

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9345 HOUSE LABOR & COMMERCE

conditions (e.g. the Constitutional Budget Reserve Fund). Although Permanent Fund net income may be legally appropriated in the same manner as unrestricted income, the established practice has been to treat Permanent Fund net income as if it were restricted and, therefore, it is included in Table 2. Other revenue sources included in Table 2 are either constitutionally dedicated or automatically deposited into a specific account, such as undistributed Permanent Fund net income.

<b>Table 2: Sources of Restricted Revenues, FY97</b>		
REVENUE SOURCE	AMOUNT	NOTES
<b>Appropriated Total</b>	2,820.9	
Federal Funds	1,093.3	
Mental Health Trust Authority	7.2	
Corporate Receipts Subject to the Executive Budget Act	107.2	All quasi-independent corporations are subject to the Executive Budget Act except the Alaska Railroad Corporation.
Other Sources Net of Duplication	378.2	Includes University of Alaska receipts, international airport and marine highway receipts, and retirement fund distributions.
Permanent Fund Dividends & Inflation Proofing	1,235.0	
<b>Non-Appropriated or Appropriated Under Special Conditions</b>	1,906.2	
Dedicated Funds	355.0	Includes the School Fund, Public School Trust Fund, Fish and Game Fund, Fisherman's Sick and Disabled Fund, Second Injury Fund, University of Alaska Trust Fund, FICA Administration Fund and Permanent Fund dedication.
Constitutional Budget Reserve Earnings & Estimated Settlements	722.0	
Permanent Fund Undistributed Net Income	829.2	Source: FY97 Alaska Permanent Fund Corporation Annual Report
<b>TOTAL RESTRICTED &amp; OTHER FUNDS</b>	<b>4,727.1</b>	

SOURCE: Alaska Department of Revenue, *Revenue Sources Book, Fall 1997* (Table 5).

## UNRESTRICTED REVENUE

Table 3 provides a breakdown of unrestricted revenues by source. The first section of the table presents revenues received from taxes, the second part presents revenues received through other means such as fees for services, licenses, mineral rents and royalties, and investment earnings. As mentioned previously, unrestricted revenues are subject to legislative discretion in appropriation.

**Table 3: Sources of Unrestricted Revenues, Tax Portion, FY97**

REVENUE SOURCE	AMOUNT (millions)	NOTES
Property Tax - Oil & Gas	53.6	Represents the state's share of the total oil & gas property taxes collected.
<b>Sales/Use Tax Total</b>	<b>91.7</b>	
Alcoholic Beverage	11.6	
Tobacco Products	13.7	
Insurance Premium	28.4	
Electric & Telephone Cooperative	2.7	100 percent of these taxes are subject to sharing with qualified municipalities (AS 10.25.570).
Motor Fuel Tax-Aviation	8.1	60 percent of taxes attributable to aviation fuel sales at municipally owned or operated airports are subject to sharing with qualified municipalities (AS 43.40.010).
Motor Fuel Tax-Highway	19.9	
Motor Fuel Tax-Marine	7.3	
<b>Income Tax Total</b>	<b>317.8</b>	
Corporation General	48.4	
Corporation Petroleum	269.4	
<b>Severance Tax Total</b>	<b>921.6</b>	
Oil & Gas Production	907.0	
Oil & Gas Conservation	1.7	
Oil & Gas Hazardous Release	12.9	
<b>Other Natural Resource Taxes Total</b>	<b>50.5</b>	
Salmon & Seafood Marketing	6.6	Provides annual funding for the Alaska Seafood Marketing Institute (AS 16.51.120 and AS 43.76.120). Does not include \$1 million transferred from the Fishery Resource Landing Tax to the Alaska Seafood Marketing Institute in FY 1997.
Salmon Enhancement	4.2	Provides annual funding for qualified regional aquaculture associations (AS 43.76.025).
Fisheries Business	31.0	50 percent is subject to sharing with qualified municipalities (AS 43.75.130).
Fishery Resource Landing	8.3	50 percent is subject to sharing with qualified municipalities (AS 43.77.060).
Mining	0.4	
<b>Other Taxes Total</b>	<b>3.6</b>	
Estate	1.7	
Charitable Gaming	1.9	
<b>TOTAL TAX REVENUE</b>	<b>1,438.8</b>	

**Table 3 (continued): Sources of Unrestricted Revenues,  
Non-Tax Portion, FY97**

REVENUE SOURCE	AMOUNT (millions)	NOTES
<b>Licenses &amp; Permits</b>	69.0	
Motor Vehicle		
Other		Includes amounts from coin-operated devices (AS 43.35.050) and liquor licenses (AS 04.11.610) shared with qualified municipalities.
<b>Intergovernmental Receipts</b>	2.0	
<b>Charges for Services</b>	78.1	
Marine Highways	38.6	The gross revenue of the state ferry system is deposited in the Alaska Marine Highway Fund (AS 19.65.06) and may then be appropriated for system operating and capital expenditures.
Airports/Other	39.5	Includes miscellaneous receipts for services, park fees and land-disposal fees.
<b>Fines &amp; Forfeitures</b>	8.2	
<b>Rents &amp; Royalties</b>	777.1	
Mineral Bonuses & Rents	6.4	Net of Permanent Fund and Public School Fund contributions. 50 percent of the bonuses are deposited into the Permanent Fund.
Oil & Gas Royalties	759.2	Net of Permanent Fund and Public School Fund contributions.
Timber Sales	1.9	
Coal Rent & Royalties	1.0	Net of Permanent Fund and Public School Fund contributions.
Other Resource Revenue	8.6	
<b>Investment Earnings</b>	77.1	Earnings include investment income from the General Fund and funds within the General Fund group. Additionally, includes interest income from state loans and royalty and severance taxes.
<b>Miscellaneous Revenue</b>	44.6	Includes \$25 million and \$1.5 million from one-time payments per agreements between TAPS owners and the state.
<b>TOTAL NON-TAX REVENUE</b>	1,056.1	
<b>TOTAL GENERAL FUND UNRESTRICTED REVENUE (Tax &amp; Non-Tax)</b>	2,494.9	Includes all revenue collected by the state that is not restricted in its use. Federal and other grants are restricted revenue and are excluded from this table.

SOURCE: Alaska Department of Revenue, *Revenue Sources Book, Fall 1997* (Table 3).

Table 3 indicates that the largest contributions to state unrestricted income are derived from petroleum producers. In fact, the various petroleum revenues accounted for 81 percent of all state unrestricted revenues in FY97—a proportion that has remained between 80 and 85 percent for most years since the early 1980s. Table 3 provides a breakdown of the contribution to FY97 unrestricted revenues by the various petroleum revenue sources.

**Table 4: Contribution of Petroleum Revenue Sources to State Unrestricted Revenue, FY97**

	Amount (millions)	Percent of Unrestricted Revenue
<b>Petroleum Revenues</b>	<b>2,010.2</b>	<b>81%</b>
Corporation Income Tax	269.4	11%
Severance Tax -- Oil & Gas Production	907.0	36%
Severance Tax -- Oil & Gas Conservation	1.7	0%
Severance Tax -- Oil & Gas Hazardous Release	12.9	1%
Petroleum Property Tax	53.6	2%
Bonuses & Rents	6.4	0%
Oil & Gas Royalties	759.2	30%
<b>Unrestricted Revenue</b>	<b>2,494.9</b>	

SOURCE: Alaska Department of Revenue, *Revenue Sources Book, Fall 1997*.

### **Tax Sources of Unrestricted Revenue – Description of Taxes Collected in Alaska**

The following excerpts from the Department of Revenue's Fiscal Year 1997 *Income and Excise Audit Division Annual Report*, describe the various taxes collected in Alaska. More complete descriptions, along with rates, exemptions, disposition of revenue, and the history of each tax may be found in the above-mentioned publication. We present the taxes in alphabetical order.

#### **Alcoholic Beverages Tax – AS 43.60**

The alcoholic beverages tax is levied on alcoholic beverages sold in or transferred into Alaska. Alcoholic beverages taxes are collected primarily from wholesalers and distributors.

#### **Coin-Operated Devices Tax – AS 43.35**

The coin-operated devices tax is levied on entertainment and amusement devices, such as video game machines, billiards, jukeboxes and pinball machines which are operated by coin or token. Coin-operated devices taxes are collected primarily from businesses which place machines in their establishments.

#### **Corporation Net Income Tax – AS 43.20**

Corporation net income tax is levied on net income of corporations that have nexus and derive income from sources within Alaska. Corporations compute their tax liability based on federal taxable income with Alaska adjustments. Alaska uses an apportionment method to determine the portion of income that is taxable in the state. Corporations other than oil and gas apportion their income to Alaska by using a three-factor formula based on sales, property and payroll. Alaska taxable income is determined by applying the apportionment factor to the corporation's modified federal taxable income. A corporation engaged in business solely in Alaska computes its tax liability on 100% of its taxable income. Multistate corporations apportion income to Alaska under

a "water's edge" apportionment method. Oil and gas corporations apportion income on a worldwide apportionment method based on sales, property and extraction.

The corporation net income tax dates back to 1949 when the territorial legislature enacted a 10% flat tax on corporations' federal tax liability. In 1963, the tax rate was increased to 16% of the corporation's federal income tax liability. In 1975, the Alaska legislature repealed the original income tax act and enacted an income tax act based on taxable income rather than federal tax liability.

In 1978, the Alaska legislature enacted a bill requiring oil and gas corporations to calculate taxable income based on a "separate accounting" method which required that the corporations account for Alaska activity only in determining taxable income (AS 43.21). In 1981, separate accounting (AS 43.21) was repealed and the modern corporation tax rate structure was adopted (1% - 9.4%). With repeal of AS 43.21, all corporations file returns using worldwide combined reporting and use the same tax rate structure.

In 1991, the Alaska legislature enacted a bill authorizing corporations, except for oil and gas corporations, to calculate taxable income based on "water's edge" (U.S. domestic income) combined reporting method. Oil and gas corporations continue to use worldwide combined reporting method. In 1994, the legislature authorized the oil and gas exploration incentive credit. The credit is limited to \$30 million and may be applied against 100% of corporation taxes due. In 1995, the legislature authorized the minerals exploration incentive credit. The credit is limited to \$20 million and may be applied against 50% of corporation taxes due over a 15 year period.

#### **Electric Cooperative Tax – AS 10.25.555**

The electric cooperative tax, enacted in 1959, is based on kilowatt hours furnished by qualified electric cooperatives recognized under AS 10. Taxes are collected from cooperatives.

#### **Estate Tax – AS 43.31**

The estate tax is levied on the transfer of an estate upon death. The tax dates back to 1919 when the territorial legislature adopted a tax on inheritances and transfers of property from estates.

#### **Fisheries Business Tax – AS 43.75**

The fisheries business tax is levied on fisheries businesses and persons who export fisheries resources from Alaska. The tax is based on the fisheries value paid to commercial fishers or fair market value when there is no arms length transaction. Fisheries business taxes are collected primarily from licensed processors and persons who export fisheries from Alaska. The fisheries business tax is the oldest tax in Alaska as it descends from the 1899 "salmon case" tax imposed by the U.S. Congress to fund fisheries-related activities in pre-territorial Alaska.

#### **Fishery Resource Landing Tax AS – 43.77**

The fishery resource landing tax, enacted in 1993 and effective as of January 1, 1994, is levied on processed fishery resources first landed in Alaska. The tax is based on the unprocessed value of the resource, which is determined by multiplying a statewide average price per pound (based on Alaska Department of Fish and Game data) by the unprocessed weight. Fishery resource landing taxes are collected primarily from factory trawlers and floating processors which process fishery resources outside of the state's 3-mile limit and bring their products into Alaska for transshipment.

### **Tobacco Tax – AS 43.50**

The tobacco tax is levied on cigarettes and tobacco products which are imported or transferred into Alaska. Tobacco taxes are collected primarily from licensed wholesalers and distributors. The tobacco tax dates back to 1949 when a tax was enacted imposing a tax of 3 cents per pack of cigarettes and 2 cents per ounce of tobacco. In 1997, the cigarette tax rate was increased to \$1 per pack of 20 (effective October 1). The tobacco products tax rate was increased to 75% of wholesale price.

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I hope you find this information useful. Please do not hesitate to contact us if you have questions or need additional information.

# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE MEMBERS:

REPRESENTATIVE NORMAN ROKEBERG, CHAIRMAN  
REPRESENTATIVE JOHN COWDERY, VICE CHAIRMAN  
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## Labor and Commerce Committee

RE: SCS HB 472 (FIN)

### What HB 472 does

HB 472 makes it clear that the tax exemption for income from foreign vessels and aircraft (Section 883 of the IRS Code) is incorporated into Alaska corporate tax law.

### Description of Senate changes to HB 472

The Senate Finance Committee amended HB 472 by **adding** Section 2 of the bill. This section states that if the retroactive provisions in Section 3 are found by a court to be invalid, the Act will apply to tax years ending on or after the effective date of this Act.

The amendment was adopted to help meet concerns raised by the Department of Law that the retroactive provision in Section 3 may be unconstitutional. Attorneys for proponents of HB 472 and Senate members concluded that applying the exemption retroactively does have a valid public purpose and would be upheld if the issue was ever taken to court. In the unlikely event that a challenge of Section 3 was successful, the language in Section 2 makes it clear that the legislature intends the Act to apply to current and future tax years.

I recommend that the House concur with the Senate amendments to House Bill 472.

A handwritten signature in black ink, appearing to read "Norman Rokeberg".

Representative Norman Rokeberg  
Chairman, House Labor & Commerce Committee

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### Labor and Commerce Committee

April 30, 1998

The Honorable Tony Knowles  
Governor, State of Alaska  
PO Box 110001  
Juneau, AK 99811-0001

RE: SCS HB 472 (FIN)  
An Act relating to apportionment of business income

Dear Governor Knowles:

Enclosed are the following with regarding to the captioned legislation:

- I. SCS HB 472 (FIN)
- II. Sponsor Statement
- III. Memorandum from Alaska Steamship Association with attached Department of State letter of April 13, 1998
- IV. Copy of Convention between the Government of the Republic of Korea and the Governor of the United States of America for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and the encouragement of international trade and investment (selected pages)
- V. "Shipping firm loses tax battle", Anchorage Daily News 21Feb 1998
- VI. "Unwelcome mat" from the Voice of the Times

- VII. "Why Pass House Bill 472?"
- VIII. 26 USC 883
- IX. "The OSG Bulk Ships Case" from Department of Revenue
- X. "Alaska Corporate Income Tax Selected Principles" from Department of Revenue
- XI. List of Supporters of HB 472
- XII. Support letters from:
  - a. Alaska Maritime Agencies
  - b. Trident Seafoods
  - c. ANP Shipping Company
  - d. Council of Alaska Producers
  - e. Alaska Steamship Association
  - f. Resource Development Council
  - g. The David Green Group
  - h. Jean VanderPloeg
  - i. Konkor Forest Products
  - j. Southeast Stevedoring Corporation
  - k. Marathon Oil Company
  - l. Sealaska
  - m. Anchorage Convention & Visitors Bureau
  - n. Alyeska Resort
  - o. Alaska Miners Association
  - p. Mayor Mystrom, Municipality of Anchorage
  - q. Aeroflot
  - r. Cathy Pacific
  - s. Sheraton Anchorage Hotel
  - t. International Air Transport Association
  - u. Alaska Forest Association, Inc.
  - v. Cadwalader
  - w. Exxon Company, U.S.A.
  - x. Anchorage Economic Development Corporation
  - y. Alaska Airlines
  - z. Afognak Native Corporation
- XIII. One-page information sheet explaining Senate changes to HB 472 and entitled "RE: SCS HB 472 (FIN)".

The Honorable Tony Knowles  
April 30, 1998  
Page 3

The bill was adopted in the House on a vote of 34-1 and in the Senate on a vote of 19-1. The House concurred with the Senate amendments on a vote of 29-0.

I would urge your swift consideration of this legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Norman Rokeberg". The signature is written in a cursive style with a large, prominent initial "N".

