

HOUSE BILL NO. 152

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES GALVIN, Mina

Introduced: 3/24/25

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing an education tax on the income of individuals, partners,
2 shareholders in S corporations, trusts, and estates; repealing tax credits applied against
3 the tax on individuals under the Alaska Net Income Tax Act; and providing for an
4 effective date."

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

6 * **Section 1.** AS 43.05.045(a) is amended to read:

7 (a) **Except as provided in AS 43.22.075(h), unless** [UNLESS] an exemption
8 is granted under (b) of this section, a taxpayer required to submit a return or report for
9 a tax levied under this title or for any other tax administered by the department shall
10 submit the return or report electronically in a format prescribed by the department.
11 Failure to comply with this section may result in a civil penalty under
12 AS 43.05.220(f). If a law under this title requires a report or return or a portion of a
13 report or return to be in writing, an electronically filed report or return satisfies this
14 section. A taxpayer shall submit attachments to a report or return required under this

1 title electronically.

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

3 **Chapter 22. Education Tax.**

4 **Sec. 43.22.010. Education tax on individuals.** (a) Each calendar year or
5 fraction of a calendar year, a tax is imposed on the income of a

6 (1) resident individual, trust, or estate;

7 (2) nonresident individual, trust, or estate that is derived from or
8 connected with a source in the state.

9 (b) The tax under this section is four percent of taxable income over \$150,000
10 for an individual who files a separate federal income tax return or four percent of
11 taxable income over \$300,000 for individuals who file a joint federal income tax
12 return.

13 (c) Two individuals who file a joint federal income tax return when both or
14 one of whom is not a resident may elect to determine the tax imposed by this chapter
15 either

16 (1) individually; or

17 (2) jointly as if both individuals were residents; the income of the
18 individuals filing jointly under this paragraph is not subject to the calculation under
19 AS 43.22.015.

20 (d) In addition to the tax under (a) - (c) of this section, each individual who
21 has wages, net earnings from self-employment, or combined wages and net earnings
22 from self-employment in the state shall pay an annual tax of \$150. In this subsection,
23 "net earnings from self-employment" has the meaning given in 26 U.S.C. 1402.

24 **Sec. 43.22.015. Calculation of tax on a nonresident individual.** (a) Except as
25 otherwise provided in (b) of this section, the tax on a nonresident individual is the
26 product of

27 (1) the tax determined under AS 43.22.010(b) on the nonresident
28 individual's taxable income computed as if the nonresident individual were a resident
29 individual but taking a deduction under AS 43.22.030(b)(2); and

30 (2) a fraction, the

31 (A) numerator of which is the nonresident individual's income

1 taxable under AS 43.22.045; and

2 (B) denominator of which is the nonresident individual's
3 taxable income computed as if the nonresident individual were a resident
4 individual.

5 (b) If a nonresident individual's taxable income computed under (a)(2)(B) of
6 this section is less than the nonresident individual's income taxable under (a)(2)(A) of
7 this section, the tax imposed by this chapter is on the nonresident individual's taxable
8 income as computed under AS 43.22.045.

9 **Sec. 43.22.020. Tax on trusts and estates.** (a) A tax is imposed for each
10 taxable year or portion of a taxable year on the taxable income of a resident or
11 nonresident trust or estate. The tax under this section for a trust or estate is \$150 plus
12 four percent of taxable income over \$150,000.

13 (b) In this section, the taxable income of a nonresident trust or estate is the
14 income of the trust or estate that is derived from or connected with a source in the
15 state.

16 (c) A trust is not subject to tax under this chapter if

17 (1) all of the trustees of the trust are nonresidents;

18 (2) the entire corpus of the trust, including real, tangible, and
19 intangible property, is located outside the state; and

20 (3) no income or gains of the trust are derived from or connected with
21 a source in the state.

22 (d) For purposes of (c)(1) of this section, a trustee that is a nonresident
23 banking corporation at the time the banking corporation becomes a trustee is a
24 nonresident trustee even if the banking corporation later becomes a resident trustee
25 because it is acquired by or becomes an office or branch of a resident trustee.

26 (e) A trust that is exempt from federal income tax because of its purpose or
27 activities is not subject to tax under this chapter.

28 (f) A special needs trust or other trust established to provide solely for the
29 housing, living expenses, or medical care of a disabled beneficiary is not subject to tax
30 under this chapter. In this subsection,

31 (1) "disabled beneficiary" means an individual who has

1 (A) a physical or mental impairment that substantially limits
2 one or more major life activities; or

3 (B) a condition that may require the use of a prosthesis, special
4 equipment for mobility, or a service animal;

5 (2) "special needs trust" has the meaning given in AS 13.36.215(b).

6 **Sec. 43.22.025. Credit for taxes imposed by other jurisdictions.** (a) A
7 resident individual, trust, or estate or part-year resident individual, trust, or estate is
8 allowed a credit against the tax due under this chapter for an income tax that was
9 imposed on the resident or part-year resident for the taxable year by another state or
10 the political subdivision of another state on income derived from or connected with
11 that state or political subdivision.

