



**15 AAC 75.010. Information on return or report.** **(a)** A person subject to the fisheries business tax shall file a separate return **or report** [NO LATER THAN MARCH 31 AFTER THE CLOSE OF THE CALENDAR YEAR] for each business location, [USING THE] **on a form** [FORMS PROVIDED] **or in a format prescribed** by the **department** [DEPARTMENT OF REVENUE], **reporting** [STATING] the [FOLLOWING IN THE PLACES PRESCRIBED ON THE FORM:]

[ (1) NAME OF THE TAXPAYER;]

[ (2) MAILING ADDRESS;]

[ (3) federal employer identification number (EIN) or social security number (SSN) **and** [;]

[ (4) FISHERIES BUSINESS LICENSE NUMBER;]

[ (5) YEAR FOR WHICH TAX RETURN IS REPORTING;]

[ (6) LOCATION OF OPERATION;]

[ (7) VALUE OF FISHERIES RESOURCES PROCESSED DURING THE LICENSE YEAR, BY CATEGORY OF FISHERIES BUSINESS, POUNDS, PRICE PER POUND, AND BY SPECIES;]

[ (8) NAMES OF DEVELOPING COMMERCIAL FISH SPECIES PROCESSED DURING THE YEAR;]

[ (9) NAME OF FISHERIES BUSINESS WHICH FIRST ACTUALLY AND PHYSICALLY PROCESSED THE FISHERIES RESOURCES OR WHICH SOLD OR PROCESSED THE FISHERIES RESOURCES OUTSIDE THE TAXING JURISDICTION OF ALASKA;]

[(10) FOR A FISHERIES BUSINESS WHICH OPERATES FROM A FLOATING VESSEL, THE NAME OF THE VESSEL, THE DATE OF ARRIVAL OF THE VESSEL IN ALASKA, SUBSEQUENT MOVEMENT OF THE VESSEL FROM ONE LOCATION TO ANOTHER, THE REASON FOR THE MOVEMENT OF THE VESSEL, AND THE DATE OF DEPARTURE OF THE VESSEL FROM ALASKA FOR ANY REASON; AND]

[(11)] other information required by the department [TAX RETURN].

**(b) A person that elects the tax security method under AS 43.75.055(c) is required to file a report as prescribed by the department under this section. A person electing the tax security method under AS 43.75.055(c) is not required to file an annual return under AS 43.75.030(b).**

**(c) An applicant that has elected to use the monthly pay and report tax security method under AS 43.75.055(c) and has been issued a fisheries business license, cannot withdraw the election and must report and pay taxes due on monthly basis for the entire license year.**

**(d) A person that is subject to the recapture provisions of AS 43.75.035(g) and this chapter and is not otherwise a taxpayer, shall file a return with the department at the time or times required under AS 43.75.030 and this chapter.** (Eff. 9/9/81, Register 79; am \_\_\_/\_\_\_

/\_\_\_, Register \_\_\_)

Authority: AS 43.05.080 AS 43.75.035 AS 43.75.055  
AS 43.75.030

15 AAC 75 is amended by adding a new section to read:

**15 AAC 75 .015. Credits against the tax.** (a) The credits allowed against the tax imposed under AS 43.75 shall be taken in the following order to the full extent allowable by the enacting statute:

(1) the scholarship contribution credit allowed by AS 43.75.032;

(2) the salmon product development tax credit allowed by AS 43.75.035, starting with any unused credit carryover from a prior tax year and ending with the credit generated in the current tax year (first-in-first-out method);

(3) the education credit allowed by AS 43.75.018; and

(4) any other credits allowed by AS 43.75 in order of effective date unless provided otherwise by statute.

(b) For purposes of this section, except for applying the limitation in AS 43.75.035(e), the tax liability under this chapter is reduced by the amount of each preceding credit allowed for purposes of applying a subsequent credit, but not less than zero. An unused credit generated in the tax year expires, is not refundable, and may not be carried back or forward to another tax year except to the extent expressly provided by statute.