Norman Rokeberg  
State Representative  
Chairman, House Labor & Commerce Committee

# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE COMMITTEE, CHAIRMAN  
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JUDICIARY COMMITTEE, MEMBER  
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ADMINISTRATION BUDGET SUBCOMMITTEE, MEMBER  
HESS BUDGET SUBCOMMITTEE, MEMBER



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## Representative Norman Rokeberg

### SPONSOR STATEMENT HOUSE BILL 472

**"An Act relating to apportionment of business income; and providing for an effective date."**

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This bill originated at the request of the industries effected by the recent Alaska Supreme Court ruling, *State of Alaska vs OSG BULK Ships, Inc.*, dated February 20, 1998, that the Alaska Corporation Net Income Tax ("ANITA") applies to the income of foreign flagged ships and aircraft bringing goods and passengers to and from Alaska.

This new tax burden will have a chilling effect on commercial development, international trade and job creation in this state. It will slam the door on the myth that "Alaska is open for Business". If the Department of Revenue implements this new tax, Alaska would be the only state to have such a tax.

The court held that the exemption from taxation granted in 26 U.S.C. Section 883 "is impliedly excepted to [or modified] by the ANITA" (italics added). The Legislature adopted Section 883 when it enacted AS 43.20.021 (a) "Sections 26 U.S.C. 1-1399 and 6001-7872 (Internal Revenue code), as amended, are adopted by reference...", (See the bill.). The Court found otherwise.

The issue for the Legislature and the Administration can be posited as: Should the public policy of the State of Alaska be to tax the net income of foreign flagged/owned ships, aircraft, railroad rolling stock and communication satellites contrary to the tax law of the United States and it's agreements with foreign governments engaged in commerce in our state?

A strong indication that the Legislature intended to adopt Section 883 without exception is evident by the rejection of legislation sought by the Department of Revenue in 1991-1992. This legislation specifically stated that Section 883 was not adopted into Alaska tax law.

Commerce of the state of Alaska will be severely impacted without passage of HB 472. The following business sectors would be directly taxed; subject to foreign retaliation or secondarily effected: international air cargo, air couriers, and airlines; fishers and seafood processors; mining and coal companies; cruiseship lines and tourism; timber and wood products; manufacturing firms; and oil and LNG exports.

The imposition of a new business tax, for an as yet unknown amount, will have a detrimental effect on the business and employment of Alaskans.

3/28/98

# ALASKA STATE LEGISLATURE

## House of Representatives

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ADMINISTRATION BUDGET SUBCOMMITTEE, MEMBER  
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## Representative Norman Rokeberg

For Immediate Release: March 30, 1998

Contact: Rep. Norman Rokeberg  
(907) 465-4968

### Committee Acts to Keep Alaska "Open for Business" Labor and Commerce Moves Out HB 472

(JUNEAU) – The House Labor and Commerce Committee today moved out House Bill 472, "An Act relating to apportionment of business income," with four DO-PASS recommendations. The House Labor and Commerce Committee originated HB 472 after a February decision by the Alaska Supreme Court that the Alaska Corporation Net Income Tax (ANITA) applies to the income of foreign flagged ships and aircraft bringing goods and passengers to and from Alaska."

"This new tax burden would have a chilling effect on commercial development, international trade, and job creation in this state," said Representative Norman Rokeberg (R-Anchorage), Chairman of the HL&C Committee. "It will slam the door on the myth that 'Alaska is open for business.' If the Department of Revenue implements this new tax, *Alaska would be the only state to have such a tax,*" Rokeberg said.

The HL&C Committee noted, in moving out HB 472, that Alaska would be severely impacted without passage of the measure. International air cargo, air couriers, airlines, fishermen and seafood processors, mining and coal companies, cruiseship lines and tourism, timber and wood products, manufacturing firms, and oil and LNG exports would all be either directly taxed or subject to either foreign retaliation or secondary effects.

HB 472 now moves to the House Finance Committee.

###

CONVENTION BETWEEN THE GOVERNMENT  
OF THE REPUBLIC OF KOREA AND THE  
GOVERNMENT OF THE UNITED STATES OF AMERICA FOR  
THE AVOIDANCE OF  
DOUBLE TAXATION AND THE PREVENTION  
OF FISCAL EVASION WITH RESPECT TO  
TAXES ON INCOME AND THE  
ENCOURAGEMENT OF  
INTERNATIONAL TRADE AND  
INVESTMENT

Signed at Seoul June 4, 1976  
Entered into force October 20, 1979

The Government of the Republic of Korea and the Government of the United States of America, desiring to conclude a convention for the avoidance of double taxation of income and the prevention of fiscal evasion and the encouragement of international trade and investment, have appointed for that purpose as their respective Plenipotentiaries:

The Government of the Republic of Korea:

His Excellency Park Tong-Jin

Minister of Foreign Affairs of the Republic of Korea:

The Government of the United States of America:

His Excellency Richard L. Sneider

Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Korea:

who having communicated to each other their full powers, found in good and due form, have agreed upon the following articles.

406 제 10 조 (해상 및 항공운수)

제8조(사업소득)에 불구하고 인방채약국의 거주자가 국제운수상 선박 또는 항공기의 운행으로부터 얻는 소득은 타방채약국에 의한 조세로부터 면제된다. 본 조의 목적상 선박 또는 항공기의 국제운수상의 운행으로부터 발생하는 소득에는 컨테이너 및 컨테이너의 내륙운송을 위한 트레일러와 기타 관련되는 장비의 사용 또는 임대로부터 발생하는 소득과 같이 동 운행에 부수되는 소득이 포함되나, 컨테이너의 내륙운송으로부터 발생하는 기타의 소득은 포함되지 아니한다.

Article 10 (Shipping and Air Transport)

Notwithstanding Article 8 (Business Profits), income which a resident of one of the Contracting States derives from the operation in international traffic of ships or aircraft shall be exempt from tax by the other Contracting State. For purposes of this Article, income derived from the operation in international traffic of ships or aircraft includes income incidental to such operation, such as income derived from the use or lease of containers, trailers for the inland transportation of containers and other related equipment, but does not include other income from the inland transportation of containers.

관련예규

- (국)국인 46017-797 95/12/29  
미국비승함에 적용하는 선사기회료
- (국)국인 22601-81 92/02/20  
국제항공운수소득
- (국)국인 22601-280 91/05/14  
외국법인의 과세표준 계산

- (국)국인 22601-299 90/06/02  
선박임사업무
- (국)국인 22601-316 88/08/16  
국제운수소득에 부수되는 소득의 범위
- (국)국인 22601-391 87/08/29  
항공기에 의한 국제운송업자의 보관료수입

제 11 조  
【특수관계인】

1. 이 조는 제약국의 조세관할권에 따라야 하는 인과 사자의 인이 특수관계에 있으며, 또한 그러한 특수관계인 간에 독립인 간에 행하여지는 것과는 상이한 약정 또는 조건의 체결하거나, 또는 조건을 부과하는 경우에, 동 약정 또는 조건이 없었더라면 상기 어느 인의 소득(또는 손실) 또는 그 인의 납부세액계산에 고려되었을 것이나 그 약정 또는 조건때문에 개상되거나 아니한 소득·비용항제·세액항제 또는 소득공제·공제액의 내상이 되는 소득액 또는 동 특수관계인 에 부과해야 할 세액을 계산함에 있어서 고려될 수 있다.

Article 11(특수관계인)  
Related Persons

1. Where a person subject to the taxing jurisdiction of one of the Contracting State and any other person are related and when such related persons make arrangements or impose conditions between themselves which are different from those which would be made between independent persons, an income, deductions, credits, or allowance which would, but for those arrangements or conditions, have been taken into account in computing the income (or loss) of, or the tax payable by, one of such persons, may be taken into account in computing the amount of the income subject to tax and the tax payable by such person.

2. 이 협약의 목적상 어느 인이 직접적으로 또는 간접적으로 타인을 소유하거나 또는 지배하는 경우, 또는 어느 제3자가 직접적으로 또는 간접적으로 상기

2. For the purposes of this Convention, person is related to another person if either person owns or controls directly or indirectl

398 III 국

제 7 조  
【무 차 별】

Article 7(무차별)  
Non-discrimination

1. 타방채약국의 거주자인 인방채약국의 시민은 동 타방채약국내에서 동 타방채약국의 거주자인 동 타방채약국의 시민이 부담하는 것보다 더 많은 조세에 부담하지 아니한다.

1. A citizen of one of the Contracting States who is a resident of the other Contracting State shall not be subjected in that other Contracting State to more burdensome taxes than a citizen of that other Contracting State who is a resident thereof.

2. 인방채약국의 거주자가 타방채약국내에 두고 있는 고정사업장은 동 타방채약국내에서 동일한 활동에 종사하는 동 타방채약국의 거주자가 부담하는 것보다 더 많은 조세를 부담하지 아니한다. 본 항은 이: 채약국이 그 개인거주자에게 시민으로서의 지위 또는 가족부양책임으로 인하여 부여하는 조세목적상의 인적공제·면제 또는 비용공제등 동 채약국이 인방채약국의 개인 거주자에게 부여해야 하는 의무를 부과하는 것으로 해석되어서는 아니된다.

2. A permanent establishment which a resident of one the Contracting States has in the other Contracting State shall not be subject in that other Contracting State to more burdensome taxes than a resident of that other Contracting State carrying on the same activities. This paragraph shall not be construed as obliging one of the Contracting States to grant to individual residents of the other Contracting State any personal allowances, reliefs, or deductions for taxation purposes on account of civil status or family responsibilities which the first-mentioned Contracting State grants to its own individual residents.

3. 1. 조항의 전부 또는 일부가 타방채약국의 1인 이상의 거주자에게 의하여 직접적으로 또는 간접적으로 소유되거나 또는 지배되고 있는 어느 채약국의 법인등, 동일한 활동에 종사하는 동 채약국의 법인으로서 그 자본의 전부가 동 채약국의 1인 이상의 거주자에 의하여 소유되거나 또는 지배되고 있는 동 법인이 부담하거나 또는 부담할 수 있는 조세와 이에 관련된 조세 이외의 다른 또는 더 많은 조세 또는 이에 관련된 요건을 동 채약국내에서 부담하지 아니한다.

3. A corporation of one of the Contracting States, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which a corporation of the first-mentioned Contracting State carrying on the same activities, the capital of which is wholly owned or controlled by one or more residents of the first-mentioned Contracting State, is or may be subjected.

관련예규 .....

- (국)국인 46017-717 95/11/14
- (국)국인 46017-32118 84/02/01
- 법인세법하에서 미국선금협회의 과세 여부

제 8 조  
【사 업 소 득】

Article 8(사업소득)  
Business Profits

1. 인방채약국의 거주자의 사업상 또는 상업상의

1. Industrial or commercial profits of a

U.S.A. 387

제 1 조  
【대상 조세】

Article 1 (대상 조세)  
Taxes Covered

1. 이 협약의 대상이 되는 조세는 다음과 같다.

1. The taxes which are the subject of this Convention are:

- (가) 한국의 경우에는 소득세 및 법인세(한국의 조세)
- (나) 미국의 경우에는 내국세법에 의하여 부과되는 인방소득세(미국의 조세)

- (a) In the case of Korea, the income tax and the corporation tax (the Korean tax), and
- (b) In the case of the United States, the Federal income taxes imposed by the Internal Revenue Code (the United States tax).

2. 이 협약은 상기 1.항에 의하여 포함되는 조세와 실질적으로 유사한 조세로서 이 협약의 서명일자 이후에 현행 조세에 추가하여 부과되거나 또는 원행 조세에 추가하여 부과되거나 또는 현행 조세에 대체하여 부과되는 주세에 대하여도 적용된다.

2. This Convention shall also apply to taxes substantially similar to those covered by paragraph 1. which are imposed in addition to, or in place of, existing taxes after the date of signature of this Convention.

3. 제7조(무차별)의 목적상 이 협약은 중앙정부·주정부 또는 지방정부의 수준에서 부과되는 모든 종류의 조세에 대하여도 적용된다. 제28조(정보의 교환)의 목적상 이 협약은 중앙정부의 수준에서 부과되는 모든 종류의 조세에 대하여도 적용된다.

3. For the purpose of Article 7 (Non-discrimination), this Convention shall also apply to taxes of every kind imposed at the national, state, or local level. For the purpose of Article 28 (Exchange of Information) this Convention shall also apply to taxes of every kind imposed at the national level.

제 2 조  
【일반적 정의】

Article 2 (일반적 정의)  
General Definitions

1. 달리 문맥에 따르지 아니하는 한, 이 협약에 있어서 아래의 용어들은 각기 다음의 의미일 가진다.

1. In this Convention, unless the context otherwise requires:

(가) (1) "한국"이라 함은 대한민국을 의미한다.

(a) (1) The term "Korea" means the Republic of Korea; and

(2) "한국"이라 함은, 지리적 의미로 사용되는 경우에, 한국의 조세에 관한 법이 효력을 가지는 모든 영역을 의미한다. 한국이라 함은 또는 다음의 것을 포함한다.

(2) When used in a geographical sense, the term "Korea" means all the territory in which the laws relation to Korean tax are in force. The term also includes:

(A) 한국의 영해

(A) The territorial sea thereof, and

(B) 해저지역의 자연자원의 탐사 및 채취를 목적으로 국제법에 따라 한국이 주권적 권리를 행사하는 영해밖의 한국의 연안에 인접한 해저지역의 해상과 하층토. 다만, 이 협약이 적용되는 인·재산 또는 활동이 그러한 탐사 또는 채취와 관련된 범위에 한한다.

(B) The seabed and subsoil of the submarine areas adjacent to the coast thereof, but beyond the territorial sea, over which Korea exercises sovereign rights, in accordance with International law, for the purpose of exploration and exploitation of the natural resources of such areas, but only to the extent that the person, property, or activity to which this Convention is being

# Tankers must pay more tax

■ *Cruise ships wonder if they're next*

THE ASSOCIATED PRESS

**ANCHORAGE** — A New York-based shipping corporation whose tankers play a key role in moving North Slope oil to market must pay additional state tax under terms of an Alaska Supreme Court ruling that observers say could reach other industries.

In a unanimous ruling Friday, the court said Alaska did not err in assessing additional tax against Overseas Shipping Group based on the Alaska Net Income Tax Act.

In 1993, when a lower court ruled in OSG's favor, back taxes amounted to \$789,000.

The case asked the Supreme Court to compare Alaska's tax system against the federal system for exemptions that OSG said would bar the Revenue Department from collecting additional tax. The case reached the Supreme Court after Superior Court Judge Donald Hopwood ruled in the shippers' favor and the state appealed.

Filing friend-of-the-court briefs to buttress OSG's arguments were the Seattle-based North West CruiseShip Association and the Alaska Visitors Association.

Dan Grausz, a lawyer for Holland America Line Westours, said the ruling could increase the industry's state tax burden.

"This was not purely a shipping issue," Grausz said Friday. "I think it extends far beyond the cruise ship industry to airlines and to others who potentially fall within this provision."

Neil Slotnick, a state assistant attorney general who handled the case, said he too believed that cruise ships and air carriers could be subject to the ruling.

## The Anchorage Times

Publisher: BILL J. ALLEN

"Believing in Alaskans, putting Alaska first"

Editors: DENNIS FRADLEY, PAUL JENKINS, WILLIAM J. TOBIN

The Anchorage Times Commentary in this segment of the Anchorage Daily News does not represent the views of the Daily News. It is written and published under an agreement with former owners of The Times, in the interests of preserving a diversity of viewpoints in the community.

# Unwelcome mat

**GOV. TONY** Knowles has spent much of his term convincing the international business community that Alaska is a good place to do business. Unfortunately, one of the departments in his administration has been busy sending out the opposite message.

The Department of Revenue, with the backing of the state Supreme Court, plans to collect a corporate income tax on revenues earned by foreign-flagged ships and aircraft carrying cargo and passengers to and from Alaska. The taxes will be applied retroactively to 1979.

Until now, Alaska — like the other 49 states — followed the lead of the Internal Revenue Service, which exempts the income of foreign carriers from taxation in the United States. Individual states have been discouraged from imposing their own levies because of the federal government's reciprocal tax exemption agreements with other countries.

But Alaska is taking a go-it-alone approach. A late-February ruling from the state's highest court gave the revenue department the go-ahead to tax the income of foreign carriers.

What impact will this have?

