

**SENATE BILL NO. 33**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY SENATOR LINCOLN

Introduced: 1/16/95

Referred: STA, JUD, FIN

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the taxation of income and to individual tax credits,  
2 including, as the taxpayer's option, application of the taxpayer's permanent fund  
3 dividend as a credit against the tax due; and providing for an effective date."

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

5 \* **Section 1.** AS 43.20.011 is amended by adding new subsections to read:

6 (g) There is imposed for each taxable year upon the taxable income of every  
7 resident, nonresident, and part-year resident individual and fiduciary of the state,  
8 except those subject to the rates in (h), (i), and (j) of this section, a tax computed  
9 according to the following table:

10	If the taxable income is:	Then the tax is:
11	Over \$31 but less than \$30,000	3.2 percent of taxable income
12	\$30,000 or more	\$960 plus 5.7 percent of the
13		excess over \$30,000.

14 (h) There is imposed for each taxable year upon the taxable income of every

1 resident, nonresident, and part-year resident married individual who makes a single  
2 return jointly with a spouse, as provided in 26 U.S.C. 6013 (Internal Revenue Code),  
3 and upon every resident, nonresident, and part-year resident surviving spouse, as  
4 defined in 26 U.S.C. 2(a) (Internal Revenue Code), a tax computed according to the  
5 following table:

6 If the taxable income is:	Then the tax is:
7 Over \$31 but less than \$50,000	3.2 percent of taxable income
8 \$50,000 or more	\$1,600 plus 5.7 percent of the 9 excess over \$50,000.

10 (i) There is imposed for each taxable year upon the taxable income of every  
11 resident, nonresident, and part-year resident head of a household, as defined in 26  
12 U.S.C. 2(b) (Internal Revenue Code), a tax computed according to the following table:

13 If the taxable income is:	Then the tax is:
14 Over \$31 but less than \$40,000	3.2 percent of taxable income
15 \$40,000 or more	\$1,280 plus 5.7 percent of the 16 excess over \$40,000.

17 (j) There is imposed for each taxable year upon the taxable income of every  
18 resident, nonresident, and part-year resident married individual who does not make a  
19 single return jointly with a spouse a tax computed according to the following table:

20 If the taxable income is:	Then the tax is:
21 Over \$31 but less than \$25,000	3.2 percent of taxable income
22 \$25,000 or more	\$800 plus 5.7 percent of the 23 excess over \$25,000.

24 (k) In (g) - (j) of this section, the tax on a nonresident or part-year resident  
25 individual or fiduciary is the tax computed on taxable income from all sources,  
26 multiplied by a fraction the numerator of which is adjusted gross income from sources  
27 in the state and the denominator of which is adjusted gross income from all sources.

28 (l) An individual shall determine the tax under this section using the same  
29 filing status as used on the individual's return filed under the provisions of 26 U.S.C.  
30 (Internal Revenue Code).

31 \* **Sec. 2.** AS 43.20.030(a) is amended to read:

1 (a) An individual, fiduciary, [IF A] corporation, or [A] partnership that has  
2 a corporation as a partner, that is required to make a return under the provisions of  
3 the Internal Revenue Code, [IT] shall file with the department [, WITHIN 30 DAYS  
4 AFTER THE FEDERAL RETURN IS REQUIRED TO BE FILED,] a return setting  
5 out

6 (1) the amount of tax due under this chapter, less allowable credits and  
7 payments claimed against the tax; and

8 (2) other information for the purpose of carrying out the  
9 provisions of this chapter that the department requires.

10 \* **Sec. 3.** AS 43.20.030(c) is amended to read:

11 (c) The [NOTWITHSTANDING (a) OF THIS SECTION, THE] total amount  
12 of tax imposed by this chapter is due and payable to the department at the same time  
13 and in the same manner as the tax payable to the United States Internal Revenue  
14 Service.

