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Nauman
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CS FOR HOUSE BILL NO. 365()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES SEATON, Kito, Edgmon, Stutes

A BILL

FOR AN ACT ENTITLED

"An Act relating to the permanent fund dividend; relating to the taxation of income of individuals; relating to tax credit against the individual income tax in the amount of a permanent fund disbursement; repealing tax credits applied against the tax on individuals under the Alaska Net Income Tax Act; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*** Section 1.** AS 37.13.145(b) is amended to read:

(b) At the end of each fiscal year, the corporation shall transfer from the earnings reserve account to the

(1) dividend fund established under AS 43.23.045, 25 [50] percent of the income available for distribution under AS 37.13.140;

(2) general fund, 25 percent of the income available for distribution under AS 37.13.140; and

(3) general fund, 2.3 percent of the average market value of the fund, including the earnings reserve account established in this section, for the

preceding five fiscal years, including the fiscal year just ended, computed annually for each fiscal year in accordance with generally accepted accounting principles.

* **Sec. 2.** AS 43 is amended by adding a new chapter to read:

Chapter 22. Individual Income Tax.

Sec. 43.22.010. Tax on individuals. (a) A tax is imposed for each calendar year or fraction of a calendar year on every

(1) resident individual; and

(2) nonresident individual with income from a source in the state.

(b) The tax under this section for a

(1) resident individual is equal to the sum of

(A) 15 percent of the individual's total federal income tax due;

and

(B) the product of the individual's long-term capital gains for the calendar year and the lesser of

(i) 10 percent; or

(ii) the difference between the individual's incremental federal income tax rate on ordinary income and the individual's federal tax rate on long-term capital gains; or

(2) nonresident individual is equal to the sum of

(A) 15 percent of the nonresident individual's total federal income tax due on the amount of the individual's income from a source in the state; and

(B) the product of the taxpayer's long-term capital gains from a source in the state for the calendar year and the lesser of

(i) 10 percent; or

(ii) the difference between the taxpayer's incremental federal income tax rate on ordinary income and the taxpayer's federal tax rate on long-term capital gains.

(c) In this section,

(1) "federal income tax due" means the total tax payable to the federal

1 government as reported by the taxpayer on a federal individual income tax return,
2 including alternate minimum tax and other taxes imposed by the Internal Revenue
3 Code, net of nonrefundable credits allowed against a liability;

4 (2) "long-term capital gains" means the total long-term capital gains
5 required to be reported on the federal individual income tax form related to capital
6 gains attached to a federal individual income tax return.

7 **Sec. 43.22.020. Returns and payment of taxes.** (a) An individual required to
8 make a return under the provisions of the Internal Revenue Code shall file with the
9 department a return setting out

10 (1) the amount of tax due under this chapter; and

11 (2) other information for the purpose of carrying out the provisions of
12 this chapter that the department requires.

13 (b) The return shall either be on oath or contain a written declaration that it is
14 made under penalty of perjury, and the department shall prescribe forms accordingly.

15 (c) The total amount of tax imposed by this chapter is due and payable to the
16 department at the same time and in the same manner as the tax payable to the United
17 States Internal Revenue Service.

18 (d) A taxpayer, upon request by the department, shall furnish to the
19 department a true and correct copy of the tax return that the taxpayer has filed with the
20 United States Internal Revenue Service. Every taxpayer shall notify the department in
21 writing of an alteration in, or modification of, the taxpayer's federal income tax return
22 and of a recomputation of tax or determination of deficiency, whether with or without
23 assessment. A full statement of the facts must accompany this notice. The taxpayer
24 shall file the notice within 60 days after the final determination of the alteration,
25 modification, recomputation, or deficiency, and the taxpayer shall pay the additional
26 tax under this chapter. For purposes of this subsection, a final determination means the
27 time that an amended federal return is filed or a notice of deficiency or an assessment
28 is mailed to the taxpayer by the Internal Revenue Service, and the taxpayer has
29 exhausted rights of appeal under federal law.

30 (e) The department may credit or refund overpayments of taxes, taxes
31 erroneously or illegally assessed or collected, penalties collected without authority,

1 and taxes that are found unjustly assessed or excessive in amount, or otherwise
2 wrongfully collected. The department shall set limitations, specify the manner in
3 which claims for credits or refunds are made, and give notice of allowance or
4 disallowance. When a refund is allowed to a taxpayer, it shall be paid out of the
5 general fund on a warrant issued under a voucher approved by the department.