**ACCORDING TO** Juneau economist David Reaume, who was commissioned by the cruise ship industry to analyze the effects, the financial pinch could be widespread — not limited to the foreign carriers, but also extending to many companies doing business in international markets, ranging from tourism to resource development.

He predicts, for instance, that operational costs for the proposed delivery system to export Alaska natural gas will increase between \$20 million and \$30 million a year as a result of the application of this tax.

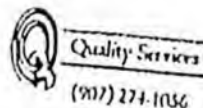
"The impact of the tax will be borne by Alaskans," says Rep. Norman Rokeberg, an Anchorage Republican who has introduced legislation to apply the applicable IRS exemption to Alaska law. "The tax will translate into higher transport fees or lower purchase prices for Alaskan resources."

Moreover, says Reaume, the tax will require companies to reduce expectations of future profitability in Alaska. In turn, that will affect private sector investments here, and, ultimately, jobs.

This is the exact opposite of what Gov. Knowles has been trying to achieve since taking office.

Rokeberg's bill, and a companion measure in the Senate by Anchorage Republican Loren Leman, will make it clear that this state — like 49 others — will not skim the income of foreign carriers doing business here.

The bill deserves top priority.



Date FEB 21 1998  
Anchorage  
Daily News

## TAX CASE: Alaska Supreme Court rules against shipping company

Continued from Page B-1

ditional taxes. The case reached the Supreme Court after Superior Court Judge Donald Hopwood ruled in the shippers' favor and the state appealed.

Filing friend-of-the-court briefs to buttress OSC's arguments were the Seattle-based North West CruiseShip Association and the Alaska Visitors Association.

Dan Grausz, a lawyer for Holland America Line Westours, whose vessels deliver thousands of tourists to Alaska each season, said the ruling could increase the industry's state tax burden.

"This was not purely a shipping issue," Grausz said Friday. "I think it extends far beyond the cruise ship industry to airlines and to others who

potentially fall within this provision."

Neil Slotnick, a state assistant attorney general who handled the case, said he also believed that cruise ships and air carriers could be subject to the ruling. "It could have much wider implications," he said.

Neither the state nor the cruise ship association had an immediate estimate as to how much the state could realize in additional taxes under the court opinion. Grausz said the association was considering its options, including asking the Supreme Court to reconsider.

Mike Young, a Seattle-based lawyer for OSC, said Friday he had yet to talk with his clients and did not know what their next step might be.

"I'm very disappointed in the rul-

ing," Young said. "I believe their conclusion is wrong."

The case hinged on Alaska's apportionment method of collecting its share of taxes from multinational businesses. The system, which takes into account a taxpayer's property, payroll and sales, compares a company's Alaska-based activity with its worldwide activities to come up with a fraction of income subject to Alaska income tax.

The federal government follows a so-called "sourcing" approach, which exposes income to U.S. taxes depending on where money was earned. Income that cannot be traced to a company's domestic operations is deducted from gross income and is not subject to U.S. taxes.

The systems are aimed at avoiding multiple taxes on the same in-

come. In the OSC case, the Supreme Court was forced to compare state and federal approaches because Alaska tax law incorporates sections of the federal code and Multistate Tax Compact while providing for exceptions and modifications.

The shipping group argued that its foreign income should be exempt from state taxes, based on its interpretation of Alaska exceptions.

But Justice Robert Eastaugh dismissed that argument, saying it was "inconsistent" with Alaska's apportionment system and would result in understating the company's taxable Alaska income.

The Revenue Department is seeking to collect additional taxes from 1979 through 1983; 1985 and 1986; and 1988.



Quality Services

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Date FEB 21 1998

Anchorage  
Daily News

Client No. 0376

# Shipping firm loses tax battle

## State's tax act valid, unanimous court says

By ROSANNE PAGANO  
The Associated Press

ANCHORAGE — A New York-based shipping corporation whose tankers play a key role in moving North Slope oil to market must pay additional state taxes under terms of an Alaska Supreme Court ruling that observers say could reach other industries.

In a unanimous ruling Friday, the court said Alaska did not err in assessing additional taxes against Overseas Shipping Group based on the Alaska Net Income Tax Act.

In 1993, when a lower court ruled in OSG's favor, back taxes amounted to \$769,000.

The case asked the Supreme Court to compare Alaska's tax system with the federal system for exemptions that OSG said would bar the Revenue Department from collecting ad-

Please see Page B-4, TAX CASE

## WHY PASS HOUSE BILL 472?

### Tax is Bad for Alaska

With the price of oil in the \$10 a barrel range and with Asian markets down, this is a particularly bad time to increase business taxes. Increasing the cost of getting our resources to market will have a serious negative impact on Timber, Mining, Fishing, Gas Exports, Tourism, Airport Development and a host of Support and Supply industries.

The impact of this tax will be borne by Alaskans, not foreign corporations. The tax will translate to higher transport fees or lower purchase prices for Alaskan resources. With the significant downturn in the Asian economies, Alaska's resource industries cannot afford increased shipping costs or lower market prices.

### Detriment to New Investment

An aggressive move to tax business income not only impacts the industries directly subject to the tax but also sends a negative message to prospective investors. A message that Alaska will seek to raise taxes on businesses before it considers other options will deter rather than encourage investment.

Foreign air and sea carriers will have incentive to move away from Alaska to jurisdictions that don't impose the tax. A mixed message will be sent in relation to the gas pipeline, with efforts to establish tax breaks on one hand while increasing costs on the other.

### Tax Policy Inconsistent with International Agreements

The purpose of section 883 is not only to prevent the double taxation of foreign income but to insure that income earned by U.S. companies is not taxed in other nations. Section 883 upholds a logical concept in international trade.

It says foreign companies doing business in the United States won't be taxed in the United States so long as the countries the foreign companies come from don't tax U.S. companies doing business there. These reciprocal tax agreements on the taxation of air and shipping income are in place between the United States and many other nations.

When a state or local government in the United States imposes a new tax on foreign international air and sea carriers, it exposes U.S. international shipping companies to the triggering of retaliatory taxes in other countries.

Recently, the states of New York, New Jersey and California rescinded their efforts to impose similar taxes. Alaska will be the ONLY state in the Union to impose a tax on international foreign air and sea carriers if it proceeds.

**26 USC 883****§ 883. Exclusions from gross income**

- (a) Income of foreign corporations from ships and aircraft

The following items shall not be included in gross income of a foreign corporation, and shall be exempt from taxation under this subtitle:

- (1) Ships operated by certain foreign corporations

Gross income derived by a corporation organized in a foreign country from the international operation of a ship or ships if such foreign country grants an equivalent exemption to corporations organized in the United States.

- (2) Aircraft operated by certain foreign corporations

Gross income derived by a corporation organized in a foreign country from the international operation of aircraft if such foreign country grants an equivalent exemption to corporations organized in the United States.

- (3) Railroad rolling stock of foreign corporations

Earnings derived from payments by a common carrier for the use on a temporary basis (not expected to exceed a total of 90 days in any taxable year) of railroad rolling stock owned by a corporation of a foreign country which grants an equivalent exemption to corporations organized in the United States.

- (4) Special rules

The rules of paragraphs (5), (6), and (7) of section §72(b) shall apply for purposes of this subsection.

- (5) Special rule for countries which tax on residence basis

For purposes of this subsection, there shall not be taken into account any failure of a foreign country to grant an exemption to a corporation organized in the United States if such corporation is subject to tax by such foreign country on a residence basis pursuant to provisions of foreign law which meets such standards (if any) as the Secretary may prescribe.

- (b) Earnings derived from communications satellite system

The earnings derived from the ownership or operation of a communications satellite system by a foreign entity designated by a foreign government to participate in such ownership or operation shall be exempt from taxation under this subtitle, if the United States, through its designated entity, participates in such system pursuant to the Communications Satellite Act of 1962 (47 U.S.C. 701 and following).

- (c) Treatment of certain foreign corporations

- (1) In general

Paragraph (1) or (2) of subsection (a) (as the case may be) shall not apply to any foreign corporation if 50 percent or more of the value of the stock of such corporation is owned by individuals who are not residents of such foreign country or another foreign country meeting the requirements of such paragraph.

- (2) Treatment of controlled foreign corporations

Paragraph (1) shall not apply to any foreign corporation which is a controlled foreign corporation (as defined in section 957(a)).

- (3) Special rules for publicly traded corporations

- (A) Exception

Paragraph (1) shall not apply to any corporation which is organized in a foreign country meeting the requirements of paragraph (1) or (2) of subsection (a) (as the case may be) and the stock of which is primarily and regularly traded on an established securities market in such foreign country, another foreign country meeting the

requirements of such paragraph, or the United States.

■ (B) Treatment of stock owned by publicly traded corporation

Any stock in another corporation which is owned (directly or indirectly) by a corporation meeting the requirements of subparagraph (A) shall be treated as owned by individuals who are residents of the foreign country in which the corporation meeting the requirements of subparagraph (A) is organized.

○ (4) Stock ownership through entities

For purposes of paragraph (1), stock owned (directly or indirectly) by or for a corporation, partnership, trust, or estate shall be treated as being owned proportionately by its shareholders, partners, or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

## THE OSG BULK SHIPS CASE

### What the case says...

- ◆ The Alaska Supreme Court held (February 20, 1998) that an exemption from the Corporate Income Tax that applies at the federal level does not apply in Alaska.
  - ◆ Alaska incorporates much of the Internal Revenue Code into the state Corporate Income Tax, unless excepted to or modified by the Alaska tax.
    - ◆ The IRC (Section 883) provides that income from foreign registered ships and aircraft is not taxable at the federal level.
    - ◆ Section 883 is one of the ways double taxation is avoided at the federal level.
- ◆ The Court found that Section 883 was "excepted to or modified by" the Alaska Corporate Income Tax.
  - ◆ The United States taxes by sourcing income to the United States, using a type of separate accounting.
  - ◆ Alaska taxes by apportionment – we look at income earned everywhere, and tax the fraction earned in Alaska by the amount of payroll, property and sales in Alaska as compared to everywhere.
  - ◆ Alaska's approach is fundamentally different from the federal approach.
  - ◆ As a result, the court found that Alaska's apportionment method modifies the Code, so that section 883 does not apply.

### What the case means for Alaska ...

- ◆ Income from ships and aircraft owned by foreign corporations and doing business in Alaska is taxable.
  - ◆ Many foreign carriers already pay taxes on their shore-based activities like hotels and bus tours.
- ◆ These businesses will be placed on an equal footing with Alaskan (or wholly US) competitors.
- ◆ Alaska will include the income from and factors related to these corporations when calculating the corporate income tax of a

### Current status ...

- ◆ The taxpayers have petitioned the Supreme Court for rehearing, so the case is not yet final.
- ◆ The Department of Revenue is currently seeking information from taxpayers, tax counsel and others about the actual effects of the court decision.
- ◆ Technically, companies who claim a Sec. 883 exemption are supposed to file a return and claim the exemption.

- ◆ There are about 12 airlines with foreign registered planes; only one files a return, and claims no income.
- ◆ There are about 20 cruise ship companies; those with significant shore based activities file returns, but claim Sec. 883 exemptions for their income from ships.
- ◆ Those taxpayers under audit have executed statute-of-limitations waivers pending the outcome of OSG.
- ◆ The Department of Revenue has not yet determined what its procedure will be with respect to prior years under the ruling. No action will be taken until the court's decision becomes final.

## ALASKA CORPORATE INCOME TAX SELECTED PRINCIPLES

### 1. Nexus

- Presence, measured by activities, that establishes state's right to impose tax
- State is limited by Public Law 86-272; any activity beyond solicitation
- generally establishes nexus.

### 2. Apportionment

- A taxpayer who has income from activity both inside and outside Alaska is required to apportion total income per AS 43.19 (Multistate Tax Compact – apportionment rules) (see paragraph 4, below, for the formula.)

### 3. Unity/Unitary Groups

- The unitary group includes entities (affiliates) that are under common direction or control when the activities within and without the state are contributory and complimentary.

#### “Three Unities Test”

- Functional Integration
  - Centralized Management
  - Economies of Scale
- Generally, affiliated corporations will show unity when they are engaged in the same type of business; involve steps in a vertical process; or there is strong centralized management.

#### 4. Apportionment factors

- The portion of the unitary income apportioned to Alaska is a fraction derived from the average of three income producing factors.

#### The formula

The sum of

$$\frac{\text{Alaska Property}}{\text{Everywhere Property}} + \frac{\text{Alaska Payroll}}{\text{Everywhere Payroll}} + \frac{\text{Alaska Sales}}{\text{Everywhere Sales}}$$

... divided by three, equals Alaska Apportionment Factor

#### 5. Waters' Edge

- Before 1992 Worldwide Apportionment was required (all unitary affiliates throughout the world were included in the apportionment calculation.
- For tax years beginning in '92 "Waters Edge" has been required, except for oil producers or pipeline transporters. They pay using the worldwide approach, under AS 43.20.072.
- The corporations included in a waters' edge return are (if unitary):
  - U.S. domiciled Corporations are included in the unitary group,
  - and
  - So called "80/20" corporations (a foreign corporation when 20% or more of its' average factors are in the U.S.)

## **Supporters of HB 472**

Aeroflot Russian International Airlines  
Air Transport Association  
Alaska Airlines  
Alaska Forest Association  
Alaska Hotel & Motel Association  
Alaska Marine Pilots  
Alaska Maritime Agencies  
Alaska Miners Association  
Alaska State Chamber of Commerce  
Alaska Steamship Association  
Alaska Visitors Association  
Alyeska Resort  
American President Lines  
Anchorage Convention and Visitors Bureau  
Anchorage Economic Development Corporation  
ANP Shipping  
Bob Stiles, Drven Corporation  
BP  
Cape Fox Corporation  
Cathay Pacific Airways Limited  
Council of Alaska Producers  
Exxon Company, USA  
International Airport Transport Association  
Klukwan Forest Products  
Koncor Forest Products  
Korean Airlines  
Marathon Oil Company  
Municipality of Anchorage  
North Star Terminals and Stevedoring  
Northwest Cruiseship Association  
Pacific Seafood Processors Association  
Sealaska Corporation  
Sheraton Hotel – Greg Champion  
Southeast Conference  
Southeast Stevedoring  
Tesoro  
The Maritime Group, Inc.

Distributed by Representative Norman Rokeberg



# Alaska Steamship Association

234 Gold Street • Juneau, Alaska 99801  
(907) 586-3107 • Fax (907) 586-1001

## MEMORANDUM

April 14, 1998

Sent via fax

**To:** Deborah Vogt, Department of Revenue  
Jeff Bush, Department of Commerce and Economic Development  
Representative Norm Rokeberg  
Senator Bert Sharp


**From:** Joe Kyle  
Executive Director, Alaska Steamship Association

**Subj:** Department of State Letter re HB - 472 & SB - 345

Attached, please find a letter from the Department of State relative to the proposed corporate tax on foreign, international air and sea carriers of commerce.

We hope this letter helps place HB - 472 and SB - 345 in context with national policy goals.

Again, we urge that the legislature and the administration act swiftly to prevent the imposition of this new, corporate tax.

Captain John Cox, President •  • Dan Blackmore, Secretary



United States Department of State

Washington, D.C. 20520

April 13, 1998

Honorable Tony Knowles  
Governor, State of Alaska  
Third Floor, State Capitol  
P.O. Box 11001  
Juneau, Alaska 99811-0001

Dear Governor Knowles:

Action by the Alaska State Legislature to prevent the imposition of income taxes on foreign transportation companies has recently come to our attention. This move is consistent with United States policy. We and our international trading partners agree that such taxes are not in our mutual interests. By preventing the imposition of these taxes, Alaska will join other states, most recently, New York, New Jersey, and California, in recognizing that they work against economic growth. Currently, no States apply such taxes.

This is an active area of foreign policy. The U.S. Department of State is currently engaged in maritime and aviation income tax exemption treaty negotiations with several countries. At present, the U.S. Government exempts from federal income tax, on a reciprocal basis, maritime companies and airlines from over ninety countries that accord similar treatment to our transportation companies.

The U.S. Department of State and other government agencies will gladly provide information and other assistance to you, your tax authorities and state legislators who may wish to have more details on this important international trade issue.

Sincerely,

A handwritten signature in dark ink, appearing to read "Joel S. Spiro".