15 \* **Sec. 4.** AS 43.20.030(d) is amended to read:

16 (d) A taxpayer [, UPON REQUEST BY THE DEPARTMENT,] shall file with  
17 the return [FURNISH TO THE DEPARTMENT] a [TRUE AND] correct copy of the  
18 taxpayer's tax return [WHICH THE TAXPAYER HAS] filed with the United States  
19 Internal Revenue Service for the taxable year. Every taxpayer shall file an amended  
20 return with the department, and remit any additional tax and interest due  
21 [NOTIFY THE DEPARTMENT IN WRITING OF ANY ALTERATION IN, OR  
22 MODIFICATION OF, THE TAXPAYER'S FEDERAL INCOME TAX RETURN  
23 AND OF A RECOMPUTATION OF TAX OR DETERMINATION OF DEFICIENCY  
24 (WHETHER WITH OR WITHOUT ASSESSMENT). A FULL STATEMENT OF  
25 THE FACTS SHALL ACCOMPANY THIS NOTICE. THE NOTICE SHALL BE  
26 FILED] within 60 days after the final determination of the taxpayer's federal tax  
27 liability [MODIFICATION, RECOMPUTATION OR DEFICIENCY, AND THE  
28 TAXPAYER SHALL PAY THE ADDITIONAL TAX OR PENALTY UNDER THIS  
29 CHAPTER]. For purposes of this section, a final determination means [SHALL  
30 MEAN] the time that an amended federal return is filed or the date a federal [A  
31 NOTICE OF DEFICIENCY OR AN] assessment is made [MAILED TO THE

1 TAXPAYER BY THE INTERNAL REVENUE SERVICE, EXCEPT THAT IN NO  
2 EVENT WILL THERE BE A FINAL DETERMINATION FOR PURPOSES OF THIS  
3 SECTION UNTIL THE TAXPAYER HAS EXHAUSTED RIGHTS OF APPEAL  
4 UNDER FEDERAL LAW].

5 \* **Sec. 5.** AS 43.20.031 is amended by adding new subsections to read:

6 (j) The gross income of an individual or a fiduciary is gross income as defined  
7 in 26 U.S.C. 61 (Internal Revenue Code), and includes those items specifically  
8 included in gross income under 26 U.S.C. 71 - 26 U.S.C. 90 (Subtitle A, Ch. 1B, Part  
9 II of the Internal Revenue Code) and excludes those items specifically excluded from  
10 gross income under 26 U.S.C. 101 - 26 U.S.C. 137 (Subtitle A, Ch. 1B, Part III of the  
11 Internal Revenue Code), with the following modifications:

12 (1) a taxpayer who receives a cost-of-living allowance that is exempt  
13 from federal income tax shall determine and include that amount as part of the  
14 taxpayer's income as if the cost-of-living allowance were not exempt;

15 (2) a taxpayer who receives interest upon obligations of a state, or  
16 interest upon obligations of a political or municipal subdivision of a state, that is  
17 exempt from federal income tax shall determine and include that amount as part of the  
18 taxpayer's income as if the interest were not exempt.

19 (k) The following adjustments to the gross income of an individual or fiduciary  
20 are allowed as deductions in arriving at adjusted gross income under this section:

21 (1) the deductions allowable under 26 U.S.C. 62 (Internal Revenue  
22 Code)

23 (A) attributable to a trade or business carried on by a taxpayer;

24 (B) from the sale or exchange of property;

25 (C) attributable to property held for the production of rents or  
26 royalties;

27 (D) for the premature withdrawal of money from time savings  
28 accounts or deposits;

29 (E) for alimony;

30 (2) interest received on obligations of the United States;

31 (3) refunds of state income taxes included in gross income.

1 (l) The taxable income of a fiduciary is its adjusted gross income.

