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Nauman
4/28/21

CS FOR HOUSE BILL NO. 189(W&M)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS

Offered:
Referred:

Sponsor(s): HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS

A BILL

FOR AN ACT ENTITLED

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

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

* **Section 1.** AS 43.45 is amended by adding new sections to read:

Chapter 45. Education Tax.

Sec. 43.45.011. Tax imposed. (a) A tax 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 an individual whose wages, net earnings from self-employment, or
combined wages and net earnings from self-employment are

(1) less than \$20,000, the tax is \$50 a year;

- (2) \$20,000 or more, but less than \$50,000, the tax is \$100 a year;
- (3) \$50,000 or more, but less than \$100,000, the tax is \$200 a year;
- (4) \$100,000 or more, but less than \$500,000, the tax is \$300 a year;
- (5) \$500,000 or more, the tax is \$500 a year.

(c) For purposes of (b) 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 one-half of the estimated taxes due under AS 43.45.011 from an employee's wages subject to withholding under 26 U.S.C. 3401 - 3406 from each of the first two regular payrolls of the calendar year. If the employee's first two payrolls are insufficient to cover the estimated 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 permitting the Department of Labor and Workforce Development to 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 until the entire tax has been paid.

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 of Revenue 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

1 regulations adopted by the department.

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

5 (b) The legislature may appropriate the estimated amounts to be collected and
6 separately accounted for under (a) of this section to the public education fund under
7 AS 14.17.300. Nothing in this section creates a dedicated fund.

8 **Sec. 43.45.099. Definitions.** In this chapter,

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

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

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

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

14 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 REGULATIONS. The Department of Revenue may adopt regulations to implement
17 sec. 1 of this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act),
18 but not before the effective date of sec. 1 of this Act.

19 * **Sec. 3.** Section 2 of this Act takes effect immediately under AS 01.10.070(c).

20 * **Sec. 4.** Except as provided in sec. 3 of this Act, this Act takes effect January 1, 2022.