Joel S. Spiro  
Deputy Assistant Secretary  
for Transportation Affairs



# ALASKA MARITIME AGENCIES

4341 B Street, Suite 101, Anchorage, Alaska 99503

Tel: (907) 562-8808  
 Fax: (907) 562-8310  
 Tlx: 6733427 (MC)  
 Cable: ALAMAR

REPRESENTATIVE NORM ROKEBERG  
 Alaska State House  
 State Capitol  
 Juneau, Alaska 99801-1182

30 March 1998

RE: LETTER OF SUPPORT FOR HB-472

Dear Representative Rokeberg:

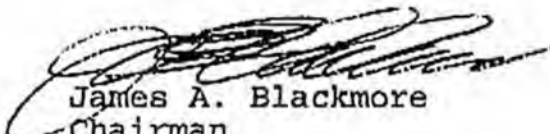
We are writing this letter in support of HB-472. It is our understanding that as a result of a recent decision by the Alaska Supreme Court, the Alaska Department of Revenue is preparing to implement a new corporate business tax on foreign, international air and sea carriers operating in the State of Alaska. As a U.S. company with six offices in Alaska which makes a living by providing service to foreign sea carriers, we are extremely concerned about this issue.

We are particularly concerned about the effect this will have on transportation for the fisheries and logging sectors. With the current economic crisis in Asia, Asian shipping companies are barely surviving, and the markets they service are also extremely depressed. This means that foreign shipping companies are unlikely to absorb these new taxes without raising freight rates. Increased freight rates mean that Alaskan products are less competitive in markets that are already staggering from currency devaluation and a serious economic downturn.

It is also our understanding that recently, the states of California, New York and New Jersey have withdrawn proposals to tax foreign, international carriers because they realized such taxes were bad for business and bad for the economy. We've heard that Alaska would be the only state in the Union imposing such a tax if the Dept. of Revenue decides to move forward with this. We also think that some sort of retaliatory action by foreign governments against U.S. air and sea carriers would be highly probable.

Therefore, we strongly urge that you move forward with HB-472 so that the Department of Revenue will be preempted from imposing this onerous, new tax which flies in the face of international standards.

Sincerely,

  
 James A. Blackmore  
 Chairman

**TRIDENT SEAFOODS CORPORATION**

5303 Shilshole Ave NW, Seattle, WA 98107-4000 • (206) 783-3818 • Fax: (206) 782-7195  
Domestic Sales: (206) 783-3474 • Fax: (206) 782-7246  
Export Sales: (206) 783-3818 • Fax: (206) 782-7195

March 30, 1998

The Honorable Norm Rokeberg  
Alaska State House  
State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Rokeberg:

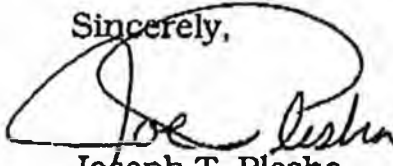
On behalf of Trident Seafoods Corporation I want to make you that the Alaska Department of Revenue is poised, as a result of a recent decision by the Alaska Supreme Court, to implement a new corporation business tax on foreign, international air and sea carriers operating in the State of Alaska. We oppose the new tax and respectfully request the legislature pass HB 472, to stop the Department of Revenue from imposing this cost on the industry.

Like others in the seafood industry, Trident depends on international water borne carriers to move our seafood products overseas to international markets. Given the current economic conditions on the Pacific Rim countries, any new tax on transportation will, in all likelihood, be passed directly on to us through the carriers we use. This tax will also invite retaliatory taxes on domestic water borne carriers serving the Pacific Rim--whom we also use.

We understand that the states of California, New York, and New Jersey have withdrawn proposals to tax foreign, international carriers because they realized such taxes were simply bad for business and the economy. We understand Alaska would be the only state in the Union imposing such a tax if it decides to move forward.

Therefore, we strongly urge that you move forward with HB 472, so that the Department of Revenue will be preempted from imposing this onerous, new tax on an industry that is in a very fragile state.

Sincerely,



Joseph T. Plesha  
General Counsel

**A.N.P. SHIPPING COMPANY**

P.O. BOX 10-1300  
ANCHORAGE, ALASKA 99501  
(907)272-6145 FAX: (907)276-0033

March 30, 1998

Representative Norm Rokeberg  
Alaska State House  
State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Rokeberg,

We are writing this letter to express our concern regarding the possibility of the Alaska Department of Revenue implementing a new corporation business tax on foreign, international air and sea carriers that operate in the State of Alaska, and to express our support of HB 472.

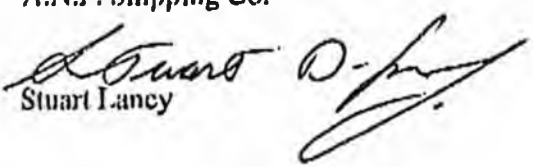
We operate a vessel agency that represents foreign flagged cargo vessels that operate in Alaskan waters loading coal, forestry products and frozen fish products from Alaskan ports and U.S. Fishing vessels and transporting these products to Asian and Pacific Rim Ports. Many of our clients' Alaskan customers depend on water borne transport exclusively to transport their products to International markets and to receive needed supplies from Japan and Korea.

Any new tax imposed on our clients by the State of Alaska would likely be passed directly on to their Alaskan customers in the form of shipping rate increases and, given the current depressed markets for all Alaskan exports in the Pacific Rim, this increase in shipping rates could very well mean lost sales in the Pacific Rim for many Alaskan Companies. Aside from the potential for Alaskan products being priced out of some Pacific Rim markets, our clients believe any new tax on shipping will only invite retaliatory taxes to be placed on domestic water borne carriers serving these same markets thus raising shipping rates to Alaskan Companies no matter what carrier they choose.

We understand that recently, the states of California, New York, and New Jersey have considered such a tax and then withdrawn these proposals due to the potential overall negative effects such a tax would have on both their own exporters and their State's economies. It is our understanding that Alaska would be the only state in the Union to impose such an onerous tax on international carriers.

In conclusion, we strongly urge that you and your colleagues in the House of Representatives move forward with HB 472 so that the Department of Revenue will be preempted from imposing a tax so potentially damaging to the competitiveness of Alaskan produced products.

Yours very truly,  
A.N.P. Shipping Co.

  
Stuart Lancy



March 26, 1998

The Honorable Norman Rokeberg  
House of Representatives  
State Capitol, Room 24  
Juneau, Alaska 99801-1182

Re: Sealaska Corporation Support  
for HB 472/SB 345

Dear Representative Rokeberg:

Sealaska Corporation is the Alaska Native Regional Corporation for Southeast Alaska. As such, Sealaska relies extensively on marine transportation for its major businesses of timber production and exporting, and mineral development. At present, nearly all Sealaska's timber production is transported by ship or barge. Prospectively, Sealaska is actively developing a major limestone mine on Prince of Wales Island which will depend entirely on marine transportation to get its product to Pacific Rim markets.

Sealaska is very concerned that the Alaska Department of Revenue is poised, as a result of a recent decision by the Alaska Supreme Court, to implement a new corporation business tax on foreign, international air and sea carriers operating in the State of Alaska.

Sealaska depends on international waterborne carriers to move our products overseas to international markets. Given the current economic conditions of the Pacific Rim countries, any new tax on transportation will, in all likelihood, be passed directly on to us through the carriers we use. Aside from the new tax being passed on to businesses operating in Alaska, it will invite retaliatory taxes on domestic waterborne carriers serving the Pacific Rim.

Recently, the states of California, New York, and New Jersey have withdrawn proposals to tax foreign, international carriers because they realized

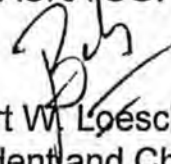
The Honorable Norman Rokeberg  
March 26, 1998  
Page 2

such taxes were simply bad for business and the economy. We understand Alaska would be the only state in the Union imposing such a tax if it decides to move forward.

Therefore, we strongly urge that you move forward with HB 472 (and its companion, SB 345) so that the Department of Revenue will be preempted from imposing this onerous new tax.

Sincerely,

SEALASKA CORPORATION



Robert W. Loescher  
President and Chief Executive Officer

RWL:ag

cc: Marjorie V. Young, Chair, Sealaska Board of Directors  
Sealaska Board of Directors  
Southeast Alaska Presidents' Association (SEPA)  
Julie Kitka, Alaska Federation of Natives (AFN)  
Alaska Industrial and Export Authority  
Alaska Forest Association  
Alaska Miners' Association  
Resource Development Council  
Alaska State Chamber of Commerce  
Southeast Alaska State Legislators  
The Honorable Tony Knowles, Governor of Alaska

International Natural Gas  
Natural Gas Marketing & Transportation



P.O. Box 3128  
Houston, TX 77253-3128  
Telephone 713/629-6600

**VIA FACSIMILE**

March 30, 1998

File: G7

Representative Norm Rokeberg  
Alaska State House  
State Capitol  
Juneau, Alaska 99801-1182

**RE: HB - 472**

Dear Representative Rokeberg:

We are very concerned that the Alaska Department of Revenue is poised, as a result of a recent decision by the Alaska Supreme Court, to implement a new corporation business tax on foreign, international air and sea carriers operating in the State of Alaska.

Our company depends on international water borne carriers to move our products overseas to international markets. Given the current economic conditions of the Pacific Rim countries, any new tax on transportation will, in all likelihood, be passed directly on to us by the carriers we use. Aside from the new tax being passed on to businesses operating in Alaska, it will invite retaliatory taxes on domestic water borne carriers serving the Pacific Rim.

Recently, the states of California, New York, and New Jersey have withdrawn proposals to tax foreign, international carriers because they realized such taxes were simply bad for business and the economy. We understand Alaska would be the only state in the Union imposing such a tax if it decides to move forward.

Therefore, we strongly urge that you move HB - 472 so that the Department of Revenue will be preempted from imposing this onerous, new tax.

Sincerely,

A handwritten signature in dark ink, appearing to read 'D. J. Helgoth'.

D. J. Helgoth, Manager  
LNG Marine Operations



## SOUTHEAST STEVEDORING CORPORATION

CONTRACTING STEVEDORES

P. O. BOX 8080

KETCHIKAN, ALASKA 99901

Cable Address  
"Sousteve"

Telephone  
907-226-6167

Fax  
907-226-8264

Telex:  
413818

March 30, 1998

Representative Norman Rokeberg  
Alaska State House of Representatives  
State Capitol, Room 24  
Juneau, AK 99801-1182

Re: Support for HB 472

Dear Representative Rokeberg,

On behalf of Southeast Stevedoring Corporation, I would like to submit this letter of support for House Bill 472, relating to the apportionment of business income.

Southeast Stevedoring Corp. is heavily dependent upon foreign investment and presence in the international maritime trade to southeast Alaska. Our business involves cruise ships and bulk cargo carrier's including stevedoring, tug boat assist, port management, providing of loading supplies and ship husbandry while in port.

Southeast Stevedoring is very concerned with the Alaska Department of Revenue implementing a new corporate income tax, called the Alaska Corporation Net Income Tax, on foreign, international air and sea carriers operating in the State of Alaska.

Our business alone will see a significant reduction in ship loading activity as foreign shippers may choose ports elsewhere. This will mean decreasing our contracted longshore workforce in outlying ports and a reduction in tug assist activity for our company and other local tug companies.

The major Cruise lines may in turn decide to decrease visits to Alaskan ports from their current 3 to 4 visits down to a couple short port calls. These cruise lines will look to decrease their hours in port, which will in turn hinder the socioeconomic stability of those ports dependent upon the stability of the cruise industry to their economies.

The Alaska Corporate Income Tax is simply bad government. Aside from the aforementioned examples, the following should also be noted when rendering legislative opinions:

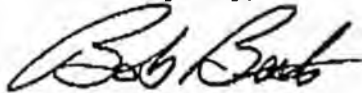
- The industry has abided by Section 883 of the Federal IRS code which has historically exempted foreign air and sea shipping company income from taxation in the United States. Section 883 of the IRS code exempts such income from the U.S. Corporation Income Tax provided certain ownership conditions are met and provided the country in which the corporation is domiciled "grants an equivalent exemption to corporations organized in the United States".

- The Alaska people and companies will be severely affected by the implementation of this tax. Foreign owned transportation companies will pass the increased taxes and subsequent costs onto Alaskan customers seeking air or marine transportation of durable and bulk goods. Alaskan exporting companies will see increased fees for transportation of their products to foreign markets due to the Alaska tax. In addition, foreign countries whose companies become burdened with this tax may in turn implement their own local sur-tax to be imposed on all goods coming into their countries, further decreasing revenues to Alaskan companies dependent on Pacific Rim and other foreign export.
- Additionally, with increased costs to ship Alaska's resource products and subsequent increased prices on Alaskan resource products, Alaska stands to lose its global market share for resource products as foreign purchasers will seek similar products elsewhere in order to keep product and transportation costs at a minimum.

With the implementation of this Supreme Court decision, our customers may find it difficult to compete and/or show willingness to patronize Alaska for international trade of timber, fisheries, aggregate, petroleum and bulk products notwithstanding also the potential decline in presence of major cruise lines to our regional communities.

The message sent by the implementation of this tax will be that Alaska seeks to close its "fiscal gap" by raising taxes on businesses before it considers other options that are at the disposal of policy makers. It is imperative that the legislature take action this year to ensure that Alaska maintains its presence in the global resource markets by ratifying HB 472 and stopping the malicious intent of such an income tax as handed down by the Alaska Supreme Court.

Yours very truly,



Bob Berto  
Chief Executive Officer  
Southeast Stevedoring Corporation

Cc: Honorable John Cowdery, House Labor and Commerce Committee  
Honorable Bill Hudson, House Labor and Commerce Committee  
Honorable Joe Ryan, House Labor and Commerce Committee  
Honorable Jerry Sanders, House Labor and Commerce, Committee  
Honorable Tom Brice, House Labor and Commerce Committee  
Honorable Gene Kubina, House Labor and Commerce Committee  
Honorable Speaker Gail Phillips, Speaker, House of Representatives  
Honorable Mark Hanley, Co-Chair, House Finance Committee  
Honorable Gene Theriault, Co-Chair, House Finance Committee  
Honorable Bill Williams, Alaska House of Representatives  
Honorable Ben Grussendorf, Alaska House of Representatives  
Honorable Kim Elton, Alaska House of Representatives  
Governor Tony Knowles

**KFP**  
**Koncor Forest Products Company**

3501 Denali, Suite 202  
Anchorage, Alaska 99503  
(907) 562-3335 FAX (907) 562-0599

March 30, 1998

Representative Norman Rokeberg  
Alaska State Legislature  
State Capitol Room 216  
Juneau, AK 99801-1182

PAVED 3/30/98 - MEM

Dear Representative Rokeberg:

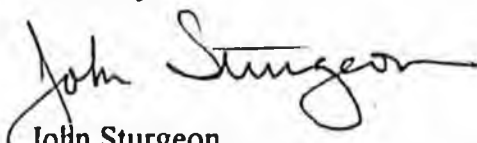
It is our understanding that due to a recent Alaska Supreme Court ruling the Department of Revenue is going to implement a new corporate business tax on foreign international air and sea carriers operating in the State of Alaska.

Koncor Forest Products Company depends on international water borne carriers to move our products overseas to international markets. Koncor charters in excess of 40 foreign cargo ships annually so this tax could have a huge impact on our business. Given the current poor economic condition of the Pacific Rim countries, any new tax on transportation will, in all likelihood, be passed directly on to us through the carriers we use. Aside from the new tax being passed on to businesses operating in Alaska, it will invite retaliatory taxes on domestic water borne carriers serving the Pacific Rim.

Recently, the states of California, New York, and New Jersey have withdrawn proposals to tax foreign, international carriers because they realized such taxes were simply bad for business and the economy. We understand Alaska would be the only state in the Union imposing such a tax if it decides to move forward.

Therefore, we strongly urge that you move forward with HB-472 so that the Department of Revenue will be preempted from imposing this onerous, new tax.