(c) For purposes of this section, "the tax imposed" refers to the combined tax before all credits reported on each return filed by the person under this chapter for the tax year. For each tax year and tax return filed, the person shall file a schedule that discloses the computation of credits claimed and the application of the credits to each tax return. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

Authority: AS 43.05.080 AS 43.75.030 AS 43.75.035

15 AAC 75.030 is amended to read:

(a) **A licensed fisheries business that has a fisheries resource processed by another fisheries business in the state is liable for the tax levied under AS 43.75.015** [THE PERSON ENGAGING IN A FISHERIES BUSINESS WHO FIRST ACTUALLY AND PHYSICALLY PROCESSES A FISHERIES RESOURCE IS LIABLE FOR AND SHALL PAY TO THE DEPARTMENT THE ENTIRE TAX IMPOSED UNDER AS 43.75.015. IF TWO OR MORE PERSONS PERFORM SEPARATE STEPS IN THE PROCESSING OF THE SAME FISHERIES RESOURCE, THE FIRST PERSON WHO PERFORMS A PROCESSING STEP IS LIABLE FOR AND SHALL PAY THE TAX. THIS SECTION APPLIES TO THE PERIOD JUNE 1, 1979 THROUGH DECEMBER 31, 1980].

(b) **A licensed fisheries business that processes a fisheries resource for a fisheries business that is not licensed under AS 43.75.011 is liable for the tax levied under AS 43.75.015** [FOR PERIODS AFTER DECEMBER 31, 1980, THE PERSON ENGAGING IN A FISHERIES BUSINESS WHO FIRST ACTUALLY AND PHYSICALLY PROCESSES A FISHERIES RESOURCE OR WHO HAS A FISHERIES RESOURCE PROCESSED BY A FISHERIES BUSINESS INSIDE THE STATE, OR THE PERSON WHO PURCHASES A FISHERIES RESOURCE THAT IS FROZEN FROM A PERSON EXCLUDED BY AS 43.75.017 FROM LIABILITY FOR THE TAX, IS LIABLE FOR AND SHALL PAY TO THE DEPARTMENT THE ENTIRE TAX IMPOSED UNDER AS 43.75.015. IN DETERMINING THE TAX LIABILITY, THE PERSON WHO FIRST ACTUALLY AND PHYSICALLY

PROCESSED A FISHERIES RESOURCE MAY DEDUCT FROM THE VALUE OF THE FISHERIES RESOURCE PROCESSED THE VALUE OF A FISHERIES RESOURCE PROCESSED FOR ANOTHER FISHERIES BUSINESS. IF A PERSON CUSTOM PROCESSES A FISHERIES RESOURCE FOR ANOTHER FISHERIES BUSINESS, THE CUSTOM PROCESSOR IS NOT LIABLE FOR THE TAX, BUT IF HE CUSTOM PROCESSES FOR SOMEONE OTHER THAN ANOTHER FISHERIES BUSINESS, THE CUSTOM PROCESSOR MUST PAY THE TAX]. (Eff. 9/9/81, Register 79; am 9/18/81, Register 81; am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

Authority: AS 43.05.080 AS 43.75.015

15 AAC 75.035 is amended to read:

**15 AAC 75.035. Reporting requirements. (a)** [EXCLUSION FROM FISHERIES BUSINESS TAX. FOR A FISHERIES RESOURCE PROCESSED AFTER DECEMBER 31, 1980, A] **A** person [IS NOT LIABLE FOR] **that claims an exclusion from** the fisheries business tax under **AS 43.75.017** [AS 43.75.015 IF THAT PERSON MEETS THE REQUIREMENTS OF AS 43.75.017 AND IF THE PERSON CLAIMING THE EXCLUSION IS THE COMMERCIAL FISHERMAN WHO CAUGHT THE FISHERIES RESOURCE] **shall file a fisheries business tax return as required under AS 43.75.030 and this chapter. A person qualifying for the exclusion from the fisheries business tax under AS 43.75.017 must indicate on its fisheries business tax return that the tax exclusion is being claimed and report the name and fisheries business license number of the person to whom it sold or transferred the fisheries resource along with the pounds of each species transferred and**

