

**HOUSE BILL NO. 124**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE JAMES

Introduced: 3/5/99

Referred: State Affairs, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the taxation of income and providing a credit for certain  
2 property taxes."

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

4 \* **Section 1.** AS 29.45.020 is amended by adding a new subsection to read:

5 (c) A municipality that levies and collects property taxes shall also notify  
6 taxpayers what percentage of each tax dollar is used to fund education, including  
7 public schools and the retirement of school construction debt.

8 \* **Sec. 2.** AS 43.20.011 is amended by adding a new subsection to read:

9 (g) For each taxable year or fractional part of a taxable year after  
10 December 31, 1999, there is imposed a tax of one-half of one percent on the selected  
11 net income of every individual and fiduciary derived from sources in the state, as  
12 determined under AS 43.20.040.

13 \* **Sec. 3.** AS 43.20.030(a) is amended to read:

14 (a) A [IF A] corporation, [OR] a partnership that has a corporation as a partner,

1 **an individual, or a fiduciary that** is required to make a return under the provisions  
 2 of the Internal Revenue Code [, IT] shall file with the department [, WITHIN 30  
 3 DAYS AFTER THE FEDERAL RETURN IS REQUIRED TO BE FILED,] a return  
 4 setting out

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

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

9 \* **Sec. 4.** AS 43.20.030(c) is amended to read:

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

14 \* **Sec. 5.** AS 43.20.030(d) is amended to read:

15 (d) A taxpayer [, UPON REQUEST BY THE DEPARTMENT,] shall **file with**  
 16 **the return** [FURNISH TO THE DEPARTMENT] a [TRUE AND] correct copy of the  
 17 **taxpayer's** tax return [WHICH THE TAXPAYER HAS] filed with the United States  
 18 Internal Revenue Service **for the taxable year**. Every taxpayer shall **file an amended**  
 19 **return with the department and remit any additional tax and interest due**  
 20 [NOTIFY THE DEPARTMENT IN WRITING OF ANY ALTERATION IN, OR  
 21 MODIFICATION OF, THE TAXPAYER'S FEDERAL INCOME TAX RETURN  
 22 AND OF A RECOMPUTATION OF TAX OR DETERMINATION OF DEFICIENCY  
 23 (WHETHER WITH OR WITHOUT ASSESSMENT). A FULL STATEMENT OF  
 24 THE FACTS SHALL ACCOMPANY THIS NOTICE. THE NOTICE SHALL BE  
 25 FILED] within 60 days after the final determination of the **taxpayer's federal tax**  
 26 **liability** [MODIFICATION, RECOMPUTATION OR DEFICIENCY, AND THE  
 27 TAXPAYER SHALL PAY THE ADDITIONAL TAX OR PENALTY UNDER THIS  
 28 CHAPTER]. For purposes of this section, a final determination **means** [SHALL  
 29 MEAN] the time that an amended federal return is filed or **the date a federal** [A  
 30 NOTICE OF DEFICIENCY OR AN] assessment is **made** [MAILED TO THE  
 31 TAXPAYER BY THE INTERNAL REVENUE SERVICE], except that in no event

1 will there be a final determination for purposes of this section until the taxpayer has  
2 exhausted rights of appeal under federal law.

3 \* **Sec. 6.** AS 43.20.030 is amended by adding a new subsection to read:

4 (h) An individual whose only selected net income is from wages or salaries  
5 for which tax has already been deducted and remitted by the individual's employer is  
6 not required to file a return but may do so.

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

8 **Sec. 43.20.032. Tax calculation for nonresidents and part-year residents**  
9 **and fiduciaries.** In computing the tax under AS 43.20.011(g) of a nonresident or a  
10 part-year resident individual or fiduciary, the part of the taxpayer's selected net income  
11 attributable to sources in the state is determined under AS 43.20.040.

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

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

15 (1) owning or operating business facilities or property in the state;

16 (2) conducting business, farming, or fishing operations in the state;

17 (3) [REPEALED

18 (4)] a partnership **that** [WHICH] transacts business in the state;

19 **(4)** [(5)] a corporation **that** [WHICH] transacts business in the state  
20 **and that** [WHICH] has elected to file federal returns under **26 U.S.C. 1361 - 1379**  
21 **(Subtitle A, Ch. 1S, Internal Revenue Code)** [SUBCHAPTER S OF THE  
22 INTERNAL REVENUE CODE];

23 **(5)** [(6) REPEALED

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

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

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

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

29 (d) With regard to the tax under AS 43.20.011(g), if a business, trade, or  
30 profession is carried on partly inside and partly outside the state, the income from  
31 sources in the state is determined under AS 43.19 (Multistate Tax Compact).

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

2 **Sec. 43.20.062. Credits against tax.** (a) The amounts deducted and withheld  
3 as taxes under this chapter during a calendar year are allowed as credits to the taxpayer  
4 against the tax imposed by this chapter.

5 (b) An individual or fiduciary is allowed as a credit against the tax otherwise  
6 due under this chapter the amount of any real property taxes paid by the individual or  
7 the fiduciary to a municipality in this state under AS 29.45 and used by the  
8 municipality to fund education, including public schools and the retirement of school  
9 construction debt. This credit may not exceed the amount of tax due.