Sincerely,



John Sturgeon  
President, Koncor Forest Products Company

306 WEST REPUBLICAN  
SUITE 201  
SEATTLE, WASHINGTON 98119  
206.283.4447  
FAX: 206.283.3063

25 March 1998

Representative Norm Rokeberg  
Alaska State House  
State Capitol  
Juneau, Alaska 99801-1182

RE: HB - 472

Dear Representative Rokeberg:

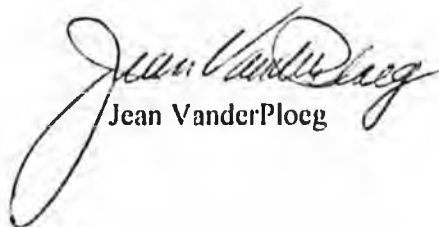
We are very concerned that the Alaska Department of Revenue is poised, as a result of a recent decision by the Alaska Supreme Court, to implement a new corporation business tax on foreign, international air and sea carriers operating in the State of Alaska.

Our company depends on international water borne carriers to move our products overseas to international markets, and in some instances those same carriers bring cargo to us in Alaska. Given the current economic conditions of the Pacific Rim countries, any new tax on transportation will, in all likelihood, be passed directly on to us through the carriers we use. Aside from the new tax being passed on to businesses operating in Alaska, it will invite retaliatory taxes on domestic water borne carriers serving the Pacific Rim.

Recently, the states of California, New York, and New Jersey have withdrawn proposals to tax foreign, international carriers because they realized such taxes were simply bad for business and the economy. We understand Alaska would be the only state in the Union imposing such a tax if it decides to move forward.

Therefore, we strongly urge that you move forward with HB - 472 so that the Department of Revenue will be preempted from imposing this onerous, new tax.

Sincerely,

  
Jean VanderPloeg

# THE DAVID GREEN GROUP

VIA FAX

Honorable Representative Norman Rokeberg  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801

March 30, 1998

Re: HB 472

Dear Representative Rokeberg:

I wanted to write you to stress our strong support for HB 472.

I believe this bill is currently being heard in the House Labor and Commerce committee.

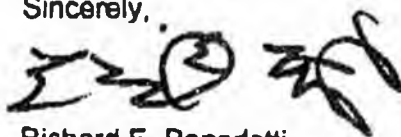
We believe the recent Supreme Court decision that allows the State of Alaska to tax income from ships and aircraft owned by foreign corporations will send a very poor message about the economic advantages of doing business in Alaska.

It also comes at an extremely poor time for the Asian aircraft operators at the Anchorage International Airport who would be burdened with an extra tax at a particular time of severe economic hardship and turmoil. This could ultimately motivate them to either cease or severely restrict activities in Alaska.

We urge you to support HB 472 and oppose this ill-timed tax on a vibrant Alaskan tourism and commerce opportunity.

Thanking you for your support.

Sincerely,



Richard E. Benadetti  
Managing Partner

rb

cc: Perry Green, Paul Reid, Lynn Klassert, Bill Elander, Russ Fortson, Mort Plumb



# Resource Development Council for Alaska, Inc.

121 West Fireweed Lane, Suite 250, Anchorage, Alaska 99503-2035  
(907) 276-0700 Fax: (907) 276-3887 e-mail: rdc@aonline.com

Founded 1975

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Kenneth J. Freeman

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March 30, 1998

Representative Norman Rokeberg, Chairman  
House Labor and Commerce Committee  
Alaska State Legislature  
State Capitol, Room 110  
Juneau, AK 99801-1182

Dear Representative Rokeberg:

RE: Support for HB 472

As you are aware the Alaska Department of Revenue is poised to implement a new tax regime on international air and sea carriers as a result of a recent Alaska Supreme Court decision against an international transportation company that does business in Alaska.

The Resource Development Council (RDC) is very concerned about new taxes which could impact current and future decisions to do business in Alaska.

International air and water borne carriers move Alaskan products to international markets. Alaskans also depend on these same carriers to bring our supplies to Alaska. This new tax regime on transportation could stop some carriers from doing business in Alaska and may discourage others from investing here in the future.

Even if the companies that currently do business in Alaska do not leave, the additional costs associated with the tax regime will likely be passed along to Alaska businesses and consumers. The net effect then would be an additional tax on Alaskans, not international companies.

Any way you look at it, the new tax regime has an enormous direct and indirect impact on Alaska businesses, consumers and future economic growth in international markets.

It is our understanding that Alaska would be the only state in the Union with such a tax. California, New York and New Jersey have recently withdrawn proposals to tax international carriers because of the potential impact on business and their economy.

RDC is very considered about any new taxes on international carriers and we support HB 472 which looks to resolve this issue.

Thank you for your initiative in introducing this legislation.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL  
for Alaska, Inc.



Ken Freeman  
Executive Director



# Alaska Steamship Association

234 Gold Street • Juneau, Alaska 99801  
(907) 586-3107 • Fax (907) 586-1001

March 27, 1998

Representative Norm Rokeberg  
Alaska State House  
State Capitol  
Juneau, Alaska 99801 - 1182

Re: HB - 472

Dear Representative Rokeberg:

The Alaska Steamship Association (ASA) is very concerned that the Alaska Department of Revenue is poised, as a result of a recent decision by the Alaska Supreme Court, to implement a new corporation business tax on the former, current, and future earnings of foreign, international air and sea carriers operating in the State of Alaska.

Our membership represents a broad base of marine transportation companies operating in Alaska, and their agents; who move timber, mining products, fishery products, petroleum products, and cruiseship passengers — among other products — between Alaska and overseas ports. The membership consist of the Alaska Maritime Agency, American President Lines, ANP Shipping, Marathon Oil Company, the North West Cruiseship Association, North Star Stevedoring and Terminals, Southeast Stevedoring, and Tesoro.

This new business tax, if imposed by the Department of Revenue, will adversely affect our member companies, and the companies who rely on our services for import and export products and tourists. Recently, the states of California, New York, and New Jersey have withdrawn proposals to tax foreign, international carriers because they realized such taxes were simply bad for business and the economy. We understand Alaska would be the only state in the Union imposing such a tax if it decides to move forward.

Therefore, we strongly urge that you move HB - 472 so that the Department of Revenue will be preempted from imposing this onerous, new tax.

Sincerely,

Joe Kyle  
Executive Director



# Alaska Steamship Association

234 Gold Street • Juneau, Alaska 99801  
(907) 586-3107 • Fax (907) 586-1001

## TALKING POINTS OSG BULK SHIPS TAX ISSUE

### SUPPORT FOR HOUSE BILL 472 RELATING TO ALASKA CORPORATE INCOME TAX

#### PROBLEM: RECENT SUPREME COURT RULING

The Alaska Supreme Court ruled on February 20, 1998 that an exemption from Corporate Income tax for foreign international air and sea carriers, that exists at the federal level in section 883 of the IRS code, no longer applies in Alaska.

At issue in the OSG case is whether or not the Legislature intended, when it adopted section 883 into the Alaska Tax Code in 1975, for the exemption to apply as written or whether the Legislature intended to "except to" or modify the exemption when it was adopted.

Many sections of the IRS Code are directly incorporated or adopted into the Alaska State Tax Statutes. Those incorporated provisions generally stand as written unless they are expressly "excepted to" or modified when they are adopted into the State Tax Law.

The Superior Court (lower court) found that the section 883 exemption on foreign international air and sea carrier income was in fact adopted into the Alaska Tax Statutes by the Legislature and that the plain language of the 883 exemption applies in Alaska.

When State DOR appealed the lower court's decision, the Supreme Court reversed, finding that the adoption of 883 was "impliedly" (without finding express language in the law) "excepted to" or modified by other sections of the Alaska Tax Code and therefore the 883 exemption is not applicable in Alaska. (See pages 10 and 15 of the Supreme Court decision.) This decision permits DOR to impose a new tax on every foreign airplane or ship that brings products to or from Alaska.

#### SOLUTION: PASSAGE OF HOUSE BILL 472

House Bill 472 amends the section of Alaska Net Income Tax Act (ANITA) that adopted section 883 into Alaska law to expressly state that nothing in the Alaska Tax Statutes may be construed as an exception to, or modification of, Section 883 of the IRS code.



March 24, 1998

The Honorable Norm Rokeberg  
Chairman  
House Labor and Commerce Committee  
State Capitol, Room 24  
Juneau AK 99801-1182

VIA FAX: 907-465-2040

Dear Representative Rokeberg:

The Anchorage Convention & Visitors Bureau (ACVB) has recently become aware of the State Supreme Court's decision to allow the Alaska Department of Revenue to impose a net income tax on foreign flagships and aircraft that operate or intend to operate in Alaska. We have been provided information that indicates this tax can be imposed retroactive to 1992.

It is our understanding that Alaska could become the only state in the Union to levy this tax and, should we proceed, it is possible that the nations of the foreign-based operations could retaliate against Alaska and all other states.

The major concern from the travel industry's perspective is that this action will discourage foreign companies from utilizing Alaska's seaports and airports as a base of operations. The cruise ship industry in Alaska is the largest component of statewide visitations during the premiere summer season. The foreign air carriers are slowly coming back to Anchorage with the international travelers, forecast to grow significantly in the next eight to ten years. For Alaska to unilaterally impose a tax of this nature would certainly generate repercussions felt by every business in the state.

We support HB 472, An Act Relating to Apportionment of Business Income, which would overturn the Supreme Court's irresponsible decision.

Respectfully,

  
Bill Elander  
President & CEO



**ANCHORAGE**  
Convention &  
Visitors Bureau  
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General Manager  
Royal Alaskan Hotel  
ACVB President & CEO  
Bill Elander  
Anchorage Convention  
& Visitors Bureau

**Directors**

1st Abney  
Anchorage Municipal Assembly  
Chris Anderson  
Glacier Brew House  
Duke Berke  
Circiana Lake Lodge  
Bruce Bustamante  
Alaska Airlines  
Greg Champion, CHA  
Sheraton Anchorage Hotel  
Larry Crawford  
Municipality of Anchorage  
Lynn Daan  
Coke Inlet Book Co Inc  
Bill Dugale  
Westmark Anchorage Hotel  
Laurie Fagnani  
Marketing Solutions  
Perry Green  
David Green Master Furnier  
Dan Kennell  
Anchorage Municipal Assembly  
Linda McLaughlin, CTC  
Delta Air Lines, Inc.  
Rob Neumann  
Griff's, Inc.  
Brad Phillips  
Phillips Cruises & Tours  
Virginia Samson  
Alaska Conference  
& Event Services  
Mary Saccari  
Rainbow Brewing Company  
J. C. "Chris" Swalling  
John C. Swalling, CIA, APC  
Chris van Lubbek  
Alaska Rent

824 W. Fourth Avenue,  
Anchorage, Alaska  
99501-2212

907-270-2118  
Fax 907-278-5550  
Email: acvb@alaska.net

03-21-98F03:49 RCVD

March 27, 1998

Representative Norm Rokeberg  
House of Representatives  
State Capitol  
Room 24  
Juneau, AK 99801-1182

Via Facsimile 907-465-2040

RE: House Bill 472

Dear Representative Norman:



ALYESKA RESORT

On behalf of Alyeska Resort and the Alaska Visitors Association, we strongly support HB 472.

The international air and marine market are of vital importance to Alaska and we cannot discourage it with such unfair taxation.

Thank you.

Sincerely,

Chris von Imhof  
Vice President & Managing Director, Alaska Resort  
Vice President of Government Relations, Alaska Visitors Association

CC: Tina Lindgren, Executive Director, Alaska Visitors Association  
Bill Elander, President & CEO, Anchorage Convention & Visitors Association  
Linda Anderson, Legislative Lobbyist  
Sam Kito, Legislative Lobbyist  
Mitch Gravo, Legislative Lobbyist

P.O. Box 249

GIRDWOOD, ALASKA 99587

TELEPHONE (907) 754-1111

FAX (907) 754-2200





# ALASKA MINERS ASSOCIATION, INC.

801 W. Northern Lights Blvd., Suite 203, Anchorage, Alaska 99503 FAX: (907) 278-7997 Telephone: (907) 276-0347

March 27, 1998

Honorable Norm Rokeberg  
State House of Representatives  
Capitol Building  
Juneau, AK 99801

03-27-2870 (185) PL

RE: House Bill 472, Apportionment of Income/Foreign Vessels

Dear Representative Rokeberg,

Thank you the opportunity to comment on House Bill 472 which deals with taxation of foreign vessels that travel to Alaska. The Alaska Miners Association supports HB- 472 and we encourage its passage.

Unless the law is changed by HB-472, the recent State Supreme Court ruling that allows the State to tax foreign vessels will have a significant adverse impact on business in Alaska. This adverse impact will include not just the cruise ships and airlines, but will also affect mining, logging and other industries. If this state tax is allowed to remain, shipments of commodities from Alaska will have a disadvantage in the markets. The tax would give the State the legal ability to go into the world wide books for the vessel owners and many companies would therefore simply not be willing to do business in Alaska. The result would be fewer shippers and higher shipping costs for Alaska. Furthermore, there are no U.S. vessels that can transport bulk commodities such as concentrates and coal.

We urge passage of House Bill 472. If we can be of further assistance in this matter please contact me.

Sincerely,

Steven C. Borell, P.E.  
Executive Director

**Municipality  
of  
Anchorage**



P.O. Box 196650  
Anchorage, Alaska 99519-6650  
Telephone: (907) 343-4431  
Fax: (907) 343-4499  
<http://www.ci.anchorage.ak.us>

*Rick Mystrom, Mayor*

OFFICE OF THE MAYOR

March 27, 1998

**Representative Norman Rokeberg  
House Labor and Commerce Committee  
State Capitol, Room 24  
Juneau, Alaska 99801**

Dear Norm,

I wanted to take a moment to express my support for HB 472 which overturns the recent decision of the Alaska Supreme Court allowing the State of Alaska to tax income from ships and aircraft owned by foreign corporations doing business in Alaska.

Economic development has been and continues to be one of my administration's top priorities. Fostering economic development in a city so geographically removed from the rest of the United States really begins at our airport and port. The Port of Anchorage expects 9 cruise ships to dock this summer--the largest number ever to visit Anchorage. The airport serves well over 5 million passengers per year and employs 1 out of every 10 workers in Anchorage.

HB 472 could have far-reaching negative effects on the Anchorage economy, especially on international trade, logistics, and tourism at the Anchorage International Airport and the Port of Anchorage.

I support HB 472 as written and urge your prompt consideration and passage of this bill.

Sincerely,

Rick Mystrom  
Mayor

*"City of Lights and Flowers"*

JOINT-STOCK COMPANY

**AEROFLOT***Russian International Airlines*

P.O. Box 91602  
 Anchorage, AK 99509-1602  
 Tel: (907) 248-8400  
 Fax: (907) 248-8404  
 SITA: ANCTOSU

April 1, 1998

Representative Mark Hanley  
 Co-Chair House Finance Committee  
 FAX:(907) 465-4939

VIA FACSIMILE

Dear Representative Hanley:

I am writing to you to express Aeroflot Russian International Airlines full support of house Bill 472. We are an International passenger/cargo airlines that has been doing business in Alaska for more than 10 years.

Aeroflot employs 7 people in our Anchorage office and many other jobs at the airport are tied to our landings at Anchorage International Airport.

Recently we have seen a decrease in our passenger traffic from Anchorage and an increase in passenger boardings from our Seattle office. With the lower passenger numbers in Anchorage we are trying to reduce costs everywhere we can. If this new tax is enacted in Alaska it would be the only State to which we fly that we would be required to pay such a tax. The additional tax burden could force our headquarters to look at over-flying Anchorage on our Russian Far East flights, if the mandatory stop for Anchorage is removed from the bilateral air treaty between Russia and America.

I thank you for your consideration of this matter.

Sincerely,

Alexander Balaur  
 Manager, Alaska Region

Post-It® Fax Note	7671	Date	4/2	# of pages	1
To	GREG CHAMPION	From	HELEN SUN		
Co./Dept.		Co.			
Phone #	RM # 729	Phone #			
Fax #	907-586-8314	Fax #			



Cathay Pacific Airways Limited  
Room NA 208, North Terminal  
P.O. Box 190104  
Anchorage International Airport  
Anchorage, AK U.S.A. 99519-0104  
Telephone: (907) 243-3964  
Facsimile: (907) 243 3603  
SITA: ANCKZCX

April 1<sup>st</sup>, 1998

Representative Mark Hanley  
Co-Chair House Finance Committee  
FAX: (907) 465 - 4939

*VIA FAX TRANSMISSION*

Dear Representative Hanley:

I am writing to you today to express Cathay Pacific Airways' full support of House Bill 472. We are an international passenger/cargo airline that has been conducting business in Anchorage for more than 7 years.