**other information required by the department.**

**(b) A licensed fisheries business that processes a fisheries resource for another fisheries business shall report with its tax return information, as required by the department, that pertains to the fisheries resource processed.** (Eff. 9/18/91, Register 80);  
(Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

Authority: AS 43.05.080 AS 43.75.017 AS 43.75.030  
AS 43.75.015

15 AAC 75.040 is amended to read:

(a) [FOR PERIODS BEFORE JANUARY 1, 1981,] **The** [THE] department will, in its discretion, require a person, **other than a licensed fisheries business, who contracts** [CONTRACTING] with a custom processor for [FISHERIES RESOURCE] processing **of a fisheries resource intended for resale** to furnish the custom processor or the department with a statement of value for the resource processed by the custom processor. The statement of value must report the species of **each** fisheries resources processed, the total pounds of each species, and the actual value by species, as determined in accordance with **AS 43.75.290(7)** [AS 43.75.140(7) AND 15 AAC 75.300(6)].

(b) [THE CUSTOM PROCESSOR IS LIABLE FOR AN ADDITIONAL TAX ASSESSMENT, IF ANY, UNLESS THE CUSTOM PROCESSOR OBTAINS FROM THE OWNER OF THE FISHERIES RESOURCE AN ASSUMPTION OF LIABILITY FOR AN INCORRECT STATEMENT OF VALUE AND THE OWNER PAYS ANY ADDITIONAL TAX ASSESSED RESULTING FROM THE INCORRECT STATEMENT OF VALUE.

(C) FOR PERIODS AFTER DECEMBER 31, 1980, THE DEPARTMENT WILL, IN ITS DISCRETION, REQUIRE A PERSON, OTHER THAN A FISHERIES BUSINESS, WHO CONTRACTS WITH A CUSTOM PROCESSOR FOR FISHERIES RESOURCE PROCESSING TO FURNISH THE CUSTOM PROCESSOR OR THE DEPARTMENT WITH A STATEMENT OF VALUE FOR THE RESOURCE PROCESSED BY THE CUSTOM PROCESSOR. THE STATEMENT OF VALUE MUST REPORT THE SPECIES OF FISHERIES RESOURCE PROCESSED, THE TOTAL POUNDS OF EACH SPECIES, AND THE ACTUAL VALUE BY SPECIES, AS DETERMINED IN ACCORDANCE WITH AS 43.75.149(7) AND 15 AAC 75.300.(6).

(D) THE CUSTOM PROCESSOR WHO PROCESSES A FISHERIES RESOURCE FOR A NON-FISHERIES BUSINESS IS LIABLE FOR AN ADDITIONAL TAX ASSESSMENT, IF ANY, UNLESS THE CUSTOM PROCESSOR OBTAINS FROM THE OWNER OF THE FISHERIES RESOURCE AN ASSUMPTION OF LIABILITY FOR AN INCORRECT STATEMENT OF VALUE AND THE OWNER PAYS ANY ADDITIONAL TAX ASSESSED RESULTING FROM THE INCORRECT STATEMENT OF VALUE.

E] The records of the owner of the fisheries resource shall be open to audit for purposes of verifying the values reported under (a) [AND (C)] of this section. The owner's records shall be subject to the same statute of limitations as the records of the **licensed** fisheries business.

(Eff. 9/9/81, Register 79; am 9/18/81, Register 80; am 1/16/82, Register 81; am \_\_\_/\_\_\_/\_\_\_,

Register \_\_\_)

Authority: AS 43.05.040 AS 43.05.080 AS 43.75.015

15 AAC 75.050 is repealed:

**15 AAC 75.050. Statement to be provided by custom processors.** Repealed. (Eff. 9/18/81, Register 80; repealed \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

15 AAC 75.060 is repealed:

**15 AAC 75.060. Expenditures eligible for tax credit.** Repealed. (Eff. 12/16/86, Register 101; repealed \_\_\_/\_\_\_/\_\_\_, Register, \_\_\_)

15 AAC 75.070 is repealed:

**15 AAC 75.070. Application for fisheries business tax credit.** Repealed. (Eff. 8/12/87, Register 103; repealed \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

15 AAC 75 is amended by adding a new section to read:

**15 AAC 75.075. Salmon product development tax credit.** (a) For purposes of calculating the salmon product development tax credit authorized under AS 43.75.035, qualified investment costs in property must be reduced by federal, state, or local government grant funds used to pay for the property.

