

HOUSE BILL NO. 321

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE WILSON

Introduced: 5/14/03

Referred: House Special Committee on Ways and Means, 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, to a warning about taxation on commercial fishing license applications, and to the**
3 **taxation of employment; and providing for an effective date."**

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

5 *** Section 1.** AS 16.05.480 is amended by adding a new subsection to read:

6 (j) The application for a commercial fishing license must contain the
7 following warning in boldface type: "WARNING: You are obligated to pay Alaska
8 state income tax and federal income tax on your earnings from fishing, to the extent
9 required by law."

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

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

14 (1) resident individual; and

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

3 (b) For a resident individual, the tax under this section is three percent of the
4 individual's taxable income.

5 (c) For a nonresident or part-year resident individual, or for an estate or a trust,
6 the tax under this section is three percent of the individual's, estate's, or trust's taxable
7 income, multiplied by a fraction, the numerator of which is taxable income from
8 sources in the state and the denominator of which is taxable income from all sources.

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

12 (e) In this section, "taxable income" means "taxable income" as defined in 26
13 U.S.C. 63. "Taxable income"

14 (1) includes the income described in (d) of this section;

15 (2) includes interest on bonds issued by other states and political
16 subdivisions of other states, but does not include interest on bonds issued by the
17 United States, by this state, or by a political subdivision of this state;

18 (3) does not include income tax refunds issued under AS 43.20.030(e).

19 * **Sec. 3.** AS 43.20.030 is amended by adding new subsections to read:

20 (h) Every individual, trust, estate, and partnership subject to tax under this
21 chapter required to make a return of income under the provisions of the Internal
22 Revenue Code shall file with the department, not later than the date the federal return
23 is required to be filed, a return setting out

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

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

28 (i) The commissioner may by regulation provide for an incentive for accurate
29 and timely filing of tax returns by individuals, trusts, estates, and partnerships, and for
30 electronic filing and payment by individuals, trusts, estates, and partnerships. An
31 incentive under this section may not exceed \$25 per taxpayer.

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

2 **Sec. 43.20.032. Individual income tax returns and payment; tax cap.** (a)

3 Every individual, trust, estate, and partnership subject to tax under this chapter
4 required to make a return of income under the provisions of the Internal Revenue
5 Code shall file with the department, not later than the date the federal return is
6 required to be filed, a return setting out

7 (1) the amount of tax due under this chapter, less allowable credits and
8 payment claimed against the tax; and

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

11 (b) The total amount of tax imposed under AS 43.20.009 is due and payable to
12 the department at the same time and in the same manner as the tax is payable to the
13 United States Internal Revenue Service.

14 (c) A person required to file a return under this section shall file the return
15 using the same filing status as the person uses on the person's return of income under
16 the provisions of the Internal Revenue Code for the year. The maximum tax liability
17 of a person filing as a single individual under AS 43.20.009 is \$20,000. The
18 maximum tax liability of a couple filing jointly under AS 43.20.009 is \$30,000.

19 (d) The provisions of AS 43.20.030(b), 43.20.030(d), and 43.20.030(e) apply
20 to individual income tax returns and payments under this section.

21 * **Sec. 5.** AS 43.20.031(c) is amended to read:

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

24 * **Sec. 6.** AS 43.20.040 is repealed and reenacted to read:

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

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

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

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

30 (4) income from stocks, bonds, notes, bank deposits, and other
31 intangible personal property having a taxable or business situs in the state; however,

1 the receipt of interest income from intangible property in the state does not alone
2 establish a taxable or business situs in the state;

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

6 (6) income distributed from a trust established under or governed by
7 the laws of the state, except that income of a trust established under or governed by the
8 laws of the state that is income of a nonresident is not included if the nonresident is a
9 resident of a state that does not impose an income tax on income to residents of this
10 state from trusts established or governed by the laws of the nonresident's state of
11 residence;

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

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

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

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

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

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

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

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

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

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

31 (5) a corporation transacting business activities in the state that has

1 elected to file federal returns under subchapter S of the Internal Revenue Code;

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

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

7 * **Sec. 7.** AS 43.20 is amended by adding a new section to article 1 to read:

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

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

19 (c) An individual who has paid the education tax imposed under AS 43.45.011
20 during a tax year is entitled to a credit against the income tax levied under
21 AS 43.20.009 for that tax year in an amount equal to the amount of education tax paid,
22 not to exceed \$100.

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

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

28 **Sec. 43.20.171. Tax withholding on wages of individuals.** (a) Every
29 employer making payment of wages or salaries after December 31, 2003,

30 (1) shall deduct and withhold an amount of tax computed in a manner
31 to approximate the amount of tax due on those wages or salaries under this chapter for

1 that taxable year;

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

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

8 (4) shall furnish to the employee at the time required by the department
9 a written statement on a form prescribed by the department showing

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

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

13 (C) the total amount of wages or salary for the taxable year;
14 and

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

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

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

20 **Sec. 43.20.175. Tax withholding by pass-through entities.** (a) A
21 partnership that pays or credits amounts to a nonresident on account of the partner's
22 distributive share of income from sources in the state shall withhold the tax owed by
23 the individual under AS 43.20.009.