I am sure you will appreciate that one of the most attractive benefits of utilizing Anchorage as a transit point for international air carriers, are the various costs associated with a transit operation. Many carriers, such as Cathay Pacific, that do not uplift revenue cargo/passengers from Anchorage, greatly depend on the cost efficiency of Anchorage as a viable transit point between Southeast Asia and North America. We are committed to achieving the most economical means of operating in Anchorage without compromising service.

If this income tax were enacted, Alaska would be the only State in the United States to levy such a tax. Currently the international cargo growth is currently estimated at an impressive 15% per month. The City of Anchorage benefits significantly from this growth, however this tax could lead international airlines to view Anchorage as an unfavorable place to do business. The ramifications of this tax are tremendous and will no doubt have an extreme impact on international aviation in Alaska.

Your consideration in this matter is greatly appreciated.

Sincerely,  
CATHAY PACIFIC AIRWAYS LTD

J. Russ Fortson  
Airport Services Manager

**International Air Transport Association**

IATA Centre, Route de l'Aéroport 33  
P. O. Box 416  
CH-1215 Geneva 15 Airport  
Switzerland

Facsimile No: +1 (907) 465-2040  
(2 Pages)

Honourable Mark Hanley  
Co-Chair, House Finance Committee  
Alaska House of Representatives  
State Capitol, Room 507  
Juneau, Alaska 99801-1182  
United States of America

6 April 1998  
Ref: 044/98

Re: House Bill No. 472

Dear Representative Hanley,

On behalf of the International Air Transport Association (IATA), the trade association comprised of 256 member airlines from over 150 countries, I wish to express the strongest support for House Bill No. 472. HB 472 would ensure that the income of non-U.S. airlines serving Alaska would be exempt from the state's income tax in accordance with U.S. Internal Revenue Code Section 883.

IATA is deeply concerned with the potentially far-reaching ramifications of the recent Alaska Supreme Court decision in *Alaska v. OSG Bulk Ships, Inc.* Indeed, it is our understanding that on the basis of this decision, the Department of Revenue plans to levy the Alaska corporate income tax on the income derived by non-U.S. airlines from the operation of their aircraft in international traffic.

It is widely known that U.S. IRC Section 883 exempts the income of non-U.S. airlines at the federal level on the basis of reciprocity. These reciprocal exemptions are generally embodied in numerous U.S. treaties for the avoidance of double taxation. IATA firmly believes that U.S. IRC Section 883 is intended, *inter alia*, to eliminate the risk of multiple taxation of the income derived by the aircraft of both U.S. and non-U.S. airlines in international traffic.

If the State of Alaska chooses not to adhere to the reciprocal tax exemption provisions of U.S. IRC Section 883, non-U.S. airlines will be exposed to double (and even multiple) taxation, as they are already subject to national (and often local) income taxes in their respective countries of domicile. Furthermore, one immediate consequence of this tax

Direct Dial: +41(22) 799 27 08 • Direct Fax: +41(22) 799 26 78 • TTY: GVAG8XB • E-mail: kellyt@iata.org

Telephone: +41(22) 799 25 25 • Fax: +41(22) 798 35 53 • TTY: GVAKEXB • Telex: 415586

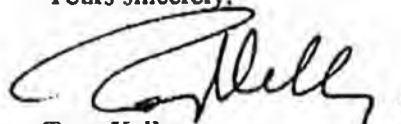
- 2 -

treatment of non-U.S. airlines will be the exposure of U.S. airlines to the reciprocal imposition of similar taxes in the many foreign jurisdictions which they serve. Ultimately, the intricate worldwide network of reciprocal tax regimes will be seriously jeopardized.

IATA also believes that any imposition of an income tax on the international operations of the non-U.S. airlines serving Alaska would ignore the taxes and charges already paid by them for their local operations as well as the significant direct and indirect contributions they make to the economy of the state. We believe that HB 472 sends a strong signal to the international airline community that the State of Alaska encourages their business on the basis of long-established international tax regimes.

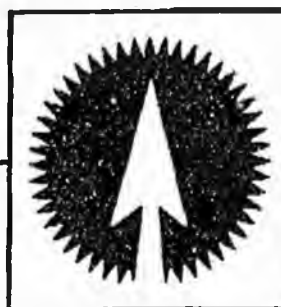
Based upon the foregoing, IATA strongly urges you to take all necessary steps to ensure the passage of House Bill No. 472.

Yours sincerely,



Tony Kelly  
Director  
Industry Monetary Affairs

## Alaska Forest Association, Inc.



111 STEDMAN SUITE 200  
KETCHIKAN, ALASKA 99901-6599  
Phone 907-225-6114  
FAX 907-225-5920

April 2, 1998

The Honorable Mark Hanley  
The Honorable Gene Therriault  
Alaska House of Representatives  
State Capitol  
Juneau, AK 99801

Dear Representatives Hanley and Therriault:

The Alaska Forest Association strongly supports House Bill 472, "An Act relating to apportionment of business income." The Alaska forest industry depends heavily on foreign vessels for shipments of logs and wood products to its trading partners around the Pacific Rim. The recent Alaska Supreme Court ruling that the exemption in §883 of the Internal Revenue Code does not apply in Alaska will have a significant deleterious effect on those shipments.

Fortunately, the problem can be fixed with a simple change in state statute. House Bill 472, introduced by the House Labor and Commerce Committee, provides the necessary amendment, and I urge you to take speedy action to ensure passage of this bill. I cannot emphasize enough the importance of making the change this year, before a disruption in Alaska's trade occurs.

Please move HB 472 through the Finance Committee at the earliest opportunity, and support it when it reaches the House floor.

Thank you for your consistent support for Alaska's resource development industries. We would especially appreciate your help on this new issue.

Sincerely,

Jack E. Phelps  
Executive Director

cc: Representative Mulder  
Representative Davis  
Representative Foster  
Representative Kelly  
Representative Kohring  
Representative Martin  
Representative Davies  
Representative Grussendorf

Representative Moscs  
Representative Rokeberg  
Representative Phillips  
Thyes Shaub

# CADWALADER

*Cadwalader, Wickersham & Taft*

1333 New Hampshire Ave., N.W.  
Washington, DC 20036  
Tel: 202 862-2200  
Fax: 202 862-2400

Kenneth Klein  
Direct Dial: 202-862-2482  
Internet: kklein@cwt.com

New York  
Washington  
Los Angeles  
Charlotte  
London

April 3, 1998

**BY FACSIMILE**

Mr. Joe Kyle  
Executive Director  
Alaska Steamship Association  
234 Gold Street  
Juneau, Alaska 99801

Re: Potential Retaliatory Impact on U.S. Carriers Abroad of State  
Taxation of Foreign Carriers

Dear Mr. Kyle:

You have asked me to describe the retaliatory impact abroad on U.S. shipping and air transport companies that could occur if a U.S. state or locality were to impose state or local income taxation on foreign shipping and air transport companies that are not subject to U.S. federal income taxation as a result of U.S. income tax treaties with foreign countries.

We are not aware of any U.S. state or locality that currently subjects to state or local taxation the income of foreign carriers that are eligible for the benefits of reciprocal shipping income agreements. Under such agreements, foreign countries exempt U.S. carriers from foreign tax if the United States reciprocally exempts foreign carriers from U.S. tax. U.S. income tax treaties or other agreements with over 70 countries provide such reciprocal exemptions. However, if state or local income taxes were to be imposed on foreign carriers by *even one* U.S. state or locality (as the State of Alaska currently is considering doing), retaliation by foreign jurisdictions would be permitted under U.S. income tax treaties, as discussed below.

For example, under the income tax treaties that the United States has entered into with Japan, Italy, and France, each country exempts from its national

Mr. Joe Kyle

-2-

April 3, 1998

income tax the income derived by a resident of the other jurisdiction from the operation of ships or aircraft in international traffic.<sup>1</sup> Moreover, through exchanges of diplomatic notes, these foreign nations also exempt the income of U.S. shipping and air transport companies from local taxes, such as the enterprise tax in Japan,<sup>2</sup> the "ILOR" in Italy,<sup>3</sup> or the "taxe professionnelle" in France,<sup>4</sup> provided that no state, county, or local government in the United States levies an income tax on shipping and air transport companies resident in such countries. So, for example, if no U.S. state or locality taxes the income of a Japanese shipping and air transport company, a U.S. shipping and air transport company that moves cargo between the United States and Japan would pay only U.S. federal, state, and local income taxes because it would be exempt from Japanese national and local income taxes. Similarly, a Japanese shipping or air transport company moving cargo between Japan and the United States would be exempt from U.S. federal, state and local income taxes and would only pay Japanese national and local income taxes. Although Congress has not enacted a statute or entered into a treaty that would require the states to exempt non-U.S. shipping and air transport companies from state and local income taxes, the U.S. Departments of State and Treasury have actively enlisted the cooperation of the U.S. states and localities in advancing this policy. For example, in recent years both the States of New York and New Jersey contemplated taxing foreign carriers. State and Treasury Department officials had discussions with tax officials from those states, encouraging them not to tax foreign carriers because of the retaliatory impact such taxation could have on U.S. carriers abroad. Both New York and New Jersey decided not to impose their taxes on foreign carriers.

If any U.S. state or locality (e.g., Alaska) were to tax the income of shipping and air transport companies residing in, Japan, Italy, or France, the equivalents of states or localities in those countries could then impose their taxes on U.S. shipping and air transport companies. To illustrate, in the 1971 exchange of diplomatic notes, the Japanese government stated that if a U.S. locality were to levy an income tax on Japanese shipping and air transport companies, the Japanese government would "take necessary measures" to let local Japanese authorities levy the Japanese enterprise tax on all U.S. shipping and air transport companies. Therefore, regardless of whether it is a resident of the state or locality that initially imposed the income tax on Japanese shipping and air transport companies, a U.S. shipping or air transport company that moves cargo or passengers between the

<sup>1</sup> Income Tax Convention, March 8, 1971, U.S.-Japan, Article 10. Income Tax Convention, April 17, 1984, U.S.-Italy, Article 8(1). Income and Capital Tax Convention, August 31, 1994, U.S.-France Article 8(1).

<sup>2</sup> Exchange of Notes, March 8, 1971, U.S.-Japan.

<sup>3</sup> Exchange of Notes, April 17, 1984, U.S.-Italy.

<sup>4</sup> Exchange of Notes, August 31, 1994, U.S.-France.

Mr. Joe Kyle

-3-

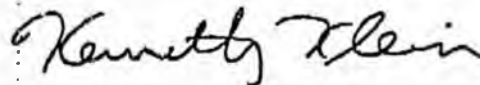
April 3, 1998

United States and Japan could become required to pay local Japanese income taxes in addition to its U.S. income taxes, although the company would still be exempt from the Japanese national income tax. The corresponding Japanese shipping and air transport company would similarly pay U.S. state and local income taxes in addition to its Japanese income taxes. Similar provisions are included in the exchanges of diplomatic notes with Italy and France.

While Japan, Italy, and France have formal agreements with the United States in this regard, we understand that informal agreements of a similar nature exist with many other of the 70 countries which provide reciprocal exemptions to U.S. carriers. Thus, the taxation of foreign carriers by Alaska could directly result in retaliatory taxes being imposed on U.S. carriers in a number of foreign jurisdictions.

If I can provide you with additional information in this regard, please let me know.

Sincerely,



Kenneth Klein

**EXXON** COMPANY, U.S.A.

POST OFFICE BOX 108601 • ANCHORAGE, ALASKA 99519-8601 • TELEPHONE (907) 561-6331

PRODUCTION DEPARTMENT  
ALASKA INTEREST

JAMES F. BRANCH  
PRODUCTION MANAGER - ALASKA

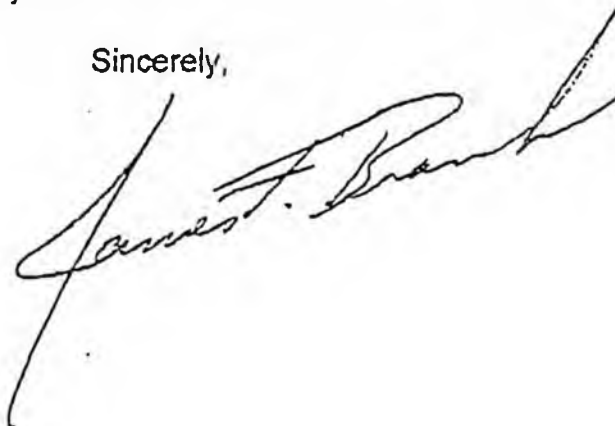
March 30, 1998

The Honorable Norman Rokeberg  
Alaska State Legislature  
State Capital (MS 3100)  
Juneau, Alaska 99801-1182

Dear Representative Rokeberg:

Exxon continues to support efforts to make Alaska's tax statutes more consistent with the Internal Revenue Code, including clarifying the Legislature's intent to adopt Internal Revenue Code Section 883. Since House Bill 472 is consistent with this principle, Exxon supports your efforts with the bill.

Sincerely,



DMS:dgo





**Sheraton Anchorage**  
HOTEL

**Sheraton**

March 31, 1998

Representative Mark Hanley  
Co-Chair House Finance Committee  
Fax: (907) 465-4939

Dear Representative Hanley,

I am writing to you in full support of House Bill 472. as the General Manager of the Sheraton Anchorage Hotel and Inter-Alaska Hotels Incorporated and sister company to Hanjin International Corporation (a foreign corporation) the parent company of Korean Air, I also represent the interests of Korean Air in Alaska.

As long term partners with the City of Anchorage and State of Alaska, we have been involved in a variety of business based in Alaska. Our holdings have or do include real property, apartment buildings, cargo/passenger flights, in-flight catering facilities, laundry/linen cooperative company, and of course, the Sheraton Anchorage Hotel. Our Alaska operations account for a total in excess of 350 full time Alaskan employees including airport staff. Our investments show a desire to participate at all levels of both business and social growth for the city and state. Our commitments to date encompass more than just economic stability for our employees, but the reality of participating in significant ways to a long list of charitable organizations and groups that provide for the greater well being of the entire community.

To provide a little history on the Anchorage International Airport and our business operations, please recall approximately ten (10) years ago 1987. During this time period Anchorage lost nearly every foreign air carrier as a result of the opening of Russian Airspace and increased technology. The reason business was lost was that the carriers found significant economic gains by using Russian Airspace and the ability to eliminate Anchorage as a technical stop. Moreover, as fees, taxes, landing rights, and other taxes continue to escalate all carriers will again be forced to evaluate options and costs. Since Anchorage is not a final destination for any of the 12 foreign carriers, please consider that other options are and will become available. It has already been determined that Stockholm is over 15

minutes closer to the East Coast for a majority of flights from Asia, a significant savings to daily operations. In addition, as Russian locations continue to improve facilities and logistical concerns these locations will again receive future consideration. The current economic crisis in Asia also plays a role in these decisions. In addition, regardless of the State Supreme Court decision Korea and the U.S. Government have a standing law that eliminates double taxation scenarios, clearly this new law would violate that Federal agreement. (See attached partial document.)

At this time, the cost of doing business has been in favor of not only maintaining Alaskan operations but to significantly develop systems and infrastructure that will lend itself to increases to the year 2000 and beyond provided Anchorage remains economically competitive.

In closing, if this income tax is enacted, Alaska would be the only State in the nation to levy such a tax. This tax would lead many nations to view Alaska as an unfavorable place to do business and open the door to these countries to levy similar taxes on American based operators. The ramifications of this tax are immense and will have a drastic impact on this state and virtually all business ventures including tourism, natural resources, and future business development. I cannot think of a more devastating blow to the economic growth that Alaska has enjoyed for the last several years.

I would be happy to provide any additional information or comments that you desire and will be in Juneau on Wednesday and Thursday if you have time to schedule an appointment.

