



# UNITED FISHERMEN OF ALASKA

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February 14, 2017

Representative Paul Seaton, Co-Chair  
Representative Neil Foster, Co-Chair  
House Finance Committee  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801

## **RE: Concerns with HB 115 – Income tax –Withholding of Crew Income**

Dear Co-Chairs Seaton and Foster, and Committee Members,

UFA does not currently have a position of support or opposition to HB 115 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 115 relating to withholding requirements on payments to fishing crew.

Generally, most fishing businesses operate as contractors with the 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**

(a) Page 8, lines 7 to 10 - Withholding on fishing crew.

The bill would have fishermen skippers 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 15% of federal tax obligation can be estimated easily as a percentage of federal withholding tables for actual 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.

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 payment of the tax remaining with the individual payee.

**We recommend that HB 115 be amended to remove passages that treat fishermen and crew differently than other contractors or IRS form 1099 payees.**

Thank you for your consideration,



Jerry McCune  
President



Mark Vinsel  
Executive Administrator

#### MEMBER ORGANIZATIONS

Alaska Bering Sea Crabbers • Alaska Independent Tendermen's Association • Alaska Longline Fishermen's Association • Alaska Scallop Association  
Alaska Trollers Association • Alaska Whitefish Trawlers Association • Armstrong Keta • At-sea Processors Association • Bristol Bay Fishermen's Association  
Bristol Bay Reserve • Concerned Area "M" Fishermen • Cook Inlet Aquaculture Association • Cordova District Fishermen United  
Douglas Island Pink and Chum • Freezer Longline Coalition • Golden King Crab Coalition • Groundfish Forum • Kenai Peninsula Fishermen's Association  
Kodiak Regional Aquaculture Association • North Pacific Fisheries Association • Northern Southeast Regional Aquaculture Association  
Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owner Association  
Seafood Producers Cooperative • Southeast Alaska Herring Conservation Alliance • Southeast Alaska Fisherman's Alliance  
Southeast Alaska Regional Dive Fisheries Association • Southeast Alaska Seiners • Southern Southeast Regional Aquaculture Association  
United Cook Inlet Drift Association • United Southeast Alaska Gillnetters • Valdez Fisheries Development Association