

2d SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 124

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES JAMES, Austerman

Introduced: 1/18/00

Referred: State Affairs, Health, Education and Social Services, 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, and permitting the legislature to use certain income tax proceeds
3 to make appropriations for public schools."

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 public schools and the
8 retirement of school construction debt.

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

10 (g) For each taxable year or fractional part of a taxable year after
11 December 31, 2000, there is imposed a tax of three percent on the selected net income
12 in excess of \$12,500 of every individual and fiduciary derived from sources in the
13 state, as determined under AS 43.20.040.

14 (h) For each taxable year or fractional part of a taxable year after

1 December 31, 2000, there is imposed a tax of one-half of one percent on the selected
 2 net income of every individual and fiduciary derived from sources in the state, as
 3 determined under AS 43.20.040.

4 (i) For purposes of (g) and (h) of this section,

5 (1) "selected net income" means income for the taxable year from the
 6 following sources as reported by the taxpayer to the United States Internal Revenue
 7 Service:

8 (A) wages, salaries, tips, and other earned income as reported
 9 on Form W-2;

10 (B) business income as reported on Schedule C or Schedule C-
 11 EZ;

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

14 (D) farm income as reported on Schedule F;

15 (2) the selected net income of an individual filing a joint federal
 16 income tax return is that portion of income from the sources set out in (1) of this
 17 subsection that is attributable to that individual's labor or assets; taxpayers shall
 18 allocate income from jointly held businesses or assets according to percentage of
 19 ownership.

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

21 (a) A [IF A] corporation, [OR] a partnership that has a corporation as a
 22 partner, **an individual, or a fiduciary that** is required to make a return under the
 23 provisions of the Internal Revenue Code [, IT] shall file with the department [,
 24 WITHIN 30 DAYS AFTER THE FEDERAL RETURN IS REQUIRED TO BE
 25 FILED,] a return setting out

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

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

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

31 (c) **The** [NOTWITHSTANDING (a) OF THIS SECTION, THE] total amount

1 of tax imposed by this chapter is due and payable to the department at the same time
 2 and in the same manner as the tax payable to the United States Internal Revenue
 3 Service.

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

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

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

25 (e) The department may credit or refund overpayments of taxes, taxes
 26 erroneously or illegally assessed or collected, penalties collected without authority, and
 27 taxes that are found unjustly assessed or excessive in amount, or otherwise wrongfully
 28 collected. The department shall set limitations, specify the manner in which claims
 29 for credits or refunds are made, and give notice of allowance or disallowance. When
 30 a refund **of taxes or penalties collected under AS 43.20.011(h)** is allowed to a
 31 taxpayer, it shall be paid out of the **special account within the** general fund **for the**

1 proceeds of the tax on the selected net income of individuals and fiduciaries
 2 imposed under AS 43.20.011(h), on a warrant issued under a voucher approved by
 3 the department. Refunds allowed to other taxpayers shall be paid out of the
 4 general fund on a warrant issued under a voucher approved by the department.

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

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

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

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

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

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

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

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

20 (3) [REPEALED

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

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

26 **(5)** [(6) REPEALED

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

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

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

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

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

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

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

8 (b) An individual or fiduciary is allowed as a credit against the tax imposed
 9 by AS 43.20.011(h) the amount of real property taxes on property owned by the
 10 individual or fiduciary paid to a municipality in this state under AS 29.45 and used by
 11 the municipality to fund public schools and the retirement of school construction debt.
 12 The credit for taxes paid on jointly owned property shall be proportional to that
 13 individual's or fiduciary's ownership interest in the property. This credit may not
 14 exceed the amount of tax due under AS 43.20.011(h).

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

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

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

22 (d) All money collected by the department under this chapter shall be
 23 deposited in the general fund of the state. **The proceeds from the tax on the selected**
 24 **net income of individuals and fiduciaries imposed under AS 43.20.011(h) shall be**
 25 **deposited in a special account within the general fund. The legislature may make**
 26 **appropriations from this account for the system of public schools established**
 27 **under art. VII, sec. 1, Constitution of the State of Alaska.**

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

29 **Sec. 43.20.171. Collection of income at source.** (a) Every employer making
 30 payment of wages or salaries after December 31, 2000, shall deduct and withhold an
 31 amount of tax computed in a manner to approximate the amount of tax due on those

1 wages or salaries under this chapter for that year. The employer shall remit withheld
 2 taxes to the department, together with a return or report prescribed by the department,
 3 at the time or times required by the department by regulation. The department shall
 4 publish the rate of withholding required by this section. Every employer making a
 5 deduction and a withholding shall furnish to the employee no later than January 31 of
 6 the succeeding year, or within 30 days after termination of employment, whichever is
 7 earlier, a written statement on a form prescribed by the department showing

- 8 (1) the name and taxpayer identification number of the employer;
- 9 (2) the name and social security number of the employee;
- 10 (3) the total amount of wages and other compensation; and
- 11 (4) the total amount deducted and withheld as tax under
 12 AS 43.20.011(g);
- 13 (5) the total amount deducted and withheld as tax under
 14 AS 43.20.011(h).

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

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

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

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

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

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

31 * **Sec. 15.** AS 43.20.340 is amended to read:

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

2 (1) "bank" means a financial institution, including a national banking
3 association;

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

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

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

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

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

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

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

27 (9) [(8)] "person" means an individual, a trust, **an** [OR] estate, **a** [OR]
28 partnership, or a corporation;

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

31 (11) [(9)] "taxable year" means the calendar year or the fiscal year

1 ending during the calendar year upon the basis of which the net income is computed
2 under this chapter; "taxable year" includes, in the case of a return made for a fractional
3 part of a year under this chapter, the period for which the return is made;

4 (12) [(10)] "taxpayer" means a person subject to a tax imposed by this
5 chapter;

6 (13) [(11)] "trade or business" includes the engaging in or carrying on
7 of a trade, business, profession, vocation, employment, and rendition of services or
8 commercial activity and includes the performance of the function of a public office.

9 * **Sec. 16.** AS 43.05.085; AS 43.20.012, and 43.20.013 are repealed.