6 **Sec. 43.22.030. Income; income from sources in the state.** (a) For purposes
7 of AS 43.22.010(a), income includes

- 8 (1) compensation for personal services;
- 9 (2) salary or wages;
- 10 (3) income from real or tangible personal property;
- 11 (4) income from stocks, bonds, notes, bank deposits, and other
12 intangible personal property;
- 13 (5) rentals and royalties for the use of or for the privilege of using, in
14 the state, patents, copyrights, secret processes and formulas, good will, marks, trade
15 brands, franchises, and other property;
- 16 (6) income distributed from a trust;
- 17 (7) income from
 - 18 (A) a trust not established under or governed by the laws of the
19 state; or
 - 20 (B) the estate of a decedent who on the date of death was not
21 domiciled in the state;
- 22 (8) income of whatever nature.

23 (b) For purposes of AS 43.22.010(a), income from a source in the state
24 includes

- 25 (1) compensation for personal services rendered in the state;
- 26 (2) salary or wages earned in the state;
- 27 (3) income from real or tangible personal property located in the state;
- 28 (4) income from stocks, bonds, notes, bank deposits, and other
29 intangible personal property having a taxable or business situs in the state; however,
30 the receipt of interest income from intangible property in the state does not alone
31 establish a taxable or business situs in the state;

(5) rentals and royalties for the use of or for the privilege of using, in the state, patents, copyrights, secret processes and formulas, good will, marks, trade brands, franchises, and other property having a taxable or business situs in the state;

(6) income distributed from a trust established under or governed by the laws of the state;

(7) income from a source with a taxable or business situs in the state of
(A) a trust not established under or governed by the laws of the state; or

(B) the estate of a decedent who on the date of death was not domiciled in the state;

(8) income of whatever nature from a source with a taxable or business situs in the state, including income attributed to or derived from

(A) business facilities or property in the state;

(B) business, farming, or fishing activities in the state;

(C) conducting in the state the management or investment function for intangible property;

(D) a partnership, limited liability company, estate, or trust conducting business activities in the state;

(E) a corporation transacting business activities in the state that has elected to file federal returns under subchapter S of the Internal Revenue Code;

(F) any other activity from which income is received, realized, or derived in the state.

(c) In this section, if a business, trade, or profession is carried on partly inside and partly outside the state, other than the rendering of purely personal services by an individual, the income from sources in the state shall be determined as provided in AS 43.19.

Sec. 43.22.035. Credit for taxes paid. (a) A resident is entitled to a credit against the tax liability under this chapter for the amount of tax paid to other states, territories, or possessions of the United States on income derived from sources in those jurisdictions that is also subject to tax in this chapter.

(b) The claim for credit under (a) of this section may include tax paid by an S corporation or partnership on behalf of the individual, based on that individual's share of income derived in the other jurisdiction. In this subsection, "S corporation" has the meaning given in 26 U.S.C. 1361.

(c) The credit allowed under this section may not exceed an amount equal to the tax imposed under this chapter multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction divided by total federal adjusted gross income.

(d) The application of the tax credit provided under this section may not operate to reduce the tax payable under this chapter to an amount less than would have been payable if the income from the other state was disregarded.

Sec. 43.22.040. Permanent fund refundable tax credit. (a) An individual eligible for a dividend under AS 43.23.005 may apply a tax credit against the tax due under this chapter in the amount determined under AS 43.23.092.

(b) The tax credit under this section shall be refundable. The department shall adopt regulations that establish procedures for an individual to be reimbursed under AS 37.25.050(a)(2). To receive a refund under this section, an individual must file an income tax return under AS 43.22.020.

(c) Except as otherwise limited by law, if an individual is eligible for a tax credit under this section but fails to file an income tax return or fails to claim the tax credit, the individual may file a return or an amended return for that year.