Sincerely,

*Greg Champion*

Greg Champion  
General Manager



Anchorage Economic Development Corporation

The Center of Opportunity

March 26, 1998

Representative Rokeberg, Chairman  
House Labor and Commerce Committee  
State Capitol, Room 24  
Juneau, Alaska 99801

Dear Representative Rokeberg:

The Anchorage Economic Development Corporation supports HB 472, An Act Relating to Apportionment of Business Income. This bill will overturn the recent decision of the State Supreme Court to allow the state to tax income from ships and aircraft owned by foreign corporations doing business in Alaska. The Alaska Corporation Net Income Tax would be applied to past, present and future net operating income. The State of Alaska depends on tourism and trade as its principal economic engines. Trade includes the export of oil and gas as well as seafood, timber and air cargo. The AEDC believes the implementation of business income taxes on foreign carriers selectively will have a significant deleterious effect on trade for the State of Alaska far in excess of any direct revenue obtained by the measure.

1. The State of Alaska would be the only state in the nation to impose such a tax. This would send a negative signal to some of Alaska's most important trading partners, such as Japan. The 1972 income tax treaty between Japan and the United States would be compromised. If any American state imposes such a tax, Japan would reciprocate against all American carriers. This principle has already been tested in New Jersey and New York several years ago.
2. Imposing this tax would negate the recently secured U. S. Department of Transportation ruling for Alaskan international airports to allow expanded cargo transfer among international and domestic carriers with traffic rights in Alaska. The recently concluded bilateral aviation agreement would be compromised by this action. The promotion of the air cargo industry and related logistics and value added manufacturing would suffer a severe set back at a crucial time. The market for international cargo trade is extremely competitive, with narrow margins determining the distinctions among competing locations. The imposition of a selective tax on international carriers would have a negative effect on some of Alaska's strongest contributors to cargo trade.
3. The imposition of this tax will discourage high value job development in Alaska. For each \$50 million generated in taxes, approximately 1,000 existing jobs would be lost. Such a tax discourages investment in Alaskan projects and operations

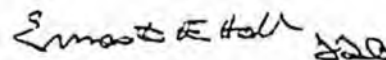
because it raises the cost of transportation to foreign destinations. Alaska depends on foreign markets for the economic value of its export products. The Alaska market is not large enough to sustain the economy here alone, and the American domestic market is not the only destination of Alaskan goods.

4. The imposition of this tax retroactively to 1992 connotes a punitive approach to international carriers. This sends the wrong message to foreign corporations and poses troubling questions for all business investors regarding the prospective taxation policies of Alaska toward business.

The growth and diversification of the Alaska economy is essential for the long term viability of the state. A prosperous future will only occur in an environment where taxation and revenue policies are fair and evenly distributed on a sound policy basis. The imposition of a tax on foreign carriers unfairly affects Alaska's most important trading partners. This measure will have a negative effect on Alaska's competitive standing in world trade. This selective foreign carrier tax must not be implemented unilaterally by Alaska. The AEDC urges your favorable action on HB 472 to remove this impending disaster.

Please contact the AEDC President, Patricia DeMarco, should you require further information on this matter.

Sincerely,



Ernie Hall  
Chairman of the Board of Directors

cc: Governor Knowles  
Senator Pearce

# Alaska Airlines

BILL MACKAY  
VICE PRESIDENT  
PUBLIC AFFAIRS

April 6, 1998

Representative Norman Rokeberg  
Alaska State Legislature  
State Capitol - Room 24  
Juneau, AK 99801-1182

Dear Representative Rokeberg:

I write you today not only as a representative of Alaska Airlines, but in my official capacity as State of Alaska Public Affairs Coordinator for the Air Transport Association as well.

The Air Transport Association (ATA) represents the major U.S. domestic airlines. Our Alaska members include Alaska Airlines, Reeve Aleutian, Federal Express, United, Northwest, Continental, Delta, Reno Air, America West and United Parcel Service. We are gravely concerned about the possibility the Alaska Department of Revenue is poised, as a result of a recent Alaska Supreme Court decision, to implement what amounts to a new tax on foreign flagged air carriers.

In addition to negative impacts on foreign flagged carriers and their customers in Alaska, the imposition of such a tax is likely to have a serious negative impact on international airline tax agreements that depend on reciprocal provisions for non-taxation of foreign flagged carriers. Simply put, any time a state or local government in the United States imposes a tax on foreign carriers, it exposes U.S. carriers to the imposition of similar taxes in nations around the globe. In addition, the imposition of such a tax would seriously imperil the International Airport system's attractiveness as a stop between Asia and Europe.

In the past, whenever states have contemplated implementing such a tax, ATA has successfully worked with the states as well as the U.S. State and Treasury Departments to head off actual implementation. Most recently, the states of California, New York and New Jersey have withdrawn proposals to tax foreign flagged carriers. To our knowledge, Alaska would be the only state in the Union imposing such a tax if it decides to move forward.

Therefore, ATA and its members respectfully urge you to refrain from imposing any new taxes on foreign carriers and asks you to consider supporting legislation to correct this problem. If we may be of assistance or should you require additional information, please do not hesitate to contact me.

Sincerely,

*Bill Mackay*

March 30, 1998

House Labor and Commerce Committee  
Alaska State Legislature  
Juneau, Alaska 99801

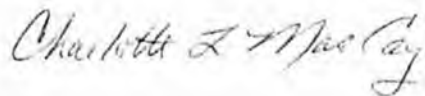
Dear Members of the Committee:

The Council of Alaska Producers would like to state our support of HB 472 as introduced by the Honorable Representative Rokeburg through the House Labor and Commerce Committee.

The recent Alaska Supreme Court decision that states that all non-US corporations which operate foreign flag vessels and/or foreign registered aircraft calling at Alaskan ports and airports are subject to taxation under ANITA, will detract from Alaska's position in competitive world markets. The costs of doing business in a state that has limited road systems and infrastructure already makes it difficult for mining companies to produce our products at competitive rates. The imposition of this tax on the foreign vessels which bring us our supplies and distribute our products to world markets will only result in higher freight and shipping costs being passed on to the producers.

The Council of Alaska Producers does not believe the current interpretation of this law to be in agreement with the Legislature's original intent. We appreciate Representative Rokeburg's efforts to correct this grievous situation.

Sincerely,



Charlotte L. MacCay  
Vice President  
Council of Alaska Producers

Council of Alaska Producers  
P.O. Box 22653  
Juneau, Alaska 99802

# **AFOGNAK NATIVE CORPORATION**



**TIMBER MARKETING OFFIC.  
104 CENTER ST., SUITE 2011  
KODIAK, AK 99611  
907-486-580  
FAX 907-486-426.**

April 6, 1998

The Honorable Bert Sharp  
Alaska State Senate  
State Capitol  
Juneau, Alaska 99801-1182

RE: SB 345

Dear Senator Sharp:

We are extremely displeased that the Alaska Department of Revenue is poised, as a result of a recent decision by the Alaska Supreme Court, to implement a new corporation business tax on foreign, international air and sea carriers operating in the State of Alaska.

Our company depends on international shipping to move our products overseas to international markets. The tax will ultimately be passed directly back to us through the carriers we use. Aside from the new tax being passed on to businesses operating in Alaska, it will invite retaliatory taxes on domestic water borne carriers serving the Pacific Rim. Most significantly the tax is impractical to enforce because of the access it requires to the accounting records of foreign ship owners, and is in contravention of international trade practices.

Alaska would be the only state in the Union imposing such a tax if it decides to move forward. Other states have rejected this form of taxation.

Therefore, we strongly urge that you move forward with SB-345 so that the Department of Revenue will be preempted from imposing this onerous, new tax.

Sincerely,

A handwritten signature in cursive script that reads "James E. Carmichael".

James E. Carmichael  
Marketing Manager



**International Air Transport Association**

LATA Centre, Route de l'Aéroport 33  
P. O. Box 416  
CH-1215 Geneva 15 Airport  
Switzerland

Facsimile No: +1 (907) 465-2040  
(2 Pages)

Honourable Mark Hanley  
Co-Chair, House Finance Committee  
Alaska House of Representatives  
State Capitol, Room 507  
Juneau, Alaska 99801-1182  
United States of America

04-06-98 10:33

6 April 1998  
Ref: 044/98

Re: House Bill No. 472

Dear Representative Hanley,

On behalf of the International Air Transport Association (IATA), the trade association comprised of 256 member airlines from over 150 countries, I wish to express the strongest support for House Bill No. 472. HB 472 would ensure that the income of non-U.S. airlines serving Alaska would be exempt from the state's income tax in accordance with U.S. Internal Revenue Code Section 883.

IATA is deeply concerned with the potentially far-reaching ramifications of the recent Alaska Supreme Court decision in *Alaska v. OSG Bulk Shps, Inc.* Indeed, it is our understanding that on the basis of this decision, the Department of Revenue plans to levy the Alaska corporate income tax on the income derived by non-U.S. airlines from the operation of their aircraft in international traffic.

It is widely known that U.S. IRC Section 883 exempts the income of non-U.S. airlines at the federal level on the basis of reciprocity. These reciprocal exemptions are generally embodied in numerous U.S. treaties for the avoidance of double taxation. IATA firmly believes that U.S. IRC Section 883 is intended, *inter alia*, to eliminate the risk of multiple taxation of the income derived by the aircraft of both U.S. and non-U.S. airlines in international traffic.

If the State of Alaska chooses not to adhere to the reciprocal tax exemption provisions of U.S. IRC Section 883, non-U.S. airlines will be exposed to double (and even multiple) taxation, as they are already subject to national (and often local) income taxes in their respective countries of domicile. Furthermore, one immediate consequence of this tax

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# CORRECTION

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Rev. 6/98

Central Microfilm Services  
Department of Education  
State of Alaska



**International Air Transport Association**

LATA Centre, Route de l'Aéroport 33  
P. O. Box 416  
CH-1215 Geneva 15 Airport  
Switzerland

Facsimile No: +1 (907) 465-2040  
(2 Pages)

Honourable Mark Hanley  
Co-Chair, House Finance Committee  
Alaska House of Representatives  
State Capitol, Room 507  
Juneau, Alaska 99801-1182  
United States of America

04-00-98 08:38

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reatment of non-U.S. airlines will be the exposure of U.S. airlines to the reciprocal  
nposition of similar taxes in the many foreign jurisdictions which they serve. Ultimately,  
ne intricate worldwide network of reciprocal tax regimes will be seriously jeopardized.

.ATA also believes that any imposition of an income tax on the international operations of  
the non-U.S. airlines serving Alaska would ignore the taxes and charges already paid by  
them for their local operations as well as the significant direct and indirect contributions they  
make to the economy of the state. We believe that SB 345 sends a strong signal to the  
international airline community that the State of Alaska encourages their business on the  
basis of long-established international tax practice.

Based upon the foregoing, IATA strongly urges you to take all necessary steps to ensure the  
passage of Senate Bill No. 345.

Yours sincerely,



Tony Kelly

Director

Industry Monetary Affairs

## TAXING FOREIGNERS House makes the right move

By Daily News editorial staff

The Alaska House of Representatives has passed by a vote of 34-1 a bill that would keep the state from levying a corporate income tax on foreign-flagged cruise ships, cargo ships and air carriers.

The state fought a long court battle to clarify state law and defend its right to levy the tax. In February, the Alaska Supreme Court reversed a lower court decision and ruled in the state's favor.

At issue was whether the state had adopted a section of the U.S. Internal Revenue Code that exempts certain foreign corporations from income tax. OSG Bulk Ships Inc. argued that it had. The state maintained that it had not, and that it could collect the tax from foreign corporations doing business here. The state won.

The Department of Revenue estimated such a tax could bring the state between \$3 million and \$8.5 million a year. In a time of declining revenue, such numbers might be tempting.

The House vote resists such temptation by bringing Alaska law in line with the federal code. The United States doesn't tax foreign corporations so that U.S. corporations won't be taxed abroad. You don't tax ours, we won't tax yours. The other 49 states don't levy the tax for the same reason. Why invite a retaliatory tax, and why discourage international business that may benefit a state?

Cruise lines, shippers and Alaska outfits like Usibelli Coal, which ships from Seward on Korean-flagged vessels, lobbied hard against the state tax. In this case their self-interest and the public interest coincide. The potential gain to state coffers isn't worth the risk of the possible damaging effects of such a tax on business and jobs in Alaska. While we may not care how they do it Outside, this tax would take us far out of step with the rest of the country with the potential for results we don't want.

Like all legislation, this isn't written in stone. If Alaska decides that economic conditions have changed, or that a particular industry isn't paying its share, it can revisit the issue.

The Department of Revenue earned its keep in winning the case and doing its job to protect Alaska's income and maintain the state's right to set its own tax policy.

The House has earned its keep in setting that policy against the tax. The Senate should follow suit.

ADW  
4/22

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

March 6, 1998

**SUBJECT:** Apportionment of taxes (Work Order No. 0-LS1645)

**TO:** Representative Norman Rokeberg  
Attn: Shirley

**FROM:** Richard A. Glover *RAG*  
Legislative Counsel

Enclosed is a draft of the bill you requested regarding the OSG Bulk Ships decision. At your direction, I have conferred with Susan Burke on this subject. It is my understanding that you desire to adopt what the court indicated would be the result if the section 883 exemption of federal law was granted in addition to the existing days-in-port allocation scheme. "[T]his result would understate the taxpayer's Alaska taxable income." (See State of Alaska v. OSG Bulk Ships, Inc., 1998 WL 66133 (Alaska).) The enclosed bill will accomplish that result.

If I may be of further assistance, please advise.

RAG:pl  
98-046.plm

Enclosure

**HOUSE BILL NO.**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE LABOR AND COMMERCE COMMITTEE BY REQUEST**

**Introduced:  
Referred:**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to apportionment of business income."**

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

3 **\* Section 1. AS 43.20.021(a) is amended to read:**

4 (a) Sections 26 U.S.C. 1 - 1399 and 6001 - 7872 (Internal Revenue Code), as  
5 amended, are adopted by reference as a part of this chapter. These portions of the  
6 Internal Revenue Code have full force and effect under this chapter unless excepted  
7 to or modified by other provisions of this chapter. However, nothing in this chapter  
8 or in AS 43.19 (Multistate Tax Compact) may be construed as an exception to or  
9 modification of 26 U.S.C. 883.

10 **\* Sec. 2. This Act is retroactive to January 1, 1993.**



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*Ron and Lynn Dixon, Owners*

Representative Norm Rokeberg  
Chairman, House Labor and Commerce Committee  
State Capitol, Room 24  
Juneau, AK 99801

Dear Representative Rokeberg,

I own and operate a bookstore in downtown Anchorage. Many of my customers are visitors to Anchorage and Alaska. I have recently been made aware of the State Supreme Court's decision to allow the Alaska Department of Revenue to impose a net income tax on foreign carriers. It is my understanding that Alaska would be the only state to have such a tax. This tax would be detrimental to virtually every business in the state, and particularly to the tourism industry.

I am writing to voice my support for HB 472, An Act Relating to Apportionment of business income, that will overturn this recent Supreme Court decision. Tourism is a vastly important industry, and the Supreme Court decision would have a tremendously adverse effect on this industry.

Thank you for your time,

A handwritten signature in cursive script that reads "Lynn Dixon". The signature is written in dark ink and is positioned above the printed name.

Lynn Dixon

03-25-96A08:49 RCVD



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

P.O. Box Y, State Capitol  
Juneau, Alaska 99811-3100  
Mail Stop 3100  
(907) 465-3991

June 8, 1989

MEMORANDUM

TO:

ATTN:

FROM: Ginny Fay  
Legislative Analyst

RE: Alaska's Unitary Corporate Taxation: Alternatives and Impacts on Revenues  
Research Request 89.165

You requested information on 1) unitary corporate tax laws in Alaska and other states, 2) alternatives to the method of tax collection currently used in Alaska, and 3) the source of Alaska's revenues and impacts on these revenues of changing Alaska's tax law. Specifically, you asked this agency to update House Research Agency Memoranda 85.012, 85.014, and 85.047. To answer your questions, the first part of this memorandum provides an overview of state corporate taxation. This is followed by information on alternative tax methods. The final section identifies sources of Alaska revenues and the potential impact on revenues of changes to Alaska's corporate tax method.

