

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON  
REFERRAL BY THE COMMISSIONER OF REVENUE**

In the Matter of )  
 )  
D. U. )  
 )  
2006 Permanent Fund Dividend ) OAH No. 07-0654-PFD  
\_\_\_\_\_ )

**DECISION AND ORDER**

**I. Introduction**

D. U. timely filed an application for a 2006 permanent fund dividend (PFD). The Permanent Fund Dividend Division (division) denied the application initially and at the informal appeal level because the division found that Mr. U. had claimed moving expenses as a deduction on his federal income tax return and moved from Alaska to obtain employment, actions which made him ineligible for a 2006 PFD. Mr. U. requested a formal hearing by correspondence. The division’s denial of Mr. U.’s application for a 2006 PFD is affirmed.

**II. Facts**

Mr. U. has been in Alaska since July 1985 and has received dividends since he first became eligible. He filled out and signed a 2006 PFD application on March 25, 2006.<sup>1</sup> On this application Mr. U. provided a physical and mailing address located in Louisville, Kentucky. Because Mr. U. was not physically in Alaska when he signed his 2006 PFD application, the division requested that he answer some additional questions and complete a supplemental schedule. In response to the request, Mr. U. provided the following information:

- Mr. U. left Alaska to seek employment on December 1, 2005, when he “received a job offer to work with my college roommate in Louisville, KY.”<sup>2</sup>
- Mr. U. left because an “opportunity to work with my former roommate from college came up and I accepted the offer.”<sup>3</sup>
- Mr. U. has not applied for a driver’s license or residency in Kentucky.<sup>4</sup> In 2005 Mr. U. was absent for less than 40 days total.<sup>5</sup>

---

<sup>1</sup> Exh. 1.

<sup>2</sup> Exhibit 1, p. 2.

<sup>3</sup> Exhibit 1, p. 3.

- Mr. U. resided in Kenai the first part of 2005, living with his sister and her family. This is where he keeps the majority of his household belongings.<sup>6</sup>
- Mr. U. moved from Kenai to Ketchikan in May 2005. He resided in Ketchikan until he moved to Kentucky, December 1, 2005.<sup>7</sup>
- Mr. U. claimed \$3,443 as moving expenses incurred in moving to a new home as a deduction on his 2005 federal income tax return.<sup>8</sup>
- Mr. U. filed a 2005 nonresident or part year resident Kentucky individual income tax return showing he had adjusted gross income from work in Kentucky in the amount of \$1,131.<sup>9</sup>

The division reviewed the information provided by Mr. U. and determined he was not eligible for a 2006 PFD because he moved from Alaska and claimed moving expenses on his 2005 federal income tax return.<sup>10</sup>

Mr. U. responded to the division's denial explaining that he was "in Kentucky for the last part of December, 2005 and part of 2006 for reasons not listed in any of the state statutes; a close friend endured a difficult personal situation and I went to Kentucky to help him through some rough times."<sup>11</sup> While in Kentucky, Mr. U. retained all other ties to Alaska.<sup>12</sup>

Regarding the deduction for moving expenses, Mr. U. explained that he purchased a boat in Ketchikan and that it was more economical to move the boat to New Jersey where it can be used by family members than it was to move the boat to Kenai.<sup>13</sup> Mr. U. has since returned to Kenai, his boat remains in New Jersey, and he does not intend to claim moving expenses for his return to Alaska.

The division considered Mr. U.'s statements and concluded that his actions were inconsistent with the requisite intent to remain in Alaska indefinitely and make a home in the

---

<sup>4</sup> Exhibit 1, p. 3.

<sup>5</sup> Exhibit 1, p. 3.

<sup>6</sup> Exhibit 2, p. 1.

<sup>7</sup> Exhibit 1, p. 3

<sup>8</sup> Exhibit 2, pp. 2-6;

<sup>9</sup> Exhibit 2, p. 7.

<sup>10</sup> Exhibit 4.

<sup>11</sup> Exhibit 5, p. 4.

<sup>12</sup> Exhibit 5, p. 4.

<sup>13</sup> Exhibit 5, pp. 4, 5.

state.<sup>14</sup> Mr. U. believes the division is incorrect because he did not move to Kentucky to work; rather, he went to help a friend. He was required to work so he could afford to stay and help his friend. He moved “back to Alaska as it was not my intention to remain in Kentucky longer than I felt I needed to and returned home [to Alaska] because Alaska has and continues to be home.”<sup>15</sup> Mr. U. has not filed an amended return deleting the claimed moving expenses as a deduction.

By notice dated November 8, 2007, Mr. U. was given until December 10, 2007 to send any additional documents or correspondence for consideration in this formal appeal. The division was given the same deadline. Both were given until December 20, 2007, to respond to any documents received from the other. The division filed a position statement. Mr. U. filed nothing.

### **III. Discussion**

To qualify for a PFD the applicant must be an Alaska resident and meet a number of eligibility criteria.<sup>16</sup>

The division’s regulation 15 AAC 23.143(d) provides, in part, that an otherwise eligible applicant is disqualified if the applicant has:

- (10) moved from Alaska,
  - (A) for a reason other than one listed
    - (i) in AS 43.23.008(a)(1)- (3) or (9) – (11); or
    - (ii) in AS 43.23.008(a)(13), if the eligible resident whom the individual accompanies is absent for a reason listed in (i) of this subparagraph; and
  - (B) claiming moving expenses as a deduction on the individual’s federal income tax return unless the individual
    - (i) files an amended federal income tax return deleting the claimed moving expenses as a deduction; and
    - (ii) provides proof from the Internal Revenue Service that the individual filed an amended return;....

An applicant’s ineligibility is automatic if the disqualifying action is taken at any time from January 1 of the qualifying year (in this case, 2005) through the date the application is complete.<sup>17</sup> This is true even if the applicant remained an Alaska resident at all times.

---

<sup>14</sup> Exhibit 6.

<sup>15</sup> Exhibit 7, p. 3.

<sup>16</sup> AS 43.23.005(a).

Mr. U. claimed moving expenses incurred in 2005 on his federal income tax return. This action makes Mr. U. ineligible to receive a PFD unless the move was for an allowable reason such as: education, military service, congressional or state service, or if he had filed an amended federal tax return deleting the claimed moving expense. Mr. U. admits that his move was for a reason “not listed in any of the state statutes.” Mr. U. has not met his burden of proving that he moved for one of the specific reasons that allows a person to claim moving expenses from Alaska and still be eligible for a PFD, nor has he filed an amended tax return removing the claim of moving expenses from Alaska. Therefore, Mr. U. is ineligible for a 2006 PFD as a matter of law.

#### **IV. Conclusion and Order**

D. U. took actions in 2005 which made him ineligible to receive a 2006 PFD. Accordingly, the division’s decision to deny Mr. U.’s application for a 2006 PFD is **AFFIRMED**.

DATED this 1<sup>st</sup> day of February, 2008.

By: Signed  
Rebecca L. Pauli  
Administrative Law Judge

#### **Adoption**

This Order is issued under the authority of AS 43.05.010 and AS 44.17.010. The undersigned, on behalf of the Commissioner of Revenue and in accordance with AS 44.64.060, adopts this Decision and Order as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 29<sup>th</sup> day of February, 2008.

By: Signed  
Signature  
Rebecca L. Pauli  
Name  
Administrative Law Judge  
Title

[This document has been modified to conform to technical standards for publication.]

---

<sup>17</sup> 15 AAC 23.993(b)(2).