MSSP

Market Segment Specialization Program

Alaskan Commercial Fishing: Catcher Vessels

Part I

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FORWARD

The Market Segment Specialization Program (MSSP) presents this Audit Technique Guide as an aid to compliance and enforcement strategies involving the Alaska commercial fishing industry. Although, the guide is specifically structured around the Alaska commercial fishing industry and catcher vessels, it may be used as a broad outline for commercial fishing MSSP efforts in any region. Tenders, processors, and brokers are addressed in Part Two.

Alaskan Commercial Fishing Part One -- Catcher Vessels was written by the Examination Division, Anchorage District.

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Chapter 1

An Overview of the Alaska Commercial Fishing Industry

ECONOMIC IMPACT

The commercial fishing industry is a major contributor to the Alaskan economy. The fishing industry supports one-sixth of the state's economy and employs 40,000 of its residents, more than any other of the state's basic industries. The state hosts a large number of fishers from the Pacific Northwest and processing plant workers from throughout North America, swelling the seasonal employment total to 70,000. That employment figure encompasses harvesting, processing, and support services. Alaska produces 60 percent of the nation's seafood and 2 percent of the world's supply. Of the top 10 U.S. fishing ports in 1990, 6 were Alaskan, including Dutch Harbor/Unalaska, Kodiak, Petersburg, Kenai, Ketchikan, and Cordova. The Aleutian Island port of Dutch Harbor/Unalaska landed more seafood on its docks in 1990 and 1991 than any other U.S. port. (see Exhibit 1-1)

After oil, commercial fishing produces more wealth in Alaska than any other industry. The value of the Alaska seafood catch has exceeded $1 billion dollars annually since 1986 and, in 1988, an unparalleled year, the value approached $2 billion. Although the major portion of the catch is bottom fish (in 1989, 80 percent of the total volume; 34 percent of value), the most valuable catch is salmon (13.4 percent of the total volume; 38 percent of value).

There are more than 150 different fisheries in Alaska waters. "Fishery" means a single area, gear type, and species, or species group. Many Alaskan fishers are multiple-fishery participants, but distance and seasonal conflicts prevent most from fishing in more than just a few fisheries. The majority fish for salmon, halibut, herring, a variety of bottom fish, and shell fish. The most popular vessel types are gillnetter, longliner, seiner, troller, and crabber. See Glossary for a description of vessel types.

Fishers sell their bulk fish catch to seafood processors falling into three categories: shore plants, floating processors, and catch processors. The expression "cannery" is still used to describe shore plants, but only a few processing plants still do canning. "Cold storage" is the more accurate term since most processors clean and freeze only. There were at least 100 processing facilities in Alaska coastal towns in 1991, many providing the bulk of jobs in those communities. Floaters are mainly barges or sea-going ships equipped as processing plants and two-third are Seattle-based. The smallest catch-processors include trollers, longliners, and pot ship boats with freezer holds. They rarely buy product and employ only a few processing workers. The huge factory trawlers, by contrast, may employ as many as 125 crew members. One estimate places 70 factory trawlers, ranging from 104 to 376 feet in length, in Alaska waters. Some fishers sell to intermediaries known as "tenders." These are not processors, but are independent transport vessels. They may be hired by processors and have a representative of the processor on board doing the actual buying.

Economics aside, commercial fishing in Alaska waters is considered one of the most dangerous professions in the United States. During the 5-year period 1987 through 1992, 216 people died while commercial fishing in Alaska. Over 256 vessels were lost during that same period. Commercial fishermen perish at an annual rate about 25 times higher than the national average for on-the-job fatalities. Of the 35 died in 1992, 33 were swept overboard into near freezing water and were overcome by the paralyzing cold. Of those who drowned, 87 percent were not wearing the flotation device required by law.

COMPETITION AND FOREIGN INFLUENCE

Despite the ever-growing competition from the salmon-farming industry which offers a year-round supply of fresh salmon from Norway, Canada, Chile, and elsewhere, a State of Alaska study concluded that the world markets can absorb 20 percent more Alaska salmon--worth another $500 million per year. Unlike salmon farming, Alaska's fresh-market opportunities are limited by the wild salmon's natural cycles. Harvests peak in mid-summer, then abruptly slack off. Salmon farming is banned by law in Alaska.

Farm-raised salmon from Norway and Scotland already dominate European salmon market as well as U.S. market east of the Mississippi. Norwegian and Chilean-farming salmon is pouring into Japan, the world's biggest consumer of salmon and Alaska's major market. In the last decade, world wide farmed salmon has increased from 1 percent of the salmon sources to one-third. In 1990, the world produced over 2 billion pounds of salmon. Alaska wild salmon shared 29 percent of the total, while farmed fish contributed 28 percent. The U.S. share of Japanese imports of fresh and frozen salmon has slipped from 86 percent to 57 percent. Chile is the main competitor, but Russia, in need of hard currency, is expected to flood markets with wild and hatchery-salmon.

The worldwide salmon production, including both wild and farmed fish, created a glut in the 1991 fish market. Japan's wholesale market paid 30 to 40 percent less in 1991 for Alaska salmon than in 1990. As of January 1994, the price Alaska red salmon sells for in Japan had plunged to its lowest level in three years ($4/kilo compared to $10.72/kilo in March 1992). Although retail prices have remained stable over time, weakened consumer demand, a by-product of the recession in Japan, has aggravated an already bleak situation.

In response to both competition and the move away from salmon by Japan's younger generation, the Alaska Seafood Marketing Institute has been formed by Alaska fishers to pursue alternative markets, product diversification and improved quality. The Prince William Sound Aquaculture corporation is marketing single egg caviar (ikura) on the East Coast and two Maine companies are domestically distributing salmon nuggets, chowder, smoked-thin-sliced fillets and smoked salmon spread.

Further, industry experts suggest that the cost of harvesting and processing salmon is out of sync with the prices of fish. To lower costs, limited entry permit prices may drop, fishers may trim their operations and processors may seek new technologies or ignore less valuable fisheries.

After the sudden, dramatic drop in the purchase price for salmon offered by Japanese buyers occurred in 1991, the State of Alaska Attorney General's office investigated the possibility of collusion and price fixing by salmon buyers. Cut-short by a lack of funding and barred from research in Japan, the investigation was unable to gather sufficient evidence to prosecute. However, the Attorney General's office did conclude that the various parties had the means, opportunity, and motive to reduce salmon prices in recent years. Rather than blaming low prices on oligopolistic behavior, some economists rely on expanded supply for an explanation. Japanese salmon inventories were twice as high in 1991 as in 1988. State investigators counter that, although prices were destined to fall, the Japanese buyers jointly attempted to shift the entire loss to the owners of the resource -- Alaska fishers. A separate Federal investigation continues and has gained access to evidence in Japan.

Since Japan imports half of Alaska's seafood, foreign companies and individuals have naturally come to control a significant segment of the Alaska seafood processing industry. The Alaska Division of Commerce lists 335 companies involved in various phases of the fishing business (lawyers, sellers, fishers, factory trawlers, processors); 97 have some percentage of foreign ownership. Since passage of the Magnuson Fishery Conservation & Management Act in 1976 (extended U.S. jurisdiction to 200 miles from shore), directly-owned foreign fishing boats have been permitted in Alaska waters since 1988. Thus, only 3 percent of the total catch is by joint ventures between American vessels and foreign companies. However, at least 23 percent of shore-based plants and 66 percent of off-shore seafood processors (vessels) had some form of foreign ownership in 1989. Actual control is much greater since the foreign companies invest in the larger operations, and these produce a greater share of the total value of seafood production. Foreign companies also finance wholly U.S. -owned operations. Other countries owning off-shore plants include Norway, Denmark, Korea, England, and Russia.

Some processors which are U.S. subsidiaries of foreign owners sell to their owners at deflated market prices giving rise to IRC section 482 transfer-pricing issues. A Japanese company may break-even or lose money on its processing subsidiary, thereby avoiding U.S. taxation, but make money when a related company sells the product in Japan at a profit. The tax dollars benefit Japan.

A LIMITED RESOURCE

With the implementation of the 200-mile exclusive economic zone which "Americanized" the Alaska fisheries, the 1980's saw over-capitalization in the industry. Too many fishers and too much gear compete for the limited amount of seafood available. Annual catch quotas for different species of offshore fish are scooped up in shorter and shorter periods each year.

In the mid-80's, many Northwest seafood companies began rushing to the Bering Sea and Gulf of Alaska with a new fleet of ships (converted oil tankers) that both caught and processed pollock, cod and other bottom fish, as well as crab. By 1990, 1 of every 3 pounds of fish landed in the United States was Alaska pollock. This catcher-processor fleet includes some of the largest ships ever registered under U.S. flags. Many are more than 200 feet long, employing dozens of crew members to process the hundreds of tons of fish that may be netted in a single day's fishing. These vessels, dragging huge nets off their sterns (25 to 250 tons capacity), can shut-out smaller boats completely and have been responsible for the early closing of bottom fish seasons.

The current system creates large volume of waste. Some 300 million pounds of edible fish are caught and discarded overboard, dead, every year. On a average a single trawl net load of 100 metric tons of pollack, half of which are undersized for the processing equipment to manage, means 110,000 pounds of immature pollack are thrown back. Of the bycatch of out-of-season fish up to 90 percent are dead or mutilated. Even for the fish kept and processed, 85 percent of the body weight (including water) is thrown back as waste. In the listing of 1992 catch quotas, not a single bottom-fish species was on the increase in Alaska. Six species were stable, three decreasing, and the status of five species was unknown. The huge, fish-eating Steller sea lions of the region have declined by two-thirds, plus certain sea birds are in decline.

The groundfish season once typically lasted over 6 months in Alaska waters. Yet, the crisis caused by an over abundance of fishers, a limited resource, and danger to the ecosystem generated a move to limit the season to 3 months. At present, the halibut season is only 1 or 2 days in most areas. Other measures to combat overfishing that have been implemented or are called for, include a 3-year moratorium on off-shore fleet entry to the fisheries, a processing split between factory trawlers and shore plants, a limit on vessel capacity and a cap for all groundfish species (other than halibut) in the Bering Sea at 2 million metric tons. In 1990, vessel "trip limits" were imposed for halibut fisheries.

The North Pacific Fishery Management Council has implemented "inshore/offshore allocations" for pollock since 1991. Pollock is used primarily to produce surimi or fish paste; 80 percent of bottom fish is converted to surimi paste for export to Asia. For 6 months of 1992, shoreside processors were awarded a fixed 35-percent (28 percent in 1991; 45 percent in 1993) of the Bering Sea and Gulf of Alaska harvests of pollock. The factory trawlers' allocation was 65 percent (fished 72 percent in 1991; 55 percent in 1993). Coastal Alaskan village residents received 7.5 percent of the total quota and were alloted Community Development Quotas (CDQs). Community residents catch the fish themselves or sell their quota to existing business. Profits must be used to create long-term jobs in coastal communities. The pollock allocation is due to expire in 1995, but, by 1995, the council will have a comprehensive management plan and will recommend individual fishing quotas (IFQs) or limited entry permits in all fisheries.

IFQs have already been approval by the Secretary of Commerce for halibut and sable fish (black cod) for 1995. The U.S. fish resource will no longer be free for the taking. Longtime fishers will receive shares equal to their historical average catch. The plan will put more fresh fish on the market and make the fishery safer by eliminating the 24-hour fishing derbies. Depending on the success of the IFQ program (which Canada has already successfully implemented), the system may expand to other species of bottom fish. The IFQ is a property right subject to creditor seizure and has potential for satisfying tax debts.

The Alaska Department of Fish and Game tightly controls catches of both groundfish and salmon within Alaska waters through the Fish and Wildlife Protection branch of the Department of Public Safety. Seizures of vessels and fines for illegal fishing are not uncommon. The North Pacific Fishery Management Council (NPFMC) issues fishery management plans for the U.S. exclusive economic zone (EEZ) from three to 200 miles. The National Marine Fisheries Service (NMFS) and U.S. Coast Guard, responsible to the NPFMC for enforcement of management plans in federal waters, do on-board inspections of foreign and domestic ground fish vessels. They require fishing vessels to produce logs recording pounds caught and floating processors must log pounds frozen. The NMFS has a computerized listing of all vessels fishing inside and outside U..S. territorial waters.

Federal and state agencies also enforce regulations issued by three international agencies: 1) The International North Pacific Fisheries Commission (a tripartite agency with representatives of the United States, Canada, and Japan); 2) The Pacific Salmon Commission (United States and Canada); and, 3) The International Pacific Halibut Commission (United States and Canada). Despite the regulatory agencies, illegal fishing is reported to be rampant. A lack of sea patrols will soon be compensated for by satellite surveillance.

