and Amount of Taxes being currently
Received by the State

- a. How much was collected from the excise tax on liquor in the
past 5 years?
- b. Are the distributors paying any income tax?
- c. Does the Multistate Tax Compact reach the distributors net
profits from sales in Alaska?

Excise tax received by the State of Alaska from the wholesale
liquor industry is as follows:

EXCISE ALCOHOL TAX

<u>Fiscal Year Ended</u>	<u>Net Collections</u>	<u>Dollar Increase over prior fiscal year</u>	<u>Percent Increase over prior fiscal year</u>
6/30/75	\$6,598,213.24	\$907,304.59	15.94
6/30/74	5,690,908.65	456,230.55	8.72
6/30/73	5,234,678.10	363,521.68	7.46
6/30/72	4,871,156.42	(65,242.42)	(1.32)
6/30/71	4,936,398.84	511,479.26	11.56
6/30/70	4,424,919.58	481,813.95	12.22
6/30/69	3,943,105.63	Base Year	Base Year

The distributors are most definitely paying income tax. However, it is to be noted that for the year of 1974 the top four companies in the industry paid a total of \$72,834.00 in income taxes based on a \$36,839,823.32 gross income. All of the other companies' combined gross income total is so inconsequential as to be unmentioned at this point. As indicated before, I do not have the statistics on their corporate incomes. Therefore, I do not know what their net income was.

The wholesale liquor industry also paid out a total of \$8,200.00 in license fees as well as an additional \$73,650.00 in excess license fees.

Concerning the Multistate Tax Compact I have received the following information. The liquor industry is influenced by the Multistate Tax Compact. In the last year the effect of the Compact has been that an additional \$3,222.00 was received from the industry. This figure can be directly attributed to the Multistate. The audit of the separate companies is generally felt to be more effective on the retail level.

Before the Multistate Tax Compact can rationally be considered it first has to be made more effective. I do believe that one of the methods to facilitate this change would be to utilize the thesis I will expand upon in Section Five. This method would be established on a percentage rate based on the wholesale price. I feel this would bring in far more income than the Multistate Compact.

Just recently (November 16) I received information about serious troubles with the liquor industry in Washington State. It seems that they have not been acting in accordance with the Washington laws and

with the Washington State Liquor Board Regulations. If indeed this is the case, then it necessitates a deeper investigation into the wholesale liquor distributors industry in relationship to, among other things, the Multistate Tax Compact.

V. Miscellaneous

- a. Should the tax be based on gallonage or the wholesale price?
- b. If the Multistate Tax Compact is not reaching the distributors, is there another way to collect the revenue?
- c. Should reform of the tax structure be tied to Alcoholic Rehabilitation?
- d. What increase in the rate of excise tax is recommended?

The first question of this section deals with a very interesting aspect. After researching, discussing with "experts," analyzing and much consideration, I'm of the opinion that the tax should be based on the original 1961 gallonage structure and/or the slightly higher tax recommended in HB 309 (1975). And that above that there should be a tax based on the wholesale price with a sliding scale toward the higher priced items.

Concerning the Multistate Tax Compact I feel that the above-mentioned system of a sliding scale based on the wholesale price would definitely be another viable way to collect revenue.

Alcoholic rehabilitation cannot be tied to the tax structure in the State of Alaska. The state constitution forbids any allocation or dedications of any revenue funds to one given entity.

Appendix

Definitions

There are two different classifications for wholesale licenses in the State of Alaska, 1) general wholesale licenses and 2) wholesale malt beverage and wine licenses. They are defined as follows:

(1) The holder of a general wholesale license may sell intoxicating liquors in the original package, and wine in bulk, in quantities of not less than five wine gallons to holders of licenses. A general wholesale license shall be required for each distributing point. The general wholesale license fee schedule is based upon the total amount of business transacted during any year and is \$500 as a minimum license fee and is in payment for the first \$50,000 of business transacted, and in addition, thereto, a rising scale up to but not over \$5,000 in excess fees may be charged based on gross sales.

(2) The holder of a wholesale malt beverage and wine license may sell malt beverages and wine in the original packages and malt beverages and wine in bulk in quantities of not less than five wine gallons to holders of licenses. The malt beverages and wine license fee schedule is based on the total amount of business transacted in any year and is \$100 as a minimum license fee, and based on the first \$10,000 of business. Excess fees on a rising scale extend to \$2,000 but not over and are attached to a \$200,000 figure.

It is to be noted that both of these licenses are restricted by law in that they may not sell to a consumer.

Appendix

The following people were contacted and have contributed their expertise to this report:

The Department of Revenue

Commissioner Sterling Gallagher - income tax
Mr. Bob Stevenson - excise tax
Ms. Eddie Price - income tax
Mr. Bob Mitchell - multistate compact
Mr. Fred Boetsch - excise tax

Alcohol Beverage Control Board

Ms. Linda Brown - ABC director

Legislative Affairs - Anchorage

Mr. Bill McGuire - source material

Senate Finance Committee

Copies of Legislative hearings

Federal Court System

U. S. Attorney - antitrust suit in 1973

Anchorage Cold Storage

Mr. Bob Winslow - manager

K & L Distributor, Inc.

Ms. Winifred Nordquist exec. sec.

Alaska Distributors, Inc.