12 (b) A credit allowed under (a) of this section

13 (1) for a resident individual, trust, or estate may not exceed the
14 individual's, trust's, or estate's tax due under this chapter before credits are applied,
15 multiplied by a fraction, the numerator of which is the portion of the individual's,
16 trust's, or estate's taxable income that is derived from or connected with a source in
17 another state or the political subdivision of another state and the denominator of which
18 is the resident individual's, trust's, or estate's taxable income;

19 (2) for a part-year resident individual, trust, or estate may not exceed
20 the individual's, trust's, or estate's tax due for the period of state residency before
21 credits are applied, multiplied by a fraction, the numerator of which is the individual's,
22 trust's, or estate's taxable income derived from or connected with a source in another
23 state or the political subdivision of another state during the period of state residency
24 and the denominator of which is the part-year resident individual's, trust's, or estate's
25 taxable income during the period of state residency;

26 (3) may not reduce the tax due under this chapter to less than the tax
27 that would have been due if the income derived from or connected with a source in
28 another state or the political subdivision of another state and subject to taxation by the
29 other state or political subdivision had been excluded from the resident or part-year
30 resident individual's, trust's, or estate's taxable income during the calculation of tax
31 under this chapter before the application of credits.

(c) If the tax administration of another state or a political subdivision of another state determines that a taxpayer has overpaid tax, affecting the computation of the credit allowed under this section for any taxable year, the taxpayer shall file an amended return with the department not later than 90 days after the final determination by the state or political subdivision that the tax was overpaid. The department may assess a taxpayer additional tax, proportional to the amount overpaid in the other state or political subdivision.

(d) A taxpayer is not allowed a credit under this section for taxes paid to another jurisdiction if the taxpayer claims a credit against the income tax imposed by the other jurisdiction for the tax payable under this chapter.

(e) Income tax imposed on a partner or the shareholder of an S corporation on the income of the partnership or S corporation, including tax paid by the partnership or S corporation to satisfy the tax liability of the partner or shareholder, may be included in the calculation of a credit under this section. Tax imposed on the partnership or S corporation that is the direct liability of the partnership or S corporation and not that of the partner or shareholder may not be included in the calculation of a credit under this section.

Sec. 43.22.030. Taxable income; general rule. (a) In this chapter, taxable income is the taxpayer's federal adjusted gross income for the taxable year

(1) plus, if not already included in federal adjusted gross income,

(A) interest on obligations of another state, a political subdivision of another state, the public instrumentality of another state, or the local authority of another state;

(B) a loss on the sale or exchange of an obligation issued by or on behalf of

(i) the state;

(ii) a municipality of the state; or

(iii) a public instrumentality, public authority, or public corporation created under state law;

(C) a loss from the sale or exchange of shares in a unit investment trust if the loss is attributable to an obligation issued by or on

1 behalf of

2 (i) the state;

3 (ii) a municipality of the state; or

4 (iii) a public instrumentality, public authority, or public
5 corporation created under state law;

6 (D) interest or dividends on obligations or securities issued by
7 the United States, or an authority, commission, or instrumentality of the United
8 States, that the Internal Revenue Code exempts from federal income tax;

9 (E) taxes under this chapter;

10 (F) a gain realized but not recognized under 26 U.S.C. 1031
11 (Internal Revenue Code);

12 (G) a deduction allowed in the determination of federal
13 adjusted gross income that is directly or indirectly related to income that is not
14 taxable under this chapter; and

15 (H) income of an incomplete gift nongrantor trust to which a
16 taxpayer transferred property, less deductions of the trust, if

17 (i) the income and deductions of the trust would be
18 taken into account in computing the taxpayer's federal taxable income
19 if the trust in its entirety was treated as a grantor trust under the Internal
20 Revenue Code;

21 (ii) the trust is a resident trust;

22 (iii) the trust does not qualify as a grantor trust under 26
23 U.S.C. 671 - 679 (Internal Revenue Code); and

24 (iv) the grantor's transfer of assets to the trust is treated
25 as an incomplete gift under 26 U.S.C. 2511 (Internal Revenue Code);

26 (2) minus, if included in federal adjusted gross income,

27 (A) interest income or a dividend from an obligation that is
28 exempt from taxation by a state under federal law;

29 (B) a refund or credit for the overpayment of an income tax;

30 (C) an ordinary and necessary expense, including an interest
31 expense, paid or incurred during the taxable year, that is directly or indirectly

1 related to income exempt under the Internal Revenue Code but taxable by the
2 state;

3 (D) a gain recognized under 26 U.S.C. 1031 (Internal Revenue
4 Code) that was included in federal adjusted gross income under (1) of this
5 subsection;

6 (E) income exempt under 4 U.S.C. 114;

7 (F) compensation prohibited from state taxation by 50 U.S.C.
8 3901 - 4043 (Servicemembers Civil Relief Act);

9 (G) a gain from the sale or exchange of an obligation issued by
10 or on behalf of

11 (i) the state;

12 (ii) a municipality of the state; or

13 (iii) a public instrumentality, public authority, or public
14 corporation created under state law;

15 (H) a permanent fund dividend received by the taxpayer or the
16 taxpayer's dependent under AS 43.23.