Unlike bottom fish which is primarily under Federal management, the vast, unpolluted and natural watersheds of the Alaska salmon fisheries have been intensely managed by the state. This fact, along with international agreements to end high seas Asian driftnetting, have benefited Alaska salmon stocks. Alaska has been producing record numbers of salmon, while other U.S. fisheries face extinction. However, the salmon are shrinking in size--from an average of 3.2 pounds down to 2.8 pounds by 1991. Plus, overharvesting causes dumping of price-dampening, unwanted catch. Artificial controls, intended to preserve the fisheries, may have resulted in maximizing the carrying capacity of the North Pacific.

FISHING PERMITS

Fishing permits are issued according to geographic location and species. Permits are now required in 56 commercial fisheries in Alaska. The State of Alaska Commercial Fisheries Entry Commission has awarded about 13,000 "limited-entry" permits, (in effect, state licenses), to fish commercially for salmon, herring and some crab. For these permits, the area which may be fished and when it may be fished is restricted, but the permit does not have a expiration date and may be transferred to another. A transfer must be to a skilled fisher and must be approved by the state. The permit may not be leased or pledged. Permits can be owned only by natural persons, not partnerships or corporations. (Contact the Alaska Department of Fish and Game, Division of Commercial Fisheries for a chart detailing the fishing permit area and gear codes and the Fish Ticket System Codes. The Commercial Fishing Entry Commission can be contacted for a copy of the current permit value report which supplies estimated values of limited entry permits. The addresses for these agencies are available in the Glossary.)

Nonresident fishers own at least 20 percent of limited entry permits, but take more than 40 percent of the income from coastal fisheries. Alaskans still hold up to 80 percent of limited-entry rights to herring and salmon fisheries. Nonresidents hold nearly 41 percent of the lucrative Bristol Bay driftnet permits (gross income may exceed $80,000 during 1 month of fishing). All but 1 of the 827 permits in the meager Kuskokwin harvest (less than $9,000 a year gross per permit) are held by Alaskans. The collective value of the permits is estimated at $12 billion. During 1989, fishers, agents, and brokers grossed more than $43 million from permit sales. In 1990, 406 of the more than 900 permit transfers were gifts to family members or friends. A Chignik salmon purse seine permit was selling for around $403,000 in June 1992. The average price of an Alaska Peninsula and Bristol Bay salmon drift gillnet permit was $317,000 and $189,000, respectively, by June 1992. The value of permits varies in response to contemporary seafood prices.

The other category of "permit" is the interim-use license which may be restricted as to time, area, and transferability. Interim-use permits cost from $50 to $250 annually for residents and $150 to $750 annually for nonresidents. An annual renewal fee, similar in amount, is charged for limited-entry permits. An overall total of 32,196 permits were issued in 1988. By contrast, there were only 16,574 state-registered vessels in the fisheries. Some permits are for shore-side netting, some boat owners use more than one type of permit and some permit holders use more than one vessel.

All fishing crew members, that is, anyone who participates in any way in the operation of the vessel or in the fishing and who does not have a limited entry permit must have a valid crew license, renewable annual for $30 ($90 for nonresidents). Also, fishing vessels, other than salmon setnet skiffs, must secure a $20 license annually. Crew member and vessel licenses are nontransferable.

A January 24, 1992, ruling in U.S. District Court declared limited entry permits to be personal property, subject to liens and seizure. Pursuant to a state law enacted directly in response to the Federal court ruling, the State of Alaska is withholding the transfer of permits already seized by the Internal Revenue Service.

REPORTING REQUIREMENTS

Depending on where a vessel unloads its catch, there can be multiple buyers waiting to purchase the fish caught under one permit. These buyers may provide supplies, bait, ice, repairs, equipment and other items to the fishers. The boat operators and permit holders are not required to sell to any particular buyer. A battle to buy the catches rages between shore-sided plants and catcher-processor ships. Since this business is very competitive, the buyers provide as many services as possible to the fishers to ensure they remain clients. One incentive to sell to a particular buyer is that the buyer will offer to pay a certain price for fish today, but if a better price is secured when the fish are later resold, then some of that profit will be passed back to the fisher. This additional profit or bonus might be paid to the fisher in the subsequent year. The bonus is often referred to as a "retro" or "loyalty bonus."

Once the fish are unloaded on to the dock or tender vessel, the buyer will distribute the net proceeds to the boat owner, boat operator, and/or permit holder (possibly one person). Processors will deduct the cost of their goods and services from settlement proceeds. The boat operator or permit holder will, in turn, pay "crew shares" to their crew members. Usually, crew shares are based on a percentage of the gross dollar value of the catch or the net value after deducting a few direct expenses. Alaska residents take 70 percent of the harvesting jobs.

Shore-side processing plant workers are employees earning average wages of about $6 to $7 per hour. Plant workers on a at-sea processors earn from $24,000 to $32,000, annually, while deckhands earns between $44,000 to $64,000. Nonresidents take 57 percent of the seafood processing jobs. The incidence of illegal aliens with false documentation is high among plant workers.

Processors must record the original purchase of most species harvested in Alaska regulated waters on a fish ticket. A copy of the ticket is submitted to both the fisher and the Division of Commercial Fisheries of the Alaska Department of Fish and Game. The "retro" or "loyalty bonus" will usually not be recorded on the fish ticket. However, most processors also maintain and issue settlement statements reporting all payments to their seafood suppliers. Halibut catches are reported to the International Pacific Halibut Commission and passes the data on to the Commercial Fisheries Entry Commission.

Annually, shore-side processors are required to file an Alaska Fisheries Business Tax Return (Form 04-574) with the State of Alaska. The return reports the value of seafood purchased, as represented by fish tickets issued to fishers. The processors are assessed a tax of 1 to 5 percent of the value of the seafood processed. Plus, processors must pay a "Seafood Marketing Assessment" of 0.3 percent. This tax is distinguished from the "Salmon Enhancement Tax" of 2 or 3 percent tax currently imposed on permit holders in certain fisheries. The processors collect the latter tax from the permit holders and file a monthly return with the state.

Until Alaska passed legislation in 1993, the Seattle-based factory trawler fleet was exempt from the taxes just described. Effective January 1, 1994, a 3.3 percent "landing" tax will be assessed on catches of pollock, cod, and other fish caught and processed in domestic waters off Alaska and, then, transferred to freighters in state waters. The estimated annual tax revenue of $9 million will be split between state and coastal towns where trawlers transfer their catches and the Alaska Seafood Marketing Institute to promote domestic marketing. The American Factory Trawler Association has filed suit against the state challenging the new fisheries landing tax an unconstitutional interference with interstate and foreign trade.

The Alaska Department of Revenue believes there are numerous catcher-processors, operating within the state's 3-mile zone, that are not acquiring state business licenses or paying the raw fish tax. The State of Alaska also has a corporate income tax. Fisherman and processors avoid this tax by forming partnerships, S-corporations, or joint ventures.

There is no requirement for fish buyers to issue Forms 1099 to fishers (they are buying merchandise for processing and resale) and the potential for understatement of fishing income is high among fishers. Therefore, State of Alaska Commercial Fisheries Entry Commission records (fish ticket summaries) provide the number of pounds of fish sold by a permit number and/or vessel number. State supplied "ex-vessel price estimates" provide the average price per pound of the fish sold. When the pounds of fish caught is multiplied by the average price per pound, the product is an estimate of the gross income to the permit holder. Both the pounds harvested and the average price per pound in a specific fishery are available from the state provided a summons has been issued naming the individual fisher.

Permit holders do not necessarily own or operate a vessel. They may be leasing a boat; however, the permit holder must be on board the vessel for the sale of the catch to occur. Permit holders may use several vessels to catch and sell fish. Only an individual may own a permit, but the permit holder may operate in corporate or partnership form. Thus, fishing income may be reported on a Form 1120 or Form 1065, rather than a Schedule C. Very often income reported for a permit may be divided and reported separately by permit holder, boat owner, captain, and crew members. Consequently, a permit holder may not be reporting for tax purposes the total fishing income allocated by the State to his or her permit. But, after "commissions" and "crew shares" are deducted from the total fishing income, the result is the same and the permit holder has not underreported income. Permit holders should be charged with the total income unless they can substantiate these payments or distributions to others.

SOURCES

"Fish Pie", Anchorage Times, May 26, 1991.

"Analysis Blames Oversupply", Alaska Commercial Fisherman, November 1, 1991.

"U.S. Fish Split Favors Shore-based Plants", Anchorage Daily Times, March 5, 1992.

"Quotas", Anchorage Daily News, April 2, 1992.

"Dutch Harbor Net Most in Nation", Anchorage Daily Time, May 22, 1992.

"Industry Feeding Frenzy Imperils Richest Fishery", Anchorage Daily Time, July 12, 1992.

"There's a Catch", Anchorage Daily Times, July 19, 1992.

"A New Day Dawns in Fishery", Anchorage Daily News, December 5, 1992.

"Seafood Price-Fixing Charges Investigated", Anchorage Daily News, March 8, 1993.

"Japanese Firms May Net Price Fixing Charges", Alaska Journal of Commerce, March 4, 1993.

"Salmon Study Suggests Learning About Japanese", Alaska Journal of Commerce, March 8, 1993.

"Fishing Still Deadliest Work", Anchorage Daily News, March 24, 1993.

"The Cold Deadly Sea", Anchorage Daily News, April 2, 1993.

"IFQ Test", Anchorage Daily News, June 13, 1993.

"Hickel Approves Commercial Fishing Tax", Anchorage Daily News, June 25, 1993.

"Seattle Trawler Fleet on Verge of Shakeout", Anchorage Daily News, September 5, 1993.

"Bering Fishery Throws 61% Back", Anchorage Daily News, October 17, 1993.

"Alaska's Finicky Fish Forecast", Alaska Business Monthly, March 1994, pp 77-82.

Alaska Fisheries Handbook, Terry Johnson, Seatic Publishing, 1990.

1991 Fish Tax Study, State of Alaska Department of Revenue, May 1992.

1991 Pacific Fishing Handbook, pp 62-74.

“Foreign Ownership of Alaska Fish Processing Facilities”, Alaska State Legislature Research Agency, Memorandum, April 3, 1990.

"1992 Estimated Monthly Permit Value Report", Commercial Fisheries Entry Commission, June 1992.

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Exhibit 1-1

TOP 10 U.S. PORTS

QUALITY (millions of pounds)
****

RANK	PORT	1990	1991
1	Dutch Harbor - Unalaska, AK	509.9	731.7
2	Empire-Venice, LA	244.2	308.8
3	Cameron, LA	232.6	288.4
4	Kodiak, AK	272.5	287.3
5	Pascagoula-Moss Point, MI	303.9	327.3
6	Intercoastal City, LA	173.0	211.4
7	DuLac-Chauvin, LA	164.4	166.3
8	Beaufort-Morehead City, NC	102.0	137.0
9	Los Angeles, CA	158.5	115.7
10	Moran City-Bawick, LA	146.5	112.3

VALUE (millions of dollars)
****

RANK	PORT	1990	1991
1	New Bedford, MA	160.4	157.7
2	Dutch Harbor - Unalaska, AK	136.3	130.6
3	Kodiak, AK	101.7	96.9
4	Brownsville-Port Isabel, TX	57.2	71.5
5	DuLac-Chauvin, LA	52.7	48.8
6	Portland, MN	31.7	44.1
7	Empire-Venice, LA	46.3	43.5
8	Arkansas Pass - Rockport, TX	34.9	41.6
9	Cape May-Wildwood, NJ	34.4	40.1
10	Gloucester, MA	40.5	40.0

Source: U.S. Department of Commerce

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Chapter 2

Commercial Fishing Audit Guidelines

INCOME PROBE

Fish Ticket Data

Compare the gross receipts from fishing reported on the return with the estimate of fish sale income derived from State of Alaska fish ticket records (See Exhibit 2-1). The estimate of fish income is not exact and should be considered a starting point only. Actual pounds sold and the value of the catch, according to state information, should be reconciled with the taxpayer's information. The taxpayer should be asked to explain and substantiate any apparent underreporting of fish income. The income assigned to a permit may be spread among crew member's tax returns or be reported by a corporate or partnership return. A low fish ticket total for a high income permit (for example, S01 - Salmon Purse-Seine) should be viewed with suspicion. (See Exhibit 2-2, a sample of an Information Document Request. Also see Exhibit 2-3, a sample of a Closed Case Summary Sheet.)

Processors will issue yearend summary statements to their fish suppliers and these should be requested for comparison to return amounts. Some processors will require a third party summons prior to supplying information. The summons must be delivered by hand to the location of the records of original entry. The Alaska Department of Fish and Game, if summoned, will provide the pounds of seafood caught by each permit and vessel using an Alaska limited entry permit for a variety of species for 1987 forward. The state information will also identify which processors issued fish tickets to a permit holder. Processor settlement statements may report net gross receipts after the deduction of gear, supplies, and other services sold to fishers. If a Schedule C reports the net amount received from the processor rather than the gross, then some fishing expenses deductions may be duplicated and some fishing gear, subject to capitalization and depreciation, may be expenses. The statement also reports bonuses or retro checks after the fishing season is over.