2 (m) The taxable income of an individual taxpayer is the taxpayer's adjusted  
3 gross income, less personal exemptions. An individual taxpayer may deduct from  
4 adjusted gross income an amount that is the greater of

5 (1) the number of personal exemptions to which the taxpayer is entitled  
6 under 26 U.S.C. 151 (Internal Revenue Code) multiplied by the amount per exemption  
7 authorized by that section, limited to \$3,000 per exemption, and not adjusted for  
8 inflation; or

9 (2) an amount of the taxpayer's income equal to 100 percent of the  
10 federal poverty level guidelines for the tax year applicable to the number of  
11 exemptions claimed by the taxpayer; the federal poverty level guidelines are those  
12 computed for Alaska and reported as required by 42 U.S.C. 9847 and 42 U.S.C.  
13 9902(2).

14 (n) In this section, "individual" means a resident, nonresident, or part-year  
15 resident individual, and "fiduciary" means a resident, nonresident, or part-year resident  
16 fiduciary.

17 \* **Sec. 6.** AS 43.20 is amended by adding a new section to read:

18 Sec. 43.20.032. TAX CALCULATION FOR NONRESIDENTS AND PART-  
19 YEAR RESIDENTS AND FIDUCIARIES. (a) In computing the tax of a nonresident,  
20 a part-year resident individual, or a fiduciary under AS 43.20.011(k), the part of the  
21 adjusted gross income attributable to sources in the state is determined under  
22 AS 43.20.040.

23 (b) In computing adjusted gross income attributable to sources in the state for  
24 a nonresident, a part-year resident individual, or a fiduciary, deductions and  
25 adjustments are allowed only to the extent that they are connected with income that  
26 arises from sources in the state or property having a situs for taxation in the state.

27 (c) In computing the personal exemptions authorized by AS 43.20.031(m), a  
28 nonresident or part-year resident is allowed a prorated deduction in the ratio provided  
29 by this subsection. The ratio for prorating is the taxpayer's adjusted gross income  
30 from state sources divided by the taxpayer's adjusted gross income from all sources.  
31 The ratio may not exceed 100 percent. For purposes of this subsection, the adjusted

1 gross income means the taxpayer's gross income as defined by 26 U.S.C. 62, modified  
2 by AS 43.20.031(j) and (k).

3 \* **Sec. 7.** AS 43.20 is amended by adding a new section to read:

4 Sec. 43.20.034. SURCHARGE ON INDIVIDUAL TAXABLE INCOME. (a)  
5 In addition to the tax imposed by AS 43.20.011(g) - (j), there is levied a surcharge on  
6 the amount of the income taxable under AS 43.20.011(g) - (j). The surcharge is  
7 computed according to the following table:

8 If the taxable income is:	Then the surcharge is:
9 \$50,000, but less than \$100,000	one percent of taxable income
10 \$100,000 or more	\$1,000, plus an additional one 11 percent of taxable income for each 12 \$50,000 or fraction of \$50,000 of 13 taxable income that exceeds 14 \$100,000, not to exceed a total of 15 eight percent of taxable income.

16 (b) The surcharge imposed by (a) of this section is in addition to the tax  
17 imposed by AS 43.20.011. A person required to pay the surcharge imposed by (a) of  
18 this section shall make a report and pay the tax in the same manner as required for the  
19 tax imposed by AS 43.20.011. Provisions in this chapter applicable to determination  
20 of and adjustments to the tax imposed by AS 43.20.011(g) - (j) also apply to the  
21 surcharge imposed by (a) of this section.

22 \* **Sec. 8.** AS 43.20.040(b) is amended to read:

23 (b) In this section, income is from a source having a taxable or business situs  
24 in the state if it is derived from

- 25 (1) owning or operating business facilities or property in the state;
- 26 (2) conducting business, farming, or fishing operations in the state;
- 27 (3) [REPEALED
- 28 (4)] a partnership **that** [WHICH] transacts business in the state;
- 29 **(4)** [(5)] a corporation **that** [WHICH] transacts business in the state  
30 **and that** [WHICH] has elected to file federal returns under **26 U.S.C. 1361 - 1379**  
31 **(Subtitle A, Ch. 1S, Internal Revenue Code)** [SUBCHAPTER S OF THE

1 INTERNAL REVENUE CODE];

2 (5) [(6) REPEALED

3 (7)] engaging in any other activity from which income is received,  
4 realized, or derived in the state;

5 (6) working for salary or wages in the state;

6 (7) an estate or trust deriving income from sources in the state.

