

**SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 321**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE WILSON

Introduced: 5/20/03

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 application of an individual's permanent fund dividend toward the individual's**  
3 **income tax liability, and to a warning about taxation on commercial fishing license**  
4 **applications; and providing for an effective date."**

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

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

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

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

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

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

4 (b) For a resident individual, the tax under this section is three percent of the  
 5 individual's taxable income, or \$100, whichever is greater.

6 (c) For an estate or a trust, or for a nonresident or part-year resident individual,  
 7 the tax under this section is three percent of that portion of the taxpayer's taxable  
 8 income that is attributable to sources in the state. To identify that portion of the  
 9 taxpayer's taxable income, the taxpayer shall identify the percentage of the taxpayer's  
 10 adjusted gross income that comes from sources in the state and apply that percentage  
 11 to the taxpayer's taxable income.

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

14 (1) less any income that is exempt under other provisions of state or  
 15 federal law, including longevity bonus payments under AS 47.45;

16 (2) plus

17 (A) the cost-of-living allowance that is exempt under 26 U.S.C.  
 18 912(2); and

19 (B) interest on bonds issued by other states and political  
 20 subdivisions of other states that is exempt under 26 U.S.C.

21 \* **Sec. 3.** 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. 4.** AS 43.20 is amended by adding a new section to read:

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

26 Except as provided in (f) of this section, every individual, trust, estate, and partnership  
 27 subject to tax under this chapter required to make a return of income under 26 U.S.C.  
 28 (Internal Revenue Code) shall file with the department, not later than the date the  
 29 federal return is required to be filed, a return setting out

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

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

3 (b) The total amount of tax imposed under AS 43.20.009 is due and payable to  
4 the department at the same time and in the same manner as the tax is payable under 26  
5 U.S.C.

6 (c) A person required to file a return under this section shall file the return  
7 using the same filing status as the person uses on the person's return of income under  
8 the provisions of the Internal Revenue Code for the year.

9 (d) The maximum tax liability of a person filing as a single individual under  
10 AS 43.20.009 is \$20,000. The maximum tax liability of a couple filing jointly under  
11 AS 43.20.009 is \$30,000.

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

14 (f) An individual subject to tax under this chapter need not file a return and  
15 remit the tax if:

16 (1) the individual is under 19 years of age, and the individual's tax  
17 liability is zero;

18 (2) the individual's only income from sources in the state is from a  
19 partnership or corporation that has filed a return on that income under AS 43.20.175;  
20 or

21 (3) the individual's tax liability is \$100 and the individual has elected,  
22 on the form provided for under AS 43.23.015(b), to have \$100 of the individual's  
23 permanent fund dividend applied to the individual's income tax liability.

24 (g) The commissioner may by regulation provide for an incentive for accurate  
25 and timely filing of tax returns by individuals, trusts, estates, and partnerships, and for  
26 electronic filing and payment by individuals, trusts, estates, and partnerships. An  
27 incentive under this section may not exceed \$25 a taxpayer.

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

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

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

1 (2) working in the state for salary or wages;  
 2 (3) income from real or tangible personal property located in the state;  
 3 (4) income from stocks, bonds, notes, bank deposits, and other  
 4 intangible personal property having a taxable or business situs in the state; however,  
 5 the receipt of interest income from intangible property in the state does not alone  
 6 establish a taxable or business situs in the state;

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

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

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

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

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

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

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

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

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

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

31 (3) conducting in the state the management or investment function for

1 intangible property;

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

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

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

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

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

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

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

23 (c) An individual under 19 years of age with a tax liability of \$100 under  
24 AS 43.20.009 is entitled to a credit of \$100.

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

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

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

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

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

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

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

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

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

15 (C) the total amount of wages or salary for the taxable year;

16 and

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

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

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

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

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

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

1 (d) A partnership or corporation required to withhold tax under (a) or (b) of  
 2 this section shall file a return of the income on a form prescribed by the department  
 3 and pay the tax to the department.

4 (e) 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. 9.** 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. 10.** AS 43.23.015(b) is amended to read:

14 (b) The department shall prescribe and furnish an application form for  
 15 claiming a permanent fund dividend. The application must include notice of the  
 16 penalties provided for under AS 43.23.035 and contain a statement of eligibility and a  
 17 certification of residency. **The application must allow an applicant to elect to have**  
 18 **\$100 of the dividend retained by the department and applied to the individual's**  
 19 **state income tax liability.**

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

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

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

25 \* **Sec. 13.** Section 12 of this Act takes effect immediately under AS 01.10.070(c).

26 \* **Sec. 14.** Except as provided in sec. 13 of this Act, this Act takes effect January 1, 2004.