A substantial amount of income may be derived from only a few days of fishing for halibut or herring. Federal regulation requires fishers to keep a log of the pounds caught.

Due to the drastic decline in value in the 1991, 1992, and 1993 salmon prices, gross receipts and net profits are expected to be much lower than in the late 1980's. See Exhibit 2-4 for an example of income and expenses for a Bristol Bay Driftnet Fisherman.

Crew Settlement Statements

The statements issued by the permit holder or boat operator to crew members, indicate what percentage of the gross fish proceeds was paid to each crew member for a particular voyage. These statements will indirectly reveal the gross catch proceeds. Add the gross catch proceeds for each voyage from which crew shares were paid. This may be a source of bottom fish catch information and eliminate the need for a summons to the state.

Foreign Sales

A domestic fisher is required to issue a "mate's receipt" to floating processors purchasing the fisher's catch. It is the most accurate reporting available of fish received from domestic boat owners. A foreign processor transferring fish to a foreign freighter must record pounds of fish leaving U.S. waters on an "export declaration" and "certificate of origin," then file the forms with the National Marine Fisheries Service.

REQUIRED FILING CHECKS

Forms 1099

1. To fulfill Required Filing Checks requirements and to verify the crew share deduction, secure Forms 1099 for all crew shares paid. Match them to crew member transcripts (MFTRA or IMFOLT and RTVUE) to determine if returns were filed and if the income appears to have been reported. An IRP transcript (requested by Form 6632) for nonfilers may reveal other sources of income. If Forms 1099 were not filed (verify through PMFOL) and the fisher will not file them with you, consider back-up withholding pursuant to IRC section 3406 or disallow the Crew Share Expense (if paid in cash).

   The backup withholding rate is 20 percent for amounts paid on or before December 31, 1992, and 31 percent for amounts paid thereafter. If Forms 1099 are filed delinquently, pursue the Failure to File Correct Information Returns Penalty, IRC section 6721(a)(2)(A), and the Failure to Furnish Correct Payee Statement Penalty, IRC section 6722(b)(1).

   Herring permit holders should issue Forms 1099 to all boat operators who, as a service, help them "corral" herring. Some herring permit holders will form a cooperative, contribute to fleet expenses, then divide evenly the net proceeds from fish caught using a number of permits.

2. Secure crew members settlements statements which show how crew shares were calculated. Use these settlement statements to determine if the crew shares per the settlement statements agree with amounts per filed Forms 1099. If these settlement statements do not agree with the Forms 1099, the Failure to File Correct Information Returns penalty, IRC section 6721(a)(2)(B), might applicable. Also see IRC section 6722 (b)(2) regarding incorrect information on payee statements.

Employment Tax Returns

Crew settlement statements may also be used to determine if any payments were for other than a percentage of the fish catch. If payments were for other than a percentage of the catch, there may be an employment tax issue. See the discussion on Crew Members in Chapter 3, "Applicable Federal and State Laws." The officers of a corporation may be receiving compensation in addition to crew shares for services performed other than on voyages. Receiving compensation, other thana a share of catch, will qualify the officers as employees.

Currency Transaction Reports

A CTR/Form 8300 transcript may reveal unreported cash transactions (requested by ROWR Form 3339-A). If fishers are receiving cash payments in excess of $10,000 from tenders or processors in a single transactions (or two or more related transactions) and are not completing Forms 8300, penalties should be pursued. IRC section 6050I. Effective February 1992, cash will include cashier's checks, bank drafts, traveler's checks, and money orders as long as they have a face amount of not more than $10,000. Reference Treas. Reg. section 1.6050I-1(c)(1) for examples.

CAPITAL CONSTRUCTION FUND (CCF)

The capital construction fund (CCF) program was established by the Merchant Marine Act of 1936. Qualifying U.S. citizens may enter into a agreement with either the Secretary of Commerce, with respect to the vessels operated in the fisheries of the United States, or the Secretary of Transportation, with respect to all other vessels, to establish a tax-deferred reserved fund in order to provide for the construction or reconstruction of a qualified vessel. Amounts deposited in the fund are deductible in computing taxable income and the earnings from the fund are excluded from income. Qualified withdrawals made for the acquisition, construction, or reconstruction of a qualified vessel do not result in taxable income. However, nonqualified withdrawals are subject to taxation at the highest rate of tax imposed under section 1 (for individuals) or section 11 (for corporations). The resulting tax liability is also subject to interest payable from the last date prescribed for payment of tax for the taxable year for which the amount was deposited in the fund.

If the taxpayer deducts contributions to a CCF, ensure the contributions are actually being made to and retained in the bank or savings account established solely for that purpose. Also, any withdrawals not for acquisition, construction, or reconstruction of a qualified vessel may be taxable income. To the extent acquired with CCF funds, vessels, capital improvements, and equipment have zero depreciable basis. Contributions to a CCF reduce taxable income, not AGI or self-employment income. Chapter 3 references the complex tax law related to CCFs and briefly addresses areas of controversy.

When a fisher wants to make a withdrawal from the CCF to pay off an outstanding mortgage on a qualified property, they must apply to NOAA to do so. NOAA asks for the remaining depreciable basis in the property and the remaining mortgage balance. They will only authorize up to the lower of the basis or the balance.

If the withdrawal is to reimburse the fisher for past years mortgage payments, the withdrawal is not qualified and must be included into taxable income.

OTHER TAXES

Self-Employment Taxes

Be aware that some taxpayers who have CCF deductions are using the net profit figure from the fishing Schedule C, AFTER deduction of the CCF, to compute self-employment tax. CCF contributions are not deductible in determining self-employment income upon which self-employment tax is based. The CCF deduction must be added back to net profit to derive net self-employment income. *Eades v. Commissioner*, 79 U.S. T.C. 985; Rul. 79-413, 1979-2 C.B. 309; *Lytle v. Commissioner*, T.C. Memo. 1992-461. Starting in 1991, taxpayers are required to take the deduction on line 47 of Form 1040 and not on the Schedule C.

Some Joint Filers are computing self-employment tax only for one spouse when both husband and wife own permits. An allocation of self-employment income based upon their respective permit's income should be performed to charge both with the self-employment tax. A calculation to determine the self-employment income for each, where all fishing income is reported on one Schedule C, might be as follows:

$$\frac{\text{Spouse's Permit Income}}{\text{Gross Fishing Income}} = \text{\% Factor} \times \text{Fishing S/E Income}$$

Fuel Excise Tax

If a taxpayer claimed a Fuel Excise Tax Credit or refund, the amount of the credit claimed must be included in gross income to the extent the tax paid or incurred was deducted as a business expense or as an income-producing expense and actually reduced the taxpayer's income tax. The year the amount is includible in gross income depends on whether the taxpayers uses cash or accrual method of accounting. See Pub. 378 for examples.

The taxpayer may only claim the fuel tax credit if the tax was paid when the fuel was purchased. The nontaxable use credit equals the IRC section 4041 excise tax on diesel fuel and special motor fuel imposed on the taxpayer, reduced by the amount of the IRC section 4041 excise tax that would have been imposed on the use of the fuel had there been no excise tax on the purchase. See IRC sections 34(a)(3) and 6427 (a).

If the fuel was purchased tax free, as is often the case with commercial fishers for diesel, then no credit can be claimed. IRC section 4041 (g)(1) exempts the sale of diesel fuel used in commercial fishing boats from taxation. Contact a district excise agent if there are any problems in verifying whether or not the tax was paid.

The credit can only be taken on fuel used in the boat, not in road vehicles or aircraft used in fishing. IRC section 6421 (c) and 6427 (l) allows the credit for gas and diesel used in commercial boats.

Alternative Minimum Tax - Corporations Only

The Capital Construction Fund Deduction is an adjustment under IRC section 56 (c)(2) on Form 4626 for Alternative Minimum Tax purposes. In the subsequent year, the corporations could be eligible for a credit of the minimum tax.

TRAVEL AND MEALS

Travel To/From Port

A deduction for "travel" is typical on the Schedule C of a fisher. Some fishers deduct the cost of travel from their residence to an Alaska port where their boat is moored (for example, Anchorage to Homer). Chapter 3 provides a discussion of the law relative to a travel and meals while a fisher is in an Alaska port for the fishing season. The general rule is that, if a taxpayer's major source of income is from fishing and the taxpayer maintains a personal residence at a location other than the home port of the fishing vessel, travel expenses from the residence to the home port and meals and lodging while in that port are not deductible expenses. Crew members who annually return to the same boat to fish may also be denied the travel expense deduction.

Meals on Board

IRC section 274(n) limits the deduction for the cost of any food and beverages to 50 percent of the verified amount for tax years beginning after December 31, 1993 and 80 percent for prior years. This reduction may apply to meals furnished to crew members on fishing vessels, as well as meals furnished on land. Vessel owners or crew members may not be limiting their "grocery" costs to 50 percent. Chapter 3 provides a discussion of the law relative to whether or not the limits should be applied.

If crew shares are, by agreement, based on a share of the "gross catch," but are reduced for meals before a check is issued (effectively charging the crew member for the meals) that crew member must limit his or her deduction for meals to 50 percent on Schedule C (if IRC section 274 (n) applies). In this case, Forms 1099 reporting crew settlements should state the gross amount of crew shares, not the net. The crew member can itemize his or her expenses and claim 50 percent of meals on his or her Schedule C. If net crew shares are reported on the Forms 1099 instead (and in error), the crew member might be deducting 100 percent of meals rather than the appropriate 50 percent. In this case, the crew member should restore 50 percent of the meals to income. A copy of the crew contract and settlement statements should be secure to determine what expenses have been charged to the crew member and subtracted from the settlement.

If crew shares are, by agreement, based on a percentage of gross receipts less groceries (bait, fuel, air fare), the boat operator is, in effect, claiming a deduction for these meals. In this case, the Forms 1099 are probably accurate if net proceeds are reported. The boat operator may deduct only 50 percent, 80 percent for tax years beginning before December 31, 1993, if IRC section 274 (n) applies.

Crew Shares

The booming North Pacific bottom-fishing industry employs more than 6,000 men and women as crew members (deckhands). Crew frequently work 12 to 18 hour days, but are denied the protection of a minimum wage. Without knowing beforehand, a crew member may be paying the cost of his or her trip to and from the port, that is, that amount is deducted from the settlement. Also deducted may be the cost of meals on board, charged at the company store, cash advances, and shared seafood packing expenses. Crew members are even charged for meals they caught fresh (possibly illegal fish) from the sea at no cost to vessel operators. Consequently, crew share settlement statements should be compared to the boat owner/permit holder's expenses to ensure there has not been a double deduction of expenses already charged to crew members.

SALE OF PERMITS

If a fisher sells a limited entry permit, the fisher may have a taxable gain. The fisher may have been issued a permit by the state cost free and the market value of the permit may have increased since purchase or the basis may have been reduced by amortization. Many fishers trade permits and treat the trade as a like-kind exchange under IRC section 1031. Pursuant to Treas. Reg. section 1.1031(a)-2(c)(1), permits are considered intangibles, regardless of species or fishery location, which may be exchanged without recognition of the gain or loss on "nonboot" transactions.

FORGIVENESS OF DEBT

Due to such factors as the poor prices paid for seafood in recent years and the collapse of some salmon runs, some fishers have had their vessels and/or permits repossessed by creditors. The appropriate questions posed during an initial interview will determine whether or not this has occurred.

EXXON AND THE OIL SPILL

1. Settlement Payments

   To help offset fishing season losses after the March 1989 oil spill and avoid litigation, Exxon handed out $10,000 checks to commercial fishers (including crew members) after the Alaska Department of Fish and Game closed much of the Cook Inlet and Prince William Sound to salmon fishing. Exxon initially handed out $2 million in checks and committed itself to another $4 million in emergency payments. The payments were supposed to equal 85 percent of the value of what would have been the season's catch. Before making payments, the oil company required some proof (including tax returns) from the fishers of income lost. If requested, this earnings documentation may be a valuable source of information. Exxon has issued Forms 1099 reporting these payments. The average compensation per fisher was $20,000.

   Rev. Rul. 91-19, 1991-1 C.B. 186, generally holds that amounts received by fishers from the corporation making a settlement payment are included in net earnings from self-employment for self-employment tax purposes. This applies only to payments received in taxable years beginning after December 31, 1990. The relief under IRC section 7805(b) permits payments received before 1991 to be treated as other income not subject to self-employment tax, but this is an exception to the general rule. Thus, this issue should not be raised for years before 1991.

   Where crew members receive payments representing fishing income as an employee, the payments are including in gross income but are not included in net earnings from self-employment and are not wages for federal employment tax purposes.

2. Chartered Fishing Vessels

Exxon hired fishing vessels to help clean up the oil spill. Exxon chartered hundreds of vessels, ranging from small local fishing boats at $1,000 or more per day to a 350-foot factory ship, chartered for $480,000 per month. The *Seattle Times* reported that a fired middle manager claimed company officials have received gifts and trips in exchange for lucrative charter-boat contracts. Some provided hunting and fishing trips for contracts, others gave merchandise. The practice of exchanging contracts for favors was widespread. Boat owners may be claiming such kickback payments as deductible expenses.