7 \* **Sec. 9.** AS 43.20.040 is amended by adding a new subsection to read:

8 (d) With regard to the tax under AS 43.20.011(g) - (j), if a business, trade, or  
9 profession, other than the rendering of purely personal services, is carried on partly  
10 inside and partly outside the state, the income from sources in the state is determined  
11 under AS 43.19 (Multistate Tax Compact).

12 \* **Sec. 10.** AS 43.20 is amended by adding a new section to read:

13 Sec. 43.20.062. CREDITS AGAINST TAX. (a) A resident is allowed as a  
14 credit against the tax otherwise due under this chapter the amount of income tax  
15 imposed on the taxpayer for the taxable year by another state or territory of the United  
16 States on income derived from sources in the other state or territory that is also subject  
17 to tax under this chapter.

18 (b) The credit allowed in (a) of this section is limited to that proportion of the  
19 tax computed under this chapter that the taxable income from the other state or  
20 territory bears to total taxable income. The credit may not exceed the actual tax paid  
21 to the other state or territory.

22 (c) The amounts deducted and withheld as taxes under this chapter during a  
23 calendar year are allowed as credits to the taxpayer against the tax imposed by this  
24 chapter.

25 (d) A taxpayer who qualifies for receipt of the Alaska permanent fund  
26 dividend under AS 43.23 may, under regulations adopted by the department, request  
27 the department to apply the dividend as a credit against the tax imposed by this  
28 chapter.

29 \* **Sec. 11.** AS 43.20.065 is amended to read:

30 Sec. 43.20.065. ALLOCATION AND APPORTIONMENT. A **corporate**  
31 taxpayer who has income from business activity **that** [WHICH] is taxable both inside

1 and outside the state or income from other sources both inside and outside the state  
2 shall allocate and apportion net income under AS 43.19 (Multistate Tax Compact), or  
3 as provided by this chapter.

4 \* **Sec. 12.** AS 43.20 is amended by adding a new section to read:

5 Sec. 43.20.171. COLLECTION OF INCOME TAX AT SOURCE. (a) Every  
6 employer making payment of wages or salaries shall deduct and withhold an amount  
7 of tax computed in a manner to approximate the amount of tax due on those wages  
8 under this chapter for that year. The employer shall remit withheld taxes to the  
9 department, together with a return or report prescribed by the department, at the time  
10 or times required by the department by regulation. The department shall publish the  
11 rate of withholding required by this section. Every employer making a deduction and  
12 a withholding shall furnish to the employee no later than January 31 of the succeeding  
13 year, or within 30 days after termination of employment, whichever is earlier, a written  
14 statement on a form prescribed by the department showing

- 15 (1) the name and taxpayer identification number of the employer;
- 16 (2) the name and social security number of the employee;
- 17 (3) the total amount of wages and other compensation; and
- 18 (4) the total amount deducted and withheld as tax.

19 (b) Every employer making payments of wages or salaries earned in the state,  
20 regardless of the place where the payment is made,

21 (1) is liable for the payment of the tax required to be deducted and  
22 withheld under this section and is not liable to an individual for the amount of the  
23 payment; and

24 (2) shall make return of and pay to the department the amount of tax  
25 levied that the employer is required to deduct and withhold under this chapter.

26 (c) An employer who fails to comply with this section is subject to the  
27 penalties set out in AS 43.05.220(d).