24 (b) A corporation for which an election under 26 U.S.C. 1362(a) (Internal
25 Revenue Code) is in effect for the tax year that pays or credits income from sources in
26 the state to a nonresident shall withhold the tax owed by the nonresident under
27 AS 43.20.009.

28 (c) A partnership or corporation required to withhold tax under (a) or (b) of
29 this section is liable to the department for payment of that tax.

30 (d) A partnership or corporation required to withhold tax under (a) or (b) of
31 this section shall file a return of the income on a form prescribed by the department

1 and pay the tax to the department.

2 (e) This section does not relieve a nonresident from the obligation to file a
3 return under AS 43.20.030.

4 (f) For purposes of this section, "partnership" means a person that is taxable as
5 a partnership for purposes of 26 U.S.C. (Internal Revenue Code).

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

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

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

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

13 * **Sec. 11.** AS 43 is amended by adding a new chapter to read:

14 **Chapter 45. Education Tax.**

15 **Sec. 43.45.011. Tax imposed.** There is imposed a tax of \$100 a year on each
16 individual 19 years of age or older who, during the entire tax year, receives
17 compensation greater than \$1,000 in the state.

18 (b) For purposes of this section, "compensation" includes wages, salaries,
19 commissions, tips, any other form of remuneration paid for personal services, and
20 gross receipts from a trade or business.

21 (c) The tax imposed under this section does not apply to compensation exempt
22 from the tax under federal law.

23 **Sec. 43.45.021. Collection and payment of tax.** (a) An employer shall
24 deduct and withhold \$50 of the tax or 10 percent of the employee's gross
25 compensation, whichever is less, on the first regular payroll in which the employee's
26 total compensation paid by the employer during the tax year exceeds \$1,000, and from
27 subsequent payrolls until the tax due under this chapter is fully withheld.

28 (b) An employer shall file a return on a form prescribed by the department and
29 remit the tax withheld to the department on or before the 15th day of the month
30 following the earlier of the last day of

31 (1) each calendar quarter during which tax was required to be

1 withheld; or

2 (2) any month in which, on the last day of that month, the employer
3 has withheld but not paid \$500 or more of tax.

4 (c) A deduction of the tax may not be made in the salary or other
5 compensation of an individual who provides proof to the employer that

6 (1) the tax imposed under AS 43.45.011 for that tax year has already
7 been withheld by another employer; or

8 (2) the individual was not 19 years of age or older for the entire tax
9 year.

10 (d) An individual who has not had the full tax withheld by an employer must
11 file a return on a form prescribed by the department and remit the tax due under this
12 section by June 30 of the tax year.

13 **Sec. 43.45.031. Liability of employer.** An employer who pays compensation
14 is liable for the tax required to be withheld from an employee under this section unless
15 the employer can demonstrate that the employer relied on proof provided by the
16 employee that

17 (1) the tax imposed under AS 43.45.011 had already been withheld by
18 another employer; or

19 (2) the individual was not 19 years of age or older for the entire tax
20 year.

21 **Sec. 43.45.041. Refund claims.** (a) An individual who has paid more than
22 \$100 in tax under this chapter in a tax year, directly or through employer withholding,
23 or both, may claim a refund from the department. The claim must be made on a form
24 prescribed by the department before December 31 of the calendar year immediately
25 following the tax year in which the overpayment was made.

26 (b) Interest on the overpayment may not be allowed under AS 43.05.280 if the
27 department pays the refund within 90 days after the date the individual files the refund
28 claim or the date on which the last payment of the tax by or on behalf of the individual
29 was received by the department, whichever is later.

30 **Sec. 43.45.051. Disposition of tax proceeds.** (a) The tax collected by the
31 department under AS 43.45.021 shall be deposited into the general fund and accounted

1 for separately.

2 (b) The legislature may appropriate the estimated amounts to be collected and
3 separately accounted for under (a) of this section for education.

4 (c) The deposit required and appropriation authorized by this section are not
5 intended to create a dedication in violation of art. IX, sec. 7, Constitution of the State
6 of Alaska.

7 **Sec. 43.45.099. Definition.** In this chapter, "tax year" means the period
8 beginning on July 1 and ending on June 30 of the following calendar year.

9 * **Sec. 12.** AS 43.05.085; AS 43.20.012, and 43.20.013 are repealed.

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

12 TRANSITIONAL PROVISIONS: REGULATIONS. The commissioner of the
13 Department of Revenue shall adopt regulations to implement the provisions of this Act.

14 * **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 TRANSITIONAL PROVISION: EDUCATION TAX. Notwithstanding
17 AS 43.45.021(b)(2), enacted by sec. 11 of this Act, amounts withheld during the first three
18 months that the tax imposed under AS 43.45 is in effect shall be remitted and a return shall be
19 filed with the Department of Revenue on or before the 15th day of the fourth month that the
20 tax is in effect.

21 * **Sec. 15.** Section 13 of this Act takes effect immediately under AS 01.10.070(c).

22 * **Sec. 16.** Sections 11 and 14 of this Act take effect July 1, 2003.

23 * **Sec. 17.** Except as provided in secs. 15 and 16 of this Act, this Act takes effect January 1,
24 2004.