The following provides the Anchorage District's position pertaining only to the special circumstances surrounding the oil spill and is not intended to be the general rule.

The Examination Division of the Anchorage District has inspected many 1989 and 1990 tax returns of parties who were paid by the Exxon Corporation and its subsidiaries as a result of the oil spill in Prince William Sound. The Exxon payments come in a variety of forms. It is the intent of the following paragraphs to provide general information regarding the tax treatment of these payments.

Payments received by individuals and certain small businesses for loss of income due to a reduced fishing season are considered "Other Income" and, in the case of individuals, are reported on Form 1040, Line 22. Since these payments are not subject to self-employment tax, it is not appropriate to report them on Form 1040 Schedule C. (However, these payments are subject to the self-employment tax after 1990). In the case of corporations and partnerships this income is reported on the appropriate line for "Other Income." The overhead expenses of boat owners or other businesses filing a Schedule C would continue to be shown on the Schedule C. Any other ordinary and necessary expenses incurred by the boat owners or other businesses would likewise be reported on Schedule C. In the case where an individual has received more than one type of income for the boat during the year, he or she will only be allowed to deduct a given expense once for the overhead expenses of the boat.

Monies received by cannery workers for loss of income will be treated as wages if the monies are paid directly to the workers by the cannery. These wages are subject to withholding tax and FICA, and should be included on Form W-2 at the end of the year. If the payments are received by the cannery worker directly from

Exxon Corporation, they should be reported by the worker on Form 1040, Line 22 as "Other Income." They are not subject to withholding but estimated tax payments should have been made.

Payments received by persons in their normal course of business who have entered into contracts other than those above, to provide services to another, should treat these payments as received in the course of a trade or business, and report them as they would any other payments received from a similar source. Expenses may be taken, and where appropriate, self-employment tax should be paid on net proceeds as provided in IRC section 1402.

Those persons who participate in a Capital Construction Fund, established under Section 607 of the Merchant Marine Act of 1936, may reduce their taxable income by the amount of their contribution to the Fund based on monies received from Exxon as described in #1 and #2 above. The determination of what shall be eligible income for purposes of the Capital Construction Fund is made by the Secretary of Commerce and is amplified in 41 FR 5815.

In brief, gross income from the operation of agreement vessels is the sum of the revenues which are derived from 1) the transportation of passengers, freight, or mail, including charter of the vessels to others, and from insurance or other indemnity relating to the loss of income attributable to such agreement vessels; 2) the operations relating to commercial fishing activities, including transportation of fish, support activities for fishing vessels, charters for commercial fishing, and insurance or indemnity relating to the loss of income attributable to such agreement vessels; 3) revenues from other services or operations which are incidental and directly related to the operation of agreement vessel; and 4) dividends, interest, and gains derived from assets set aside and reasonably retained to meet regularly occurring obligations relating to the shipping or fishing business. As noticed, the monies received from Exxon are either directly related to the commercial fishing activities or are for services which are incidental and directly related to the operation of the agreement vessel.

Legal expenses paid by an individual to secure compensation for loss of income are deductible under IRC section 212.

Exxon Update

In *Every v. Internal Revenue Service*, 94-2 U.S.T.C. 50,478, the U.S. District Court decided that the settlement amount paid by Exxon did nor arise from an injury to the person in the traditional tort sense. Therefore, the settlement amount was not excludable from gross income under IRC section 104(a)(2) which provides the gross income does not include "the amount of any damages received on account of personal injuries or sickness." See also Supreme Court decision in *U.S. v. Burke*, 92-1 U.S.T.C. 50,254.

Estimating Fish Income from Fish Ticket Information		
Step	Action	Example
1.	Identify commercial fishing permit(s) held by the taxpayer	- A fisherman named David was selected for examination. - According to the State of Alaska Commercial Fisheries Entry Commissioner Permit Holders Listing, Printed in 1988, David held permit #S03T 00000J in 1988. - The permit number identifies what type of permit held. - The first symbol (S) signifies a salmon permit. - The second and third symbols (03) designate a drift net type of permit. - The fourth symbol (T) identifies the location of the permit area as Bristol Bay. - See attached Step #1. - For other permit identification information see Exhibits 1-1 and 1-2.
2.	Determine the type of fish and the poundage of each type of fish caught during the year using the taxpayer's permit.	- David's permit caught two types of fish, sockeye (code 420) and chum (code 450). - Of those two types, 89,713 lbs. of sockeye and 127 lbs. of chum were caught and sold to commercial processors. - See attached Step #2, "A". - More than one vessel may be used under one permit. - For example, the information beside "B" on Step #2 denotes that two different fishing vessels (#43XXX and #48XXX) were used in catching fish under the permit S03T00000W. - For other species codes see Exhibits 1-1 and 1-2. - The information as seen in Step #2 is from the Alaska Department of Fish and Game Catch Report sorted by permit number. - The Anchorage District also has the information sorted by vessel number. - A vessel may use more than one permit.
3.	Determine price received for fish sold to the processor.	- David used a drift net (code 03) to catch sockeye (code 420) in Bristol Bay (code T). - According to the State of Alaska, the average price per pound paid for those specifications was $2.104 per pound. - Whereas, chum (code 450) commanded a price of $.470 per pound. - See Step #3 attached.
4.	Calculate gross receipts.	- According to the information just reviewed, David should have gross receipts for: - sockeye salmon of approximately $188,756 (89,713 lbs x $2.104) - chum salmon $60 (127 lbs. x $.470). - See Step #4.
Caution	- Remember that the poundage landed per the fish tickets is not always exact and the prices used are only averages. - When an Information Document Request is given an taxpayer for all fish tickets, the total poundage of those tickets should correspond to the state fish ticket numbers. - The prices may be different from those used to project gross receipts, but the poundage should be close. - Variances may be explained by cash buyers who do not issue fish tickets, in defiance of the law.	

Exhibit 2-1 (2 of 6)

STEP 1

STATE OF ALASKA - COMMERCIAL FISHERIES ENTRY COMMISSION

1998 PERMITS YEAR TO DATE
BY PERMIT HOLDER

NAME PERMIT	ADDRESS	ADFG#	VESSEL NAME	COAST GUARD
----------	-------------	-----------	---------	-----------
DAVID S03T 0000J 01M R	BOX 00000 ANCHORAGE, AK 99509	39XXX	DAVID's BOAT	61XXXX

STEP 2

ALASKA DEPARTMENT OF FISH AND GAME

CATCH BY YEAR, PERMIT, ADF&G, SPECIES

YEAR	PERMIT	ADFG	SPECIES	WEIGHT	
88	S03T00000J	39XXX	420	89,713	(A)
				127	
ADF&G TOTAL				89,840	
PERMIT TOTAL				89,840	
88	S03T00000W	43XXX	420	3,836	(B)
ADF&G TOTAL				3,836	
88	S03T0000W	48XXX	410	190	
ADF&G TOTAL			420	45,947	
			430	10,289	
			440	8,285	
			450	1,992	
ADF&G TOTAL				66,703	
PERMIT TOTAL				70,539	

STEP 3

STATE OF ALASKA
COMMERCIAL FISHERIES ENTRY COMMISSION
EX-VESSEL PRICE ESTIMATES
REPORT 1A

BRISTOL BAY

400 SALMON ROE	04 SET GILL NET	$1.740	1988
410 CHINOOK	03 DRIFT GILL NET	$1.032	1984
	03 DRIFT GILL NET	$0.964	1985
	03 DRIFT GILL NET	$1.007	1986
	03 DRIFT GILL NET	$1.171	1987
	03 DRIFT GILL NET	$1.078	1988
	04 SET GILL NET	$1.032	1984
	04 SET GILL NET	$0.964	1985
	04 SET GILL NET	$1.007	1986
	04 SET GILL NET	$1.171	1987
	04 SET GILL NET	$1.078	1988
420 SOCKEYE	03 DRIFT GILL NET	$0.658	1984
	03 DRIFT GILL NET	$0.834	1985
	03 DRIFT GILL NET	$1.423	1986
	03 DRIFT GILL NET	$1.397	1987
	03 DRIFT GILL NET	$2.104	1988
	04 SET GILL NET	$0.658	1984
	04 SET GILL NET	$0.834	1985
	04 SET GILL NET	$1.423	1986
	04 SET GILL NET	$1.397	1987
	04 SET GILL NET	$2.104	1988
	34 HERRING GILL NET	$0.830	1985
430 COHO	03 DRIFT GILL NET	$0.766	1984
	03 DRIFT GILL NET	$0.700	1985
	03 DRIFT GILL NET	$0.673	1986
	03 DRIFT GILL NET	$0.716	1987
	03 DRIFT GILL NET	$1.414	1988
	04 SET GILL NET	$0.766	1984
	04 SET GILL NET	$0.710	1985
	04 SET GILL NET	$0.673	1986
	04 SET GILL NET	$0.716	1987
	04 SET GILL NET	$1.414	1988

Exhibit 2-1 (5 of 6)

STEP 3, Continued...

STATE OF ALASKA
COMMERCIAL FISHERIES ENTRY COMMISSION
EX-VESSEL PRICE ESTIMATES
REPORT 1A

BRISTOL BAY

440 PINK	03 DRIFT GILL NET	$0.227	1984
	03 DRIFT GILL NET	$0.217	1985
	03 DRIFT GILL NET	$0.146	1986
	03 DRIFT GILL NET	$0.216	1987
	03 DRIFT GILL NET	$0.353	1988
	04 SET GILL NET	$0.227	1984
	04 SET GILL NET	$0.217	1985
	04 SET GILL NET	$0.146	1986
	04 SET GILL NET	$0.216	1987
	04 SET GILL NET	$0.353	1988
450 CHUM	03 DRIFT GILL NET	$0.303	1984
	03 DRIFT GILL NET	$0.318	1985
	03 DRIFT GILL NET	$0.313	1986
	03 DRIFT GILL NET	$0.301	1987
	03 DRIFT GILL NET	$0.470	1988
	04 SET GILL NET	$0.303	1984
	04 SET GILL NET	$0.318	1985
	04 SET GILL NET	$0.313	1986
	04 SET GILL NET	$0.301	1987
	04 SET GILL NET	$0.470	1988
	34 HERRING GILL NET	$0.318	1985
710 BLACK COD	06 LONG LINE	$1.147	1986
920 KING CRAB	09 POT GEAR	$4.043	1986

STEP 4

Fishing Information Project Number 458

Permit Holder's Name: _David____________________________

SSN: ______________________________

Year 1988

Species	Lbs.	Price/Lb	Total Amount
410 Chinook (King)			
420 Sockeye (Red)	89,713	2.104	188,756
430 Coho (Silver)			
440 Humpy (Pink)			
450 Chum (Dog)	127	. 470	60
Permit Number: S03T00000J			$188,816

Vessel Number: 39XXX

Vessel Owner: __________________________

SAMPLE DOCUMENT REQUEST

Form 4564 Rev. Jan. 1984	Department of the Treasury Internal Revenue Service INFORMATION DOCUMENT REQUEST	Request Number 1

TO: (Name of Taxpayer and Co. Div. or Branch) Please return with listed documents to requested name below	Subject 19____ Form 1040 Schedule C SAIN No. | Submitted to: Dates of Previous Requests

Description of Documents Requested

During our initial meeting, please provide the following documents for the tax period ended ___________ ...

1. Invoices, receipts, logs, settlement statements and other records substantiating the following expenses deducted on Schedule C.

   Crew Shares & Commissions
   Car & Truck Expense
   Travel & Entertainment
   Lease or Rent
   Repairs

2. Purchase agreements, invoices, receipts and other records supporting the cost of the following vessel and equipment:

3. Monthly statements, cancelled checks and deposit slips for the period December 19____ through January 19____ for all personal and business checking and saving accounts, including your Capital Construction Fund.

4. All processor/cannery summary statements, fish tickets, fishing logs (all voyages) and mate's receipts for 19__.

5. A copy of your 19___ and 19____ Form 1040.

6. Internal Revenue code sec. 6050A requires the filing of Information Returns (Form 1099-NEC) whenever a boat operator makes payments to crew members. If you have filed Forms 1099, please make copies available. Also, provide copies of Forms W-2, W-4, 941, and 940, if filed, for 19___ and 19___.