Mr. Jim Reckie - manager

The following is the total gross income for wholesale liquor sales in Alaska for the past ten years. The column on the right is dollars per year, and the left column is gallonage:

	<u>Taxable Gallons</u>	<u>Total Gross Income</u>
1974	8,839,890.46	\$40,439,526.24
1973	7,532,690.60	32,919,173.66
1972	7,013,539.09	30,783,714.55
1971	not available	30,730,250.25
1970	5,995,406.16	30,141,016.99
1969	5,351,761.27	26,658,756.88
1968	4,769,086.71	23,500,115.31
1967	4,506,210.52	21,616,597.71
1966	4,149,523.00	18,771,534.47
1965	3,982,346.93	15,914,811.61

GENERAL WHOLESALE LICENSE FOR 1975

Locations of Warehouses

	Seattle	Anchorage	Fairbanks	Soldotna
(O/S Wash) Alaska Distributors	x	x	x	
(O/S Wash) K & L Distributors	x	x	x	x
(O/S Wash O) Anchorage Cold Storage		x		
(O/S Wash O) Odom	x		x	
(O/S Wash O) West Coast Distributors	x	x	x	

Malt-Beverage

	Juneau	Sitka	Ketchikan	Palmer
(O/S Wash) K & L Distributors	x			
(O/S Wash O) Odom	x		x	
(O/S Wash O) West Coast Distributors	x			
(O/S Wash O) West Coast Grocery			x	

	Anchorage	Sitka	Palmer	
Domestic Alaska Bay Corp.	x			General
Domestic Aregah	x			General
Domestic Mosesian Vinters			x	Malt
Domestic Service Transfer		x		Malt (Oly)

MEMORANDUM

State of Alaska

TO: R. D. Stevenson
-Special Assistant
Department of Revenue

DATE : May 15, 1975

FROM: P. A. Wall
Director
Administrative Services Division
Department of Revenue

SUBJECT: CS for House Bill No. 246 am

CS for House Bill No. 246 am passed the House and has been referred to the Senate Commerce and Finance Committees.

The Committee Substitute relates to liquor licenses, fees, and municipal regulation of the sale of intoxicating liquor.

With relation to the amendment concerning liquor licenses and fees, this office has recently received the 1974 reports concerning the gross volume of business transacted by all wholesalers in Alaska for the calendar year 1974.

In order to up-date the statistics and provide the Legislature with a projection of increases in revenue that would be obtained by passage of the bill, the following information is submitted:

It is to be noted from AS 04.10.110 (a) concerning general wholesale licenses that the minimum license fee is \$500 and is in payment for the first \$50,000 of business transacted for one distributing point. Effective rate of the initial fee is 1% (\$50,000 X .01 equals \$500). The schedule then provides various brackets of gross receipts with increasing fees until the top amount of \$500,000 is reached where the present additional fee is \$5,000 or again an effective rate of 1% (\$500,000 X .01 equals \$5,000). There is presently no additional fee for receipts received in amounts over \$500,000 for one distributing point.

Reference is now made to the attached schedule, prepared from statistics contained in reports furnished yearly to the Alcoholic Beverage Control Board of holders of General Wholesale Licenses and by holders of Wholesale Malt Beverage and Wine Licenses.

It is to be noted on the subject schedule that for 1959 all holders of General Wholesale Licenses paid initial fees in total amount of \$7,000 and excess fees dependent upon the present schedule in total amount of \$59,500 for grand total of fees in amount of \$66,500 to pay all fees due on gross receipts at various distributing points totaling \$15,490,169.50.

MEMORANDUM

#2

State of Alaska

TO: Γ

DATE :

FROM:

SUBJECT:

Some 15 years later in 1974, all holders of General Wholesale Licenses paid initial fees of \$7,500 and excess fees dependent upon the present schedule in total amount of \$66,000 for a grand total of fees in amount of \$73,500 to pay all fees due on gross receipts at various distributing points totalling \$40,439,525.74.

In comparison 15 years apart, the holders of General Wholesale Licenses were, under the prevailing fee schedule, able to increase their total volume of business from \$15,490,169.50 to \$40,439,525.74, an increase of \$24,949,356.24 or 161.07% increase, and yet pay in effect only \$7,000 more fees, an increase of 10.53% in total fees. This is due to the top fee schedule being set at \$5,000 for gross business of over \$500,000 at each distributing point.

The present fee schedule is described in 35-4-21 (h) ACLA 1949 amended by Chapter 131, SLA 1957 and Chapter 197, SLA 1959. There have been no further amendments or changes to date on the fee schedule so described.

From the present fee schedule, a wholesaler who had business transacted, for example, at some distributing point under the present fee schedule of \$4,000,000 would not pay more than the wholesaler who did total business at one distributing point of \$510,000. Each under the present fee schedule would pay the top additional fee of \$5,000.

During 1974 statistics available from the Alcoholic Beverage Control Board disclose that 13 holders of General Wholesale Licenses at various distributing points reported gross receipts in excess of \$500,000.

The present schedule for the General Wholesale License fees is in essence a fee of 1% of the total amount of business transactions each year at each distributing point up to a total of \$500,000. After that point no additional fees are incurred for gross receipts above \$500,000.

You will note from AS 04.10.110 (b) concerning Wholesale Malt Beverage and Wine licenses that the minimum fee is \$100 and is in payment for the first \$10,000 of business transacted for one distributing point. Effective rate of the initial fee is 1% (\$10,000 X .01 equals \$100.00). The schedule then provides various brackets of gross receipts with increasing fees until the top amount of \$400,000 is reached where the present additional fee is \$5,000.

MEMORANDUM

#3

State of Alaska

TO: Γ

FROM:

DATE :

SUBJECT:

With respect the seven holders during 1974 of Wholesale Malt Beverage and Wine Licenses, only one holder did in excess of \$200,000 in gross receipts at one distributing point; accordingly, the top bracket in the present schedule was not reached.

