

SENATE BILL NO. 133

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/12/97

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a small business development tax credit under the Alaska
2 Net Income Tax Act; and providing for an effective date."

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

4 * **Section 1.** PURPOSE. (a) The legislature finds that affiliated corporations with a
5 common corporate ownership, as well as large non-affiliated corporations, possess advantages
6 not available to small business corporations that do not share a common corporate ownership
7 with other corporations. These advantages include economies of scale and management, as
8 well as easier access to investment capital and favorable interest rates. Therefore, affiliated
9 corporations and large corporations have a competitive advantage over these small business
10 corporations with respect to making investments.

11 (b) In order to allow small businesses to compete more effectively and to induce
12 incremental investment from the small business sector that will have a multiplier effect on the
13 economy, producing more jobs and stimulating other businesses, a limited tax credit under the
14 Alaska Net Income Tax Act for investments in new property by eligible small business

1 corporations is desirable.

2 * **Sec. 2.** AS 43.20 is amended by adding a new section to article 1 to read:

3 **Sec. 43.20.047. Small business development tax credit.** (a) A taxpayer with
4 a monthly average of fewer than 50 employees that is not a member of an affiliated
5 group of two or more corporations as defined in AS 43.20.073(g)(2) may claim a small
6 business development tax credit of 10 percent of the first \$100,000 of qualified
7 investment in new property first placed into service exclusively in the state in a tax
8 year beginning after December 31, 1996, but beginning before January 1, 2000.

9 (b) The tax credit allowed under this section

10 (1) may not exceed 50 percent of the taxpayer's tax liability under this
11 chapter; and

12 (2) shall be taken before all other credits allowed under this title.

13 (c) An unused tax credit under this section may be carried forward and applied
14 first against the tax liability for the following two tax years.

15 (d) If before the close of three years after the last day of the tax year for
16 which a credit was claimed, a taxpayer disposes of or removes from the state the
17 property for which the taxpayer had claimed a credit under this section, the taxpayer's
18 tax liability in the tax year of the disposal or removal of the property is increased by
19 a percentage of the credit claimed as follows:

20 (1) 100 percent, if the property is disposed of or removed

21 (A) in the same tax year for which the credit is claimed; or

22 (B) within the first six months of the following tax year;

23 (2) 75 percent if the property is disposed of or removed within six
24 months after the close of the period described in (1)(B) of this subsection;

25 (3) 50 percent if the property is disposed of or removed within
26 12 months after the close of the period described in (2) of this subsection;

27 (4) 25 percent if the property is disposed of or removed within
28 12 months after the close of the period described in (3) of this subsection.

29 (e) For purposes of (d) of this section, property is not considered disposed of
30 or removed by reason of a change in the form of business of the taxpayer, if the
31 property is retained in the business of the taxpayer.

1 (f) A credit shall be allowed under this section regardless of whether the
2 taxpayer has made an election to expense the qualified investment in the property for
3 federal income tax purposes. Nothing in this subsection affects the tax basis of the
4 property under this chapter. Except as otherwise provided in this chapter, the tax basis
5 of the property under this chapter shall follow the federal tax basis of the property.

6 (g) Qualified investment upon which a credit is claimed under this section may
7 not be considered for any other tax credit under this title.

8 (h) For the purposes of (a) of this section, a taxpayer's monthly average
9 number of employees is determined based on the taxpayer's employment statistics as
10 reported to the Department of Labor under AS 23.20 and regulations adopted under
11 that chapter

12 (1) for the calendar year preceding the year in which the credit under
13 this section is initially claimed; or

14 (2) for the first quarter of the calendar year in which the credit under
15 this section is initially claimed if the taxpayer did not report employment statistics for
16 the calendar year described in (1) of this subsection.

17 (i) A taxpayer may not claim the tax credit allowed under this section if the
18 taxpayer is in arrears in the payment of contributions under AS 23.20 or a tax under
19 this title. For purposes of this subsection, a taxpayer is not in arrears if the
20 contribution or tax is under administrative or judicial appeal.

21 (j) In this section,

22 (1) "employee" means an individual in employment as described in
23 AS 23.20.525 and 23.20.526;

24 (2) "exclusively in the state" means all use of the property is in the
25 state;

26 (3) "first placed into service" means the moment when property is first
27 used for its intended purpose;

28 (4) "new property" means property whose original use commences with
29 the taxpayer and does not include property first used by any other person;

30 (5) "qualified investment" means an investment cost in depreciable
31 tangible personal property for exclusive business use having a useful life of three years
32 or more but does not include an investment cost in motor vehicles, aircraft, watercraft,
33 leased property, or property to be permanently attached or incorporated into real
34 property;

35 (6) "tax liability" means the liability for taxes under this chapter

1 calculated before credits allowed under this chapter are taken;

2 (7) "useful life" means the useful life of the personal property that is
3 or would be applicable for the purposes of depreciation.

4 * **Sec. 3.** AS 43.20.047 is repealed.

5 * **Sec. 4.** Sections 1 and 2 of this Act are retroactive to January 1, 1997.

6 * **Sec. 5.** Sections 1, 2, and 4 of this Act take effect immediately under AS 01.10.070(c).

7 * **Sec. 6.** Section 3 of this Act takes effect December 1, 2002.