From:	Name and Title of Requested Revenue Agent	Date

Office Location
P.O. Box 101500 (907) 271-6275
Anchorage, AK 99510

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Exhibit 2-3

CLOSED CASE SUMMARY SHEET

COMMERCIAL FISHING INDUSTRY PROJECT

TAXPAYER'S NAME: ____

SSN: ______________________ **FORM NUMBER:** __________________

ACTIVITY CODE: _____________ **GROUP NUMBER:** __________________

DATE STARTED: _______________ **DATE CLOSED:** __________________

EXAMINER'S NAME: ____

	Year	Year	Year
	_____	_____	_____
RESULTS: (Agreed, Unagreed, No Change)	_____	_____	_____
DEFICIENCY:	-------	---------	--------
PENALTY TOTAL:	--------	---------	---------
SEC. 6651(A) Failure to File/Pay	-------	--------	----------
SEC. 6654 Estimated Tax	---------	---------	---------
SEC. 6661 Substantial Understatement:	---------	----------	---------
SEC. 6653(A) Negligence	---------	----------	---------
SEC. 6653 (B) Fraud	---------	-----------	----------
OTHER PENALTIES: Identify section)	---------	---------	-----------
HOURS:	-----------	------------	------------

REFERRAL TO CID: **Yes** **No**

JOINT INVESTIGATION FROM REFERRAL **Yes** **No**

NON-FILER: **Yes** **No**

REMARKS: ____

____

(E.G. Referral from Collection, CID; permit holder, crew member, boat owner/operator; delinquent return secured; substitute for return.)

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Exhibit 2-4

BRISTOL BAY DRIFTNET FISHERMAN'S INCOME*

Estimated 1991 season with red salmon prices at 70 cents a pound

	Low Cost Operator	Medium Cost Operator	High Cost Operator
EST. GROSS INCOME	$45,790	$45,790	$45,790
EXPENSES:			
Fuel & Lubrication	3,000	3,500	4,500
Galley	1,500	1,500	1,500
Crewshare	9,158	9,158	9,158
Repairs & Equipment	8,000	10,000	12,000
Insurance	2,800	2,800	2,800
Professional fees	500	500	500
Transportation	1,500	1,500	1,500
License & dues	500	500	500
Moorage & dues	1,400	1,400	1,400
Limited entry permit & boat payment	0	32,500	48,000
Assessments & fish taxes	1,374	1,374	1,374
Miscellaneous	1,000	1,000	1,000
TOTAL EXPENSES	$30,732	$65,732	$84,232
NET OPERATION INC/(LOSS)	$15,058	($19,942)	($38,442)

Assumptions:

* Low cost operator has boat paid off and owes no money on limited entry permit.
* Medium cost operator has bought $115,000 permit and a $150,000 boat and is still paying off loan.
* High cost operator recently bought a permit for $215,000 and a new boat for $225,000 and is making payments.
* Each fisher caught 69,632 pounds, the estimated average for 1991.

SOURCE: Marine Advisory Program, University of Fairbanks

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Chapter 3

Applicable Federal and State Laws

FEDERAL TAX LAW

The following information was extracted from the Internal Revenue Code, Treasury Regulations, Revenue Rulings, and case law applicable to commercial fishers.

Information Returns

Extract

IRC Section 6050A. REPORTING REQUIREMENTS OF CERTAIN FISHING BOAT OPERATORS.

(a) REPORTS.-- The operator of a boat on which one or more individuals, during a calendar year, perform services described in section 3121(b)(20) should submit to the Secretary (at such time, and in such, manner and form, as the Secretary shall by regulations prescribe) information respecting--

(1) The identity of each individual performing such services;

(2) The percentage of each such individual's share of the catches of fish or other forms of aquatic animal life, and the percentage of the operator's share of such catches;

(3) If such individual receives his share in kind, the type and weight of such share, together with such other information as the Secretary may prescribe by regulations reasonably necessary to determine the value of such shares; and

(4) If such individual receives a share of the proceeds of such catches, the amount so received.

Extract

IRC Section 6041. INFORMATION AT SOURCE.

(a) PAYMENTS OF $600 OR MORE. -- All persons engaged in a trade or business and in the course of such trade or business to another person, of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments or other fixed determinable gains, profits, and income (other than payments to which section 6042 (a)(1), 6044(a)(1), 6047(e)[d], 6049 (a), 6050N(a) applies, and other than payments with respect to which a statement is required under the authority of section 6042 (a)(2), 6044(a)(2), or 6045), of $600 or more in any taxable year, or in the case of such payments made by the United States, * * * having information as to such * * * shall render a true and accurate return to the Secretary, under such regulations and in such form and manner and to such extent as may be prescribed by the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.

* * * * * * * *

NOTE: The $600 provision of IC section 6041 does not apply to payments to fishing crew because IRC section 6050A is overriding, requiring information returns for all payments to crews.

Processors are not required to issue Forms 1099 to fishers from whom they purchase fish, but many do and these Forms 1099 may be valuable source of income data. Processors should also issue Forms 1099 to tender boats operators contracted to provide tender services.

Extract

IRC Section 6050I. RETURNS RELATING TO CASH RECEIVED IN TRADE OR BUSINESS.

(a) Cash receipts of more than $10,000.-- Any person --

(1) who is engaged in a trade or business, and

(2) who, in the course of such trade or business, receives more than $10,000 in cash in 1 transaction (or 2 or more related transactions), shall make the return described in subsection (b) with respect to such transaction (or related transactions) at such time as the Secretary may by regulations prescribe.

* * * * * * * *

Extract

Treas. Reg. section 1.6050I-1.

(c)(1)(ii) *Amounts received on or after February 3, 1992.* For amounts received on or after February 3, 1992, the term "cash" means --

(A) The coin and currency of the United States or of any other country, which circulate in and are customarily used and accepted as money in the country in which issued; and

(B) A cashier's check, (by whatever name called, including "treasurer's check" and "bank check"), bank draft, traveler's check, or money order having a face amount of not more than $10,000 --

* * * * * * *

(c) (7) (ii) The term "related transactions" means any transaction conducted between a payer (or its agent) and a recipient of cash in a 24-hour period. Additionally, transactions conducted between a payer (or its agent) and cash recipient during a period of more than 24 hours are related if the recipient knows or has reason to know that each transaction is one of a series of connected transactions.

* * * * * * *

Employment Taxes

Crew Members

Generally, where the owner of a vessel contracts with the captain, who staffs and provisions the vessel and manages its day-to-day operations, both the captain and crew are employees of the owner. This issue is well settled after *United States v. Webb, Inc., 397 W.S. 179 (1970)*, in which the Supreme Court held that the employment status of captain and crew is determined under the standards of maritime law, which is the common law of seafaring enterprises. The Supreme Court stated,

> "* * * except where there is nearly total relinquishment of control through a bareboat, or demise, charter, the owner may nevertheless be considered, under maritime law, to have sufficient control to be charged with the duties of an employer."

Webb, 397 U.S. at 192. See also *Cape Shore Fish Co. v. United States*, 330 F. 2d 961 (Ct. Cl. 1964); S. S. T. 387, 1940 C.B. 192.

Where the owner of the vessel is also the captain, and the captain contracts with the processor to provide services for a fee or a share of the catch, the agent should consider whether the captain is an independent contractor under the standard set forth in *Webb.* If the captain is an independent contractor, the crew members are probably employees of the captain. However, if the crew members are paid by the processor, IRC section 3401(d)(1) may operate to make the processor the employer for employment tax purposes.

Once it is determined which workers, if any, are employees, it must be determined whether the employees' services are excepted from the definition of employment for employment tax purposes. The text of the exception appears in IRC section 3120(b)(20), which excepts service on a catcher vessel that normally used fewer than 10 members where the crew members are paid only a share of the boat's catch from the definition of employment for purposes of the tax under the Federal Insurance Contributions Act (FICA). Exceptions from the definition of wages for purposes of collection of income tax at the source and from the definition of employment for purposes of the tax under the Federal Employment Tax Act (FUTA) are made by cross-reference to IRC section 3121 (b)(20), found in IRC sections 3401 (a)(17) and 3306 (c)(18), respectively. If the services of crew members are excepted from the definition of employment, then the workers are deemed to be self-employed for purposes of the Self-Employment Contributions Act (SECA). See IRC section 1402(c)(F).

The payor must issue Form W-2 to each employee whose service is not excepted from the definition of employment and Form 1099-MISC to all other payees.

Employment does not include --

Extract

IRC section 3121 (b)(20)

service (other than service described in paragraph (3)(A) performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of such boat pursuant to which--

(A) such individual does not receive any cash remuneration (other than as provided in subparagraph (B)),

(B) such individual receives a share of the boat's (or boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of such catch, and

(C) the amount of such individual's share depends on the amount of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life,

but only if the operating crew of such boat (or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat) is normally made up of fewer than 10 individuals.

"Fewer than 10 individuals" includes corporate officers. Each member on the vessel must be considered separately and for each voyage the vessel makes in order to determine if he is a self-employed individual or an employee.

The definition of "normally," as used in the requirement in IRC section 3121 (b)(20) that a boat's operating crew be "normally made up of fewer than 10 individuals" has been clarified by a recent case in the Court of Federal Claims, Flamingo Fishing Corp. v. United States, No. 94-82T (Ct. Fed. Cl. Dec. 9, 1994). The court found, based on the parties' agreement, that "normally" means "more often than not" as opposed to "average." Also, "normally" is determined based on the trips in a given calendar year.

Revenue Ruling 77-102, 1977-1 C.B. 299, reemphasizes that the crew members cannot receive any remuneration other than a share of the catch for the employment tax exclusion to apply. If an hourly wage or other amount not dependent upon a percentage of the catch is paid to any crew member, the entire payment to an individual during that one voyage, including the percentage of the catch, will be wages subject to employment taxes. The court, in *Flamingo Fishing*, confirmed the holdings in Rev. Rul. 77-102.

Extract

Treas. Reg. section 31.3121 (b) (20)-1 (a)(3), (4), and (5)

(3) The operating crew of a boat includes all persons on the boats (including the captain) who receives any form of remuneration in exchange for services rendered while on a boat engaged in catching fish. * * * *

(4) During the same return period, services performed by a crew member may be excepted from employment by section 3121(b)(20) and this section for one voyage and not so excepted on a subsequent voyage on the same or on a different boat.

(5) During the same voyage, service performed by one crew member may be excepted from employment by section 3121(b)(20) and this section but service performed by another crew member may not be so excepted.

Crew shares need not be equal and the size of the vessel is immaterial.

Corporate Officers

Although IRC section 3121(d) and section 3401(c) declare the officer of a corporation to be an employee, the exception section of IRC section 3121(b)(20) also applies to a corporate officer, provided the officer does not receive any remuneration other than a percentage of the catch. IRC section 3121 (b) provides that the officer must be on the boat to receive a percentage of the catch. If the officer does receive remuneration other than crew shares, then Rev. Rul.77-102 requires that all the remuneration for services rendered for that voyage will be considered wages and employment taxes most be collected. During the off-season, the officer may be compensated for services as an employee. Be watchful for cash "loans" over and above a crew share which may actually be disguised compensation.

If the officer owns the boat and is leasing it to the corporation, ensure fair rental value is being charged and is reported on the officer's Schedule C as self-employment income. If the fair rental value is lower than the amount received, there may be an employment tax or dividend issue on the excess. If the fair rental value is higher than the amount received, inspect the corporation's book to determine if personal expense payment are being made for the officer.

Children Crew Members

IRC section 3121 (b) (3)(A). After December 31, 1987, a child employed by a parent is not subject to Social Security Tax, if under age 18. Prior to January 1, 1988, the age was 21.

Extract

Treas. Reg. section 31.3121(b)(3)-1(c)
[Employment Tax]

(c) Services performed in the employ of a corporation are not within the [above] exception. Services performed in the employ of a partnership are not within the [above] exception unless the requisite family relationship exists between the employee and each of the partners comprising the partnership.

Therefore, it will be important to know who is paying the child the remuneration, whether a parent as a sole proprietor, a corporation, or a partnership. (Treas. Reg. cited in the employment tax specialists reference books.)

IRC section 3401(a) requires that in all situations where a child is working for a parent and is under 18, the parent must withhold (income) tax at the source. The "wages" subject to withholding include all remuneration for services performed by an employee for his or her employer, except such term shall not include remuneration paid. Or as defined in IRC section 3401) a) (17) "for service described in section 3121(b)(20), "that is, to fishing crew members. However, 3121 (b)(20) refers to services performed by fishers other than services described in paragraph (3)(A). IRC 3121 (b)(3)(A) refers to service performed by a child under the age of 18 in the employ of his parents. Therefore, in a family situation, only fishers who are not under 18 and employed by their parent are exempt from withholding, but fishers who are under 18 and employed by their parents must have withholding taken out by the parents for any remunerations received.

Children under 18 who work as employees for their parents are not subject to self-employment tax, regardless of whether they are fishers. However, children 10 or over who work for their parents and perform services described in IRC section 3121(b)(20) are subject to self-employment tax.

Travel Expenses

"Tax Home"

See also Tax Management #400m (page A-19 "Seasonal Employment"), Rev. Rul. 75-432 (supersedes in part Rev. Rul. 54-497), Rev. Rul. 90-23, and Rev. Rul. 94-47, 1994-29, I.R.B. 6.

