

HOUSE BILL NO. 156

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES GALVIN, Groh

Introduced: 4/10/23

Referred: House Special Committee on Ways and Means, Finance

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

Chapter 22. Income Tax.

Sec. 43.22.010. Income tax on individuals. (a) Each calendar year or fraction of a calendar year, an income tax is imposed on the income of a

(1) resident individual, trust, or estate;

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

(b) The tax under this section for an individual or individuals filing jointly is two percent of taxable income over \$200,000.

(c) Two resident individuals who file a joint federal income tax return may determine the tax imposed by this chapter jointly under this section.

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

(1) individually; or

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

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

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

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

(2) a fraction, the

(A) numerator of which is the nonresident individual's income taxable under AS 43.22.045; and

(B) denominator of which is the nonresident individual's

1 taxable income computed as if the nonresident individual were a resident
2 individual.

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

7 **Sec. 43.22.020. Tax on trusts and estates.** (a) A tax is imposed for each
8 taxable year or portion of a taxable year on the taxable income of a resident or
9 nonresident trust or estate. The tax under this section for a trust or estate is \$20 plus
10 two percent of taxable income over \$200,000.

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 43.22.025. Credit for income taxes imposed by other jurisdictions. (a)

A resident individual, trust, or estate or part-year resident individual, trust, or estate is allowed a credit against the tax due under this chapter for an income tax that was imposed on the resident or part-year resident for the taxable year by another state or the political subdivision of another state on income derived from or connected with that state or political subdivision.

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

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

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

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

(i) the state;

1 (ii) a municipality of the state; or
 2 (iii) a public instrumentality, public authority, or public
 3 corporation created under state law;
 4 (D) interest or dividends on obligations or securities issued by
 5 the United States, or an authority, commission, or instrumentality of the United
 6 States, that the Internal Revenue Code exempts from federal income tax;
 7 (E) income taxes under this chapter;
 8 (F) a gain realized but not recognized under 26 U.S.C. 1031
 9 (Internal Revenue Code);
 10 (G) a deduction allowed in the determination of federal
 11 adjusted gross income that is directly or indirectly related to income that is not
 12 taxable under this chapter; and
 13 (H) income of an incomplete gift nongrantor trust to which a
 14 taxpayer transferred property, less deductions of the trust, if
 15 (i) the income and deductions of the trust would be
 16 taken into account in computing the taxpayer's federal taxable income
 17 if the trust in its entirety was treated as a grantor trust under the Internal
 18 Revenue Code;
 19 (ii) the trust is a resident trust;
 20 (iii) the trust does not qualify as a grantor trust under 26
 21 U.S.C. 671 - 679 (Internal Revenue Code); and
 22 (iv) the grantor's transfer of assets to the trust is treated
 23 as an incomplete gift under 26 U.S.C. 2511 (Internal Revenue Code);
 24 (2) minus, if included in federal adjusted gross income,
 25 (A) interest income or a dividend from an obligation that is
 26 exempt from taxation by a state under federal law;
 27 (B) a refund or credit for the overpayment of an income tax;
 28 (C) an ordinary and necessary expense, including an interest
 29 expense, paid or incurred during the taxable year, that is directly or indirectly
 30 related to income exempt under the Internal Revenue Code but taxable by the
 31 state;

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

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

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

(G) a gain from 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;

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

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

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

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

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

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

(5) an individual nonresident who files federal income taxes as a head of household is the product of \$19,400 and a fraction, the numerator of which is the nonresident individual's income taxable under AS 43.22.045, computed without the

deduction under this subsection, and the denominator of which is the nonresident individual's taxable income computed as if the nonresident individual were a resident individual and without the deduction under this subsection; the deduction under this paragraph may not exceed \$19,400 for each exemption claimed;

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

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

(1) be claimed by a trust;

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

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

(e) When calculating taxable income, a taxpayer

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

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

(3) shall include the modifications required by AS 43.20.144(b)(2), 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)

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

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

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

24 **Sec. 43.22.040. Taxable income of an estate, trust, or beneficiary.** (a) The
 25 taxable income of an estate or trust is determined as if the estate or trust were an
 26 individual and is subject to adjustments under AS 43.22.030 and reduction under 26
 27 U.S.C. 661 (Internal Revenue Code). The department may establish in regulation the
 28 method for determining the taxable income of an estate or trust, including the manner
 29 in which the adjustments under AS 43.22.030 will be allocated between the estate's or
 30 trust's taxable share and a beneficiary's distributive share. Unless otherwise provided
 31 by the department in regulation, an allocation must be made in proportion to the

1 estate's or trust's taxable share or the beneficiary's distributive share of the trust or
2 estate for federal income tax purposes.