Sec. 43.22.050. Tax withholding on wages of individuals. (a) Every employer making payment of wages, salaries, or crew shares

(1) shall deduct and withhold an amount of tax computed in a manner to approximate the amount of tax due on those wages, salaries, or crew shares under this chapter for that calendar year;

(2) shall remit the tax withheld to the department accompanied by a return on a form prescribed by the department at the times required by the department by regulation;

(3) is liable for the payment of the tax required to be deducted and withheld under this section but is not liable to any individual for the amount of the

1 payment; and

2 (4) shall furnish to the employee on or before January 31 of the
3 succeeding year, or within 30 days after a request by the employee after the
4 employee's termination if the 30-day period ends before January 31, a written
5 statement on a form prescribed by the department showing

6 (A) the name and taxpayer identification number of the
7 employer;

8 (B) the name and social security number of the employee;

9 (C) the total amount of wages, salary, or crew shares for the
10 calendar year; and

11 (D) the total amount deducted and withheld as tax under this
12 chapter for the calendar year.

13 (b) The department shall publish the rate of withholding required by this
14 section.

15 (c) In this section,

16 (1) "employee" includes an individual who receives compensation on a
17 crew share basis in connection with a commercial fishing activity;

18 (2) "employer" includes a person who pays compensation to an
19 individual on a crew share basis in connection with a commercial fishing activity.

20 **Sec. 43.22.055. Refunds.** Notwithstanding AS 43.05.230, information on an
21 individual income tax return may be released to a banking institution to verify the
22 direct deposit of an income tax refund or correct an error in that deposit.

23 **Sec. 43.22.060. Administration.** The department shall prescribe all necessary
24 forms and adopt regulations to implement and interpret this chapter, including
25 regulations for the online filing and payment of tax due under this chapter. The
26 department may incorporate into the regulations provisions of the Internal Revenue
27 Code that are necessary or useful to the administration of this chapter.

28 **Sec. 43.22.190. Definitions.** In this chapter,

29 (1) "domiciled" means established in a true principal permanent home
30 to which the individual has the intention of returning whenever absent;

31 (2) "individual" means a natural person, married or unmarried, adult or

minor, subject to payment of income tax under 26 U.S.C. (Internal Revenue Code);

(3) "Internal Revenue Code" means the Internal Revenue Code of the United States (26 U.S.C.) as the code exists now or as hereafter amended, as the code and amendments apply to the normal taxes and surtax on net incomes, which amendments are operative for the purposes of this chapter as of the time they became operative or will become operative under federal law;

(4) "nonresident" means an individual who is not a resident;

(5) "resident" means an individual who

(A) was domiciled in the state or resided in the state for the entire calendar year;

(B) claims to be a resident of the state on the individual's federal tax forms;

(C) receives a permanent dividend under AS 43.23;

(D) is registered to vote under AS 15; or

(E) received a resident fishing, hunting, or trapping license during the calendar year under AS 16;

(6) "taxpayer" means a person subject to a tax imposed by this chapter.

* **Sec. 3.** AS 43.23.025 is amended by adding a new subsection to read:

(c) A dividend calculated under (a) of this section may not be issued in excess of \$1,200 for each individual. If a dividend calculated under (a) of this section exceeds \$1,200 for each individual, the amount in excess of \$1,200 for each individual shall be appropriated by the legislature from the dividend fund to the general fund. Nothing in this subsection creates a dedicated fund.

* **Sec. 4.** AS 43.23.045 is amended by adding a new subsection to read:

(f) By February 1 of each year the department shall deliver to the legislature an estimate of the amount held under AS 43.23.092 for application as a tax credit under AS 43.23.040. The legislature may appropriate the amount estimated under this section to the general fund.

* **Sec. 5.** AS 43.23 is amended by adding a new section to read:

Sec. 43.23.092. Refundable tax credit. (a) The department shall prepare the Alaska permanent dividend application to allow an applicant to direct the department

1 to hold the amount of the individual's permanent fund dividend for use as a refundable
2 tax credit against the individual income tax imposed under AS 43.22. The amount held
3 by the department in this section is the amount after contributions, garnishments,
4 levies, fees, attachments, assignments, or other reductions or donations allowed under
5 this chapter.

6 (b) The department shall adopt regulations to implement this section.

7 * **Sec. 6.** AS 37.13.145(c); AS 43.20.012(b), and 43.20.013 are repealed.

8 * **Sec. 7.** This Act takes effect January 1, 2017.