Based on the 1974 receipts of all wholesale licenses of firms doing business within the State, as reported to the Alcoholic Beverage Control Board, the provisions concerning the excess fee schedule that are incorporated in CS for House Bill No. 246 am would provide increased license fee revenues as follows:

GENERAL WHOLESALE

15 initial fees @ \$500 (covering first \$50,000 of gross receipts)		\$ 7,500.00
Total Gross Receipts	\$40,439,525.74	
Less: Gross Receipts covered by initial fee (15 X \$50,000)	750,000.00	
Balance of gross receipts subject to 1% fee	<u>\$39,689,525.74</u>	<u>396,895.25</u>
Total proposed fees (based on 1974 sales)		\$404,395.25
Total fees under present schedule (based on 1974 sales)		<u>73,500.00</u>
Net increase in revenue on general wholesale licenses		<u>\$330,895.25</u>

WHOLESALE MALT BEVERAGE AND WINE LICENSES:

7 initial fees @ \$100 (covering first \$10,000 of gross receipts)		\$ 700.00
Total Gross Receipts	\$ 723,405.70	
Less: Gross Receipts covered by initial fee (7 @ \$10,000)	70,000.00	
Balance of gross receipts subject to 1% fee	<u>653,405.70</u>	<u>6,534.05</u>
Total proposed fees (based on 1974 sales)		\$ 7,234.05
Total fees under present schedule (based on 1974 sales)		<u>9,200.00</u>
Net decrease in revenue on wholesale malt beverage and wine licenses		<u>\$ 1,965.95</u>

MEMORANDUM

#4

State of Alaska

TO: F

DATE :

FROM:

SUBJECT:

Summarizing the effect of the changes on both types of wholesale license fees is as follows:

Net increase in revenue on general wholesale license fees as compared to present fee schedules	\$330,895.25
Net decrease in revenue on wholesale malt beverage and wine license fees as compared to present fee schedules	1,965.95
Net additional revenue pursuant to CSHB 246 am	<u>\$328,929.30</u>

The new additional revenue based on 1974 sales would amount to \$328,929.30.
For your information the 1975-76 budget request for the Alcoholic
Beverage Control Board was in amount of \$275,200.

AGO 529714

Original sponsor: Guy and Itta

Offered: 4/21/75
Referred: Judiciary

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 246 am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to liquor licenses, fees, and municipal
7 regulation of the sale of intoxicating liquor."

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

9 * Section 1. AS 04.10.110 is amended to read:

10 Sec. 04.10.110. WHOLESALE LICENSE. (a) The holder of a general
11 wholesale license may sell intoxicating liquors in the original package,
12 and wine in bulk, in quantities of not less than five wine gallons to
13 holders of licenses. The holder of a general wholesale license may not
14 sell to a consumer. Liquor requiring internal revenue strip stamps
15 shall have the stamps intact on the package. A general wholesale li-
16 cense shall be required for each distributing point. The general
17 wholesale license fee schedule is based upon the total amount of busi-
18 ness transacted during any year and is \$500 as a minimum license fee,
19 to accompany the application, and in payment of the fee for the first
20 \$50,000 of business transacted, and, in addition thereto, a sum equal
21 to one percent of the business transacted during the year for which
22 the license is issued. [ON THE BUSINESS TRANSACTED DURING ANY YEAR,

23 ABOVE \$50,000 AND NOT OVER \$75,000	A FEE OF \$ 250
24 ABOVE \$75,000 AND NOT OVER \$100,000	A FEE OF \$ 500
25 ABOVE \$100,000 AND NOT OVER \$125,000	A FEE OF \$ 750
26 ABOVE \$125,000 AND NOT OVER \$150,000	A FEE OF \$1000
27 ABOVE \$150,000 AND NOT OVER \$175,000	A FEE OF \$1250
28 ABOVE \$175,000 AND NOT OVER \$200,000	A FEE OF \$1500
29 ABOVE \$200,000 AND NOT OVER \$250,000	A FEE OF \$2000

1 ABOVE \$250,000 AND NOT OVER \$300,000 A FEE OF \$2500
 2 ABOVE \$300,000 AND NOT OVER \$350,000 A FEE OF \$3000
 3 ABOVE \$350,000 AND NOT OVER \$400,000 A FEE OF \$3500
 4 ABOVE \$400,000 AND NOT OVER \$500,000 A FEE OF \$4500
 5 ABOVE \$500,000 A FEE OF \$5000]

6 (b) The holder of a wholesale malt beverage and wine license may
 7 sell malt beverages and wine in the original packages and malt beverages
 8 and wine in bulk in quantities of not less than five wine gallons to
 9 holders of licenses. The holder of a wholesale malt beverage and wine
 10 license may not sell to a consumer. The malt beverages and wine license
 11 fee schedule is based on the total amount of business transacted in any
 12 year and is \$100 as a minimum license fee, to accompany the application,
 13 and in payment of the fee for the first \$10,000 of business transacted,
 14 and, in addition, a sum equal to one per cent of the business transacted
 15 during the year for which the license is issued. [ON THE BUSINESS
 16 TRANSACTED DURING ANY YEAR,

17 ABOVE \$10,000 AND NOT OVER \$25,000 A FEE OF \$ 150
 18 ABOVE \$25,000 AND NOT OVER \$50,000 A FEE OF \$ 500
 19 ABOVE \$50,000 AND NOT OVER \$75,000 A FEE OF \$ 750
 20 ABOVE \$75,000 AND NOT OVER \$100,000 A FEE OF \$1000
 21 ABOVE \$100,000 AND NOT OVER \$150,000 A FEE OF \$1500
 22 ABOVE \$150,000 AND NOT OVER \$200,000 A FEE OF \$2000
 23 ABOVE \$200,000 AND NOT OVER \$300,000 A FEE OF \$3000
 24 ABOVE \$300,000 AND NOT OVER \$400,000 A FEE OF \$4000
 25 ABOVE \$400,000 A FEE OF \$5000]

26 * Sec. 2. AS 04.10.200 is repealed and re-enacted to read:

27 Sec. 04.10.200. PUBLIC NOTICE. The board shall provide by regu-
 28 lation for adequate notice to inform the public of a proposed issuance
 29 of a new license or reissuance, renewal or transfer of an existing

1 license. The notice shall be bilingual when necessary. Notice shall
2 be given by posting at the location of the premises, at the nearest post
3 office, and at one other conspicuous location in the area for a period
4 of at least 10 days a true copy of the application and by published
5 notice by newspaper, radio and television. Where published notice is
6 not feasible the board may make such exemptions from the requirement of
7 publication as required.