(b) Under AS 43.75.035(j)(3), property used predominately to perform a

(1) packaging function includes vacuum sealing equipment, retort pouch machinery and ready-made-meal packaging machinery, but excludes scales, boxing, box sealing, box strapping or labeling machines;

(2) product finishing function includes equipment or machinery that preserves,

dries, smokes or blast freezes a processed salmon product, but excludes conventional freezing equipment.

(c) To qualify for the credit authorized under AS 43.75.035, the property must be wholly owned by the person claiming the credit and must be located at a facility or on a vessel licensed under the name of the person claiming the credit. Property and property components that were used by another person for any purpose prior to the date the fisheries business purchased the property or property components do not qualify for a salmon product development tax credit. If the combined expenditures for used components in a single property exceed 50 percent of the total cost of the property, the entire property is considered used property and is disqualified from consideration for the salmon product development tax credit. If property consisting of used components otherwise qualifies for the credit, expenditures for the used components do not qualify for the salmon product development tax credit.

(d) Expenditures incurred to convert existing property owned by the fisheries business into an otherwise qualified investment, except for traditional canning systems converted to pop-top canning, do not qualify for the salmon product development tax credit.

(e) Subject to the limitations imposed under AS 43.75.035 and this chapter, a person may claim a salmon product development tax credit against the taxes incurred on salmon at the facility where the qualified expenditure was made as well as against the taxes incurred on salmon processed at another licensed facility operated by the person.

(f) For purposes of AS 43.75.035(j), "intended purpose" means the general function for which the property was designed, including the ability to function with non-salmon products.

(g) For purposes of AS 43.75.035(f), a person is in arrears if on the day following the

due date for paying the tax under AS 43.75.030(d) or AS 43.75.055(c)(1), the person was liable for unpaid assessments under AS 16.51.120, contributions under AS 23.20, or taxes or assessments under AS 43. In this subsection, "taxes or assessments" include penalties and interest. A credit properly denied under AS 43.75.035(f) may not be reinstated or carried forward.

(h) A person may request a preliminary determination of whether a proposed investment qualifies for the salmon product development credit, using the form prescribed by the department. The form will be considered complete when all information requested on the pre-qualification form has been received. The department shall issue a determination within 30 days of receipt of a complete pre-qualification form. A person may consider the proposed investment qualified if the department does not disapprove the pre-authorization request within the 30-day period. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

Authority: AS 43.05.080

AS 43.75.035

15 AAC 75 is amended by adding a new section to read:

**15 AAC 75.076. Recapture of salmon product development tax credit.** (a) Property upon which a salmon product development tax credit was claimed is disposed of when it is sold, exchanged or otherwise transferred by the person to another person, without regard to whether there is consideration given or whether the transfer is to a related person.

(b) Property upon which a salmon product development tax credit was claimed ceases to be qualified when it is not used predominantly to produce value-added salmon products. The determination of whether the property is used predominantly to produce value-added salmon

products is made on the last day of the tax year, taking into account the use of the property for the entire tax year.

(c) Property upon which a salmon product development tax credit was claimed is removed from service in the state if it is not used in the state by the person at any time during the tax year. Property is not considered removed from service in the state if it is:

- (1) temporarily taken out of service for repairs;
- (2) damaged or destroyed by fire, sinking or natural disaster;
- (3) taken out of service due to closure of a salmon fishery by an act of a state or federal agency;
- (4) stolen; or
- (5) taken out of service because of bankruptcy or involuntary dissolution of the

person that claimed the credit.

(d) A salmon product development tax credit that has been recaptured may not be restored for any reason.

(e) Recapture of a salmon product development tax credit is a taxable event for purposes of AS 43.75 and requires the person to file a fisheries business tax return and pay any recapture taxes due before April 1 of the year following the year the recapture provision is triggered, notwithstanding that the person may not otherwise be a fisheries business in that year. (Eff.