Background

The form of corporate taxation commonly known as unitary tax is based on the concept that the most equitable and efficient method of determining corporate income subject to state taxation is formula apportionment. Under unitary taxation, the total income of a corporation or of an affiliated group of corporations engaged in a unitary (related) business activity is apportioned among states, usually based on the portion of corporate payroll, property, and sales attributable to each state. This apportioned income is the taxable income subject to the respective state's tax rates. Approximately 45 states (including the District of Columbia) currently use some form of the unitary tax to apportion corporate income for state income tax purposes. Alaska currently taxes corporate income by using a form of the unitary tax called worldwide combined reporting.

double taxation because this income is taxed by foreign governments. Foreign multinational corporations have been especially vocal in their criticism of worldwide combined reporting.

### Alternatives to Worldwide Combined Reporting

In 1984, eleven states used worldwide combined reporting. As a result of federal government opposition and the threats of economic reprisal by foreign corporations, ten states have changed taxing methods. The degree to which states have backed-off taxing foreign income varies considerably as a result of inconsistency in states' definitions of "waters edge." Alternatives to worldwide combined reporting include:

- worldwide combined reporting for domestic corporations with an alternative tax levied on foreign multinational corporations;
- a waters edge method that includes foreign source dividends in taxable income and includes 80/20 corporations within the definition of waters edge;<sup>4</sup>
- a waters edge method that excludes foreign source dividends from income and excludes 80/20 corporations from the definition of waters edge; and
- separate accounting.

**Worldwide Combined Reporting that Excludes Foreign Multinationals.** This alternative allows United States subsidiaries of foreign corporations to pay an alternative tax rather than a tax based on income apportioned using worldwide combined reporting. Although many types of alternate taxes could be devised, state representatives on the 1984 unitary tax task force recommended that the tax be based on in-state property, payroll, and sales and that the tax rate be based on the tax paid by firms in the same industry conducting unitary business in the state.

Proponents of this option claim that it would reduce the threat of foreign retaliation against U.S. corporations. In addition, this option is claimed to be a fair way to exclude foreign multinational corporations from worldwide combined reporting while protecting the competitive advantage of U.S. multinational corporations and domestic business. This option would also protect state revenues and be relatively easy to implement. Opponents, however, do not view this alternative as an adequate alternative to worldwide combined reporting because corporate income tax rates based on industry

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<sup>4</sup>These corporations are U.S. based corporations that have 80 percent or more of their business activity occurring outside of the United States.

# CORRECTION

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ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

P.O. Box Y, State Capitol  
Juneau, Alaska 99811-3100  
Mail Stop 3100  
(907) 465-3991

June 8, 1989

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June 8, 1989

Page 2

In recent years, the unitary tax principle has come under considerable attack--largely as a result of efforts to apply scientific exactness to a concept which is relatively broad and is, by its nature, impervious to exactness.<sup>1</sup> In applying the unitary tax principle in the context of corporate income taxation, the courts have focused on whether a state was making a reasonable effort to effect a fair division of the income of a multi-state taxpayer.<sup>2</sup> Toward this end, the U.S. Supreme Court avoided endorsing any particular method of unitary apportionment as *the* preferred method. In *Container*, the Court noted that variations on the theme of unitary apportionment can be acceptable as long as those variations "are logically consistent with the underlying principles motivating the unitary approach." The fact that another approach, such as separate accounting, might produce a different result is irrelevant: adherence to reasonable principles is the standard against which the courts have measured tax methods.

All states that use the unitary tax must determine the corporate income that is to be apportioned. Alaska is the only state that uses a method called worldwide combined reporting. Worldwide combined reporting totals all of the income from all subsidiary and affiliated corporations engaged in a unitary business even if they are located outside of the United States.<sup>3</sup> Other states use a waters edge approach which apportions only the income earned by the unitary business within the United States.

During the 1980s, worldwide combined reporting has been criticized by the United States government and both foreign and domestic multinational corporations. The federal government opposes worldwide combined reporting because of fear of 1) state interference in foreign trade and 2) reprisal by foreign nations whose multinational corporations are taxed by states using this method. Because states' application of worldwide combined reporting to domestic multinational corporations has been upheld by the Supreme Court, federal action to date has been limited to persuading states to stop using this version of the unitary tax.

Domestic and foreign multinational corporations oppose the use of worldwide combined reporting because they do not believe that states have the right to tax business activities that occur outside the United States. In addition, these corporations claim that state taxation of foreign activities constitutes

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<sup>1</sup>Gene Corrigan, "A Unitary Primer," Multistate Tax Commission, Volume 1988, Number 1, May 1988, p. 1.

<sup>2</sup>*Container Corporation of America v. Franchise Tax Board*, 463 U.S. 159, 169 (1983).

<sup>3</sup>Alaska uses a modified formula apportionment method for computing taxable income of oil and gas corporations. For information on apportionment formulas, see House Research Agency Memoranda 85.012 and 89.303.

double taxation because this income is taxed by foreign governments. Foreign multinational corporations have been especially vocal in their criticism of worldwide combined reporting.

### Alternatives to Worldwide Combined Reporting

In 1984, eleven states used worldwide combined reporting. As a result of federal government opposition and the threats of economic reprisal by foreign corporations, ten states have changed taxing methods. The degree to which states have backed-off taxing foreign income varies considerably as a result of inconsistency in states' definitions of "waters edge." Alternatives to worldwide combined reporting include:

- worldwide combined reporting for domestic corporations with an alternative tax levied on foreign multinational corporations;
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Proponents of this option claim that it would reduce the threat of foreign retaliation against U.S. corporations. In addition, this option is claimed to be a fair way to exclude foreign multinational corporations from worldwide combined reporting while protecting the competitive advantage of U.S. multinational corporations and domestic business. This option would also protect state revenues and be relatively easy to implement. Opponents, however, do not view this alternative as an adequate alternative to worldwide combined reporting because corporate income tax rates based on industry

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June 8, 1989

Page 4

classification would not change tax liabilities of foreign corporations. Critics also claim that U.S. based multinational corporations may pay higher taxes than foreign corporations on similar income.

This alternative is similar to Senate Bill 119, introduced by Governor Cowper in the 1989 legislative session. The governor's bill, which applied to nonpetroleum corporations, would exempt foreign multinational corporations from worldwide combined reporting and tax them with a waters edge approach. Because the bill would result in a competitive disadvantage for domestic corporations, it was stridently opposed by U.S. industry and made little headway in the legislature.

**Waters Edge Combination Including Dividends and 80/20 Corporations.** This alternative to worldwide combined reporting includes limiting the unitary group to the waters edge and including all foreign source dividends in the calculation of income, and treating all 80/20 corporations as if they were within the waters edge. Only dividends generated by foreign subsidiaries that are significantly related to the activities of the unitary group would be included in income of domestic multinational corporations.

Supporters of this option claim that it would reduce foreign criticism of states' application of worldwide combined reporting and it would result in equitable taxation of all taxpayers. Proponents claim that even though worldwide income of domestic multinational corporations is taxed (through taxation of dividends) by the states, while worldwide income of foreign multinationals is not, foreign government taxation of dividend income repatriated to the home country of the parent corporation equalizes any inequities. Opponents of this option disagree and claim that this method of taxation would put U.S. multinationals at a considerable competitive disadvantage in the world economy. Furthermore, opponents claim that fully taxing foreign source dividends is identical to taxing the income of their foreign subsidiaries and yields the same result as worldwide combined reporting.

**Waters Edge Combination Excluding Foreign Dividends and 80/20 Corporations.** This alternative to worldwide combined reporting limits the income of the unitary group to those corporations within the boundaries of the United States. However, this option excludes all or at least a high percentage of foreign source dividend income, depending on the particular option chosen. In addition, 80/20 corporations are considered to be foreign corporations and are excluded from the unitary group. This option is generally favored by both foreign and domestic multinational corporations. Foreign multinational corporations and governments support this alternative because it eliminates worldwide combined reporting. Domestic multinational corporations like this option because it keeps them competitive in the world economy by not taxing foreign source dividends. Opposition comes mainly from state governments that fear a serious erosion of their tax base if foreign source dividends and 80/20 corporations are excluded from taxation.

June 8, 1989

Page 5

**Separate Accounting.** This alternative to worldwide combined reporting would completely eliminate the use of the unitary tax. States would tax corporate taxpayers only on the income earned in the state and each corporation would be treated as a separate entity for tax purposes (as opposed to a unitary group). This method is also called "arm's length accounting" because all transactions between related corporations are assumed to occur as if no special relationships exist (such as a subsidiary corporation supplying a parent corporation) so that prices are fair market values.

In general, business leaders would like to have all states determine taxable income by using separate accounting because it uses information directly related to traditional accounting income. Opponents, which include many states, claim separate accounting makes states vulnerable to manipulation of income to reduce tax liabilities by corporations that do business in more than one state. However, under the separate accounting method Alaska imposed on the petroleum industry under AS 43.21, revenues from the corporate income tax were considerably higher than under either the standard apportionment formula applied before 1977 or the modified formula used after 1981.<sup>5</sup>

Attachment A provides information on how states using the waters edge unitary approach to corporate taxation treat foreign-source dividends (i.e., the first three alternatives discussed above). In summary, California's approach best represents the first option of providing an alternative tax to foreign multinational corporations. Another ten states would fit under the second option which taxes foreign-source dividends. Nine states partially exempt foreign dividends; 14 fully exempt foreign dividends; and 11 fully exempt dividends if a corporation meets specified conditions, i.e., 34 states' corporate taxation method is similar to the third option.

#### Alaska Revenue Sources and Relationship to Unitary Taxation

The revenues that the State of Alaska collects fall into one of three categories:

- unrestricted revenues go to the general fund to be appropriated for any purpose,
- restricted revenues are received for specific purposes, and
- special fund revenues are received by statutorily established funds such as the International Airport Fund.

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<sup>5</sup>For information on the formulas used for corporate taxation in Alaska, see House Research Memoranda 85.012 and 89.303.

June 8, 1989  
Page 6

Table 1 shows the contribution to total state revenues of each of these types of revenue in FY 88.

**TABLE 1**  
**CONTRIBUTIONS TO TOTAL STATE REVENUE BY TYPE OF REVENUE, FY 88**  
(Millions of Dollars)

TYPE OF REVENUE	DOLLAR CONTRIBUTION	PERCENT OF TOTAL
Unrestricted Revenue	\$2,305.8	63.7
Restricted Revenue	475.2	13.1
Special Funds	836.4	23.1
TOTAL	\$3,617.4	100.0

Source: Alaska Department of Revenue, "Revenue Sources," Fall 1988.

Table 2 provides a breakdown of unrestricted revenue by source. As mentioned previously, unrestricted revenues are the only source that allow legislative discretion in appropriation.

TABLE 2  
SOURCES OF UNRESTRICTED REVENUES, FY 88  
(Millions of Dollars)

REVENUE SOURCE	REVENUE	PERCENT OF TOTAL
Corporate Income Tax	\$181.4	7.9
Gross Receipts Tax	58.5	2.5
Severance Tax	818.7	35.5
Property Tax	96.2	4.2
Sale/Use Tax	51.8	2.2
Licenses and Permits	28.3	1.2
Intergovernmental Receipts	8.9	0.4
State Resource Revenues <sup>a</sup>	843.9	36.6
Facilities Related	32.3	1.4
Service Related	7.5	0.3
Other	16.4	0.7
Special Settlements <sup>b</sup>	161.9	7.0
TOTAL	\$2,305.8	100.0

<sup>a</sup>Includes \$694.8 million in royalty income, \$132.6 in investment earnings, and \$6.0 million in rents. Petroleum resource revenues are shown in more detail in Table 3.

<sup>b</sup>Outer Continental Shelf "8(g)" or Dinkum Sands settlement partial payment.

Sources: Alaska Department of Revenue, "Revenue Sources," Fall 1988.

Table 2 indicates that the largest contributions to state unrestricted income are derived from petroleum producers. In fact, the various petroleum revenues account for 85 percent of all state unrestricted revenues--this proportion has not changed since our earlier memorandum on FY 83 revenues.

Table 3 provides a breakdown of the contribution to FY 88 unrestricted revenues by the various petroleum revenue sources.

TABLE 3  
CONTRIBUTION OF PETROLEUM REVENUE SOURCES  
TO STATE UNRESTRICTED REVENUES, FY 88  
(Millions of Dollars)

SOURCE OF REVENUE	CONTRIBUTION	PERCENT OF TOTAL
Corporate Income Tax	\$158.0	8.1
Severance Tax	818.7	42.0
Royalties	694.8	35.6
Property Tax	96.2	4.9
Bonus Sales	5.6	0.3
Rents	5.7	0.3
Intergovernmental Receipts	8.7	0.4
Special Settlements	161.9	8.3
TOTAL	\$1,949.6	100.0

Source: Alaska Department of Revenue, "Revenue Sources," Fall 1988.

#### Description of Unrestricted Revenue Sources

**Corporate Income Taxes.** Alaska Statute 43.20 imposes a unitary income tax on the entire corporate income derived from sources within Alaska, and apportions this income under graduated rates. In FY 88, the corporate income tax generated a total of \$181.4 million, of which \$158.0 million, or 87 percent, was collected from petroleum corporations.

**Gross Receipts Taxes.** A variety of taxes are collected under this general heading. A business license tax of \$25 is assessed annually on any business operating in the state. The license fee for each state and national bank, trust company and savings and loan association is seven percent of net income. In FY 88, a total of \$1.4 million was collected from this source.

In addition to the business license tax, gross receipts taxes are levied on various seafood production activities. Taxes on commercial fishing (AS 43.75) include a raw fish tax of 4.5 percent of the value of salmon canned at shore-based canning facilities, a three percent tax on the value of all other fish canned by shore-based facilities and a five percent tax on the value of fishery resources processed by floating processors. Developing commercial fisheries are taxed at lower rates. In FY 88, these taxes contributed \$22.5 million to state revenues.

Salmon enhancement taxes (AS 43.75) are levied on limited entry fishing permit holders within qualified regional aquaculture associations. Rates are two or three percent of the value of the salmon caught, depending on the vote of the aquaculture association. In FY 88, total Salmon Enhancement Tax receipts were \$5.8 million. In effect, this is a pass-through program, since the legislature appropriates these tax revenues to the regional associations from whose members they were collected.

A seafood marketing tax (AS 16.51) is levied on seafood processors at a rate of 0.3 percent of the ex-vessel value of seafood products purchased (over \$50,000) in Alaska. Revenue in FY 88 was \$2.7 million. Similar to the Salmon Enhancement Tax, these revenues are passed through to fund the Alaska Seafood Marketing Institute (ASMI).

Insurance premium taxes (AS 21.09, AS 21.33, AS 21.34, and AS 23.33) are levied on gross premiums (less certain deductibles) at various rates ranging from 0.075 to 3 percent depending on the type of insurance. In FY 88, revenue from these taxes totaled \$25.6 million.

Severance Taxes. Oil production taxes are levied upon oil producers for all oil produced from each lease or property in the state, less any part of production exempt from taxation (AS 43.55). The tax is 15 percent of gross value (except 12.25 percent for the five-year period following commencement of new oil production after June 30, 1981) adjusted by the Economic Limit Factor (ELF) for mature oil fields. The ELF, however, was repealed effective January 1, 1989.<sup>6</sup> Gross value is calculated as the sales price minus transportation costs at the point of production. Gas production taxes (AS 43.55) are levied at the greater of a rate of \$0.64 per thousand cubic feet of taxable gas or ten percent of the gross value of taxable production calculated at the point of production, multiplied by the ELF. During FY 88, \$816.4 million was collected in oil and gas production tax revenues.

The oil and gas regulation and conservation tax (AS 43.57) is levied upon oil and gas producers at the rate of four mills per barrel (oil) and four mills per 50,000 cubic feet (gas) of oil and gas removed or sold from each lease or property in the state,

less any tax exemptions. Gross value is calculated as for the production taxes. This tax contributed \$2.3 million to state revenues in FY 88.

Property Taxes. The oil and gas property tax (AS 43.56) is levied at 20 mills on the full and true value of taxable property used in oil and gas production and exploration. If a municipality levies a property tax against the same

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<sup>6</sup>The actual effective date on HB 118, Chapter 25 SLA 89, is August 6, 1989, with a retroactive effective date of January 1, 1989. The ELF, however, was in place during FY 88.