8 * Sec. 3. AS 04.10.300 is repealed and re-enacted to read:

9 Sec. 04.10.300. PROTEST IN AREAS OUTSIDE MUNICIPALITIES. (a) An
10 adult resident in an area outside a municipality who desires to protest
11 the issuance, reissuance, renewal or transfer of any and all licenses
12 for an establishment or establishments within two miles of his permanent
13 place of abode or within the established village in which his permanent
14 place of abode is located shall serve upon the applicant and the board a
15 written statement of the reasons for his protest. Upon the receipt of
16 the protest, the board may give notice and hold a hearing in the area
17 in which the protestant resides, at which all persons interested may
18 be heard.

19 (b) If the protest is made in writing to the board by at least 35
20 per cent of the adult residents having a permanent place of abode within
21 the established village where the licensed premises is situated or is to
22 be situated and within two miles of the established village, a special
23 election conducted by the Department of Community and Regional Affairs
24 held within the village is mandatory. If at the election the majority
25 of the adult residents having a permanent place of abode within the
26 established village and within two miles of the established village
27 object to issuance, reissuance, renewal or transfer, the board may not
28 issue, reissue, renew or transfer any licenses in, or within two miles
29 of, the established village.

1 (c) If the licensed premises is situated or is to be situated
2 outside a municipality or established village and at the hearing the
3 majority of the adult residents having a permanent place of abode within
4 two miles of the premises object to issuance, reissuance, renewal or
5 transfer, the board may, if in its opinion the public interest will be
6 served by the refusal or if other grounds for refusal exist by law,
7 refuse to issue, reissue or transfer the license.

8 (d) For purposes of this section, an "established village" means
9 an unincorporated area where at least 25 people reside as a social unit,
10 as determined by the Department of Community and Regional Affairs.

11 * Sec. 4. AS 04.10.350(a) is amended to read:

12 (a) A license issued under this chapter is renewable automatically
13 if the fee is paid in accordance with secs. 40 - 140 of this chapter,
14 except as provided in sec. 300 of this chapter or except in the case of
15 conviction of the licensee under AS 04.15.100, pending the outcome of a
16 board hearing or judicial determination as to the legality of issuing
17 the license, or in the case of a lawful revocation in which event the
18 license is renewable only as provided by law and regulation.

19 * Sec. 5. AS 04.15.070(a) is amended to read:

20 (a) A municipality may by ordinance provide rules and regulations
21 governing the barter, sale and possession of intoxicating liquor within
22 the municipality necessary to the orderly conduct of the business of
23 selling intoxicating liquor. When, under a local option election, the
24 city clerk finds the majority of the voters are against the sale of
25 intoxicating liquor, the municipality, by ordinance, may make the sale
26 of intoxicating liquor within the municipality a misdemeanor whether
27 the sale is made pursuant to license or otherwise. The ordinance may
28 not be inconsistent with this title or the rules and regulations pro-
29 mulgated under this title. No municipality may impose taxes other than

1 property taxes on liquor inventories and sales taxes on liquor sales
2 when these taxes are levied on other property and sales within the
3 municipality.
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AGO 529719

HB 309

Introduced: 3/18/75
Referred: State Affairs and
Finance 4-2-75

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 309

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the excise tax on intoxicating
7 liquors; and providing for an effective date."

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

9 * Section 1. AS 43.60.010(a) is amended to read:

10 (a) Every brewer, distiller, bottler, jobber, retailer, whole-
11 saler, or manufacturer who sells intoxicating liquors in the state or
12 who consigns shipments of intoxicating liquors into the state, whether
13 or not the liquors are brewed, distilled, bottled, or manufactured in
14 the state, shall pay on all malt beverages (alcoholic content of one
15 per cent or more by volume), wines, and hard or distilled liquors, the
16 following taxes: (1) malt beverages at the rate of 50 [25] cents a
17 gallon or fraction of a gallon; (2) wine or other liquor of 21 per
18 cent alcohol by volume or less at the rate of \$1.00 [60 CENTS] a
19 gallon or fraction of a gallon; and (3) other liquors having a content
20 of more than 21 per cent alcohol by volume at the rate of \$4.50 [\$4.00]
21 a gallon.

22 * Sec. 2. This Act takes effect July 1, 1975.
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ALASKA STATE LEGISLATURE

MEMORANDUM

TO : Senator John Huber Nov. 19, 1975
FROM : Franklin D. Fleecks, Tax Counsel
SUBJECT: Draft of Letter to Dept. of Revenue

This draft letter is submitted for your comments and approval.

Sterling Gallagher, Commissioner
Department of Revenue
Pouch S
Juneau, Alaska 99811

Dear Commissioner:

This letter is submitted in the interest of saving time for both the Dept. of Revenue's staff and the staff of the Subcommittee on Revenue and Taxation. In reviewing the various tax statutes and their effect the questions listed below came up. We have listed the questions under topic headings in the order of their relationship. ^{we would} ~~It will be appreciated that~~ If a question cannot be answered because the data is not available, ~~that~~ this fact be spelled out.

