



REPRESENTATIVE ALYSE GALVIN

Serving Alaska House District 14 | Anchorage: Roger's Park, Midtown, Tudor, and Spenard

HB 152: Education Tax Establishment

Sectional Analysis – Version A

34-LS0674\A

Section 1 Creates an exception to AS 43.05.045 for individual income taxpayers, exempting them from the general requirement to file with the electronically with the Department of Revenue. The exception does not apply to paid tax preparers.

Sec. 2 Adds a new Chapter to Title 43, as follows:

Subsection: Sec. 43.22.010 (page 2, line 3) – Imposes a flat rate 4% tax on the income of residents and the income of non-residents derived from a source in the state above \$150,000. Two individuals who file their federal income tax jointly may choose to either file individually or jointly; if filing jointly, the flat rate 4% tax is applied on taxable income over \$300,000. Also imposes a flat \$150 per person tax on any individual who has wages or net earnings from self-employment in Alaska.

Subsection: Sec. 43.22.015 (page 2, line 24) – Determines how the tax is calculated for nonresident individuals. Broadly, it is the tax calculation, less any eligible credits, if they were a resident, multiplied by the percentage of their total income that comes from a source in the state.

Subsection: Sec. 43.22.020 (page 3, line 9) – Establishes that trusts and estates also pay the 4% income tax over \$150,000. Nonresident trusts pay the tax on income derived from a source in the state. Trusts exempt from federal income tax, and special needs trusts established to provide for a disabled beneficiary, are also exempt from the state tax.

Subsection: Sec. 43.22.025 (page 4, line 6) – Provides a credit to residents for taxes paid to another state based on income earned in that other state (so someone is not taxed twice on the same income). The credit may not reduce tax liability below what it would be if the out of state income was simply excluded from total income.

Subsection: Sec. 43.22.030 (page 5, line 18) – Defines “taxable income” as the taxpayers federal adjusted gross income (AGI) for the tax year. This can be adjusted by adding or subtracting certain income that may not be included within AGI. The permanent fund dividend is not considered taxable income. Additionally, this section provides for a “standard deduction” of non-taxable income, which is adjusted for inflation. The standard deduction is pro-rated for nonresidents based on the portion of their income derived in-state.

Subsection: Sec. 43.22.035 (page 9, line 2) – Establishes that income from an individual’s share of partnerships and S corporations is taxable income.

Subsection: Sec. 43.22.040 (page 9, line 26) – Establishes that income of estates and trusts is taxable as if the estate or trust were an individual. The department of Revenue may establish regulations regarding the allocation of tax liability between the trust itself and the beneficiaries.

Subsection: Sec. 43.22.045 (page 10, line 9) – Establishes a process to determine how nonresident income is derived from a source in the state. Broadly, taxable nonresident income includes income earned from a business or property



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located in the state, wages and other compensation for services performed in the state, earnings on stock and other securities carried on in the state, and gambling proceeds and performance fees earned in the state.

Subsection: Sec. 43.22.050 (page 14, line 20) – Provides that the Department of Revenue shall adopt regulations to provide more complete guidance regarding business income from a source in the state as described in AS 43.22.045. These regulations must be consistent with the Multistate Tax Compact.

Subsection: Sec. 43.22.055 (page 15, line 6) – Provides that the Department of Revenue shall adopt regulations to provide more complete guidance regarding trust income from a source in the state.

Subsection: Sec. 43.22.060 (page 15, line 23) – Provides a process for the Department of Revenue to determine the taxable income of a part-year resident.

Subsection: Sec. 43.22.065 (page 16, line 5) – Allows the Department of Revenue to reallocate transactions between a personal service corporations or S corporations and its employee owners, if it is determined that the purpose of the transaction is primarily to evade income taxes.

Subsection: Sec. 43.22.070 (page 17, line 2) – The taxable year and method of accounting is the same as what a taxpayer uses for federal income tax purposes.

Subsection: Sec. 43.22.075 (page 17, line 11) – Provides for the filing of annual tax returns in a form and format prescribed by the Department of Revenue. The return, and all taxes owed, on the same date as the taxpayer's federal return. A taxpayer must provide, upon request, a copy of their federal tax return, and must notify the department of any alternation or modification of their federal return. Provides for refunds to be paid for overpaid taxes. Partnerships must provide necessary information to their partners so that the partners can file their taxes.

Subsection: Sec. 43.22.080 (page 18, line 21) – Provides for employers to withholding wages and salaries to approximate a taxpayer's liability for the year. Employers shall remit withheld taxes to the Department and shall provide employees with an annual report of their wages and withholding.

Subsection: Sec. 43.22.085 (page 19, line 21) – Partnerships must also file returns. If a partnership distributes income to a nonresident, they must withhold taxes from that partner.

Subsection: Sec. 43.22.090 (page 20, line 10) – Alaskans can opt to have some, or all of their PFD withheld to pay the tax due. The Department of Revenue shall establish the process for this.

Subsection: Sec. 43.22.095 (page 20, line 20) – DOR shall adopt regulations as needed to implement this chapter. Federal IRS regulations shall be considered persuasive unless federal law conflicts with our laws and regulations. The department may make adjustments to account for transactions between related persons that are for the primary purpose of reducing tax liability.

Subsection: Sec. 43.22.100 (page 21, line 24) – Adopts the IRS code by reference.

Subsection: Sec. 43.22.105 (page 22, line 3) – Allows the state to share taxpayer information with a banking institution related to direct deposits of tax refunds.

Subsection: Sec. 43.22.150 (page 22, line 14) – Adds multiple new definitions related to terms used in this chapter.



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Sec. 3 (page 25, line 25) - Directs the Department of Revenue to modify the PFD application, to allow applicants to direct some or all of their dividend towards their tax obligation.

Sec. 4 (page 25, line 31) - Repeals a former tax credit for political contributions that existed under Alaska's prior individual income tax which was repealed in 1980.

Sec. 5 (page 26, line 1) Applicability section conforming that the tax applies to income received on or after the effective date of the new tax.

Sec. 6 (page 26, line 5) Establishes an effective date of this Act.