17 (b) In addition to the adjustments made to taxable income under (a) of this
18 section, a taxpayer may receive a standard deduction. Subject to adjustment under (d)
19 of this section, the deduction under this subsection for

20 (1) an individual resident taxpayer is \$12,950;

21 (2) an individual resident who files federal income taxes as a head of
22 household is \$19,400;

23 (3) two resident taxpayers filing jointly is \$25,900;

24 (4) an individual nonresident is the product of \$12,950 and a fraction,
25 the numerator of which is the nonresident individual's income taxable under
26 AS 43.22.045, computed without the deduction under this subsection, and the
27 denominator of which is the nonresident individual's taxable income computed as if
28 the nonresident individual were a resident individual and without the deduction under
29 this subsection; the deduction under this paragraph may not exceed \$12,950 for each
30 exemption claimed;

31 (5) an individual nonresident who files federal income taxes as a head

1 of household is the product of \$19,400 and a fraction, the numerator of which is the
 2 nonresident individual's income taxable under AS 43.22.045, computed without the
 3 deduction under this subsection, and the denominator of which is the nonresident
 4 individual's taxable income computed as if the nonresident individual were a resident
 5 individual and without the deduction under this subsection; the deduction under this
 6 paragraph may not exceed \$19,400 for each exemption claimed;

7 (6) two nonresident individuals filing jointly is the product of \$25,900
 8 and a fraction, the numerator of which is the nonresident individuals' income taxable
 9 under AS 43.22.045, computed without the deduction under this subsection, and the
 10 denominator of which is the nonresident individuals' taxable income computed as if
 11 the nonresident individuals were resident individuals and without the deduction under
 12 this subsection; the deduction under this paragraph may not exceed \$25,900 for each
 13 exemption claimed.

14 (c) The deduction under (b) of this section may not

15 (1) be claimed by a trust;

16 (2) reduce a taxpayer's tax liability under this chapter to below zero.

17 (d) Each year, the department shall adjust the amounts of the standard
 18 deduction under (b) of this section for inflation. The adjustment for inflation is equal
 19 to the adjustment for inflation calculated for the standard deduction against the federal
 20 income tax as set out in 26 U.S.C. 63.

21 (e) When calculating taxable income, a taxpayer

22 (1) may not carry back a net operating loss under 26 U.S.C.
 23 172(b)(1)(A)(i) (Internal Revenue Code);

24 (2) may carry over a net operating loss under 26 U.S.C.
 25 172(b)(1)(A)(ii) (Internal Revenue Code), except that a loss may not be carried over
 26 for more than five years; for a taxpayer subject to AS 43.19 (Multistate Tax Compact),
 27 the amount of a net operating loss allowed to be carried over is limited to the amount
 28 apportioned to the state in the taxable year in which the loss was generated under
 29 AS 43.19 (Multistate Tax Compact);

30 (3) shall include the modifications required by AS 43.20.144(b)(2),
 31 concerning intangible drilling and development costs, AS 43.20.144(b)(3), concerning

percentage depletion, and AS 43.20.144(b)(4), concerning depreciation.

Sec. 43.22.035. Taxable income from partnerships and S corporations. (a)

A partner or shareholder shall make an adjustment described in AS 43.22.030 to income or a gain, loss, or deduction from a partnership or S corporation in proportion to a partner's distributive share of a partnership or a shareholder's pro rata share of an S corporation. If a partner's distributive share or a shareholder's pro rata share of an adjustment is not required to be accounted for separately for federal income tax purposes, the partner's or shareholder's share of the adjustment must be determined in proportion to the partner's or shareholder's share of partnership or S corporation income or losses for federal income tax purposes.

(b) In determining taxable income, a partner or shareholder shall treat income or a gain, loss, or deduction from a partnership or S corporation as if it has the same character as it does for federal income tax purposes. If income or a gain, loss, or deduction from a partnership or S corporation is not accounted for separately for federal income tax purposes, a partner or shareholder shall treat the income, gain, loss, or deduction as if it were realized directly from the source from which it was realized by the partnership or S corporation or incurred in the same manner it was incurred by the partnership or S corporation.

(c) If the principal purpose of a special allocation of partnership income or a gain, loss, or deduction is the evasion of tax under this chapter, the partner's distributive share is determined as if the partnership agreement did not have the special allocation. In this subsection, "special allocation" means an allocation of the distributive share of partnership income or a gain, loss, or deduction made under the partnership agreement to a partner in a proportion different than the partner's partnership interest.

Sec. 43.22.040. Taxable income of an estate, trust, or beneficiary. (a) The

taxable income of an estate or trust is determined as if the estate or trust were an individual and is subject to adjustments under AS 43.22.030 and reduction under 26 U.S.C. 661 (Internal Revenue Code). The department may establish in regulation the method for determining the taxable income of an estate or trust, including the manner in which the adjustments under AS 43.22.030 will be allocated between the estate's or

1 trust's taxable share and a beneficiary's distributive share. Unless otherwise provided
 2 by the department in regulation, an allocation must be made in proportion to the
 3 estate's or trust's taxable share or the beneficiary's distributive share of the trust or
 4 estate for federal income tax purposes.

5 (b) If the principal purpose of a provision of an instrument directing the
 6 distribution of income or a gain, loss, or deduction of an estate or trust is the evasion
 7 of tax under this chapter, the taxable income of the estate, trust, or beneficiary will be
 8 determined as if the instrument did not contain the provision.