MULTISTATE TAX COMPACT

The Committee's legislative members have asked this

basic question: Does the Compact generate sufficient tax revenues on income earned in the State of Alaska? At present, we do not have the data to give them an informative, rational answer. We have broken down our inquiry into industry classification because of your statutory limitation that specific companies cannot be named.

Your memorandum to our Committee, dated Nov. 4, 1975, covered your activity in the enforcement of the Compact in regards to the oil industry. Using the second paragraph of the memorandum as a guide, the following questions are submitted for the wholesale liquor industry and canneries operated by out of state corporations.

1. What were the total income taxes paid by both industries for the period 1970-1975 on a yearly basis?

2. Are the excise taxes paid by both industries subject to provisions of the Compact?

3. Can you ascribe any rise in revenue during the 1970-1975 period as directly attributable to the operation of the Compact?

4. As a comparison, what effect has the Compact had on the collection of income tax from multistate retail operations, i.e. J. C. Penney, Safeway, Pay n Save, N. C. Co./Nordstroms etc. The legislators feel that in this classification, retail sales, the allocation formula of the Compact should work best.

5. Have the new Multistate Tax Compact regulations been issued in final form?

MISCELLANEOUS OIL INDUSTRY QUESTIONS

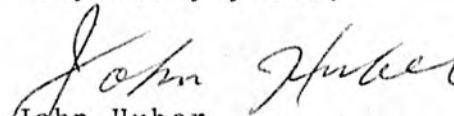
1. Does the Dept. of Revenue keep any statistics or other data on the exploration and drilling expenses of the major oil producers in Alaska?
2. If the calculation of a tax on the oil industry required knowledge of the total capital and/or equity capital, could the Dept. of Revenue secure the information to administer the tax?

MISCELLANEOUS QUESTIONS

1. After your hearings on the Mineral Severance Tax has the Dept. of Revenue formulated a new position?
2. Does the Dept. of Revenue have a position on the raising of the excise tax on liquor?
3. Does the Dept. of Revenue have a position on taxation of profits made by real estate transactions?
4. When does the Dept. of Revenue contemplate the completion and publication of its corporate statistical study?

Thank you for your cooperation.

Very truly yours,


John Huber
Chairman

November 20, 1975

Sterling Gallagher, Commissioner
Department of Revenue
Pouch S
Juneau, Alaska 99811

Dear Commissioner:

This letter is submitted in the interest of saving time for both the Department of Revenue's staff and the staff of the Subcommittee on Taxation and Revenue. In reviewing the various tax statutes and their effect the questions listed below came up. We have listed the questions under topic headings in the order of their relationship. If a question cannot be answered because the data is not available, we would appreciate that this fact be spelled out.

MULTISTATE TAX COMPACT

The Committee's legislative members have asked this basis question: Does the Compact generate sufficient tax revenues on income earned in the State of Alaska? At present, we do not have the data to give them an informative, rational answer. We have broken down our inquiry into industry classification because of your statutory limitation that specific companies cannot be named.

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- 1) What were the total income taxes paid by both industries for the period 1970-1975 on a yearly basis?
- 2) Are the excise taxes paid by both industries subject to provisions of the Compact?
- 3) Can you ascribe any rise in revenue during the 1970-1975 period as directly attributable to the operation of the Compact?
- 4) As a comparison, what effect has the Compact had on the collection of income tax from multistate retail operations, i.e. J.C. Penney, Safeway, Pay n Save, N.C. Company/Nordstroms etc. The legislators feel that in this classification, retail sales, the allocation formula of the Compact should work best.
- 5) Have the new Multistate Tax Compact regulations been issued in final form?

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- 4) When does the Department of Revenue contemplate the completion and publication of its corporate statistical study?

Thank you for your cooperation.

Very truly yours,

John Huber

JH:smm

Extr

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH S - JUNEAU 99811

December 5, 1975

The Honorable John Huber
Alaska State Legislature
Chairman, Special Committee on
Taxation and Revenue
Pouch V
Juneau, Alaska 99811

Dear Senator Huber:

Thank you for your letter expressing interest in the Multistate Tax Compact and several other aspects of our tax program. I have had my staff dig into the industries involved in order to determine the facts to answer your questions.

The following table answers your first question on the income taxes paid by the wholesale liquor industry and the canneries operated by out of state corporations.

Liquor Industry

Number of companies identified: 4

Income tax per originally filed returns for the group identified:

1970	\$46,045
1971	78,862
1972	52,042
1973	42,195
1974	72,834

Canneries

Number of companies identified: 21

Income tax per originally filed returns for the group identified:

1970	(figures not available)
1971	\$206,673
1972	711,530
1973	330,579
1974	306,872

December 5, 1975

The answer to question two is that excise taxes are not subject to the provisions of Multistate Tax Compact since the Compact applies only to income and sales taxes. The income tax provisions allow for apportionment of income where income is earned in more than one state. Excise taxes are based on activity conducted directly in a particular state.

In answer to your third question, I have to really divide my remarks into two areas. The direct assessments made as a result of field audits conducted of multistate taxpayers and applying the Compact approach has resulted in assessments of \$6,923,000 between June of 1973, when our multistate field audit program became active, through the end of October, 1975; a twenty-seven month period. I should note however, that much of the early phases of that period were devoted to developing the audit programs and scheduling audits. Now that the program is off and running and we are doing audits on a regular basis, the rate of revenue production should increase.

In addition, there is the indirect effect of enforcing the provisions of the Compact upon compliance by multistate corporate taxpayers. The fact that we are conducting such audits and enforcing such provisions will cause many taxpayers to file on a Multistate Compact basis voluntarily and that will, of course, bring in additional revenues, since the result of filing on a Compact basis will be to increase the tax liability of the corporation so filing. With respect to the two industries mentioned above, additional taxes of \$3,222 were collected from the wholesale liquor industry and \$76,223 was collected from the canneries industry as a result of the enforcement of the Multistate Tax Compact.

