



UNITED FISHERMEN OF ALASKA

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April 7, 2016

Representative Steve Thompson, Chair
House Finance Committee
Alaska State Legislature
State Capitol
Juneau, AK 99801

RE: Concerns with HB 250 – Income tax –Withholding of Crew Income

Dear Chairman Thompson and committee members,

UFA does not currently have a position of support or opposition to HB 250 regarding a state income tax. However, we have serious concerns with the current bill as introduced. Many or most fishermen will have major difficulties with the provisions of HB 250 relating to fishing wages and crew.

Generally, most fishing businesses operate as contractors with crew paid as a percentage of the catch, based on a contract, and reported at the end of the year to the payee and to IRS with form 1099-Misc. Fishermen and crew are not treated as employers and employees, they are all considered self-employed, and few would be prepared to withhold an estimated state tax payment based on a percentage of federal income tax.

Our specific concerns are:

Section 43.22.050 Tax withholding on wages of individuals

(c) (1 & 2) Page 4, beginning on line 28 - Withholding on fishing crew.

The bill would have fishermen skippers who pay their crew, subject to requirements to withhold a portion of crew share payments “computed in a manner to approximate the amount of tax due...” This is unworkable because:

-Skippers don't have the information they would need to estimate a crew member's potential federal tax liability.

-The typical crew share for most fisheries falls below income thresholds for federal tax liability.

-Many crew members may have federal tax liability through combined income of other employment (which would be subject to withholding by that employer), through fishing on multiple vessels throughout the year, or other sources of income. This information is not available to a skipper, or if it were would only be based on the crew member's word. In the common case of crew working a summer job, even the crew member may not know their own

estimated tax liability during the summer season when the fishing income takes place, as it would be affected by potential employment in the remainder of the calendar year.

-Even in the cases of crew who work year around with the same skipper in multiple fisheries, where the payments may exceed the threshold for federal taxable income, the tax liability includes marital status and number of dependent allowances in the calculation formula.

For actual employers, number of dependents, and filing status are included in formulas that calculate FICA withholding, and the functions for withholding income taxes and Social Security and Medicare are worth the cost of the overhead expense of accounting software. The 6% of federal tax obligation can be estimated easily as a percentage of federal withholding tables for real employers, but these do not exist for 1099 contractors, and the short term nature of many fisheries results in payment amounts that would fall below minimum income levels for federal withholding. A crew member receiving a 1099 form is considered self-employed and as such are allowed to take many expenses as deductions that reduces their federal liability and makes it impossible for a skipper to determine the amount to withhold from a crew's payment.

(a) (1) Page 5, line 21-24 - Fishermen as employers. Most small family fishing operations are not classified as employers for state and federal tax purposes. Although this passage is "for this section", we are concerned that the classification opens up potential complications with state and federal laws including workman's comp, health insurance, unemployment insurance, etc.

If a state income tax is to be implemented as part of a comprehensive fiscal package to address the current situation, the only viable treatment of commercial fishing income is through treatment the same as other self employed business owners. The State could require any business that provides a contractor with a 1099 form to provide a duplicate of the IRS form 1099-Misc to the state, with the responsibility for paying of the tax on the individual payee.

We recommend that HB 250 be amended to delete the passages that classify fishermen as employers and crew as employees, and delete those that treat fishermen and crew differently than other contractors or 1099 payees.

Thank you for your consideration,



Jerry McCune
President



Mark Vinsel
Executive Administrator

CC:

Representative Cathy Munoz

Representative Bruce Edgmon

Senator Bert Stedman

Commissioner Randal Hoffbeck, Department of Revenue

Deputy Commissioner Jerry Burnett, Department of Revenue

Director Ken Alper, Tax Division, Department of Revenue

Director Pat Pitney, Office of Management and Budget

Barbara Blake, Office of the Lt. Governor

Darwin Peterson, Office of the Governor