\_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

Authority: AS 43.05.080 AS 43.75.030 AS 43.75.035

15 AAC 75.080 is repealed:

**15 AAC 75.080. Placed in service rule.** Repealed. (Eff. 8/12/87, Register 103; repealed \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

15 AAC 75.085 is repealed:

**15 AAC 75.085. Exception to Placed-in-Service Rule.** Repealed. (Eff. 12/22/89, Register 113; repealed \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

15 AAC 75.090 is repealed:

**15 AAC 75.090. Limitation On Credit.** Repealed. (Eff. 8/12/87, Register 103; repealed \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

15 AAC 75 is amended by adding a new section to read:

**15 AAC 75.200. Security for fisheries business taxes.** (a) A person applying for a fisheries business license under AS 43.75.011 shall file with the department evidence of an acceptable security instrument required under AS 43.75.055 and this chapter, on forms or in a format prescribed by the department. Acceptable security is limited to

(1) lienable real property located in Alaska and owned by the applicant with equity sufficient to satisfy the required security amount under AS 43.75.055, provided the applicant files with the department

(A) an appraisal prepared by a licensed real estate appraiser, current within three years before the date of application, or in lieu of an appraisal, a copy of the most recent municipal property tax assessment; and

(B) a title report issued by a title company, licensed and registered in Alaska, current within 30 days of the date of application;

(2) a surety bond issued by a surety company licensed to do business in Alaska, on a form prescribed by the department;

(3) a certificate of deposit for the full amount of the estimated tax, established in an Alaska financial institution that is payable to the department, held in trust for the applicant, automatically renewable and can only be released or redeemed by the department;

(4) an irrevocable unconditional letter of credit for the full amount of the estimated tax, from a domestic bank insured by an agency of the United States; or

(5) cash for the full amount of the estimated tax.

(b) Except as provided in AS 43.75.055(c), the amount of required tax security shall be based on the greater of the tax estimated to be due in the current license year, or the average tax liability for the three tax years preceding the license year for which tax returns were required to be filed. If the applicant previously held a fisheries business license for less than three years, the average will be based on the number of years the applicant held a license. Eff. \_\_\_/\_\_\_/\_\_\_,

Register \_\_\_)

Authority: AS 43.05.080 AS 43.75.030 AS 43.75.055

15 AAC 75 is amended by adding a new section to read:

**15 AAC 75.210. Security for obligations, claims and payment of claims.** (a) A person applying for a license as fish processor or primary fish buyer that will have employees subject to the provisions of AS 23.20 or that will be buying fisheries resources directly from

fishermen, shall file with the department evidence of acceptable security required under AS 44.25.040 and this chapter, on forms or in a format prescribed by the department. Acceptable security is limited to

(1) a surety bond issued by a surety company licensed to do business in Alaska, on a form prescribed by the department;

(2) a deed of trust on lienable real property located in Alaska and owned by the fish processor or primary fish buyer with equity sufficient to satisfy the required security amount under AS 44.24.040, listing the department as the beneficiary and an Alaska title company as the trustee, provided that the fish processor or primary fish buyer files with the department

(A) an appraisal prepared by a licensed real estate appraiser, current within three years before the date of license application under AS 43.75 or AS 43.70, or in lieu of an appraisal, a copy of the most recent municipal property tax assessment; and

(B) a title report prepared by a title company licensed and registered in Alaska, current within 30 days of the date of license application under AS 43.75 or AS 43.70;

(3) a certificate of deposit established in an Alaska financial institution that is payable to the department, held in trust for the fish processor or primary fish buyer, is automatically renewable and can only be released or redeemed by the department; and

(4) cash.

(b) A person having a claim against a fish processor or primary fish buyer under AS 44.25.040 must personally bring an action at law upon the fish processor or primary fish buyer and may also name the security in the complaint.