In general, relative to the question of the deductibility of travel expenses, the Anchorage District will follow the decision of the 9th Circuit, in *Coombs v. Commissioner*, 608 F. 2nd 1269 (9th Cir. 1979), diff'g, rev'g, and rem'g 67 T.C. 426 (k76). Cited therein is Willis v. Commissioner, 411 F. 2d 537 (9th Cir. 1979) in which a professional baseball player, employed in Los Angeles but maintaining a family home in Seattle, was not allowed to deduct expenses incurred in the vicinity of Los Angeles for travel, meals, and logging. Also cited therein is *Wright v. Hartsell*, 305 F. 2d 221 (9th Cir. 1969) in which a taxpayer was expected to mitigate his expenses by living as near to his job site as is reasonably possible. When a taxpayer accepts employment either permanently or for an indefinite time away from the place of his usual abode, the taxpayer's tax home will shift to the new location -- the vicinity of the taxpayer's new principal place of business. *Markey v. Commissioner*, 490 F. 2d 1249, 1253 (6th Cir. 1974). In such circumstances, the decision to retain a former residence is a personal choice, and the expenses of traveling to and from that residence are nondeductible personal expenses. IRC section 262.

Scenario A: Fishing is the sole or major source of income for the taxpayer.

A taxpayer's "tax home" is the taxpayer's principal or regular post of employment during the taxable year regardless of the physical location of his or her residence. A fisher's principal or regular post of employment may be regarded as being aboard the fishing vessel or at the port where voyages are ordinarily begun and ended, depending on the volume of business activity conducted on the vessel as compared to at the port. Thus, the "tax home" of a fisher may be the vessel itself or the home port of the fishing vessel. A taxpayer cannot deduct the cost of personal meals and lodging while performing duties at his or her principal or regular place of business, even though the taxpayer maintains a permanent residence elsewhere. Thus, meals and lodging cost while on the vessel or at the home port, if either is the tax home, are not deductible. Discussion expanded with citations below.

The importance of determining the location of a fisher's principal or regular post of employment (tax home) is evident not only because the fisher cannot deduct the cost of his or her meals and lodging while there, but also because that location must serve as the point of origin for computing his or her traveling expenses incurred while "away from home". See Rev. Rul. 55-235, 1955-1 C.B. 274.

As previously reflected by the general rule, if a fisher does not maintain a personal residence at the same location as the home port of the fishing vessel, travel expense from a fisher's personal residence to the home port of the fishing vessel are commuting expenses which are not deductible under IRC section 162 (a)(2). The Tax Court held in Tucker v. Commissioner, 55 T.C. 783 (1971), that "* * * if a taxpayer chooses for personal reasons to maintain a family residence far from his personal place of employment, then his additional traveling and living expenses are incurred as a result of that personal choice and are therefore not deductible."

Scenario B: Fishing is not the major source of income for the taxpayer.

A taxpayer's "tax home" is located at the place where the taxpayer conducts his or her trade or business. If engaged at two or more separate localities, the "tax home" is located at the principal or regular post of duty during the taxable year. If the taxpayer otherwise maintains a "tax home" at a principal place of business, and regularly returns to a seasonal post of duty (fishing), the latter may qualify as a "minor" or secondary place of business, thereby entitling the taxpayer to deduct living expenses attributable to working at that location.

Which of the taxpayer's business locations is "major" and which is "minor" is determined on the basis of total time spent at each location, the degree of business activity in each, and the relative financial return from each area. A seasonal post will not take the taxpayer "away from home" for purposes of deducting travel and living expenses if the seasonal position constitutes the taxpayer's "tax home " by reason of being the sole or major business post. Where a taxpayer has a principal place of employment in one location and a secondary business at another location, his or her presence at the second location is regarded as "away from home, " if it would be unreasonable to expect the taxpayer to move the family to the second location.

In summary, the fishers of Scenario B can deduct meals and lodging while at their seasonal or secondary business location if indeed fishing is not their major source of income, time, and business activity. Crew members and boat owner/operators, alike, are subject to these rules.

Federal M&IE Per Diem Rates

In the event a fisher is entitled to deduct living expenses, including meals consumed during a voyage or in port other than the home port, should a fisher be allowed to use Federal M&IE per diem rates? And, if so, what locality rate would be appropriate?

Rev. Proc. 93-50, 1993-2 C.B. 586 updates Rev. Proc. 93-21, 1993-1 C.B. 529 and provides procedures whereby the amount of ordinary and necessary business expenses of an employee for lodging, meal, and/or incidental expenses incurred while traveling away from home will be deemed substantiated under section 1.274-5T of the Temporary Regulations when a payor (employer, its agent, or a third party) provides a per diem allowance under a reimbursement or other expense allowance arrangement to pay for such expenses.

Rev. Proc. 90-15, 1990-1 C.B. 476 allows the use of M&IE per diem rates to self-employed individuals and employees not subject to a reimbursement or expense allowance arrangements. The procedure provide that, in lieu of using actual expenses, employees and self-employed individuals, in computing the amount allowable as a deduction for ordinary and necessary business meals and incidental expenses paid or incurred for travel away from home, may use an amount computed at the Federal M&IE rate for the locality of travel for the period the employee or self-employed individual is away from home. This deduction is subject to the 50 percent limitation (80 percent before 1994) on meals and entertainment expenses provided by IRC section 274(n).

The per diem rate for Alaska applicable to the locality of a fishing port should be used to determine the deductible amount of meals and incidental while in that port. The rate applicable to the meals and incidental expenses of a voyage should be the rate for " All Other Alaska Localities."

Limitation on Deductible Meals

Is the deduction of the cost of meals consumed by crew members during a fishing voyage subject to the 50 percent (80 percent before 1994) limitation of IRC section 274 (n)?

The controversy surrounding the deductibility of meals consumed during fishing voyages or "galley supplies" is actually two-fold: 1) is the vessel the crew member's "tax home," thereby rendering all meals personal, nondeductible expenditures, and 2) if the vessel is not considered the "tax home," then are the meals subject to the limitation of IRC section 274 (n). the following discussion applies existing regulations and court precedents to varying fact patterns which might be considered when determining the tax home of a fisher.

1. Tax Home

Traveling expenses include fares, meals and lodging, and expenses incident to travel. For traveling expense to be deductible under section 162(a)(2) of the Code, they must be (1) ordinary and necessary; (2) incurred while away from home; and (3) incurred in pursuit of a trade or business. Only the second provision is under contention here.

A taxpayer's "home" for purposes of IRC section 162(a)(2) is generally the taxpayer's regular place of business, or if the taxpayer has more than one regular place of business, the taxpayer's principal place of business. Rev. Rul. 75-432, 1975-2 C.B. 60. The factors used to determine which location is the taxpayer's "home" for tax purposes are (1) the total amount of time ordinarily spent in performing duties at each location; (2) the degree of the individual's business activity in each location; and (3) the relative significance of his or her financial return from each location. Rev. Rul. 54-147, 1954-11 C.B. 51.

Rev. Rul 55-235, 1955-1 C.B. 274, holds that the tax home of commercial fishers is their home port. Evidently, the crew members of the fishing vessel at issue in the revenue ruling made frequent trips to their home port, where a large portion of their commercial activities (that is, selling fish) took place. The business locus of these fishers was, therefore, more their home port than their vessel.

In contrast, Rev. Rul. 67-438, 1967-2 C.B. 82, holds that a naval officer assigned to permanent duty aboard a ship having regular eating and living facilities has his or her permanent post of duty, and thus his or her tax home, aboard the moving vessel. The revenue ruling reasons that a ship is a naval officer's regular post of duty, much like a land base, is the regular post of duty of an officer in any of the military services permanently assigned to such a base. Such a ship combines the place where a naval officer performs occupational duties with many of the attributes of a home in the ordinary sense.

If the commercial fishers perform the majority of their occupational duties away from their home port, while aboard their vessel and if the vessels have regular eating and sleeping facilities, the fact that the crew members do their eating and sleeping in regularly provided facilities makes their situation analogous to that of the naval officer in Rev. Rul. 67-438. In contrast to the fishermen in Rev. Rul. 55-235, the fishers here sell most of their catch at points other than their home port. Their vessels are outfitted initially at their home port, but they do not, after embarking, return frequently to their home port.

Therefore, depending on the circumstances, the tax home for the commercial fishermen may be their home port or their vessel. No deduction should be allowed for meals provided for crew members whose tax home is their vessel because the expenses are not incurred "away from home." Based on this conclusion, the applicability of IRC section 274(n) need not be considered.

In addition, whenever the vessel is in a port whether at home port or another shore point, the area in the vicinity of the vessel is considered part of the fisherman's tax "home." An individual's tax "home" is not a particular place, but it includes the general locality in which he or she is customarily employed. See Rev. Rul. 55-109, 1955-1 C.B. 261, 263, modified by Rev. Rul, 90-23, 1990-1 C.B. 28, and *Kroll v. Commissioner,* 49 T.C. 557, 561- 562 (1968).

2. IRC section 274 (n) Limitation

IRC section 274(n) states, in part, that the amount allowable as a deduction for any expense for food or beverages shall not exceed 80 percent of the amount of such expense or item which would (but for this paragraph) be allowable as a deduction under this chapter.

Extract

IRC section 274 (n) (2)

(2) EXCEPTIONS. - Paragraph (1) shall not apply to any expense if --

* * * * * * * *

(E) such expense is for food or beverages --

(i) required by Federal law to be provided to crew members of a commercial vessel, * * *

* * * * * * * *

Extract

H.R. Rep. No. 795, 100th Cong, 2d Sess. (1988), 526

(I)n light of the high costs necessary imposed on an employer in providing meals to its employees on vessels. * * * it is appropriate to allow full deductibility of such food or beverage costs * * * the percentage reduction rule does not apply to an otherwise allowable deduction for expense of food or beverages that (1) are required by Federal law (46 U.S.C. sec. 10303) to be provided to crew members of a commercial vessel.

Statutory Provisions Under Title 46

46 U.S.C. 10303, referred to in the committee report cited above, states:

Extract

46 U.S.C. 10303

(a) A seaman shall be served at least 3 meals a day that total at least 3,000 calories, including adequate water and adequate protein, vitamins, and minerals in accordance with the United States Recommended Daily Allowance. * * *

* * * * * * * *

(c) This section does not apply to a fishing or whaling vessel or a yacht.

The reference in H.R. Rep. No. 795 to 46 U.S.C. 10303 indicates that Congress intended not to exempt fishing vessels from the provisions of IRC section 274(n)(1). However, a subsequent amendment to IRC section 274(n)(2)(F) by the Omnibus Budget Reconciliation Act of 1989, IRC section 7841 (d)(18), 1990-1 C.B. 210,280, inserts the word "any " before "Federal". That is, now "any Federal Law" requiring food or beverages to be provided to crew members of a commercial vessel must now be considered.

46 U.S.C. 2101 (11a) defines the term "fishing vessel"to mean a vessel that commercially engages in the catching, taking, or harvesting of fish or an activity that can reasonably be expected to result in the catching, taking or harvesting of fish. All vessels engaged in the fishing industry are considered to be "commercial vessels".

Does any law require that crew members on board a fishing vessel be furnished with meals and beverages? In *Spearing v. Manhattan Oil Transportation Corporation*, 375 F. Supp. 764 (D. S.D.N.Y. 1974), the court stated that the owner of a commercial vessel breached its duty to a crew member under the general maritime law because it failed to provide the vessel with adequate drinking water. In *Sims v. U.S.* War Shipping Administration, 91 F; Supp. 90 (D.E.D.PA. 1950), *rev'd* on other grounds, 186 F. 2d. 972 (3rd Cir. 1951), *cert. denied*, 342 U.S. 861 (1952), the court held that a shipowner owes a seaman, during the voyage, food and shelter, and, in case of illness or injury, first aid, antiseptics, medicines, and such surgery and nursing as is required and within power of the shipowner to give.

Federal statutes may, or may not, apply under all circumstances to all seaman, and fishers may be excluded from certain statutory provisions. However, general maritime law has been constructed broadly when the issue is the welfare of a seaman. See *Cortes v. Baltimore Insular Line*, 287 U.S. 367 (1932). Further, as stated in the cited S. Rep. No. 56, the intent of Congress in amending IRC section 274 (n)(2)(F)(I) was to ensure that the exemption from the 80 percent limitation was apply to food and beverages required by any Federal law.

Anchorage District's policy is that the limitation will be applied where the facts support that meals are otherwise deductible (that is, the tax home is not the vessel).

Capital Construction Fund

Federal Rules and Regulations

Fishermen making contributions to a Capital Construction Fund (CCF), as specified by the Merchant Marine Act of 1936, 46 U.S. 1101, may deduct those contributions for tax purposes pursuant to an agreement between the Secretaries of Transportation and Commerce. Fishermen must apply to initiate fund, identify the specific vessel eligible for coverage, and sign an agreement with the Department of Commerce. The first two numbers of the account indicates the year the CCF was initiated. Due to the complexity of the laws governing CCF's, the regulations should be carefully studied by an examiner with a CCF issue. See the Department of Commerce CCF Regulations in 50 CFR Chapter II Part 259 and the joint Treasury-Commerce regulations in CCH under IRC section 7518. Further guidance is provided by Sections J-1335 through J-1353.