9 **Sec. 43.22.045. Nonresident individuals; income derived from or**
 10 **connected with a source in the state.** (a) The taxable income of a nonresident
 11 individual is the nonresident individual's income derived from or connected with a
 12 source in the state, as adjusted under AS 43.22.030. The taxable income of a
 13 nonresident individual includes

14 (1) a partner's distributive share of income or a gain, loss, or deduction
 15 of the partnership, as determined under AS 43.22.050;

16 (2) a shareholder's pro rata share of an S corporation's income or loss,
 17 increased by the reductions for taxes described in 26 U.S.C. 1366(f)(2) and (3)
 18 (Internal Revenue Code), as determined under AS 43.22.050;

19 (3) income or loss of a business conducted by a nonresident individual,
 20 nonresident estate, or nonresident trust, other than income or loss from a partnership or
 21 S corporation, as determined under AS 43.22.050;

22 (4) estate or trust income or a gain, loss, or deduction of the estate or
 23 trust, as determined under AS 43.22.055;

24 (5) income or a gain, loss, or deduction from the sale or assignment of
 25 a beneficial interest, or other disposition of an interest in tangible personal property in
 26 the state, or rental income or loss from the use of tangible personal property in the
 27 state; if the income, gain, loss, or deduction is from tangible personal property used or
 28 employed both in and outside the state, the amount included in taxable income is
 29 determined by multiplying the income, gain, loss, or deduction by a fraction, the
 30 numerator of which is the number of days during which the property was used or
 31 employed to earn, accrue, or incur the income, gain, loss, or deduction in the state and

1 the denominator of which is the total number of days during the taxable year that the
 2 property was used or employed to earn, accrue, or incur the income, gain, loss, or
 3 deduction;

4 (6) income or a gain, loss, or deduction from the sale, assignment, or
 5 other disposition of an interest in real property in the state, or rental income or loss
 6 from the use of real property in the state, including the percentage of ordinary and
 7 capital gains received from a real estate investment trust, as defined in 26 U.S.C. 856
 8 (Internal Revenue Code), that is attributable to rents from or sale or other disposition
 9 of real property located in the state; in this paragraph, income or a gain, loss, or
 10 deduction from the sale, assignment of a beneficial interest, or other disposition of real
 11 property in the state includes income or a gain, loss, or deduction derived from the sale
 12 or assignment of a beneficial interest in a partnership, S corporation, nonpublicly
 13 traded C corporation with 100 or fewer shareholders, estate, or trust, if the entity owns
 14 real property in the state that has a fair market value equal to or exceeding 50 percent
 15 of all assets of the entity on the date of sale, assignment, or other disposition of the
 16 taxpayer's interest in the entity; for purposes of this paragraph,

17 (A) only assets owned for at least two years before the date of
 18 the sale, assignment, or other disposition of an interest in the entity shall be
 19 used to determine the fair market value of all of the assets of the entity on the
 20 date of sale, assignment, or other disposition; and

21 (B) the amount of income or a gain, loss, or deduction derived
 22 from or connected with a source in the state from the sale, assignment, or other
 23 disposition of an interest in an entity that is subject to the provisions of this
 24 paragraph is the amount recognized for federal income tax purposes related to
 25 the sale, assignment, or disposition, multiplied by a fraction, the numerator of
 26 which is the fair market value of the real property located in the state on the
 27 date of sale, assignment, or disposition and the denominator of which is the fair
 28 market value of all of the assets of the entity on the date of the sale,
 29 assignment, or disposition;

30 (7) compensation, salary, or wages for personal services rendered or
 31 performed in the state that are derived from a business, trade, profession, occupation,

1 or employment carried on in the state; for purposes of this paragraph, personal
2 services

3 (A) except as otherwise provided in (B) of this paragraph,
4 include services performed

5 (i) in connection with presenting or receiving
6 employment-related training or education in the state;

7 (ii) in connection with a site inspection, review,
8 analysis, or management or any other supervision of a facility located
9 in the state;

10 (iii) in connection with research and development at a
11 facility located in the state or in connection with the installation of new
12 or upgraded equipment or systems at that facility;

13 (iv) as part of a project team working on the attraction
14 or implementation of new investment in a facility located or planned to
15 be located in the state;

16 (v) in connection with fishing, farming, or agriculture in
17 the state; or

18 (vi) for the federal government;

19 (B) do not include services that are casual, isolated,
20 inconsequential, or ancillary to out-of-state services;

21 (8) income derived from a business, trade, profession, occupation, or
22 employment carried on in the state, including income

23 (A) received under a covenant not to compete, a severance
24 agreement, a termination agreement, or unemployment compensation
25 insurance attributable to a business, trade, profession, occupation, or
26 employment previously carried on in the state, regardless of when received;

27 (B) derived from a business, trade, profession, occupation, or
28 employment carried on in the state by an individual who maintains or operates
29 an office, shop, store, warehouse, boat, plane, factory, agency, or other place
30 where the individual's affairs are systematically and regularly carried on,
31 regardless of other transactions carried on outside the state; this subparagraph

1 does not include income from an activity of an individual whose presence in
2 the state is casual, isolated, inconsequential, or ancillary to out-of-state
3 activities, except that, if a business, trade, profession, occupation, or
4 employment is carried on partly in and partly outside the state, other than for
5 the rendering of purely personal services by the individual, the taxable income
6 derived from or connected with a source in the state is determined under
7 AS 43.19 (Multistate Tax Compact) and AS 43.22.030;

8 (9) income from the management or investment function or activities
9 conducted in the state from intangible property;

10 (10) dividends, interest, payments received under an annuity, gains, or
11 other intangible income received from, or attributable to, intangible personal property,
12 including stock, bonds, notes, bank deposits, or annuities, if the intangible personal
13 property is employed in a business, trade, profession, occupation, or employment
14 carried on in the state;