With respect to retail operations, most of the multistate retail stores operating in Alaska have filed apportioned returns under the Compact approach. The main result of auditing some of these corporations has been to combine their finance subsidiaries (who actually own the credit card operation and the accounts receivable and receive the finance charges) with the retail unit itself. Since a big share of the combined operations' profit comes from the finance charges, this area has been fruitful as well. One recent audit which has not yet been finalized indicates that a firm which paid in approximately \$30,000 in corporate income taxes will owe an additional \$80,000 by combining the finance company with the retail operation. In other words, it appears that the tax would almost quadruple by using this approach. We, of course, intend to apply the same rule to other multinational retailers with finance affiliates.

The new multistate regulations have not yet been issued in final form, but a hearing was held on their adoption on November 20. As soon as they have been reviewed by the Department of Law and approved they will be forwarded to the Lieutenant Governor's Office for adoption and will become effective 30 days thereafter. We expect this to take place in mid January.

AGO 529727

The Department of Revenue does not have any statistics on exploration and drilling expenses of the major oil producers to the extent such expenses are incurred in Alaska. Of course, the corporate tax returns do indicate the intangible drilling expense deductions on a worldwide basis.

The calculation of a tax based on total capital of an oil company, to the extent it is employed in Alaska, might be possible since much of this information is available from our property tax records - although this is not necessarily the case since the property tax is based on current market value and capital investment would be indicated on corporate books at cost less depreciation. I think however, that it would be possible for the Department to secure the information to administer such a tax. Tax based on equity capital would be almost impossible to administer since the equity of the corporations is actually on a consolidated worldwide basis and the equity investment in a particular subsidiary or affiliate doing business in Alaska might not be the same as the equity of the total business operation. In addition, if that subsidiary or affiliate were in itself a multistate corporation then the equity would have to be apportioned in some manner. I think it would be very difficult to identify how much equity investment there might be in an oil company's operations in Alaska.

The hearings that were held on the Mineral Severance Tax on November 6 and 7 were extremely helpful to the Department of Revenue in that they supplied us with a lot of economic information and analyses that had not been previously available. As a result, we came to a consensus with the members of the mining industry, that basically a mineral severance tax is not appropriate at this time, but that there were changes needed in the present Mining License Act in order to clear up some of the ambiguities in that Act and make it more easily administerable and more equitable in its application. The mining industry was interested in providing tax incentives but the Department is not inclined at this time to recommend anymore incentives than presently exist in the mining license and income tax statutes.

The Department of Revenue is interested in raising the excise taxes on liquor and to that end recommended to the Governor the introduction of HB 309 last year which does raise the excise tax on distilled spirits from \$4.00 to \$4.50 per gallon; on wines from 60¢ to \$1.00 and on beer from 25¢ to 50¢. We continue to support these increases.

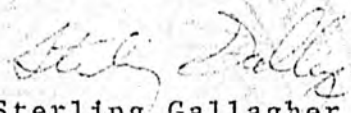
I am not really sure I understand the question regarding the taxation of profits made by real estate transactions. Presently, such transactions are taxable through the Net Income Tax Act. A dealer in real estate pays the regular tax rate on any profits made in the sale of real estate just as any other businessman does. A casual investor in real property or an individual who sells his house is taxable on any profits at capital gains rates.

December 5, 1975

The corporate data base study is presently in the key punch stage and we are key punching information from 1973 and 1974 returns. We anticipate that this will be finished by the end of December and we will be able to publish some preliminary statistics in January. However, the key punching of audit adjustments covering years 1973 and 1974 has not been done and the programs have yet to be written to incorporate those adjustments in the corporate data base. As soon as those programs are ready we will begin capturing the data from audit adjustments and posting those to the data files. As 1975 income tax returns come in and machine time is available, data will be pulled from those returns and entered into the data base as well. You can, therefore, expect some time in January to receive some preliminary statistical reports for 1973 and 1974 based on returns as they were filed and not including any audit adjustments that may have been made.

We appreciate your interest in tax matters and as you know, are happy to see that the formation of the Special Committee on Taxation and Revenue and the establishment of a staff to conduct tax research on behalf of the legislature. We have met with your staff on several occasions and feel that the addition of this professional input into the legislative process will be very helpful in achieving a common goal of an equitable and easily administerable tax system which will provide the necessary revenues to fund state government.

Sincerely,


Sterling Gallagher
Commissioner

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

STATE OF ALASKA
LEGISLATIVE COUNCIL
Subcommittee on Taxation and Revenue
Chairman, Senator John Huber

REVIEW OF THE WHOLESALE LIQUOR INDUSTRY

Prepared by: Janis C. Gull
Staff Researcher

Franklin D. Fleeks
Tax Counsel

**ALASKA
STATE LEGISLATURE**

MEMORANDUM

TO: Senator John Huber
FROM: Franklin D. Fleeks 
Tax Counsel
SUBJECT: Committee staff review of the wholesale
liquor industry

Submitted for your review and approval are the findings of the staff in regard to the wholesale liquor industry. The basic research was done was Janis C. Gull. A prepared synopsis of the findings follows. Since there is one important missing link: how the manufacturing distillers deal with the wholesale dealers, you will find our recommendations qualified.

CURRENT STATUTES

In the field of taxation and revenue the wholesale liquor industry is covered specifically by the following:

- (a) AS 04.10.110 Wholesale License
- (b) AS 43.60 Excise Tax on Intoxicating Liquor

The wholesale license fee is asserted on two categories: (a) the general license which covers hard liquor and (b) the wholesale malt beverage and wine license. The license fees are based on a sliding scale with the general license ranging from a minimum of \$500 to a maximum of \$5,000 and the wholesale liquor license ranging from a minimum of \$100 to a maximum of \$5,000.

