

2d CS FOR HOUSE BILL NO. 303(RLS)(fld S)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE

Offered: 5/2/02

Referred: Today's Calendar

Sponsor(s): REPRESENTATIVES WHITAKER, Fate, Lancaster, Davies

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to taxation of individual income; and providing for an effective date."**

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

3 * **Section 1.** AS 43.05 is amended by adding a new section to article 3 to read:

4 **Sec. 43.05.300. Definition.** In AS 43.05.220 - 43.05.300, unless the context
5 otherwise requires, "taxpayer"

6 (1) means a person required to pay a tax under this title; and

7 (2) includes an employer that is required to withhold taxes under
8 AS 43.20.041.

9 * **Sec. 2.** AS 43.20 is amended by adding a new section to read:

10 **Sec. 43.20.009. Tax on individuals.** (a) For each year after December 31,
11 2002, there is imposed an income tax on the adjusted gross income of every

12 (1) resident individual; and

13 (2) nonresident and part-year resident individual with income from
14 sources in the state.

15 (b) The applicable tax rates for a calendar year are as follows:

1 (1) if, on September 30 of the previous year, the unaudited balance in
 2 the budget reserve fund created by art. IX, sec. 17, Constitution of the State of Alaska,
 3 was equal to or less than \$2,000,000,000,

4 (A) for an individual whose federal filing status for the year is
 5 single, married filing separately, or head of household,

6 if the adjusted gross income is:	then the tax is:
7 not over \$10,000	1.35 percent
8 over \$10,000 but not over \$20,000	\$135 plus 2.03 percent of the
9	amount over \$10,000
10 over \$20,000 but not over \$30,000	\$338 plus 2.70 percent of the
11	amount over \$20,000
12 over \$30,000 but not over \$50,000	\$608 plus 2.70 percent of the
13	amount over \$30,000
14 over \$50,000 but not over \$75,000	\$1,148 plus 1.76 percent of
15	the amount over \$50,000
16 over \$75,000 but not over \$100,000	\$1,588 plus 1.76 percent of
17	the amount over \$75,000
18 over \$100,000 but not over \$150,000	\$2,028 plus 1.69 percent of
19	the amount over \$100,000
20 over \$150,000 but not over \$200,000	\$2,873 plus 1.49 percent of
21	the amount over \$150,000
22 over \$200,000 but not over \$500,000	\$3,618 plus .41 percent of the
23	amount over \$200,000
24 over \$500,000 but not over \$1,000,000	\$4,848 plus .07 percent of the
25	amount over \$500,000
26 over \$1,000,000	\$5,198 plus .05 percent of the
27	amount over \$1,000,000

28 (B) for two individuals whose federal filing status is married
 29 filing jointly or an individual whose federal filing status is as a qualifying
 30 widow or widower with dependent child,

31 if adjusted gross income is: then the tax is:

1	not over \$20,000	1.35 percent
2	over \$20,000 but not over \$40,000	\$270 plus 2.03 percent of the
3		amount over \$20,000
4	over \$40,000 but not over \$60,000	\$676 plus 2.70 percent of the
5		amount over \$40,000
6	over \$60,000 but not over \$100,000	\$1,216 plus 2.70 percent of
7		the amount over \$60,000
8	over \$100,000 but not over \$150,000	\$2,296 plus 1.76 percent of
9		the amount over \$100,000
10	over \$150,000 but not over \$200,000	\$3,176 plus 1.76 percent of
11		the amount over \$150,000
12	over \$200,000 but not over \$300,000	\$4,056 plus 1.69 percent of
13		the amount over \$200,000
14	over \$300,000 but not over \$400,000	\$5,746 plus 1.49 percent of
15		the amount over \$300,000
16	over \$400,000 but not over \$1,000,000	\$7,236 plus .41 percent of
17		the amount over \$400,000
18	over \$1,000,000 but not over \$2,000,000	\$9,696 plus .07 percent of
19		the amount over \$1,000,000
20	over \$2,000,000	\$10,396 plus .05 percent of
21		the amount over \$2,000,000

22 (2) if, on September 30 of the previous year, the unaudited balance in
 23 the budget reserve fund created by art. IX, sec. 17, Constitution of the State of Alaska,
 24 was more than \$2,000,000,000 but not more than \$3,000,000,000,

25 (A) for an individual whose federal filing status for the year is
 26 single, married filing separately, or head of household,

27 if the adjusted gross income is: then the tax is:

28	not over \$10,000	.95 percent
29	over \$10,000 but not over \$20,000	\$95 plus 1.42 percent of the
30		amount over \$10,000
31	over \$20,000 but not over \$30,000	\$237 plus 1.89 percent of the

1		amount over \$20,000
2	over \$30,000 but not over \$50,000	\$426 plus 1.89 percent of the
3		amount over \$30,000
4	over \$50,000 but not over \$75,000	\$804 plus 1.23 percent of
5		the amount over \$50,000
6	over \$75,000 but not over \$100,000	\$1,112 plus 1.23 percent of
7		the amount over \$75,000
8	over \$100,000 but not over \$150,000	\$1,419 plus 1.18 percent of
9		the amount over \$100,000
10	over \$150,000 but not over \$200,000	\$2,009 plus 1.04 percent of
11		the amount over \$150,000
12	over \$200,000 but not over \$500,000	\$2,529 plus .28 percent of
13		the amount over \$200,000
14	over \$500,000 but not over \$1,000,000	\$3,369 plus .05 percent of
15		the amount over \$500,000
16	over \$1,000,000	\$3,619 plus .04 percent of
17		the amount over \$1,000,000
18	(B) for two individuals whose federal filing status is married	
19	filing jointly or an individual whose federal filing status is as a qualifying	
20	widow or widower with dependent child,	
21	if adjusted gross income is:	then the tax is:
22	not over \$20,000	.95 percent
23	over \$20,000 but not over \$40,000	\$190 plus 1.42 percent of the
24		amount over \$20,000
25	over \$40,000 but not over \$60,000	\$474 plus 1.89 percent of the
26		amount over \$40,000
27	over \$60,000 but not over \$100,000	\$852 plus 1.89 percent of
28		the amount over \$60,000
29	over \$100,000 but not over \$150,000	\$1,608 plus 1.23 percent of
30		the amount over \$100,000
31	over \$150,000 but not over \$200,000	\$2,223 plus 1.23 percent of

1		the amount over \$150,000
2	over \$200,000 but not over \$300,000	\$2,838 plus 1.18 percent of
3		the amount over \$200,000
4	over \$300,000 but not over \$400,000	\$4,018 plus 1.04 percent of
5		the amount over \$300,000
6	over \$400,000 but not over \$1,000,000	\$5,058 plus .28 percent of
7		the amount over \$400,000
8	over \$1,000,000 but not over \$2,000,000	\$6,738 plus .05 percent of
9		the amount over \$1,000,000
10	over \$2,000,000	\$7,238 plus .04 percent of
11		the amount over \$2,000,000

12 (3) if, on September 30 of the previous year, the unaudited balance in
 13 the budget reserve fund created by art. IX, sec. 17, Constitution of the State of Alaska,
 14 was more than \$3,000,000,000,

15	(A) for an individual whose federal filing status for the year is	
16	single, married filing separately, or head of household,	
17	if the adjusted gross income is:	then the tax is:
18	not over \$10,000	.54 percent
19	over \$10,000 but not over \$20,000	\$54 plus .81 percent of the
20		amount over \$10,000
21	over \$20,000 but not over \$30,000	\$135 plus 1.08 percent of the
22		amount over \$20,000
23	over \$30,000 but not over \$50,000	\$243 plus 1.08 percent of the
24		amount over \$30,000
25	over \$50,000 but not over \$75,000	\$459 plus .70 percent of
26		the amount over \$50,000
27	over \$75,000 but not over \$100,000	\$634 plus .70 percent of
28		the amount over \$75,000
29	over \$100,000 but not over \$150,000	\$809 plus .68 percent of
30		the amount over \$100,000
31	over \$150,000 but not over \$200,000	\$1,149 plus .59 percent of

1		the amount over \$150,000
2	over \$200,000 but not over \$500,000	\$1,444 plus .16 percent of
3		the amount over \$200,000
4	over \$500,000 but not over \$1,000,000	\$1,924 plus .03 percent of
5		the amount over \$500,000
6	over \$1,000,000	\$2,074 plus .02 percent of
7		the amount over \$1,000,000
8	(B) for two individuals whose federal filing status is married	
9	filing jointly or an individual whose federal filing status is as a qualifying	
10	widow or widower with dependent child,	
11	if adjusted gross income is:	then the tax is:
12	not over \$20,000	.54 percent
13	over \$20,000 but not over \$40,000	\$108 plus .81 percent of the
14		amount over \$20,000
15	over \$40,000 but not over \$60,000	\$270 plus 1.08 percent of the
16		amount over \$40,000
17	over \$60,000 but not over \$100,000	\$486 plus 1.08 percent of
18		the amount over \$60,000
19	over \$100,000 but not over \$150,000	\$918 plus .70 percent of
20		the amount over \$100,000
21	over \$150,000 but not over \$200,000	\$1,268 plus .70 percent of
22		the amount over \$150,000
23	over \$200,000 but not over \$300,000	\$1,618 plus .68 percent of
24		the amount over \$200,000
25	over \$300,000 but not over \$400,000	\$2,298 plus .59 percent of
26		the amount over \$300,000
27	over \$400,000 but not over \$1,000,000	\$2,888 plus .16 percent of
28		the amount over \$400,000
29	over \$1,000,000 but not over \$2,000,000	\$3,848 plus .03 percent of
30		the amount over \$1,000,000
31	over \$2,000,000	\$4,148 plus .02 percent of

1 the amount over \$2,000,000

2 (c) For a part-year resident individual or a nonresident individual, the tax
3 under this section shall be computed by multiplying the tax described in (b) of this
4 section, depending on the taxpayer's federal filing status, by a fraction, the numerator
5 of which is income from all sources in the state and the denominator of which is
6 income from all sources.

7 (d) In this section,

8 (1) "adjusted gross income" has the meaning given in 26 U.S.C. 62
9 (Internal Revenue Code), except that it

10 (A) includes a cost-of-living allowance that is exempt from the
11 federal income tax;

12 (B) does not include income exempted from state income
13 taxation under another provision of state or federal law, such as, by way of
14 example, interest on United States government securities and longevity bonus
15 payments;

16 (2) "unaudited balance in the budget reserve fund created by art. IX,
17 sec. 17, Constitution of the State of Alaska" means the balance in the fund on deposit
18 with the state's custodian bank as certified by the commissioner, without regard to
19 liabilities to the general fund under art. IX, sec. 17(d), Constitution of the State of
20 Alaska.

21 * **Sec. 3.** AS 43.20 is amended by adding a new section to read:

22 **Sec. 43.20.029. Electronic filing incentive.** The commissioner may by
23 regulation provide for an incentive to taxpayers for electronically filing tax returns and
24 making tax payments. An incentive under this section may not exceed \$25 for each
25 taxpayer a year and is contingent on the accurate and timely filing of the tax return and
26 timely payment of the tax due.

27 * **Sec. 4.** AS 43.20.030(a) is amended to read:

28 (a) **Every individual, partnership, and** [IF A] corporation [, OR A
29 PARTNERSHIP THAT HAS A CORPORATION AS A PARTNER, IS] required to
30 make a return under the provisions of the Internal Revenue Code [, IT] shall file with
31 the department [, WITHIN 30 DAYS AFTER THE FEDERAL RETURN IS

1 REQUIRED TO BE FILED,] a return setting out

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

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

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

8 (d) A taxpayer, upon request by the department, shall **file with the taxpayer's**
9 **state return** [FURNISH TO THE DEPARTMENT] a true [AND CORRECT] copy of
10 the tax return [WHICH THE TAXPAYER HAS] filed with the United States Internal
11 Revenue Service. Every taxpayer shall **file an amended return with** [NOTIFY] the
12 department, **and remit any additional tax and interest due, within** [IN WRITING
13 OF ANY ALTERATION IN, OR MODIFICATION OF, THE TAXPAYER'S
14 FEDERAL INCOME TAX RETURN AND OF A RECOMPUTATION OF TAX OR
15 DETERMINATION OF DEFICIENCY, WHETHER WITH OR WITHOUT
16 ASSESSMENT. A FULL STATEMENT OF THE FACTS MUST ACCOMPANY
17 THIS NOTICE. THE NOTICE SHALL BE FILED WITHIN] 60 days after **a** [THE]
18 final determination of the **taxpayer's federal tax liability** [MODIFICATION,
19 RECOMPUTATION OR DEFICIENCY, AND THE TAXPAYER SHALL PAY THE
20 ADDITIONAL TAX OR PENALTY UNDER THIS CHAPTER]. For purposes of
21 this **subsection** [SECTION], a final determination **means** [SHALL MEAN] the **date**
22 [TIME] that an amended federal return is filed, **the date a federal** [OR A NOTICE
23 OF DEFICIENCY OR AN] assessment is **made, or the date the restrictions on**
24 **assessment are waived by** [MAILED TO] the taxpayer [BY THE INTERNAL
25 REVENUE SERVICE, EXCEPT THAT IN NO EVENT WILL THERE BE A FINAL
26 DETERMINATION FOR PURPOSES OF THIS SECTION UNTIL THE
27 TAXPAYER HAS EXHAUSTED RIGHTS OF APPEAL UNDER FEDERAL
28 LAW].