Self-Employment Tax

In Chapter 2, the section entitled "Other Taxes" previously discussed the tendency for CCF contributors to reduce self-employment earnings by the CCF deduction in their computation of Self-Employment Tax. As stated, this is incorrect; the reduction is not permitted.

The National Office revised Publication 595, effective for 1991, to clearly state the above rules.

Important: The National Office recommends that due to the obscurity of the law, penalties should not be assessed on a tax deficiency arising from an erroneous computation of Self-Employment Taxes caused by CCF deductions prior to 1991.

Rev. Rul. 91-19 DEFINITION OF NET EARNINGS FROM SELF-EMPLOYMENT.

Amounts paid to commercial fishing boat owners and operators and crew members as compensation for losses suffered because of alleged negligence are includible in net earnings from self-employment for purposes of the Self-Employment Contributions Act. The Service will not follow the decision in *Newberry v. Commissioner*, 76 T.C. 441 (1981). EFFECTIVE DATE: The Rev. Rul. will be applied only to payments received in taxable years beginning December 31, 1990.

Alternative Minimum Tax

Extract

IRC section 56 (c)

(c) ADJUSTMENTS APPLICABLE TO CORPORATIONS.-- In determining the amount of the alternative minimum taxable income of a corporation, the following treatment shall apply:

(1) ADJUSTMENT FOR ADJUSTED CURRENT EARNINGS.-- Alternative minimum taxable income shall be adjusted as provided in subsection (g).

(2) MERCHANT MARINE CAPITAL CONSTRUCTION FUNDS.-- In the case of a capital construction fund established under section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177)--

(A) subparagraphs (A), (B), and (C), of section 7518(c)(1) (and the corresponding provisions of each section 607) shall not apply to --

(i) any amount deposited in such fund after December 31, 1986, or
(ii) any earning (including gains and losses) after December 31, 1986, on amounts in such funds, and

(B) no reduction in basis shall be made under section 7518 (f) (or the corresponding provisions of such section 607) with respect to the withdrawal from the fund of any amount to which subparagraph (A) applies.

For purposes of this paragraph, any withdrawal of deposits or earnings from the fund shall be treated as allocable first to deposits made before (and earnings received or accrued before) January 1, 1987.

* * * * * * * *

Taxable Income and CCF deduction

For years beginning in 1991, the CCF deduction cannot be made on the Schedule C. It must now be deducted on line 37 from taxable income with a notation to the left of the line explaining the deduction. This will further reduce the number of individuals reducing their self-employment income before calculating self-employment tax. This will not reduce AGI for itemized deductions including charitable contributions.

Indian Fishing Rights

Both Notice 89-34, 1989-1 C.B. 674, and IRC section 7873 state that no income or self-employment tax shall be imposed on income derived by a member of any Indian tribe directly or through a qualified Indian entity, or by a qualified Indian entity from a fishing rights-related activity of such tribe. They also state that there will be no employment tax imposed on remuneration paid for services performed in a fishing rights-related activity of an Indian tribe by a member of such tribe for another member of such tribe or for a qualified Indian entity.

In Alaska, the Metlakatla Indian Reservations is the only known tribal entity qualified under IRC section 7873.

Exchanges of Limited Entry Fishing Permits

Does the exchange of a limited entry fishing permit for another permit qualify as a like-kind exchange pursuant to IRC section 1031?

The exchange of a limited entry fishing permit for another permit qualifies for nontaxable exchange treatment under IRC section 1031, regardless of whether the permit is for a different fishery, a different species of fish, or a different type of fishing gear.

The United States District Court of the District of Alaska ruled in March of 1992, that a limited entry permit is property or rights to property within the meaning of 26 U.S.C. section 632. *Lorentzen v. United States,* Case No. A90-446 Civil. A limited entry fishing permit is a "use privilege" per Alaska Statute 16.43.150(e) and is to be treated as ordinary personal property for the purposes of inheritance. *Wik v. Wik,* 681 P.2d 336 (Alaska 1984). Permits are freely transferable.

IRC section 1031(a) provides that no gain or loss is recognized when property held for productive use in a trade or business, or for investment, is exchanged solely for property of a "like kind" that is also to be held either for the productive use in a trade or business or for investment. "Like kind" refers to the nature and character of the property and not to its grade or quality. The distinction is a board one between classes and characters of property. The property need not be identical. When one limited entry permit is exchanged for another, both are considered personal and the nature of the rights under the permits are the same. Pursuant to Treas. Reg. section 1.1031(a)-2(c)(1), an exchange of nondepreciable personal property qualifies for nonrecognition of gain or loss under IRC section 1031 if the exchanged properties are of a like kind.

Amortization of Limited Entry Fishing Permits

Are the capitalized costs of limited entry fishing permits eligible for an amortization deduction under the Revenue Reconciliation Act of 1993?

The Revenue Reconciliation Act of 1993 (P.L. 103-66) added section 197, which allows an amortization deduction with respect to the capitalized costs of certain intangible property that is acquired by a taxpayer and that is held by the taxpayer in connection with the conduct of a trade or business or an activity engaged in for the production of income. The amount of the deduction is determined by amortizing the adjusted basis (for purposes of determining gain) of the intangible ratably over a 15-year period that begins with the month that the intangible is acquired. No other depreciation or amortization deduction is allowed with respect to an IRC section 197 intangible that is acquired by a taxpayer.

The term "section 197 intangible" is defined to include "any license, permit, or other right granted by a governmental unit or any agency or instrumentality thereof." Thus, for example, the capitalized cost of acquiring from any person a liquor license, a regulated airline route, or a television or radio broadcasting license is to be amortized over a 15-year period. Consequently, this provision can be interpreted to include a limited entry fishing permit in the definition of an amortizable intangible.

This provision generally applies to property acquired after the date of enactment of the 1993 bill. However, a taxpayer may elect to apply the bill to all property acquired after July 25, 1991. "Anti-churning" rules prevent taxpayers from converting an existing IRC section 197 intangible for which depreciation or amortization would not have been allowable under present law into amortizable property to which the bill applies.

Depreciable Life of a Fishing Vessel

MACRS is mandatory for most tangible depreciable property placed in service after December 31, 1986. IRC section 168. Under MACRS, assets are classified according to their present class life which is set by Rev. Proc. 87-56, 1987-2 C.B. 674. That revenue procedure lists "vessels, barges, tugs, and similar water transportation equipment" as having a class life of 18 years and a MACRS recovery period of 10 years. Title 46 U.S.C. 2101 defines many types of "vessels" and includes among them fishing vessels, fish tender vessels, and fish processing vessel. However, a commercial fishing vessel is not "transportation" equipment and the revenue procedure is otherwise silent about the class life of a commercial fishing vessel. Seven-year property includes property that does not have a class life and is not otherwise classified. Therefore, the recovery period of fishing vessels would be 7 years.

Self-Employment Tax on Bareboat Charter Income

Is bareboat charter income subject to self-employment tax?

Some fishing vessel owners will not personally operate their vessels, but will instead enter into a bareboat charter agreement with another party who intends to operate the vessel in harvesting or tendering seafood. The charter proceeds should be reported for tax purposes on a Schedule C as self-employment earnings and the net self-employment earnings are subject to self-employment tax.

An individual who is self-employed is subject to the self-employment tax computed as a percentage of “net earnings from self-employment, “ according to IRC section 1402. Net earnings from self-employment includes the gross income derived from any trade or business, less allowable deductions attributable to the trade or business. The term “trade business” includes real property and personal property rental activity. See *A. Gibney Est*, 4 T.C.M. 878; *A.I. Lagreide*, 23 T.C. 508. However, rents from real estate and from property leased with the real estate, and the attributable deductions, are excluded from self-employment earnings unless received by the individual in the course of his or her business as a real estate dealer. IRC section 1402(a)(1). Personal property not associated with real estate is not included in this exception. Therefore, the lease or charter of a fishing vessel is a trade or business and the earning there from are subject to self-employment tax.

ALASKA STATE LAW

The following information related to fishing permit and reporting requirements is extracted from Alaska State Law and Statutes.

Extract

Alaska State Law 5AAC39.130

* * * * * * *

* * * Each buyer of raw fish and each fisher selling to a buyer not licensed to process fish and each person or company who catches and processes his own catch or has that catch processed by another person or company shall keep a record of each landing on an ADF&G fish ticket.

This record must include the following:

(a) the name of the individual or company buying the fish, the processor code assigned to each buyer by the department, and the signature of the buyer or his representative;

(b) the full name and signature of the permit holder;

(c) the name or the Coast Guard number of the vessel employed in taking the fish. * * *

* * * * * * * * *

Extract

Alaska Statute section 16.10.265.

* * * * * * * * *

(a) It is unlawful for an individual while acting as a fish processor or primary fish buyer, or as an agent, director, officer, member, or employee of a fish processor, of a primary fish buyer, or of a cooperative corporation organized user AS 10.15 to intentionally or knowingly make an original purchase of fish from a seller in violation of AS 16.43 who does not hold a landing permit, an entry permit or an interim-use permit.

(b) When a fisher sells fish, the fisher shall possess:

(1) a landing permit, entry permit, or interim-use permit issued or transferred to the fisher under AS 16.43, or other document authorized by regulation to be used in place of an entry permit or interim-use permit; and

(2) an identification card that has been issued to the fisher by a state or federal agency and that bears a photograph of the fisher.

Alaska State Law 16.10.267 states that a valid landing permit holder is the only person authorized to sell fish to a purchaser and that a purchaser can only purchase from an authorized permit holder.

Chapter 4

The Major Alaska Fisheries

INTRODUCTION

This section describes the most lucrative commercial fisheries in Alaskan waters. The Gulf of Alaska, Alaskan Peninsula and Bering Sea supply salmon, herring, a large variety of bottom fish, and shell fish, including crab. The 1992 and 1993 seasons of these prime fisheries are also highlighted.

SALMON

Alaska's fisheries supply five distinct species of salmon: King (Chinook), Sockeye (Red), Coho (Silver), Chum (Dog), and Pink (Humpback). Most of the salmon catch is processed by freezing, canning, or smoking. Salmon roe, the most expensive of the commercial salmon products, is usually taken from sockeye or chum and is processed by grading and salting.

Overall, the cooling of the Japanese economy and further encroachment of farmed salmon depressed 1992 salmon prices. However, high production overwhelmed the meager prices, making 1992 a decent year. Alaska fishers harvested 135 million salmon and shared $555 million. (Compare 1988's record $750 million harvested.) Statewide, middling prices of $1.28 average for sockeye and 16 cents for pinks were compensated for by relatively good catches.

Alaska salmon harvests were up by one-third in 1993, setting a new record with 192 million salmon. However, the value of the harvest plunged again with salmon fishermen earned less than $400 million statewide. Frozen salmon prices on the Japanese wholesale market in the first half of 1993 were about 33 percent lower than in 1992. Mired in recession, flooded with fish, and short of capital to make bulk purchases, the Japanese refused to pay higher prices. The fact that the dollar was worth 14 percent less against the Japanese yen in 1993 than in 1992 actually mitigated the situation--the quantity of seafood purchased from U.S. suppliers could remain high.

Beginning in 1993, the packaging of salmon in Japanese retail stores disclosed the species, production area, and whether wild or cultivated. The Alaska Seafood Marketing Institute encouraged the labeling since the Japanese prefer wild salmon over farmed fish, but were not able to tell the difference when making a purchase. Nevertheless, the 1994 forecast is not hopeful, anticipating continued record-breaking production (170 million fish), competition from farmed salmon and changing consumers' tastes.

Southeast

Most Alaska commercial fishers operate in the Southeast and South Central fisheries. The Southeast Alaska fishing district includes the inside and outside waters from Dixon Entrance at the extreme southern end of the Alaska panhandle to Cape Spencer, and includes the waters out to the northwest as far as Cape Suckling. Petersburg, and Ketchikan are the most popular ports. Although hand trolling, power trolling and drift gill netting occurs, purse seiners take 70 to 90 percent of all salmon harvested in the Southeast.

Southeast fishers caught a total of 45.4 million salmon during the 1992 season, almost double the average of the past 32 years and the fifth-largest catch during the same period. They received more than $92million for their catch, compared with $71.8 million in 1991. Southeast Alaska fishers harvested half as many pinks in 1992 as in 1991, landing just 35 million. However, record numbers of silvers (3.2 million), reds (2.6 million) and chums (4 million) were caught.

Southcentral

Prince William Sound

All five species of salmon are taken in Prince William Sound, but pink salmon is the dominant species at 90 percent of the catch. Purse seine, drift gillnet, and set net permits pervade the area. Private nonprofit hatcheries have contributed significantly to the success of the fishery.