Excise tax rates are based on gallonage. The rates are as follows:

- (a) Malt beverages - 25 cents a gallon or fraction of a gallon.
- (b) Wine or other liquor of 21 percent alcohol by volume or less - 60 cents a gallon or fraction of a gallon.
- (c) Other liquors having a content of more than 21 percent alcohol by volume - \$4 a gallon.

FACTORS FAVORING AN INCREASE

In a memo dated May 15, 1975, a copy of which is attached, Mr. Wall of the Department of Revenue made an analysis of the liquor licenses and fees. He noted the last change in licenses and fees was in 1959. Since that time the industry, under the general license, has increased its total business volume from \$15,490,169 to \$40,439,526; a 161.07 percent increase.

Licenses and fees for the general license have gone from \$66,500 in 1959 to \$73,500 in 1974, an increase of \$7,000 or 10.53 percent. It should also be noted that the last excise tax rate increase took place in 1961.

Gross income in the industry from 1971-1974 increased at a rate of one percent (1%). With the increase in population and income during the 1974-1975 periods, gross income increased twenty-two percent (22%). Revenue received by the state from license fees increased less than one percent (1%). Revenue from the excise tax increased by sixteen percent (16%). No judgment can be made in regard to the income tax because of not knowing if the four companies used were the major ones in the industry.

All economic indicators point to growth for Alaska in the years ahead. The wholesale liquor industry, in all certainty, will share in this growth. Each segment of the Alaskan economy should contribute its fair share of tax. Because of the nature of its products, the wholesale liquor industry creates a burdensome monetary and social cost to the state. An increase in rates will insure that the industry is contributing its fair share to the state revenues.

UNFINISHED ITEMS AND RECOMMENDATIONS

Review of the attached report and its underlying data revealed the following areas of concern.

Wholesale Price Determinations

Nothing was found indicating that the price charged to Alaskan subsidiaries was out of line. However, the staff has not received

data on the price charged by the distillers to the wholesalers. Inquiries have been made to the Alcohol, Tobacco, Firearms Division of the U. S. Treasury, the Washington State Liquor Control Board, and the National Alcohol Beverage Control Association. On receipt of the data a comparison will be made between the price charged by the distiller to the wholesaler and the price charged by the wholesaler to its Alaskan subsidiary. This comparison should provide answers on pricing policies of the major wholesalers. Work is continuing on this item.

AS 43.60.010(b) - Warehousing

This subsection was passed during the 1971 session, becoming effective July 1, 1971. This section provides that if consigned shipments of intoxicating liquors into Alaska are to warehouses in the state no tax is imposed until the liquor is removed from the warehouse for sale or consignment to retailers. The effect of this subsection is that at any one time the warehouses can contain both intoxicating liquors that have been taxed at the FOB point-Seattle and intoxicating liquors not taxed because of consignments to Alaskan warehouses.

Before passage of this amendment all liquor was taxed FOB point-Seattle. In enforcing the tax the Department of Revenue had a simple audit tool. After reviewing the wholesaler's books the department could cross-check the bills of lading of the shipper to verify the accuracy of the wholesaler's books.

The amendment eliminated this tool. Because the liquor in the warehouse can be taxed or nontaxed, the current system lends itself

to manipulation. The current system also puts an intolerable administrative burden on the Department of Revenue as they do not have sufficient personnel to adequately examine the industry.

Any tax that is imposed should have as its criteria equity, ease of administration, and be free from manipulative influences. The current law has none of these. In fact, it is a loophole that needs closing. It is the recommendation of the staff that AS 43.60.010(b) be repealed.

CONCLUSION

Because of the continuing research needed in establishing wholesale prices this conclusion is qualified. It is the staff's recommendation that subject to the above qualification, the bills, CSHB246am and HB 309, currently in the House Finance Committee, be supported and that AS 43.60.010(B) be repealed.

**ALASKA
STATE LEGISLATURE**

MEMORANDUM

TO: Senator Huber and
Franklin D. Fleeks, tax counsel

FROM: Janis C. Gull

SUBJECT: Wholesale Liquor Industry

On November 18 I received a memorandum containing your Outline of Research Needed for Analysis of Liquor Tax. The following is a copy of that outline and my report on the research and findings of fact that were the direct results of said outline.

I am currently at your disposal to discuss the context of this report and to supply any and all raw data entailed within.

ALASKA STATE LEGISLATURE

9K
JAH 11-18-75

MEMORANDUM

TO : Senator John Huber Nov. 18, 1975
FROM : Franklin D. Fleeks, Tax Counsel
SUBJECT: Outline of Research Needed for Analysis of
Liquor Tax

The following outline is submitted for your approval. The information sought will give a detailed picture of the wholesale liquor industry in Alaska. The study is limited to the wholesale distributors, most of whom are out of state corporations.

A partial listing of sources to be contacted for information is as follows:

- a. Dept. of Revenue - Excise Tax Division
- b. Dept. of Revenue - Income Tax Division, Multi-state Tax Compact
- c. Dept. of Revenue - Statistics on amount of tax collected
- d. Alcohol Beverage Control Board
- e. Bill McGuire - Adm. Asst. to Sen. Chancy Croft
- f. Tapes of legislative hearings on last sessions bill
- g. Lobbyist for distributors for their position
- h. Washington State Liquor Control Board for comparison of wholesale prices
- i. Transcript of anti-trust suit against the wholesale distributors.

