

HOUSE BILL NO. 138

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE MOSES

Introduced: 3/15/99

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the taxation of income."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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

4 (g) For each taxable year or fractional part of a taxable year after
5 December 31, 1999, there is imposed a tax upon the taxable income of every resident,
6 nonresident, and part-year resident individual and fiduciary of the state. The tax
7 imposed by this subsection is determined as a percentage of the taxpayer's entire
8 federal income tax liability, except that the tax on a nonresident or part-year resident
9 individual or fiduciary is the tax determined as a percentage of the taxpayer's entire
10 federal income tax liability multiplied by a fraction the numerator of which is the
11 taxpayer's taxable income from sources in the state and the denominator of which is
12 the taxpayer's taxable income from all sources. The tax is determined as follows:

13 (1) for the taxable year after December 31, 1999, and through
14 December 31, 2000,
15 if the taxpayer's entire federal then the tax, as a percentage

1 income tax liability is: of the taxpayer's entire federal
2 income tax liability, is:
3 not more than \$20,000 5 percent
4 over \$20,000 10 percent;
5 (2) for the taxable year after December 31, 2000, and through
6 December 31, 2001,
7 if the taxpayer's entire federal then the tax, as a percentage
8 income tax liability is: of the taxpayer's entire federal
9 income tax liability, is:
10 not more than \$20,000 10 percent
11 over \$20,000 15 percent; and
12 (3) for each taxable year beginning after December 31, 2001,
13 if the taxpayer's entire federal then the tax, as a percentage
14 income tax liability is: of the taxpayer's entire federal
15 income tax liability, is:
16 not more than \$20,000 15 percent
17 over \$20,000 20 percent.

18 (h) An individual shall determine the tax under (g) of this section using the
19 same filing status as used on the individual's federal return.

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

21 (a) **An individual, fiduciary,** [IF A] corporation, or [A] partnership that has
22 a corporation as a partner **that** [,] is required to make a return under the provisions of
23 **26 U.S.C.** ([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. 3.** 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. 4.** 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 AND
 12 OF A RECOMPUTATION OF TAX OR DETERMINATION OF DEFICIENCY,
 13 WHETHER WITH OR WITHOUT ASSESSMENT. A FULL STATEMENT OF THE
 14 FACTS MUST ACCOMPANY THIS NOTICE. THE NOTICE SHALL BE FILED]
 15 within 60 days after the final determination of the **taxpayer's federal tax liability**
 16 [MODIFICATION, RECOMPUTATION OR DEFICIENCY, AND THE TAXPAYER
 17 SHALL PAY THE ADDITIONAL TAX OR PENALTY UNDER THIS CHAPTER].
 18 For purposes of this section, a final determination **means** [SHALL MEAN] the time
 19 that an amended federal return is filed or **the date a federal** [A NOTICE OF
 20 DEFICIENCY OR AN] assessment is **made** [MAILED TO THE TAXPAYER BY
 21 THE INTERNAL REVENUE SERVICE, EXCEPT THAT IN NO EVENT WILL
 22 THERE BE A FINAL DETERMINATION FOR PURPOSES OF THIS SECTION
 23 UNTIL THE TAXPAYER HAS EXHAUSTED RIGHTS OF APPEAL UNDER
 24 FEDERAL LAW].

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

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

30 (b) In computing the taxpayer's taxable income attributable to sources in the
 31 state for a nonresident or a part-year resident individual, or a fiduciary, deductions and

1 adjustments are allowed only to the extent that they are connected with income that
2 arises from sources in the state or property having a situs for taxation in the state.

3 * **Sec. 6.** AS 43.20.040(b) is amended to read:

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

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

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

8 (3) [REPEALED

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

10 **(4)** [(5)] a corporation **that** [WHICH] transacts business in the state
11 **and that** [WHICH] has elected to file federal returns under **26 U.S.C. 1361 - 1379**
12 **(Subtitle A, Ch. 1S, Internal Revenue Code)** [SUBCHAPTER S OF THE
13 INTERNAL REVENUE CODE];

14 **(5)** [(6) REPEALED

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

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

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

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

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

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

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

28 (b) A resident or part-year resident is allowed as a credit against the tax
29 otherwise due under this chapter the amount of income tax imposed on the taxpayer
30 for the taxable year by another state or territory of the United States on income derived
31 from sources in the other state or territory that is also subject to tax under this chapter.

1 However, the credit allowed in this subsection is limited to that proportion of the tax
2 computed under this chapter that the taxable income from the other state or territory
3 bears to total taxable income, and the credit may not exceed the actual tax paid to the
4 other state or territory.

5 (c) An individual or fiduciary is allowed as a credit against the tax otherwise
6 due under this chapter the amount of any real and personal property taxes paid by the
7 individual or the fiduciary to a municipality in this state under AS 29.45.

8 * **Sec. 9.** AS 43.20.065 is amended to read:

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

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

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

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

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

- 31 (1) is liable for the payment of the tax required to be deducted and

1 withheld under this section and is not liable to an individual for the amount of the
2 payment; and

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

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

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

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

14 * **Sec. 11.** AS 43.20.200(b) is amended to read:

15 (b) The same period of limitation upon the assessment and collection of taxes
16 imposed under this chapter and the same exceptions to it shall apply as provided in 26
17 U.S.C. 6501 - 6503 (Internal Revenue Code). In the case of additional tax due by
18 reason of a modification, recomputation, or determination of deficiency in a taxpayer's
19 federal income tax return, the period of limitation on assessment commences from the
20 date that the **amended return** [NOTICE] required in AS 43.20.030(d) is filed, and, if
21 no **amended return** [NOTICE] is filed, the tax may be assessed at any time.

22 * **Sec. 12.** AS 43.20.340 is amended to read:

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

24 (1) "bank" means a financial institution including a national banking
25 association;

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

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

31 (4) "fiscal year" means an accounting period of 12 months ending on

1 the last day of a month other than December;

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

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

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

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

18 (9) [(8)] "person" means an individual, a trust, **an** [OR] estate, **a** [OR]
 19 partnership, or a corporation;

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

22 (11) [(9)] "taxable year" means the calendar year or the fiscal year
 23 ending during the calendar year upon the basis of which the net income is computed
 24 under this chapter; "taxable year" includes, in the case of a return made for a fractional
 25 part of a year under this chapter, the period for which the return is made;

26 (12) [(10)] "taxpayer" means a person subject to a tax imposed by this
 27 chapter;

28 (13) [(11)] "trade or business" includes the engaging in or carrying on
 29 of a trade, business, profession, vocation, employment, and rendition of services or
 30 commercial activity and includes the performance of the function of a public office.

31 * **Sec. 13.** AS 43.05.085; AS 43.20.012, 43.20.013, and AS 47.45.120(a) are repealed.