15 (11) a gain derived from a statutory stock option, restricted stock,
16 nonstatutory stock option, or stock appreciation right by a nonresident individual who,
17 at the time the gain is received, performs services in the state for or is employed in the
18 state by the corporation granting the option, stock, or right, as determined in
19 regulations adopted by the department;

20 (12) income from nonqualified deferred compensation plans
21 attributable to services performed in the state, including compensation included in
22 federal gross income under 26 U.S.C. 457A (Internal Revenue Code);

23 (13) proceeds from a gambling activity conducted in the state or lottery
24 tickets purchased in the state, including payments received from a third party for the
25 transfer of the rights to future proceeds related to a gambling activity in the state or
26 lottery tickets purchased in the state;

27 (14) for an S corporation that terminates its taxable status in the state
28 during the tax year, income or a gain recognized on the receipt of payments from an
29 installment sale contract entered into at the time the S corporation was subject to tax in
30 the state, allocated in a manner consistent with the applicable methods and rules under
31 this chapter;

1 (15) royalties or other compensation received for the use of a patent,
 2 copyright, secret process or formula, good will, mark, trade brand, franchise, or other
 3 property having a taxable or business situs in the state;

4 (16) royalties or other compensation received for the use of a patent if
 5 the patent is employed in production, fabrication, manufacturing, or other process in
 6 the state;

7 (17) income or a gain from the disposition of an asset if the
 8 acquisition, management, or disposition of the asset constitutes an integral part of the
 9 nonresident individual's regular trade or business operation;

10 (18) income from the transmission, broadcast, distribution, or
 11 dissemination of a service directly or indirectly attributable to the performance in the
 12 state of an athlete, entertainer, singer, musician, dancer, comedian, magician,
 13 performing artist, actor, actress, or similar person, including syndication fees.

14 (b) A deduction included in taxable income that results from a capital loss,
 15 passive activity loss, or net operating loss must be based solely on income or a gain,
 16 loss, or deduction derived from or connected with a source in the state. A nonresident
 17 individual shall treat a deduction under this subsection in the same manner as the
 18 corresponding federal deduction, unless the department requires otherwise in
 19 regulation.

20 **Sec. 43.22.050. Business conducted by a nonresident individual, trust, or**
 21 **estate; income derived from or connected with a source in the state.** (a) The
 22 department shall adopt regulations governing the amount of income or the amount of a
 23 gain, loss, or deduction from a business conducted by a nonresident individual, trust,
 24 or estate that is derived from or connected with a source in the state for purposes of
 25 determining taxable income. Regulations adopted under this subsection must be
 26 consistent with AS 43.19 (Multistate Tax Compact) and AS 43.22.045 and include
 27 adjustments under AS 43.22.030.

28 (b) The department shall adopt regulations governing the amount of income or
 29 the amount of a gain, loss, or deduction that is derived from or connected with a
 30 source in the state and is included in a nonresident

31 (1) partner's distributive share for purposes of taxation under this

chapter;

(2) shareholder's pro-rata share of an S corporation for purposes of taxation under this chapter.

(c) The department may by regulation require a taxpayer to allocate rather than apportion income or a gain, loss, or deduction under this section.

Sec. 43.22.055. Nonresident trust, estate, or beneficiary; income derived from or connected with a source in the state. (a) The department shall adopt regulations governing whether income or a gain, loss, or deduction of a nonresident estate or nonresident trust is included in taxable income derived from or connected with a source in the state. Regulations adopted under this subsection must be consistent with the remainder of this section and AS 43.22.045.

(b) A nonresident beneficiary shall include in taxable income derived from or connected with a source in the state a distribution from an estate or trust as if the nonresident beneficiary earned or incurred the income or a gain, loss, or deduction attributable to the distribution directly from the source. For purposes of this subsection, the department may establish one or more methods for a nonresident beneficiary to determine whether income or a gain, loss, or deduction is attributable to a distribution. The department shall consistently apply a method from year to year and apply the same method to other nonresident beneficiaries of the same trust or estate. Nothing in this subsection requires the department to give effect to a provision of an instrument creating an estate or trust if the department reasonably believes that the principal purpose of the provision is to evade the tax imposed under this chapter.

Sec. 43.22.060. Part-year resident individual, trust, or estate; residency income; income derived from or connected with a source in the state. (a) Except as otherwise provided in this section, the taxable income of a part-year resident individual, trust, or estate is the sum of

(1) the taxable income of the part-year resident individual, trust, or estate during the period of residency; and

(2) the taxable income derived from or connected with a source in the state for the period of nonresidency of the individual, trust, or estate.

(b) The department shall adopt regulations to determine the taxable income of

1 a part-year resident taxpayer who is granted a statutory stock option, restricted stock,
 2 nonstatutory stock option, or a stock appreciation right and who, during the grant
 3 period, performs services in the state for, or is employed in the state by, the
 4 corporation granting the option, stock, or right.

5 **Sec. 43.22.065. Personal service corporations and S corporations formed**
 6 **or used to evade tax.** (a) The department may allocate all income, deductions, credits,
 7 exclusions, and other allowances between a personal service corporation or S
 8 corporation and its employee-owners if the

9 (1) personal service corporation or S corporation performs
 10 substantially all of its services for or on behalf of another corporation, partnership, or
 11 other entity and the effect is the evasion of the tax under this chapter; and

12 (2) allocation is necessary to reflect the source and amount of the
 13 income, regardless of whether the corporation is otherwise taxable.

14 (b) For purposes of this section, evasion of the tax under this chapter occurs
 15 when a personal service corporation or S corporation is used to

16 (1) reduce the taxable income of a resident or the taxable income of a
 17 nonresident derived from or connected with a source in the state; or

18 (2) secure the benefit of an expense, deduction, credit, exclusion, or
 19 other allowance for any employee-owner that would not otherwise apply under this
 20 chapter.

21 (c) The constructive ownership of stock rules under 26 U.S.C. 318 (Internal
 22 Revenue Code) apply to this section, except that "5 percent" shall be substituted for
 23 "50 percent" in 26 U.S.C. 318(a)(2)(C) (Internal Revenue Code).

24 (d) In this section, all persons specified in 26 U.S.C. 267(b) (Internal Revenue
 25 Code) shall be treated as one entity.

26 (e) In this section,

27 (1) "employee-owner" means any employee who owns, on any day
 28 during the taxable year, more than 10 percent of the outstanding stock of a personal
 29 service corporation or S corporation;

30 (2) "personal service corporation" means a corporation whose principal
 31 activity is the performance of personal services that are substantially performed by the

1 employee-owners of the corporation.

2 **Sec. 43.22.070. Determination of taxable year and method of accounting.**

3 (a) For purposes of the tax imposed under this chapter, a taxpayer's

4 (1) taxable year is the same as the taxpayer's taxable year for federal
5 income tax purposes; and

6 (2) method of accounting is the same as the taxpayer's method of
7 accounting for federal income tax purposes.

8 (b) The department shall adopt regulations to determine the taxable income of
9 a taxpayer whose method of accounting changes during a taxable year or between
10 taxable years.

11 **Sec. 43.22.075. Returns and payment of taxes.** (a) A taxpayer shall file with
12 the department a return setting out

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

14 (2) other information necessary to carry out this chapter, as required by
15 the department in regulation.

16 (b) A person required to file a return under this chapter shall file the return on
17 a form or in a format prescribed by the department. The return is due to the department
18 at the same time and in the same manner, including extensions, as the taxpayer's
19 federal income tax return to the United States Internal Revenue Service. A return filed
20 under this chapter must be made under oath and on penalty of perjury.

21 (c) The total amount of tax imposed by this chapter is due and payable to the
22 department at the same time and in the same manner as the federal individual income
23 tax payable to the United States Internal Revenue Service.

24 (d) A taxpayer, upon request by the department, shall furnish to the
25 department a true and correct copy of a return that the taxpayer has filed with the
26 United States Internal Revenue Service.

27 (e) A taxpayer shall notify the department in writing of an alteration in, or
28 modification of, the taxpayer's federal income tax return and of a recomputation of tax
29 or determination of deficiency, whether with or without assessment. A full statement
30 of the facts must accompany the notice. A taxpayer shall file the notice not later than
31 60 days after the final determination of the alteration, modification, recomputation, or

1 deficiency and shall pay any additional tax due under this chapter at that time. In this
2 subsection, "final determination" means the time that an amended federal return is
3 filed, a notice of deficiency or an assessment is mailed to the taxpayer by the Internal
4 Revenue Service, and the taxpayer has exhausted rights of appeal under federal law.

5 (f) The department may credit or refund overpayments of taxes, taxes
6 erroneously or illegally assessed or collected, penalties collected without authority,
7 and taxes that are found unjustly assessed or excessive in amount, or otherwise
8 wrongfully collected. The department shall, in regulation, set limitations, specify the
9 manner in which claims for credits or refunds are made, and give notice of allowance
10 or disallowance. When a refund is allowed to a taxpayer, the refund may be paid out
11 of the general fund on a warrant issued under a voucher approved by the department.

12 (g) A partnership, S corporation, estate, or trust shall provide to its partners,
13 beneficiaries, or shareholders, and to the department, all information necessary for its
14 partners, beneficiaries, and shareholders to comply with this chapter.

15 (h) An individual is not required to file a return under this section
16 electronically, but a person employed to prepare and file a tax return under this section
17 for an individual shall file the return for that individual electronically.

18 (i) The department shall adopt regulations that set out requirements for a
19 spouse, upon request, to be partially or fully relieved from joint and several liability
20 resulting from the joint filing of a tax return.

21 **Sec. 43.22.080. Tax withholding on wages of individuals.** (a) Every
22 employer making payment of wages or salaries

23 (1) shall, except as provided in (c) of this section, deduct and withhold
24 an amount of tax computed in a manner to approximate the amount of tax due on those
25 wages and salaries under this chapter for that taxable year;

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

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

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

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

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

(C) the total amount of wages and salary for the taxable year; and

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

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

(c) An employer shall deduct and withhold the tax due under AS 43.22.010(d) from an employee's wages subject to withholding from the first regular payroll of the calendar year. If the employee's first payroll is insufficient to cover the estimated tax due, the employer shall continue to deduct and withhold from subsequent payrolls until the tax due under this subsection is fully withheld. A self-employed individual shall remit to the department the tax due under this subsection in accordance with regulations adopted by the department.

Sec. 43.22.085. Withholding on nonresident partners; composite returns.

(a) Unless otherwise provided by this section, a partnership that is required to file an annual information return under subchapter K of the Internal Revenue Code (26 U.S.C. 701 - 761) shall file a partnership return as prescribed by the department and shall report any income, gains, losses, or deductions that are derived from or connected with a source in the state, as determined under this chapter.