OUTLINE

- I. Identification of the Taxpayers
 - a. Who are the wholesale distributors who operate in Alaska?
 - b. Are they domestic (Alaskan) corporations, subsidiaries of out of state corporations, or completely out of state corporations?
 - c. Where are their major warehouses located; In Alaska or outside of Alaska?
- II. Identification of the Problem
 - a. How long since the rates have been changed?
 - b. What are the present rates of taxation?
 - c. How do Alaska's rates of taxation of the wholesale liquor industry compare to other states?
 - d. What were the total amount of wholesale liquor sales in Alaska for the past five years?
 - e. How many Alaskan employees are there?
- III. Operations of the Wholesalers
 - a. How is the wholesale price of liquor determined?
 - b. Does the out of state corporation raise the wholesale price of liquor sold to its wholly owned Alaskan subsidiary in order to reduce the profit of the subsidiary?
 - c. Is the wholesale price of liquor purchased by the distributors the same as their Seattle price less transportation costs to Alaska?
- IV. Identification of the Type and Amount of Taxes Being Currently Received by the State
 - a. How much was collected from the excise tax on liquor in the past 5 years?
 - b. Are the distributors paying any income tax?
 - c. Does the Multistate Tax Compact reach the distributors net profits from sales in Alaska?
- V. Miscellaneous
 - a. Should the tax be based on gallonage or the wholesale price?
 - b. If the Multistate Tax Compact is not reaching the distributors, is there another way to collect the revenue?
 - c. Should reform of the tax structure be tied to Alcoholic Rehabilitation?
 - d. What increase in the rate of excise tax is recommended?

I. Identification of the Taxpayers

- a. Who are the wholesale distributors who operate in Alaska?
- b. Are they domestic (Alaskan) corporations, subsidiaries of out-of-state corporations, or completely out-of-state corporations?
- c. Where are their major warehouses located; in Alaska or outside of Alaska?

The following is a complete list of all wholesalers presently doing business in the State of Alaska.

Alaska Bay Corporation
505 Ocean Dock Road
Anchorage, Alaska
Mail: Box 1872
Fairbanks, Alaska 99701

Alaska Distributors Company
4601 Sixth Avenue South
Seattle, Washington 98108

Alaska Distributors Company
P. O. Box 549
Fairbanks, Alaska 99701

Alaska Distributors Company
Box 4-1598
Anchorage, Alaska 99509

Anchorage Cold Storage, Co., Inc.
P. O. Box 39
Anchorage, Alaska 99501

Aregah Corporation
Box 3454
Anchorage, Alaska 99501

Mosesian Vinters
Ray N. Mosesian
Mail: Star Route A, Box 217-A
Anchorage, Alaska 99502

Odom Company
1258 First Avenue South
Seattle, Washington 98134

Odom Company
Alaska Railroad Industrial Area
Fairbanks, Alaska 99701

Odom Company
Box 410
Juneau, Alaska 99801

Odom Company
619 Stedman Street
Ketchikan, Alaska 99901

Service Transfer, Inc.
Box 178
Sitka, Alaska 99835

K & L Distributors, Inc.
300 120th Avenue, N. E.
Bellevue, Washington 98004

K & L Distributors, Inc.
4504 Lois Drive
Anchorage, Alaska 99503

K & L Distributors, Inc.
17 Adak Street
Fairbanks, Alaska 99701

K & L Distributors, Inc.
490 South Franklin Street
Juneau, Alaska 99801

K & L Distributors, Inc.
P. O. Box 337
Soldotna, Alaska 99669

West Coast Distributors, Inc.
1258 First Avenue South
Seattle, Washington 98134

West Coast Distributors, Inc.
Box 942
Anchorage, Alaska 99510

West Coast Distributors, Inc.
P. O. Box 732
Fairbanks, Alaska 99701

West Coast Distributors, Inc.
490 South Franklin Street
Juneau, Alaska 99801

West Coast Grocery Company
P. O. Box 118
Ketchikan, Alaska 99901

Of the preceding wholesale entities only four are totally Alaskan owned: 1) Alaska Bay Corporation; 2) Aregah; 3) Mosesian Vinters; and 4) Service Transfer. Of these, Alaska Bay Corporation and Aregah hold general wholesale licenses. Each corporation has one only warehouse, both of which are physically located in Anchorage.

Mosesian Vinters distills and distributes milk wine from its distillery in Palmer. It holds a malt-beverage and wine license and is owned in full by a religious order.

Service Transfer has only one warehouse located in Sitka. It also holds a malt -beverage and wine license and distributes Olympia Beer solely in Sitka.

Considering the remaining eighteen wholesalers licensed to do business within the State of Alaska I have found that they are all subsidiaries of four larger Washington State corporate entities. The only exception to this might be considered to be the K & L distribution

point in Bellevue, Washington. This particular location is the parent corporation to its four separate distribution points in Alaska.

Alaska Distributors Co.
4601 6th Ave. So.
Seattle, Washington

Owner: Alex Shulman

This corporation is based in Seattle, Washington. It maintains three Alaska licensed warehouses -- Seattle, Anchorage, and Fairbanks. The corporation also has eight other distribution points in Alaska. These eight are all run by "commissioned sales persons", none of whom utilize licensed warehouses. It also appears that only a minimum amount of withholding taxes is being paid. They order the exact quantity their customers require and deliver it immediately. Because its income tax returns are confidential, I could not find out the exact percentage of the gross or net income that actually went to the State of Alaska.

It has been found that Alaska Distributors pays excise taxes in accordance with AS 43.60.010(b) which states that excise taxes imposed shall not be levied until the goods are sold and removed from the warehouse for sale as consignment to retailers.

K & L Distributors, Inc.
300 120th N.E.
P. O. Box 1969
Bellevue, Washington 98004

Owners: The Levine family

K & L Distributors is a family-owned corporation with its physical base in Bellevue, Washington. It has five Alaska licensed warehouses: