

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 199
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES HUDSON, Scalzi

Introduced: 1/18/02

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to taxation, including taxation of income of individuals, estates, and**
2 **trusts."**

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

4 *** Section 1.** AS 43.20 is amended by adding a new section to read:

5 **Sec. 43.20.009. Tax on individuals, estates, and trusts.** (a) There is
6 imposed for each taxable year an income tax, computed as provided in this section, on
7 every

8 (1) resident individual; and

9 (2) nonresident and part-year resident individual, estate, and trust, with
10 income from sources in the state.

11 (b) For a resident individual,

12 (1) for calendar year 2002, the tax under this section is one percent of
13 the individual's income;

14 (2) for each calendar year after 2002, the tax under this section is two

1 and one-fourth percent of the individual's taxable income.

2 (c) For a nonresident or part-year resident individual, or for an estate or a trust,

3 (1) for the calendar year 2002, the tax under this section is one percent
4 of the individual's, estate's, or trust's income, multiplied by a fraction, the numerator of
5 which is taxable income from sources in the state and the denominator of which is
6 taxable income from all sources;

7 (2) for each calendar year after 2002, the tax under this section is two
8 and one-fourth percent of the individual's, estate's, or trust's taxable income, multiplied
9 by a fraction, the numerator of which is taxable income from sources in the state and
10 the denominator of which is taxable income from all sources.

11 (d) An individual whose income includes a cost-of-living allowance that is
12 exempt from the federal income tax shall determine and include that amount as part of
13 the individual's taxable income as if the cost-of-living allowance were not exempt.

14 (e) In this section, "taxable income" means adjusted gross income, as defined
15 in 26 U.S.C. 62 (Internal Revenue Code), and includes the income described in (d) of
16 this section.

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

18 (a) **Every individual, trust, estate, partnership, and** [IF A] corporation
19 **subject to tax under this chapter** [, OR A PARTNERSHIP THAT HAS A
20 CORPORATION AS A PARTNER, IS] required to make a return **of income** under
21 the provisions of the Internal Revenue Code [, IT] shall file with the department,
22 within 30 days after the federal return is required to be filed, a return setting out

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

25 (2) other information **that the department requires** for the purpose of
26 carrying out the provisions of this chapter [THAT THE DEPARTMENT
27 REQUIRES].

28 * **Sec. 3.** AS 43.20.031(c) is amended to read:

29 (c) In computing the tax under this chapter, **a corporation** [THE
30 TAXPAYER] is not entitled to deduct any taxes based on or measured by net income.

31 * **Sec. 4.** AS 43.20.040 is repealed and reenacted to read:

1 **Sec. 43.20.040. Income from sources in the state.** (a) In this chapter,
2 income from sources in the state includes

3 (1) compensation for personal services rendered in the state;

4 (2) working in the state for salary or wages;

5 (3) income from real or tangible personal property located in the state;

6 (4) income from stocks, bonds, notes, bank deposits, and other
7 intangible personal property having a taxable or business situs in the state; however,
8 the receipt of interest income from intangible property in the state does not alone
9 establish a taxable or business situs in the state;

10 (5) rentals and royalties for the use of or for the privilege of using, in
11 the state, patents, copyrights, secret processes and formulas, good will, marks, trade
12 brands, franchises, and other property having a taxable or business situs in the state;

13 (6) income distributed from a trust established under or governed by
14 the laws of the state;

15 (7) income of a trust established under or governed by the laws of the
16 state and income of the estate of a decedent who on the date of death was domiciled in
17 the state;

18 (8) income, from a source with a taxable or business situs in the state,
19 of

20 (A) a trust not established under or governed by the laws of the
21 state; or

22 (B) the estate of a decedent who on the date of death was not
23 domiciled in the state;

24 (9) income of whatever nature from a source with a taxable or business
25 situs in the state.

