

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 124

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE JAMES

Introduced: 3/19/99

Referred: State Affairs, Health, Education and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the taxation of income, permitting the legislature to use
2 certain income tax proceeds to make appropriations for public schools, and
3 providing a credit against the tax for certain property taxes."

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

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

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

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

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

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

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

10 * **Sec. 4.** 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. 5.** 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 event
 2 will there be a final determination for purposes of this section until the taxpayer has
 3 exhausted rights of appeal under federal law.

4 * **Sec. 6.** AS 43.20.030(e) is amended to read:

5 (e) The department may credit or refund overpayments of taxes, taxes
 6 erroneously or illegally assessed or collected, penalties collected without authority, and
 7 taxes that are found unjustly assessed or excessive in amount, or otherwise wrongfully
 8 collected. The department shall set limitations, specify the manner in which claims
 9 for credits or refunds are made, and give notice of allowance or disallowance. When
 10 a refund is allowed to a taxpayer **that is an individual or fiduciary**, it shall be paid
 11 out of the **special account within the** general fund **for the proceeds of the tax on the**
 12 **selected net income of individuals and fiduciaries imposed under AS 43.20.011(g)**,
 13 on a warrant issued under a voucher approved by the department. **Refunds allowed**
 14 **to other taxpayers shall be paid out of the general fund on a warrant issued**
 15 **under a voucher approved by the department.**

16 * **Sec. 7.** AS 43.20.030 is amended by adding a new subsection to read:

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

20 * **Sec. 8.** AS 43.20 is amended by adding a new section to read:

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

25 * **Sec. 9.** AS 43.20.040(b) is amended to read:

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

- 28 (1) owning or operating business facilities or property in the state;
- 29 (2) conducting business, farming, or fishing operations in the state;
- 30 (3) [REPEALED
- 31 (4)] a partnership **that** [WHICH] transacts business in the state;

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

5 (5) [(6) REPEALED

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

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

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

10 * **Sec. 10.** AS 43.20.040 is amended by adding a new subsection to read:

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

14 * **Sec. 11.** AS 43.20 is amended by adding a new section to read:

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

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

23 * **Sec. 12.** AS 43.20.065 is amended to read:

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

29 * **Sec. 13.** AS 43.20.160(d) is amended to read:

30 (d) All money collected by the department under this chapter shall be
 31 deposited in the general fund of the state. **The proceeds from the tax on the selected**

1 net income of individuals and fiduciaries imposed under AS 43.20.011(g) shall be
 2 deposited in a special account within the general fund. The legislature may make
 3 appropriations from this account for the system of public schools established
 4 under art. VII, sec. 1, Constitution of the State of Alaska.

5 * **Sec. 14.** AS 43.20 is amended by adding a new section to read:

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

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

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

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

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

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

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

1 of the employer having control of the payment of the wages or salaries or who is
2 appropriately designated for that purpose.

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

5 * **Sec. 15.** AS 43.20.270(o) is amended to read:

6 (o) The department may be made a party defendant in an action by a person
7 aggrieved by the unlawful seizure or sale of the person's property, but only the state
8 is responsible for a final money judgment secured against the department, and the
9 judgment shall be satisfied out of the **special account within the** general fund of the
10 state treasury **for the proceeds of the tax on the selected net income of individuals**
11 **and fiduciaries imposed under AS 43.20.011(g). Judgments to be paid to other**
12 **taxpayers shall be satisfied out of the general fund.**

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

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

15 (1) "bank" means a financial institution, including a national banking
16 association;

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

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

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

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

29 (6) "Internal Revenue Code" means the Internal Revenue Code of the
30 United States (26 U.S.C.) as the code exists now or as hereafter amended, as the code
31 and amendments apply to the normal taxes and surtax on net incomes, which

1 amendments are operative for the purposes of this chapter as of the time they became
2 operative or will become operative under federal law;

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

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

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

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

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

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

18 (B) **business income as reported on Schedule C or Schedule**
19 **C-EZ;**

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

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

23 (12) [(9)] "taxable year" means the calendar year or the fiscal year
24 ending during the calendar year upon the basis of which the net income is computed
25 under this chapter; "taxable year" includes, in the case of a return made for a fractional
26 part of a year under this chapter, the period for which the return is made;

27 (13) [(10)] "taxpayer" means a person subject to a tax imposed by this
28 chapter;

29 (14) [(11)] "trade or business" includes the engaging in or carrying on
30 of a trade, business, profession, vocation, employment, and rendition of services or
31 commercial activity and includes the performance of the function of a public office.

1 * **Sec. 17.** AS 43.05.085, AS 43.20.012, and 43.20.013 are repealed.