28 (d) If the employer is the United States or the state or a political subdivision  
29 of the state, or an agency or instrumentality of one or more of those entities, the return  
30 of the amount deducted and withheld on wages or salaries may be made by an officer  
31 of the employer having control of the payment of the wages or salaries or who is

1 appropriately designated for that purpose.

2 (e) In this section, "employee," "employer," and "wages" have the meanings  
3 given to them under 26 U.S.C. (Internal Revenue Code).

4 \* **Sec. 13.** AS 43.20.340 is amended to read:

5 Sec. 43.20.340. DEFINITIONS. In this chapter,

6 (1) "bank" means a financial institution, including a national banking  
7 association;

8 (2) "corporation" includes an association, joint-stock company, and an  
9 insurance company;

10 (3) [REPEALED,

11 (4)] **"domicile" means the location of an individual's true, fixed,**  
12 **permanent home and principal establishment, to which the individual intends to**  
13 **return from a temporary or transitory absence;**

14 (4) **"fiduciary" means an estate, a trust, a guardian, trustee,**  
15 **executor, administrator, receiver, conservator, or a person acting in a fiduciary**  
16 **capacity for another or for the estate of a deceased person;**

17 (5) "fiscal year" means an accounting period of 12 months ending on  
18 the last day of a month other than December;

19 (6) [(5)] "includes" and "including" when used in a definition do not  
20 exclude other things otherwise within the meaning of the word defined;

21 (7) **"individual" means a natural person, married or unmarried,**  
22 **adult or minor, subject to payment of an income tax under 26 U.S.C. (Internal**  
23 **Revenue Code);**

24 (8) [(6)] "Internal Revenue Code" means **26 U.S.C. (Internal Revenue**  
25 **Code of the United States)** [THE INTERNAL REVENUE CODE OF THE UNITED  
26 STATES (26 U.S.C.)] as the code exists now or as hereafter amended, as the code and  
27 amendments apply to the normal taxes and surtax on net incomes, which amendments  
28 are operative for the purposes of this chapter as of the time they became operative or  
29 will become operative under federal law;

30 (9) **"nonresident" means an individual who is not a resident or**  
31 **part-year resident;**

1                   (10) [(7)] "part-year resident" means an individual who enters or leaves  
2 the state during the taxable year and who has resided or was domiciled in the state for  
3 a period of less than 12 months during the taxable year;

4                   (11) [(8)] "person" means an individual, a trust or estate, or partnership,  
5 or a corporation;

6                   (12) **"resident" means an individual who, during the entire taxable**  
7 **year, was domiciled in or resided in the state; an individual does not lose resident**  
8 **status simply by reason of attending an educational institution or by serving in**  
9 **the armed forces;**

10                  (13) [(9)] "taxable year" means the calendar year or the fiscal year  
11 ending during the calendar year upon the basis of which the net income is computed  
12 under this chapter; "taxable year" includes, in the case of a return made for a fractional  
13 part of a year under this chapter, the period for which the return is made;

14                  (14) [(10)] "taxpayer" means a person subject to a tax imposed by this  
15 chapter;

16                  (15) [(11)] "trade or business" includes the engaging in or carrying on  
17 of a trade, business, profession, vocation, employment, and rendition of services or  
18 commercial activity and includes the performance of the function of a public office.

19 \* **Sec. 14.** AS 47.45.120(a) is amended to read:

20                  (a) Bonuses received under this chapter are exempt from all **municipal**  
21 **[STATE AND POLITICAL SUBDIVISION]** taxes except sales and use taxes. **[NO**  
22 **BONUS RECEIVED UNDER THIS CHAPTER MAY BE EXEMPT FROM A**  
23 **FEDERAL TAX REQUIREMENT.]**

24 \* **Sec. 15.** AS 43.05.085, AS 43.20.012, and 43.20.013 are repealed.

25 \* **Sec. 16.** Sections 1 - 14 of this Act apply to income received on or after the effective  
26 date of this Act.

27 \* **Sec. 17.** This Act takes effect January 1, 1996.