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

11 **Sec. 43.20.065. Allocation and apportionment.** A corporate taxpayer who  
12 has income from business activity that [WHICH] is taxable both inside and outside  
13 the state or income from other sources both inside and outside the state shall allocate  
14 and apportion net income under AS 43.19 (Multistate Tax Compact), or as provided  
15 by this chapter.

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

17 **Sec. 43.20.171. Collection of income at source.** (a) Every employer making  
18 payment of wages or salaries after December 31, 1999, shall deduct and withhold an  
19 amount of tax computed in a manner to approximate the amount of tax due on those  
20 wages or salaries under this chapter for that year. The employer shall remit withheld  
21 taxes to the department, together with a return or report prescribed by the department,  
22 at the time or times required by the department by regulation. The department shall  
23 publish the rate of withholding required by this section. Every employer making a  
24 deduction and a withholding shall furnish to the employee no later than January 31 of  
25 the succeeding year, or within 30 days after termination of employment, whichever is  
26 earlier, a written statement on a form prescribed by the department showing

- 27 (1) the name and taxpayer identification number of the employer;  
28 (2) the name and social security number of the employee;  
29 (3) the total amount of wages and other compensation; and  
30 (4) the total amount deducted and withheld as tax.

31 (b) Every employer making payments of wages or salaries earned in the state,

1 regardless of the place where the payment is made,

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

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

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

9 (d) If the employer is the United States or the state or a political subdivision  
10 of the state, or an agency or instrumentality of one or more of those entities, the return  
11 of the amount deducted and withheld on wages or salaries may be made by an officer  
12 of the employer having control of the payment of the wages or salaries or who is  
13 appropriately designated for that purpose.

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

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

17 **Sec. 43.20.340. Definitions.** In this chapter,

18 (1) "bank" means a financial institution, including a national banking  
19 association;

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

22 (3) **"fiduciary" means an estate, a trust, a guardian, trustee,**  
23 **executor, administrator, receiver, conservator, or a person acting in a fiduciary**  
24 **capacity for another or for the estate of a deceased person;** [REPEALED,]

25 (4) "fiscal year" means an accounting period of 12 months ending on  
26 the last day of a month other than December;

27 (5) **"individual" means a natural person, married or unmarried,**  
28 **adult or minor, who is subject to the obligation to pay an income tax under 26**  
29 **U.S.C. (Internal Revenue Code)** ["INCLUDES" AND "INCLUDING" WHEN USED  
30 IN A DEFINITION DO NOT EXCLUDE OTHER THINGS OTHERWISE WITHIN  
31 THE MEANING OF THE WORD DEFINED];

1 (6) "Internal Revenue Code" means the Internal Revenue Code of the  
 2 United States (26 U.S.C.) as the code exists now or as hereafter amended, as the code  
 3 and amendments apply to the normal taxes and surtax on net incomes, which  
 4 amendments are operative for the purposes of this chapter as of the time they became  
 5 operative or will become operative under federal law;

6 (7) **"nonresident" means an individual who is not a resident or**  
 7 **part-year resident;**

8 (8) "part-year resident" means an individual who **becomes a resident**  
 9 **or loses the status of a resident** [ENTERS OR LEAVES THE STATE] during the  
 10 taxable year [AND WHO HAS RESIDED OR WAS DOMICILED IN THE STATE  
 11 FOR A PERIOD OF LESS THAN 12 MONTHS DURING THE TAXABLE YEAR];

12 (9) [(8)] "person" means an individual, a trust, **an** [OR] estate, **a** [OR]  
 13 partnership, or a corporation;

14 (10) **"resident" has the meaning given to the term "state resident"**  
 15 **in AS 43.23.095;**

16 (11) **"selected net income" means income for the taxable year from**  
 17 **the following sources as reported by the taxpayer to the United States Internal**  
 18 **Revenue Service:**

19 (A) **wages, salaries, tips, and other earned income as**  
 20 **reported on Form W-2;**

21 (B) **business income as reported on Schedule C or Schedule**  
 22 **C-EZ;**

23 (C) **income from rental estate, royalties, partnerships, S**  
 24 **corporations, trusts, and other sources as reported on Schedule E; and**

25 (D) **farm income as reported on Schedule F;**

26 (12) [(9)] "taxable year" means the calendar year or the fiscal year  
 27 ending during the calendar year upon the basis of which the net income is computed  
 28 under this chapter; "taxable year" includes, in the case of a return made for a fractional  
 29 part of a year under this chapter, the period for which the return is made;

30 (13) [(10)] "taxpayer" means a person subject to a tax imposed by this  
 31 chapter;

1                    **(14)** [(11)] "trade or business" includes the engaging in or carrying on  
2                    of a trade, business, profession, vocation, employment, and rendition of services or  
3                    commercial activity and includes the performance of the function of a public office.  
4                    \* **Sec. 14.** AS 43.05.085, AS 43.20.012, and 43.20.013 are repealed.