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

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

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

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

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

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

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

1 deduction;

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

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

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

28 (7) compensation, salary, or wages for personal services rendered or
 29 performed in the state that are derived from a business, trade, profession, occupation,
 30 or employment carried on in the state; for purposes of this paragraph, personal
 31 services

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

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

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

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

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

14 (v) in connection with fishing, farming, or agriculture in
15 the state; or

16 (vi) for the federal government;

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

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

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

25 (B) derived from a business, trade, profession, occupation, or
26 employment carried on in the state by an individual who maintains or operates
27 an office, shop, store, warehouse, boat, plane, factory, agency, or other place
28 where the individual's affairs are systematically and regularly carried on,
29 regardless of other transactions carried on outside the state; this subparagraph
30 does not include income from an activity of an individual whose presence in
31 the state is casual, isolated, inconsequential, or ancillary to out-of-state

activities, except that, if a business, trade, profession, occupation, or employment is carried on partly in and partly outside the state, other than for the rendering of purely personal services by the individual, the taxable income derived from or connected with a source in the state is determined under AS 43.19 (Multistate Tax Compact) and AS 43.22.030;

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

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

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

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

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

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

(15) royalties or other compensation received for the use of a patent, copyright, secret process or formula, good will, mark, trade brand, franchise, or other

1 property having a taxable or business situs in the state;

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

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

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

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

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

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

29 (1) partner's distributive share for purposes of taxation under this
30 chapter;

31 (2) shareholder's pro-rata share of an S corporation for purposes of

1 taxation under this chapter.

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

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

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

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

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

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

29 (b) The department shall adopt regulations to determine the taxable income of
30 a part-year resident taxpayer who is granted a statutory stock option, restricted stock,
31 nonstatutory stock option, or a stock appreciation right and who, during the grant

1 period, performs services in the state for, or is employed in the state by, the
2 corporation granting the option, stock, or right.

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

7 (1) personal service corporation or S corporation performs
8 substantially all of its services for or on behalf of another corporation, partnership, or
9 other entity and the effect is the evasion of income tax; and

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

12 (b) For purposes of this section, evasion of income tax occurs when a personal
13 service corporation or S corporation is used to

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

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

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

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

24 (e) In this section,

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

28 (2) "personal service corporation" means a corporation whose principal
29 activity is the performance of personal services that are substantially performed by the
30 employee-owners of the corporation.

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

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

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

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

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

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

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

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

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

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

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

25 (e) A taxpayer shall notify the department in writing of an alteration in, or
26 modification of, the taxpayer's federal income tax return and of a recomputation of tax
27 or determination of deficiency, whether with or without assessment. A full statement
28 of the facts must accompany the notice. A taxpayer shall file the notice not later than
29 60 days after the final determination of the alteration, modification, recomputation, or
30 deficiency and shall pay any additional tax due under this chapter at that time. In this
31 subsection, "final determination" means the time that an amended federal return is

1 filed, a notice of deficiency or an assessment is mailed to the taxpayer by the Internal
2 Revenue Service, and the taxpayer has exhausted rights of appeal under federal law.

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

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

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

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

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

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

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

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

30 (4) shall furnish to an employee on or before January 31 of the
31 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(e) 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 income 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 income tax rate applicable to individuals for the taxable year.

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

(1) is a publicly traded partnership, as defined in 26 U.S.C. 7704(b)

1 (Internal Revenue Code); and

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

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

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

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

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

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

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

28 (b) A transaction or payment between related persons must have economic
29 substance, must serve a bona fide business purpose, and must not have occurred for
30 the primary purpose of lowering the tax due under this chapter. The department, after
31 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 income tax return may be released to a banking institution to verify the direct deposit of an income tax refund or correct an error in that deposit.

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
 - (ii) receives resident tuition;
- (G) location of an organization of which the individual is a member;
- (H) location of a parent, child, grandchild, or great-grandchild;
- (I) location of dental and medical personnel that provide services to the individual on a regular or consistent basis;
- (J) filing of a prior year tax return by the individual as a resident or nonresident;
- (K) location where an individual is registered to vote;

(L) location where an individual holds a resident fishing, hunting, or trapping license;

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

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

(4) "federal adjusted gross income" has the meaning given to "adjusted gross income" in 26 U.S.C. 62;

(5) "fiduciary" means a guardian, trustee, executor, administrator, receiver, or conservator or a person, whether individual or corporate, acting in a similar position of special confidence toward another;

(6) "head of household" means a single taxpayer, or married taxpayer where both spouses file separate returns, with a qualified dependent living in the same home for more than half the taxable year;

(7) "Internal Revenue Code" means the Internal Revenue Code (26 U.S.C. 1 et seq.), as amended;

(8) "irrevocable trust" means a trust or portion of a trust that is not subject to a power to revest title in a person whose property constitutes the trust or a portion of the trust;

(9) "nonresident estate" means an estate other than a resident estate or part-year resident estate;

(10) "nonresident individual" means an individual who is not a resident of the state for any portion of the taxable year;

(11) "nonresident trust" means a trust other than a resident trust or part-year resident trust;

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

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

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

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

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

5 (17) "related person" means a person that satisfies the definition of
 6 "related persons" in 26 U.S.C. 144 or 147 or a person in a relationship as described in
 7 26 U.S.C. 267(b) (Internal Revenue Code);

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

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

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

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

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

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

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

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

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

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

30 (i) an irrevocable trust;

31 (ii) a revocable trust and the trust has not become

1 irrevocable; or

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

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

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

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

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

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

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

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

17 **Sec. 43.23.092. Permanent fund dividend individual income tax payment.**

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

22 * **Sec. 4.** AS 43.05.085; AS 43.20.012(b), and 43.20.013 are repealed January 1, 2025.

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

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

27 * **Sec. 6.** This Act takes effect January 1, 2025.