(c) Upon receipt by the department of a certified copy of a final judgment rendered against a cash deposit, the department shall pay the judgment in due course as follows:

(1) If, on the date of initiating a warrant for payment, the department has received only one certified copy of a final judgment, the department will pay the full amount of the judgment, including attorney fees, interest, and costs, to the judgment creditor if the judgment does not exceed the amount of the cash deposit; if the judgment exceeds the amount of the cash deposit, the department will pay to the judgment creditor the amount of the cash deposit;

(2) If, on the date of initiating a warrant for payment, the department has received more than one certified copy of a final judgment, the department will pay each judgment creditor

(A) an amount determined by multiplying the percentage (carried to two decimal points) of the judgment principal of the judgment creditor to the total judgment principal of all judgments by the amount of the cash deposit;

(B) if any portion of the cash deposit remains, the procedure in (A) will be applied to the balance of the cash deposit remaining (after deducting the amount determined in (A) and subsequently in each succeeding computation in this subpart) in the following order:

- (i) interest awarded in the judgment;
- (ii) costs awarded in the judgment;
- (iii) fees and all other amount awarded in the judgment. (Eff.

\_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

Authority: AS 43.05.080 AS 44.25.040 AS 44.25.047

15 AAC 75 is amended by adding a new section to read:

**15 AAC 75.220. Issuance, denial and suspension of license.** (a) Upon receipt of an application in proper form or in the prescribed format, accompanied by the appropriate annual fee and required security, the department will issue a license to the fisheries business, except that the department will not issue a license if at the time of application the applicant has not filed all returns or reports required under AS 43 or AS 16.51.120.

(b) The department may immediately suspend a person's license issued under this chapter if, at any time during the license year

(1) the person fails to file a return or report required under AS 43 or AS 16.51.120;

(2) the person fails to pay any taxes or assessments due under AS 43 or AS 16.51.120;

(3) the bonding company cancels its tax security bond required under AS 43.75.055; or

(4) the person has failed to pay industry fees levied under a fishing capacity reduction program authorized under 16 U.S.C. 1861(a) after exhausting all applicable administrative remedies.

(c) For purposes of subsection (b), "taxes or assessments due" includes penalties and interest, but excludes any liabilities under administrative or judicial appeal. (Eff. \_\_\_/\_\_\_/\_\_\_,

Register \_\_\_)

Authority: AS 43.05.080 AS 43.75.020 AS 43.75.055  
AS 43.10.045

15 AAC 75 is amended by adding a new section to read:

**15 AAC 75.225. Cease and desist order.** (a) The commissioner may issue a cease and desist order to a fish processor or primary fish buyer

(1) if the security instrument required by AS 44.25.040 is impaired or depleted;

(2) if a bonding company cancels its bond of the fish processor or primary fish buyer required under AS 44.25.040; or

(3) if the fish processor or primary fish buyer violates the provisions of AS 44.25.040.

(b) The commissioner may issue a cease and desist order to a person operating as a fisheries business that was not issued a fisheries business license under AS 43.75.011 or whose license has been suspended under 15 AAC 75.220(b).

(c) The cease and desist order under subsections (a) and (b) will be rescinded upon a showing, acceptable to the commissioner, that

(1) the fish processor or primary fish buyer has complied with the requirements in AS 44.25.040 and this chapter; and

(2) the fisheries business has complied with the requirements in AS 43.75.020 and this chapter. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

Authority: AS 43.05.080 AS 43.75.020 AS 44.25.040

AS 43.75.011 AS 43.75.055 AS 44.25.047

15 AAC 75 is amended by adding a new section to read:

**15 AAC 75.230. Fisheries business license restrictions and violations.** (a) A person

that has been issued a direct marketing fisheries business license and engages in an activity prohibited under AS 43.75.020(c), is not eligible for the tax rates under AS 43.75.015(d) and is subject to the tax rates under AS 43.75.015(a) for the tax year.

(b) A person that purchases unprocessed fisheries resources from a fisherman for purposes of sale that has been issued a fisheries business license as a direct marketer, catcher processor, catcher exporter or custom processor, must obtain and submit evidence to the department of security as required under AS 44.25.040, retroactive to the date of first purchase.