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

30 (h) The return for a corporation is due within 30 days after the federal return is
31 required to be filed. The return for other taxpayers is due on the date the federal return

1 is required to be filed.

2 * **Sec. 7.** AS 43.20.031(c) is amended to read:

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

5 * **Sec. 8.** AS 43.20.040 is repealed and reenacted to read:

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

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

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

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

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

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

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

20 (7) income of whatever nature from a source with a taxable or business
21 situs in the state.

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

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

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

26 (3) conducting in the state the management or investment function for
27 intangible property;

28 (4) a partnership or limited liability company conducting business
29 activities in the state;

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

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

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

6 * **Sec. 9.** AS 43.20 is amended by adding a new section to article 1 to read:

7 **Sec. 43.20.046. Individual income tax credit.** (a) For a resident, the income
8 tax imposed on that resident by another state or territory of the United States for the
9 taxable year, on income derived from sources in that state or territory, is allowed as a
10 credit against the tax under this chapter.

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

16 (c) An individual is allowed only the state credit provided in this section. The
17 total state credit allowed under this section may not exceed the tax liability for the
18 taxable year for the individual. A credit may not be carried, in whole or in part, to a
19 different taxable year.

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

21 **Sec. 43.20.171. Tax withholding on wages of individuals.** (a) Every
22 employer making payment of wages or salaries

23 (1) shall deduct and withhold an amount of tax computed in a manner
24 to approximate the amount of tax due on those wages or salaries under this chapter for
25 that taxable year;

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

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

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

5 (A) the name and taxpayer identification number of the
 6 employer;

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

8 (C) the total amount of wages or salary for the taxable year;
 9 and

10 (D) the total amount deducted and withheld as tax for the
 11 taxable year.

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

14 (c) When an employer has deducted the tax from an employee's wages or
 15 salary, the employee is no longer liable to the state for the amount deducted,
 16 regardless of whether the employer actually remits the tax to the state.

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

18 **Sec. 43.20.174. Tax withholding from pass-through entities.** Every
 19 partnership, limited liability company, or corporation for which an election under 26
 20 U.S.C. 1362(a) (Internal Revenue Code) is in effect, and any other entity taxed as a
 21 partnership, shall withhold an amount of tax computed in a manner to approximate the
 22 amount of tax due on dividends paid to a nonresident individual, undistributed taxable
 23 income credited to a nonresident individual, or the distributive share credited to a
 24 nonresident individual and remit the tax withheld to the department at the times
 25 required by the department by regulation.

26 * **Sec. 12.** AS 43.20.200(b) is amended to read:

27 (b) The same period of limitation upon the assessment and collection of taxes
 28 imposed under this chapter and the same exceptions to it shall apply as provided in 26
 29 U.S.C. 6501 - 6503 (Internal Revenue Code). In the case of additional tax due by
 30 reason of a modification, recomputation, or determination of deficiency in a taxpayer's
 31 federal income tax return, the period of limitation on assessment commences from the

1 date that the **amended return** [NOTICE] required in AS 43.20.030(d) is filed, and if
 2 no **amended return** [NOTICE] is filed the tax may be assessed at any time.

3 * **Sec. 13.** AS 43.20.340 is amended by adding new paragraphs to read:

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

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

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

10 * **Sec. 14.** AS 43.05.085; AS 43.20.012, and 43.20.013 are repealed.

11 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to
 12 read:

13 INDIVIDUAL INCOME TAX RATE FOR 2003. The applicable tax rates for 2003
 14 are the rates in AS 43.20.009(b)(1)(A) and (B), added by sec. 2 of this Act, regardless of the
 15 balance in the budget reserve fund created by art. IX, sec. 17, Constitution of the State of
 16 Alaska.

17 * **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to
 18 read:

19 TRANSITION: REGULATIONS. The Department of Revenue may proceed to adopt
 20 regulations necessary to implement the provisions of this Act. The regulations take effect
 21 under AS 44.62 (Administrative Procedure Act), but not before the effective date of the
 22 provision being implemented.

23 * **Sec. 17.** Section 16 of this Act takes effect immediately under AS 01.10.070(c).

24 * **Sec. 18.** Except as provided in sec. 17 of this Act, this Act takes effect January 1, 2003.