The 1992 season was yet another disastrous experience for Prince William Sound fishers, who have had a poor record since the 1989 Exxon Valdez oil spill. Pink salmon prices fell to 18 cents per pound and the run failed, down by two-thirds. Seiners earned just $5 million, compared to a good year of over $20 million. The prices dropped even further to 12 cents per pound in 1993.

Cook Inlet

Half of Alaska's population lives on or near the shores of the Cook Inlet. This means intense competition between sport and commercial fishers, especially on the Kenai River. Setnetters intercept some 10,000 king salmon prior to their journey home up the Kenai, frustrating sport fishing interests. Sockeye harvesting predominates in the Inlet.

Biologists had predicted an uneventful year, but the 1992 season brought sockeye back in near-record numbers with the fleet earning $105 million. Some 8.7 million red salmon were taken by 1,380 fishermen. Excess salmon escapements in the 1980's, especially after the 1989 oil spill, have lead experts to predict the worst runs ever during the next several years. The Kenai River red salmon run could collapse in 1994, triggering an economic disaster for Southcentral commercial fishermen.

Bristol Bay

The Bristol Bay region consists of the 23 communities fronting the lakes and streams that drain into the Bristol Bay. The largest population centers are Togiak, Dillingham, and Naknek. The Bristol Bay Borough also includes a handful of communities on the Pacific side of the Alaska Peninsula. The sockeye fishery accounts for about 75 percent of the area's income. The Japanese buy 70 to 90 percent of the sockeye. The price of a coveted Bristol Bay sockeye permit has reached $300,000.

The 1992 Bristol Bay sockeye run was so bountiful it set the base price for all species of Pacific salmon. The 1992 season opened at $1 per pound, up slightly from the post-strike prices of 1991. A record run in the Egegik District meant the fourth highest catch ever for Bristol Bay and hoisted the total value of the catch to $19 million. Of 55 million reds harvested state-wide, 32 million were from Bristol Bay.

The 1993 season outclassed 1992. The Bristol Bay fishery saw world's largest run of wild red salmon produce the biggest catch in the state's history, a record 37.4 million reds. The prior record of 37.3 million was set in 1983. However, the record harvest bought only 70 cents per pound, a drop from $1 in 1992 (and $2 in the late 1980's). The catch was worth less than $140 million compared to 1992 when 32.2 million fish brought $188 million. Four of Bristol Bay's top 10 harvests in history have occurred within the past decade as a result of rebounding salmon runs. Banning the use of driftnets by foreign fleets, improved fisheries management, and warmer ocean temperatures may have contributed to the health of the fishery.

Kodiak

The Kodiak fishery includes that waters around Kodiak Island and Afognak Island, plus a stretch of the southern coast of the Alaska Peninsula form Cape Douglas to Imuya Bay. Kodiak, a town of nearly 7,000, has long been a crossroads of Alaska's fisheries, sustained by fishery and cannery earnings. Pink salmon dominate the catch of purse seiners, set netters, and beach seine fishermen.

Kodiak fishermen landed $38 million worth of reds and pinks in 1992--a good year.

The Alaska Peninsula and Aleutians

Permit "Area M" encompasses three fishing districts, the south peninsula, the north peninsula, and the Aleutians Islands. The Alaska Peninsula boasts the busiest fishing port in the United States with 731.7 million pounds of fish and shellfish bought ashore at Dutch Harbor/Unalaska in 1992. Purse seine, drift gillnet, and set net fishers operate in this area, catching mostly pinks (54 percent) and sockeye (33 percent).

Early June 1993 catches of reds by Cordova fishers earned $1.50 to $1.70 per pound. Kodiak red-salmon seiners were fishing for 70 cents per pound during the mid-June -- that's half the 1992 price. Chignik fishers were offered 80 cents per pound (again, half the 1992 figure), even after a week long strike. The prize Yukon kings were devalued to a starting price of just $2 a pound in June 1993, well below 1992's high of $4.85.

HALIBUT AND HERRING

Unlike the state regulated salmon fisheries, the halibut fishery is managed by the International Pacific Halibut Commission. Much of the harvest is outside Alaska's 3-mile limit and is transported directly to Seattle for processing.

Halibut enjoys a popular domestic market and is not subject to the pressures of the Japanese market. However, halibut fishing in Alaska waters are plagued by short openings due to increased competition, lots of frozen halibut in cold storage, and declining stocks. The source of the competition is the new Canadian individual quota system (which permits April to October fishing) and huge Russia trawlers.

Halibut, ranging from 10 pounds to 300 pounds, is either flash-frozen, cut into steaks, or shipped whole and fresh to U.S. consumers. The Individual Fishing Quota system for halibut which will be fully in place in 1995 is expected to put an end to the 1-day halibut seasons. These "destruction derbies" are chaotic, dangerous, wasteful, and place severe strains on the domestic transportation system.

The stiff competition brought down 1992 halibut prices. Prices fell from over $2 per pound to less than $1 on average. Fishers landed 51 million pounds (high mark 60 million in 1988) worth just $47 million (down from almost $100 million in 1991).

The 24-hour June 10, 1993, halibut fishery brought 80 cents a pound for under 40 pounded fish and $1 for larger sizes, a repeat of 1992. The total 1993 catch was 47 million pounds, only slightly lower than the 1992 catch of 51 million.

Herring is most valued for its roe. The "sac-roe" herring fishery targets herring returning in large schools to spawn within a few hundred yards of a beach. The "roe-on-kelp" fishery targets roe deposited on kelp. The "food and bait" fishery is harvested by seiners and targets herring not in a spawning condition. Togiak in Bristol Bay tends to be the top producer of herring roe.

Herring fishers found prices lower in 1992, primarily due to catches of small fish. They caught $30 million worth of herring. The Togiak opening saw the quota caught in just 20 minutes. The 1993 sac roe harvest was 45,000 tons at $334 average per ton or $15 million worth.

GROUNDFISH

The term "groundfish" includes Alaska pollock, Pacific cod, sablefish, rockfish, and flat fish, among others which live in close association with the bottom. Goundfish are commonly taken with mid-water trawl gear fished well off the bottom predominantly around Kodiak, the Peninsula, the Aleutians, and the Bering Sea. The fishery nets high volumes, but low prices. Much of the processing is outside of Alaska, in particular, on factory trawlers.

The Bering Sea Pacific cod harvest of 546 million pounds was worth $137 million in 1992. The total available catch was estimated at 362 million for 1993. The North Pacific Fishery Management Council decided, in June 1993, to divide the cod catch, giving 55 percent to factory trawlers and 45 percent to fixed-gear fishers (longliner and pots). The fixed-gear was favored for its ability to avoid by-catch waste. Scoop-like trawl nets pick up every fish in their path. Observers are required on board trawl vessels to monitor by-catch.

In 1992, dock prices for pollock hit a high of 12 to 15 cents pound, then spiraled downward. The harvest of 2.9 billion pound brought $325 million to fishers. High-grade pollock surimi (processed fish paste) in Japan reached $2.20 a pound. Alaska coastal communities had a 7.5 percent share of the total annual quota of pollock through 1995 (when the 1993 allocation will expire). Factory trawl ships bought some 220 million pounds of pollock harvest rights awarded by the Community Development

Quota Plan at the end of 1992. The rights may bring $20 million to 60 communities.

The Gulf of Alaska pollock quota was over 27,000 metric tons for 1993 or about 2 weeks of fishing. The 1993 winter fishery brought 9 cents per pound, well below the 13 to 15 cents paid cents paid the year before. Depressed prices were brought on by an influx of Pacific whiting and Chilean whitefish on the world market. Plus, cold storage holdings of pollock remained high.

CRAB

The crab taken in the Alaska fisheries fall into three main categories: King (red and brown), Tanner (bairdi and opilio) and Dungeness. Tanner is the most abundant. Nearly all crab fishing is done with pots and the crab are kept alive until processed. Crab is dipped in bacterial dip or steamed/boiled and, then, frozen.

The Bering Sea yielded as astounding 333 million pounds of opilio (snow) crab in 1992. The catch of 280 boats, at 50 cents per pound, was worth $175 million. Bairdi crab supplied 29 million pounds, worth $48 million, eclipsing the king crab fishery that brought in $24 million. In total, Alaska waters bore 381 million pounds of crab worth $320 million. In 1993, the bairdi crab catch dropped to 35 million pounds and opilio to 231 million pounds (65 cents per pound); the two species earned over $200 million. The 1993 harvest of king crab was 20 million pounds and earned $75 million.

SOURCES

"Fishing Report, " *Anchorage Daily News*, September 13, 1992.

"It Looks Like" '92 Salmon Season a Good One, *Anchorage Daily News*, September 13, 1992.

"Fishing Report", *Anchorage Daily News*, September 27, 1992.

"The Marketplace", *Anchorage Daily News*, October 10, 1992.

"Fishing Report", *Anchorage Daily News*, December 5, 1993.

"Riding the Waves of Commercial Fishing", *Alaska Business Monthly*, March 1993, pp 13-22.

"Alaska's Finicky Fish Forecast", *Alaska Business Monthly*, March 1994, pp 77-82.

"1991 Fish Tax Study", State of Alaska Dept. Of Revenue, May 1992.

"*Alaska Fisheries Handbook*", Terry Johnson, Seatic Publishing, 1990.

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Glossary

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Glossary of Gear

Fish are caught commercially using the gear briefly described below:

GILLNET: Gill nets are like seine nets, except that they are set in a straight line like a curtain and are not closed like a purse. Gillnet boats can be identified by a big spool aft; the net is wrapped around the spool. Gillnets are more commonly used in near shore waters, and can be deployed from a boat, as in the Bristol Bay driftnet fishery, or from shore, as is common in Cook Inlet. A gillnet hangs like a curtain that bulges from tidal action and ensnares passing fish. Gillnetting is primarily used for salmon and herring fishing in Alaska. More commercial fishermen in Alaska use gillnets than any other kind of gear. In 1986, 12,514 gillnetters fished for salmon. Nearly half of them fished Bristol Bay, 29 percent fished Northwest Alaska, and 17 percent fish Cook Inlet and Prince William Sound.

LONGLINE: Longlines are used for harvesting halibut and black cod (sablefish) and are the most efficient type of gear for fishing on the bottom. Longline gear consists of a long series of hooks attached to a single line.

POT GEAR: Pots are used for sablefish, crab, shrimp, and other crustaceans, including sea snails. Most pots are constructed with wire-mesh netting stretched around a squat, cylindrical or rectangular frame that is open on the sides to allow the target fish or shellfish to crawl or swim inside. Bait is strung to the inside of the pot.

SEINE GEAR: Seine boats are about 50-feet long, snug, and with what looks like a small crane aft. Purse seine gear works on a simple principal -- surround the fish with a net, trap them inside by closing the bottom of the net like a drawstring purse, and haul the fish aboard. The operation is often more complex and difficult in practice. The seine net hangs like a curtain that is weighted at the bottom. It is set in a circular pattern by a skiff. After the set is made, the purse line, a rope threaded though the bottom of the net, is closed and the fish is surrounded by the net and hauled aboard. Most of Alaska's salmon seiners fish in Southeast. Seiners are also active in Kodiak, the Alleutains, Cook Inlet, and Prince William Sound. In all areas, some seiners fish the spring herring runs before salmon seas opens.

SETNET: A small skiff is used to pull nets attached to huge buoys and anchored with several thousands of pounds of sandbags to keep nets from washing away with the tides. The net is strung around a crescent area off a shoreline area for which the fisher has a permit. One permit can authorize up to three 210-foot nets and lease three fishing sites. The number of Cook Inlet setnetters alone has risen to 450. The setnetters split the total salmon harvest in the Inlet 40-60 percent with the driftnet fleet.

TRAWLERS: A trawl net is a funnel-shaped bag towed or dragged behind the vessel to scoop up fish either on the ocean floor or in mid-water ranges. The narrow end of the trawl net is called the cod end, and when the bag is full, the cod end is aboard by winches so that fish can be unloaded. A trawler can be identified by the “door” in the stern from which huge nets are spread to scoop up schools of fish. Trawls are usually used for deep-water fisheries such as pollock, cod, flounder, and sole. The big trawlers operate most frequently in the Gulf of Alaska and the Bering Sea.

TROLLING: The troll fishery supplies most of the fresh salmon from Alaska and trolling is most popular in the Southeast. Trolling vessels have tall poles from which gear is rigged. Like a large version of a sportfishing rod, troll gear consists of the pole, fishing line (average 600 to 900 pound test), a lures, bait, or hooches. When fishing, these poles are let down at a 45-degree or so angle. Trollers can fish for various salmon species at once by using different lures and changing fishing depth and trolling speed. There are approximately 3,600 troll boats in Alaska, with slightly more power trollers than hand trollers. Trolling is labor-intensive, but supplies high-quality salmon because the fish are damaged or marked by nets.

SOURCES

“*Ketchikan*: From Canoe to Cutter,” 1993 Ketchikan Guide, p 8.

“*Ship to Shore*,” Alaska Business Monthly, March 1990, pp 45-54.