(c) A vessel that is used as a processing facility by a person licensed under AS 43.75.020(c), may not also be licensed as a processing facility by that person or any other person for licensing under AS 43.75.020(a) in the same license year. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

Authority: AS 43.05.080 AS 43.75.020 AS 44.25.047  
AS 43.75.015 AS 44.25.040

15 AAC 75 is amended by adding a new section to read:

**15 AAC 75.240. Assessment of civil penalty.** (a) Except as provided under subsection (c), a civil penalty for engaging in a fisheries business with a suspended license or without a license shall be imposed under AS 43.75.011(b) as follows:

(1) for a first violation, \$500 plus an amount equal to the fisheries business tax incurred during the period by the person engaged in a fisheries business without a license, not to exceed \$5,000;

(2) for a second violation and assessment, \$5,000 plus two times the fisheries business tax incurred during the period by the person engaged in a fisheries business without a

license, not to exceed \$10,000;

(3) for a third violation and assessment, \$10,000 plus three times the fisheries business tax incurred during the period by the person engaged in a fisheries business without a license, not to exceed \$15,000;

(4) for a fourth violation and assessment, \$20,000; or,

(5) for a fifth and all subsequent violations and assessments, \$25,000.

(b) The amount of the fisheries business tax incurred in subsection (a) is determined by the department based on the best information available to it at the time the assessment is made. The best information available includes fish tickets for the current and prior years, the amount of tax and other information reported on fisheries business tax returns filed with the department, as well as information from third parties and other sources. The fisheries business bears the burden of establishing by clear and convincing evidence the amount of the actual tax liability incurred during the period by the person engaged in a fisheries business without a license.

(c) For a person processing without a fisheries business license that would otherwise have been eligible for exclusion from tax in accordance with AS 43.75.017, or a person that fails to obtain a fisheries business license who own fisheries resources that are being custom processed on their behalf, or a person processing without a fisheries business license that custom processes on behalf of a licensed fisheries business, a civil penalty for engaging in a fisheries business without a license shall be imposed under AS 43.75.011(b) as follows:

(1) for a first violation, \$500;

(2) for a second violation and assessment, \$2,000;

(3) for a third violation and assessment, \$3,000;

- (4) for a fourth violation and assessment, \$4,000;
- (5) for a fifth violation and assessment, \$5,000;
- (6) for sixth violation and assessment, \$10,000;
- (7) for a seventh violation and assessment, \$15,000;
- (8) for an eighth violation and assessment, \$20,000; or
- (9) for a ninth and all subsequent violations and assessments, \$25,000.

(d) A civil penalty for subsequent violations and assessments under subsections (a) and (c) may be assessed if 30 days after a penalty assessment was issued by the department, the person continues to act as a fisheries business without obtaining a fisheries business license under AS 43.75.020.

(e) For purposes of this section, the penalty assessment is issued when the penalty assessment is hand-delivered to the person or placed in the United States mail addressed to the last known address of the person.

(f) For purposes of this section, "fisheries business tax incurred during the period" refers to the fisheries business tax incurred from January 1 of the year the unlicensed activity occurred or the date of the previous civil penalty, whichever is later, to the date the current civil penalty under AS 43.75.015 and this chapter is issued. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

Authority: AS 43.05.080 AS 43.75.015 AS 43.75.030  
 AS 43.75.011

15 AAC 75 is amended by adding a new section to read:

**15 AAC 75.250. Reporting of bonus or other additional payments.** (a) A person

subject to the fisheries business tax that makes bonus or other additional payments to a fisherman for fishery resources purchased or otherwise acquired in a previous calendar year, shall report the bonus or other additional payments on a fisheries business tax return prescribed under 15 AAC 75.010 and pay the additional tax due.