(b) A partnership that is required to file a return under (a) of this section shall withhold tax from a nonresident partner's distributive share of the partnership's income or a gain, loss, or deduction derived from or connected with a source in the state at the highest marginal tax rate applicable under this chapter to individuals for the taxable year.

1 (c) Withholding under this section is not required by a partnership that

2 (1) is a publicly traded partnership, as defined in 26 U.S.C. 7704(b)
3 (Internal Revenue Code); and

4 (2) files with the department an annual information return reporting the
5 name, address, taxpayer identification number, and other information requested by the
6 department concerning each unitholder whose distributive share of partnership
7 income, regardless of source, is more than \$1,000.

8 (d) The department shall adopt regulations that allow a partnership subject to
9 withholding under this section to file a composite return.

10 **Sec. 43.22.090. Permanent fund tax payment.** The department shall adopt
11 regulations establishing procedures for an individual eligible for a dividend under
12 AS 43.23.005 to direct the department to hold all or a part of the amount of the
13 dividend to pay the tax due under this chapter. The amount held under this section
14 may not exceed the dividend amount after contributions, garnishments, levies, fees,
15 attachments, assignments, or other reductions or donations allowed under AS 43.23.
16 The department shall apply the amount held under this section to tax owed in the
17 taxable year in which the taxpayer applies for the dividend. The department shall
18 refund the amount of the dividend not applied against taxes under this section to the
19 individual who appears on the application for the dividend.

20 **Sec. 43.22.095. Administration.** (a) The department shall adopt necessary
21 regulations and forms to implement and interpret this chapter, including regulations
22 and forms for the electronic filing and payment of tax due under this chapter. Federal
23 regulations issued under the Internal Revenue Code shall be considered persuasive
24 authority in interpreting any provision of the Internal Revenue Code on which the tax
25 imposed by this chapter relies, whether or not a federal regulation has been
26 specifically incorporated into a department regulation, unless the federal regulation

27 (1) conflicts with a provision of this chapter;

28 (2) conflicts with a regulation adopted by the department; or

29 (3) is inconsistent with the purposes of this chapter.

30 (b) A transaction or payment between related persons must have economic
31 substance, must serve a bona fide business purpose, and must not have occurred for

the primary purpose of lowering the tax due under this chapter. The department, after review or audit of a taxpayer's return, may determine whether there is sufficient documentation or whether a transaction or payment meets the requirements of this subsection. If the department determines that the documentation, transaction, or payment fails to meet the requirements of this subsection, the department may adjust the amount of a payment or transaction, disregard the payment or transaction, or make another adjustment necessary for determining the tax under this chapter. If a payment in an amount greater than \$500,000 is made or required to be made from one person to a related person, the related persons shall submit documentation substantiating that the amount of the payment is consistent with 26 U.S.C. 482 (Internal Revenue Code). Payments subject to this subsection include payments for interest, royalties, management fees, services, inventory, tangible personal property, intangible property, and real property.

(c) A tax deficiency assessed by the department under this section is assumed to be correct. A taxpayer has the burden of proving that the tax deficiency is erroneous.

(d) The department shall adjust the amount of the exemption under AS 43.22.030(b) annually for inflation. Adjustments must be consistent with inflation adjustments made by the Internal Revenue Service to the federal individual income tax standard deduction. The department shall round amounts under this subsection to the nearest \$100 and publish the adjusted amounts.

(e) The tax collected by the department under this chapter shall be deposited into the general fund and accounted for separately.

Sec. 43.22.100. References to Internal Revenue Code. (a) Sections 26 U.S.C. 6654, 6662, 6664, 6694, 6695, 6700 - 6702, 6707, 6713, 7201, 7202, 7206, 7207, 7216, 7407, and 7408 (Internal Revenue Code), as those sections read on January 1, 2023, are incorporated by reference as a part of this chapter and, if conflicting, supersede provisions in AS 43.05 and AS 43.10.

(b) When provisions of the Internal Revenue Code incorporated by reference under (a) of this section refer to rules and regulations adopted by the United States Commissioner of Internal Revenue, they are regarded as regulations adopted by the

department under this chapter, unless the department adopts specific regulations in their place.

Sec. 43.22.105. Information released to a banking institution.

Notwithstanding AS 43.05.230, information on an individual tax return filed under this chapter may be released to a banking institution to verify the direct deposit of a tax refund or correct an error in that deposit.

Sec. 43.22.110. Early education fund. (a) The early education fund is established in the state treasury. The department shall separately account for the tax collected under this chapter and deposit it into the early education fund.

(b) The legislature may use the annual estimated balance in the fund to make appropriations for kindergarten through grade 12 education and early learning programs, including the parents as teachers program established under AS 14.03.420.

(c) Nothing in this section creates a dedicated fund.