26 (b) Except as provided in (a)(4) of this section, in this section, income is from
27 a source with a taxable or business situs in the state if it is attributed to or derived from

28 (1) business facilities or property in the state;

29 (2) business, farming, or fishing activities in the state;

30 (3) conducting in the state the management or investment function for
31 intangible property;

1 (4) a partnership, limited liability company, estate, or trust conducting
2 business activities in the state;

3 (5) a corporation transacting business activities in the state that has
4 elected to file federal returns under subchapter S of the Internal Revenue Code;

5 (6) any other activity from which income is received, realized, or
6 derived in the state.

7 (c) If a business, trade, or profession is carried on partly inside and partly
8 outside the state, other than the rendering of purely personal services by an individual,
9 the income from sources in the state shall be determined as provided in AS 43.19.

10 * **Sec. 5.** AS 43.20 is amended by adding a new section to article 1 to read:

11 **Sec. 43.20.046. Individual, trust, and estate tax credits.** (a) For a resident,
12 a trust established under or governed by the laws of this state, or the estate of a
13 decedent who on the date of death was domiciled in this state, the income tax imposed
14 on that resident, trust, or estate by another state or territory of the United States for the
15 taxable year, on income derived from sources in that state or territory, is allowed as a
16 credit against the tax under this chapter.

17 (b) The credit under (a) of this section is determined by multiplying the tax
18 computed under this chapter by a fraction, the numerator of which is the income
19 derived from sources in the other state or territory and the denominator of which is
20 income derived from all sources. The credit under (a) of this section may not exceed
21 the actual tax paid to the other state or territory.

22 (c) An individual, estate, or trust is allowed only the state credits provided in
23 this section. The total state credit allowed under this section may not exceed the tax
24 liability for the taxable year for the individual, estate, or trust. A credit may not be
25 carried, in whole or in part, to a different taxable year.

26 * **Sec. 6.** AS 43.20 is amended by adding a new section to read:

27 **Sec. 43.20.171. Tax withholding on wages of individuals.** (a) Every
28 employer making payment of wages, salaries, or crew shares after December 31, 2002,

29 (1) shall deduct and withhold an amount of tax computed in a manner
30 to approximate the amount of tax due on those wages, salaries, or crew shares under
31 this chapter for that taxable year;

1 (2) shall remit the tax withheld to the department accompanied by a
 2 return on a form prescribed by the department at the times required by the department
 3 by regulation;

4 (3) is liable for the payment of the tax required to be deducted and
 5 withheld under this section but is not liable to any individual for the amount of the
 6 payment; and

7 (4) shall furnish to the employee on or before January 31 of the
 8 succeeding year, or within 30 days after a request by the employee after the
 9 employee's termination if the 30-day period ends before January 31, a written
 10 statement on a form prescribed by the department showing

11 (A) the name and taxpayer identification number of the
 12 employer;

13 (B) the name and social security number of the employee;

14 (C) the total amount of wages, salary, or crew shares for the
 15 taxable year; and

16 (D) the total amount deducted and withheld as tax for the
 17 taxable year.

18 (b) The department shall publish the rate of withholding required by this
 19 section.

20 (c) In this section,

21 (1) "employee" includes an individual who receives compensation on a
 22 crew share basis in connection with a commercial fishing activity;

23 (2) "employer" includes a person who pays compensation to an
 24 individual on a crew share basis in connection with a commercial fishing activity.

25 * **Sec. 7.** AS 43.20.340 is amended by adding new paragraphs to read:

26 (12) "individual" means a natural person, married or unmarried, adult
 27 or minor, subject to payment of income tax under 26 U.S.C. (Internal Revenue Code);

28 (13) "nonresident" means an individual who is not a resident or part-
 29 year resident;

30 (14) "resident" means an individual who, for the entire taxable year,
 31 was domiciled in the state or resided in the state.

1 * **Sec. 8.** AS 43.05.085; AS 43.20.012, and 43.20.013 are repealed.

2 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 **SEVERABILITY.** Under AS 01.10.030, if any provision of this Act, or the
5 application of a provision of this Act to any person or circumstance is held invalid, the
6 remainder of this Act and the application to other persons is not affected.

7 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 **RETROACTIVE APPLICATION.** Sections 1 - 5, 7, and 8 of this Act are retroactive
10 to January 1, 2002.