(b) The fisheries business tax return of bonus or other additional payments must be filed and the tax paid no later than the last day of the month following the month in which the bonus or other additional payment was made. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

Authority: AS 43.05.080 AS 43.75.015 AS 43.75.290

15 AAC 75.290 is amended to read:

**15 AAC 75.290. Qualification of mobile processing facility as a shore-based**  
**[SHORE-BASED] fisheries business.** A fisheries business operated from a **mobile facility**  
**such as a barge or** [FLOATING] vessel [IS NOT PERMANENTLY ATTACHED TO THE  
 LAND. A FISHERIES BUSINESS OPERATED FROM A FLOATING VESSEL IS] **may**  
**qualify as** a shore-based fisheries business [ONLY] if **the mobile facility** [IT] **remains in the**  
**same location** [ANCHORED IN ONE PLACE AND DOES NOT MOVE FROM THAT  
 ANCHORAGE DURING] an entire **calendar** [TAX] year **and the fisheries business is**  
**properly licensed at the location. For purposes of this section, a mobile facility may still**  
**qualify as a shore-based fisheries business if the facility moves from its licensed location for**  
**purposes of obtaining necessary repairs, maintenance, dry dock, or for reasons beyond its**  
**control such as to avoid frozen or dangerous waters, as long as fisheries business activities**

**are not conducted anywhere during the time the facility is removed from its licensed location in the state and the facility returns as soon as practicable to the same licensed location in the state.** [A MOVEMENT OF THE VESSEL FROM THE ANCHORAGE, FOR ANY REASON, INCLUDING DRY-DOCK, REPAIRS, MAINTENANCE, OR A NEW PROCESSING LOCATION, EITHER TO ANOTHER LOCATION IN THE STATE OR TO ANOTHER LOCATION OUTSIDE THE STATE, DISQUALIFIES THE FISHERIES BUSINESS AS A SHORE-BASED FISHERIES BUSINESS.] (Eff. 9/9/81, Register 79; am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

Authority: AS 43.75.080 AS 43.75.015 AS 43.75.290

15 AAC 75.300 is repealed and readopted to read:

**15 AAC 75.300. Definitions.** In AS 43.75 and this chapter

- (1) "custom processor" means a fisheries business which does not own the fisheries resources it is processing;
- (2) "depreciable tangible personal property" means tangible personal property that is subject to depreciation under 26 USC. 167 for federal income tax purposes;
- (3) "fisheries resource" means fin fish and shellfish, including but not limited to salmon, halibut, herring, flounder, crab, clam, cod, shrimp, and pollock; fish byproducts, such as roe, entrails and

carcasses, are separate fisheries resources if they are transferred to another person for processing;

(4) "lienable value" means the full market value of real property, less

(A) recorded liens and encumbrances on the property shown on a title report, and

(B) unrecorded liens and encumbrances known by the owner of the real property;

(5) "market value" means the prevailing price paid for fisheries resources of like kind and quality by fisheries businesses in the same region or market area to fishermen who own their vessels;

(6) "person" means an individual, a trust or estate, a partnership, a limited liability partnership, a corporation, or a limited liability company;

(7) "predominantly" means 80% or more of the raw pounds of fisheries resources subject to the processing, packaging or product finishing function of the property is salmon;

(8) "processing" means any activity which modifies the physical condition of a fisheries resource, including butchering, freezing, salting, cooking, canning, dehydrating, or smoking.

"Processing" does not mean an activity that is commonly performed on a fisheries resource solely for maintaining quality and performed by the person that harvested the resource, including decapitating shrimp, gutting, gilling, sliming, or icing;

(9) "processing fisheries resources for sale" means the series of activities which are performed in preparing the fisheries resources for subsequent sale, regardless of whether the processor owns the fisheries resources and regardless of whether the processor is the seller in the subsequent sale of the fisheries resources;

(10) "quality" includes, for purposes of determining value, fishery gear type used to harvest the resource;

(11) "related person" has the meaning of related person in 26 U.S.C. 267 and 26 U.S.C. 318;

(12) "taxpayer" means a person subject to tax under AS 43.75.015;

(13) "weight of raw salmon" means the weight, in pounds, of the whole salmon when caught and first brought aboard the fishing vessel. (Eff. 9/9/81, Register 79; am 9/18/81, Register 80; am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

Authority:	AS 43.05.080	AS 43.75.035	AS 43.75.100
	AS 43.75.015	AS 43.75.055	AS 43.75.290
	AS 43.75.030		