

HOUSE BILL NO. 199

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES HUDSON, Scalzi

Introduced: 3/19/01

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; and providing for an effective date."**

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, the tax under this section is 15 percent of the
12 federal income tax after federal credits and before other taxes.

13 (c) For a nonresident or part-year resident individual, or for an estate or a trust,
14 the tax under this section is 15 percent of the federal income tax after federal credits

1 and before other taxes, multiplied by a fraction, the numerator of which is income
 2 from sources in the state and the denominator of which is income from all sources. In
 3 this subsection, "income" means total income before adjusted gross income, as
 4 required to be shown on the federal return.

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

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

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

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

16 * **Sec. 3.** AS 43.20.030(d) is amended to read:

17 (d) A taxpayer, upon request by the department, shall **file with the taxpayer's**
 18 **state return** [FURNISH TO THE DEPARTMENT] a true [AND CORRECT] copy of
 19 the tax return [WHICH THE TAXPAYER HAS] filed with the United States Internal
 20 Revenue Service. Every taxpayer shall **file an amended return with** [NOTIFY] the
 21 department, **and remit any additional tax and interest due, within** [IN WRITING
 22 OF ANY ALTERATION IN, OR MODIFICATION OF, THE TAXPAYER'S
 23 FEDERAL INCOME TAX RETURN AND OF A RECOMPUTATION OF TAX OR
 24 DETERMINATION OF DEFICIENCY, WHETHER WITH OR WITHOUT
 25 ASSESSMENT. A FULL STATEMENT OF THE FACTS MUST ACCOMPANY
 26 THIS NOTICE. THE NOTICE SHALL BE FILED WITHIN] 60 days after **a** [THE]
 27 final determination of the **taxpayer's federal tax liability** [MODIFICATION,
 28 RECOMPUTATION OR DEFICIENCY, AND THE TAXPAYER SHALL PAY THE
 29 ADDITIONAL TAX OR PENALTY UNDER THIS CHAPTER]. For purposes of
 30 this **subsection** [SECTION], a final determination **means** [SHALL MEAN] the **date**
 31 [TIME] that an amended federal return is filed, **the date a federal** [OR A NOTICE

1 OF DEFICIENCY OR AN] assessment is made, or the date the restrictions on
 2 assessment are waived by [MAILED TO] the taxpayer [BY THE INTERNAL
 3 REVENUE SERVICE, EXCEPT THAT IN NO EVENT WILL THERE BE A FINAL
 4 DETERMINATION FOR PURPOSES OF THIS SECTION UNTIL THE
 5 TAXPAYER HAS EXHAUSTED RIGHTS OF APPEAL UNDER FEDERAL
 6 LAW].

7 * **Sec. 4.** AS 43.20.031(c) is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (3) conducting in the state the management or investment function for
10 intangible property;

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

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

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

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

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

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

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

1 (c) To the extent required by federal law, an individual is allowed as a credit
2 against the tax under this chapter 10.2 percent of interest received by the individual in
3 the taxable year upon obligations unconditionally backed by the full faith and credit of
4 the United States.

5 (d) An individual, estate, or trust is allowed only the state credits provided in
6 this section. The total state credit allowed under this section may not exceed the tax
7 liability for the taxable year for the individual, estate, or trust. A credit may not be
8 carried, in whole or in part, to a different taxable year.

9 * **Sec. 7.** AS 43.20.160(c) is amended to read:

10 (c) The department shall prescribe and furnish all necessary forms, and adopt
11 and publish all necessary regulations in plain and concise language conformable with
12 this chapter for the assessment and collection of the taxes imposed by this chapter.
13 [THE DEPARTMENT SHALL APPLY AS FAR AS PRACTICABLE THE
14 ADMINISTRATIVE AND JUDICIAL INTERPRETATIONS OF THE FEDERAL
15 INCOME TAX LAW. THE DEPARTMENT SHALL ALSO PREPARE A
16 CONCISE STATEMENT OF THE CONTENTS OF THE CODE SECTIONS
17 REFERRED TO IN THIS CHAPTER FOR THE INFORMATION OF THE
18 TAXPAYER AND MAKE THEM AVAILABLE TO THE TAXPAYER MAKING A
19 RETURN].

20 * **Sec. 8.** 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, salaries, or crew shares

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, salaries, or crew shares under
25 this chapter for 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, salary, or crew shares for the
 9 taxable year; 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) In this section,

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

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

19 * **Sec. 9.** AS 43.20.200(b) is amended to read:

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

27 * **Sec. 10.** AS 43.20.340 is amended by adding new paragraphs to read:

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

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

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

3 * **Sec. 11.** AS 43.05.085; AS 43.20.012, and 43.20.013 are repealed.

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

6 TRANSITION: REGULATIONS. Notwithstanding sec. 15 of this Act, the
7 Department of Revenue may proceed to adopt regulations necessary to implement the
8 provisions of this Act. The regulations take effect under AS 44.62 (Administrative Procedure
9 Act), but not before January 1, 2002.

10 * **Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

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

15 * **Sec. 14.** Section 12 of this Act takes effect immediately under AS 01.10.070(c).

16 * **Sec. 15.** Except as provided in sec. 14 of this Act, this Act takes effect January 1, 2002.