Sec. 43.22.150. Definitions. In this chapter,

(1) "domicile" means an individual's true, fixed, principal, and permanent home, to which the individual intends to return even if currently living elsewhere; if an individual has two or more homes, "domicile" means the home that the individual regards and uses as the individual's more permanent home; once established, a domicile remains the individual's domicile until the individual demonstrates a real change of intent and moves to a new domicile; indications of domicile include the

(A) location of the place of employment of the individual;

(B) location of real property owned by the individual;

(C) registration and physical location of motor vehicles, planes, boats, and snow machines owned by the individual;

(D) location of a bank account or active checking account of the individual;

(E) address where the individual receives mail;

(F) location of a school where the individual or a member of the individual's immediate family

(i) attends; or

- 1 (ii) receives resident tuition;
- 2 (G) location of an organization of which the individual is a
- 3 member;
- 4 (H) location of a parent, child, grandchild, or great-grandchild;
- 5 (I) location of dental and medical personnel that provide
- 6 services to the individual on a regular or consistent basis;
- 7 (J) filing of a prior year tax return by the individual as a
- 8 resident or nonresident;
- 9 (K) location where an individual is registered to vote;
- 10 (L) location where an individual holds a resident fishing,
- 11 hunting, or trapping license;
- 12 (2) "employee" has the meaning given in 26 U.S.C. 3401;
- 13 (3) "employer" has the meaning given in 26 U.S.C. 3401;
- 14 (4) "federal adjusted gross income" has the meaning given to "adjusted
- 15 gross income" in 26 U.S.C. 62;
- 16 (5) "fiduciary" means a guardian, trustee, executor, administrator,
- 17 receiver, or conservator or a person, whether individual or corporate, acting in a
- 18 similar position of special confidence toward another;
- 19 (6) "head of household" means a single taxpayer, or married taxpayer
- 20 where both spouses file separate returns, with a qualified dependent living in the same
- 21 home for more than half the taxable year;
- 22 (7) "Internal Revenue Code" means the Internal Revenue Code (26
- 23 U.S.C. 1 et seq.), as amended;
- 24 (8) "irrevocable trust" means a trust or portion of a trust that is not
- 25 subject to a power to revest title in a person whose property constitutes the trust or a
- 26 portion of the trust;
- 27 (9) "nonresident estate" means an estate other than a resident estate or
- 28 part-year resident estate;
- 29 (10) "nonresident individual" means an individual who is not a resident
- 30 of the state for any portion of the taxable year;
- 31 (11) "nonresident trust" means a trust other than a resident trust or

1 part-year resident trust;

2 (12) "partner" means a partner as defined in 26 U.S.C. 7701(a)
3 (Internal Revenue Code) and includes a member of a limited liability company or
4 similar entity that is treated as a partnership for federal income tax purposes;

5 (13) "partnership" means an entity as defined in 26 U.S.C. 7701(a)
6 (Internal Revenue Code) and includes a limited liability company and a similar entity
7 treated as a partnership for federal income tax purposes;

8 (14) "part-year resident estate" means an estate that is a resident of the
9 state for a portion of but not the entire taxable year;

10 (15) "part-year resident individual" means an individual who is a
11 resident of the state for a portion of but not the entire taxable year;

12 (16) "part-year resident trust" means a trust that is a resident of the
13 state for a portion of but not the entire taxable year;

14 (17) "related person" means a person that satisfies the definition of
15 "related persons" in 26 U.S.C. 144 or 147 or a person in a relationship as described in
16 26 U.S.C. 267(b) (Internal Revenue Code);

17 (18) "resident estate" means the estate of a

18 (A) decedent who at the time of death was a resident of the
19 state, regardless of the residence of the fiduciary or beneficiary, if the
20 disposition or administration of the estate is subject to state law; or

21 (B) person who, at the time of commencement of a bankruptcy
22 proceeding under Title 11 of the United States Code, was a resident of the
23 state;

24 (19) "resident individual" means an individual who

25 (A) receives a permanent fund dividend under AS 43.23.005;

26 (B) receives a tax benefit available only to an individual
27 domiciled in the state; or

28 (C) is domiciled in the state for the entire taxable year unless
29 the individual maintains a permanent place of abode outside the state and
30 spends, in the aggregate, not more than 30 days during the taxable year in the
31 state;

(20) "resident trust" means a trust or a portion of a trust consisting of property

(A) transferred by will of a decedent who at the time of death was a resident of the state if the disposition or administration of the property is subject to state law; or

(B) of a person who was a resident at the time the property was transferred to the trust if, at the time of the transfer, the trust was

(i) an irrevocable trust;

(ii) a revocable trust and the trust has not become irrevocable; or

(iii) a revocable trust and the trust later became irrevocable at a time the person transferring property to the trust was a resident;

(21) "revocable trust" means a trust or portion of a trust that is subject to a power, exercisable immediately or at a future time, to revest title in a person whose property constitutes the trust or portion of the trust;

(22) "S corporation" means a corporation that has elected to file a federal income tax return under 26 U.S.C. 1361 - 1379 (Internal Revenue Code);

(23) "taxable income" means income taxable under this chapter;

(24) "taxable year" means the calendar year or a fiscal year ending during the calendar year;

(25) "taxpayer" means a person subject to a tax imposed by this chapter;

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

* **Sec. 3.** AS 43.23 is amended by adding a new section to read:

Sec. 43.23.092. Permanent fund dividend individual tax payment. In accordance with AS 43.22.090, the department shall prepare the Alaska permanent fund dividend application to allow an applicant to direct the department to hold all or part of the amount of the individual's permanent fund dividend for application against the tax imposed under AS 43.22.

* **Sec. 4.** AS 43.05.085; AS 43.20.012(b), and 43.20.013 are repealed January 1, 2026.

1 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 APPLICABILITY. AS 43.22, added by sec. 2 of this Act, applies to income received
4 on or after the effective date of sec. 2 of this Act.

5 * **Sec. 6.** This Act takes effect January 1, 2026.