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Nauman
1/17/20

CS FOR SENATE BILL NO. 50()

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): SENATORS BISHOP, Stevens, Kiehl

A BILL

FOR AN ACT ENTITLED

"An Act imposing an annual educational facilities maintenance and construction tax on net earnings from self-employment and wages; relating to the administration and enforcement of the educational facilities maintenance and construction tax; and providing for an effective date."

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

*** Section 1.** AS 23.05.060 is amended to read:

Sec. 23.05.060. Powers of the department. The department may

- (1) enforce all state labor laws;
- (2) act as mediator and appoint deputy commissioners of conciliation in labor disputes whenever it considers the interest of industrial peace requires it;
- (3) make investigations and collect and compile statistical information concerning the conditions of labor generally and upon all matters relating to the enforcement of this chapter;
- (4) institute court proceedings against an employer of labor without

cost to the employee when it is satisfied that the employer has failed to pay an employee an amount due by contract;

(5) issue cease and desist orders and other orders and regulations necessary for the enforcement of state labor laws;

(6) in accordance with AS 37.07 (the Executive Budget Act), receive and spend money derived from agreements with local governments, nongovernmental organizations, or other persons;

(7) if requested under AS 43.45.021(e), collect or coordinate collection and reporting of the educational facilities maintenance and construction tax.

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

Chapter 45. Educational Facilities Maintenance and Construction Tax.

Sec. 43.45.011. Tax imposed. (a) A tax of \$30 is imposed on wages and on net earnings from self-employment of every

(1) resident individual; and

(2) nonresident and part-year resident individual with income from a source in the state.

(b) For purposes of (a) of this section, the wages and the net earnings from self-employment of a

(1) resident are the total annual wages and the net earnings from self-employment of the resident;

(2) nonresident or part-year resident are the annual wages and the net earnings from self-employment of the nonresident or part-year resident that are attributable to a source in the state.

Sec. 43.45.021. Collection of tax by employer. (a) An employer shall deduct and withhold the tax due under AS 43.45.011 from an employee's wages subject to withholding under 26 U.S.C. 3401 - 3406 from the first regular payroll of the calendar year. If the employee's first payroll is insufficient to cover the tax due, the employer shall continue to deduct and withhold from subsequent payrolls until the tax due under this chapter is fully withheld. The employer shall withhold any outstanding amount of tax due under AS 43.45.011 from the final regular payroll of the calendar year.

(b) An employer is liable for the tax required to be withheld from an employee unless the employer can demonstrate that the employer relied on proof provided by the employee that the total tax for the calendar year imposed under AS 43.45.011 had already been withheld under this section or paid under AS 43.45.031. A deduction of the tax may not be made from the wages of an individual who provides proof to the employer that the entire tax imposed under AS 43.45.011 on that individual for the calendar year has already been withheld or paid under AS 43.45.031. The department may impose a civil penalty on an employer in an amount up to five times the amount of tax due from employees but not remitted to the department. The penalty shall be imposed in the manner provided by AS 43.05.245.

(c) Tax withheld by an employer becomes due and shall be paid by an employer to the department in accordance with regulations adopted by the department.

(d) An employer shall maintain a record of the amount deducted from the wages of each employee and shall furnish an annual statement of the deductions to each employee and to the department in accordance with regulations adopted by the department.

(e) The department shall, if it will result in cost savings for the state in the administration of the tax, for employers in the administration of the tax, or for both, coordinate collection and reporting of the tax imposed in this chapter with the collection and reporting of employment security contributions by the Department of Labor and Workforce Development, including requesting that the Department of Labor and Workforce Development collect the tax payments and remit them to the department.

Sec. 43.45.031. Payment of tax by self-employed individual. A self-employed individual shall remit to the department the tax due under AS 43.45.011 in accordance with regulations adopted by the department.

Sec. 43.45.041. Refund of overpayments. (a) If an individual pays to the department, directly or through withholding by an employer, an amount exceeding the total tax imposed under this chapter during a calendar year and the individual applies for a refund in accordance with regulations adopted by the department, the department shall refund the overpayment to the individual.

(b) Interest on an overpayment may not be allowed under AS 43.05.280 if the department refunds the overpayment within 90 days after the date the individual correctly files the refund claim.

(c) The department may adopt regulations to coordinate refunds of overpayments under this section with refunds of employment security contributions under AS 23.20.165.

(d) An individual may apply for a refund under this section only during the calendar year immediately following the calendar year in which the excess was paid.

Sec. 43.45.051. Report of payments to self-employed individuals. A person required to report a payment to a self-employed individual to the federal government under 26 U.S.C. shall also report that payment to the department in accordance with regulations adopted by the department.

Sec. 43.45.061. Disposition of tax proceeds. (a) The tax and penalties collected by the department under this chapter shall be deposited into the general fund and accounted for separately.

(b) The legislature may appropriate the estimated amounts to be collected and separately accounted for under (a) of this section into the educational facilities maintenance and construction fund established under AS 37.05.560. Nothing in this section creates a dedicated fund.

Sec. 43.45.099. Definitions. In this chapter,

(1) "employee" has the meaning given in 26 U.S.C. 3401;

(2) "employer" has the meaning given in 26 U.S.C. 3401;

(3) "net earnings from self-employment" has the meaning given in 26 U.S.C. 1402;

(4) "wages" has the meaning given in 26 U.S.C. 3401.

* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to read:

REGULATIONS. The Department of Revenue may adopt regulations to implement sec. 2 of this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of sec. 2 of this Act.

* **Sec. 4.** Section 3 of this Act takes effect immediately under AS 01.10.070(c).

1 * **Sec. 5.** Except as provided in sec. 4 of this Act, this Act takes effect January 1, 2021.