

HOUSE BILL NO. 470

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

BY REPRESENTATIVES MOSES, Joule, Kapsner, Kookesh, Foster

Introduced: 2/16/04

Referred: House Special Committee on Ways and Means, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the taxation of income."**

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

3 * **Section 1.** AS 43.20.011 is amended by adding new subsections to read:

4 (g) For each taxable year or fractional part of a taxable year after
5 December 31, 2004, there is imposed a tax upon the taxable income of every resident,
6 nonresident, and part-year resident individual and fiduciary of the state. The tax
7 imposed by this subsection is determined as a percentage of the taxpayer's entire
8 federal income tax liability, except that the tax on a nonresident or part-year resident
9 individual or fiduciary is the tax determined as a percentage of the taxpayer's entire
10 federal income tax liability multiplied by a fraction the numerator of which is the
11 taxpayer's taxable income from sources in the state and the denominator of which is
12 the taxpayer's taxable income from all sources. The tax is determined as follows:

13 (1) for the taxable year after December 31, 2004, and through
14 December 31, 2005,
15 if the taxpayer's entire federal then the tax, as a percentage

1 income tax liability is: of the taxpayer's entire federal
 2 income tax liability, is:
 3 not more than \$20,000 5 percent
 4 over \$20,000 10 percent;

5 (2) for the taxable year after December 31, 2005, and through
 6 December 31, 2006,

7 if the taxpayer's entire federal then the tax, as a percentage
 8 income tax liability is: of the taxpayer's entire federal
 9 income tax liability, is:
 10 not more than \$20,000 10 percent
 11 over \$20,000 15 percent; and

12 (3) for each taxable year beginning after December 31, 2006,
 13 if the taxpayer's entire federal then the tax, as a percentage

14 income tax liability is: of the taxpayer's entire federal
 15 income tax liability, is:
 16 not more than \$20,000 15 percent
 17 over \$20,000 20 percent.

18 (h) An individual shall determine the tax under (g) of this section using the
 19 same filing status as used on the individual's federal return.

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

21 (a) **An individual, fiduciary,** [IF A] corporation, or [A] partnership that has a
 22 corporation as a partner, **that is subject to the tax imposed in AS 43.20.011 and is**
 23 **required to make a return under the provisions of 26 U.S.C. ([THE] Internal Revenue**
 24 **Code), [IT] shall file with the department [, WITHIN 30 DAYS AFTER THE**
 25 **FEDERAL RETURN IS REQUIRED TO BE FILED,]** a return setting out

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

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

30 * **Sec. 3.** AS 43.20.030(c) is amended to read:

31 (c) **The** [NOTWITHSTANDING (a) OF THIS SECTION, THE] total amount

1 of tax imposed by this chapter is due and payable to the department at the same time
 2 and in the same manner as the tax payable to the United States Internal Revenue
 3 Service.

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

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

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

27 **Sec. 43.20.032. Tax calculation for nonresidents and part-year residents**
 28 **and fiduciaries.** (a) In computing the tax under AS 43.20.011(g) of a nonresident or
 29 a part-year resident individual, or a fiduciary, the part of the taxpayer's taxable income
 30 attributable to sources in the state is determined under AS 43.20.040.

31 (b) In computing the taxpayer's taxable income attributable to sources in the

1 state for a nonresident or a part-year resident individual, or a fiduciary, deductions and
 2 adjustments are allowed only to the extent that they are connected with income that
 3 arises from sources in the state or property having a situs for taxation in the state.

4 * **Sec. 6.** AS 43.20.040(b) is amended to read:

5 (b) In this section, income is from a source having a taxable or business situs
 6 in the state if it is derived from

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

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

9 (3) [REPEALED

10 (4)] a partnership **that** [WHICH] transacts business in the state;

11 **(4)** [(5)] a corporation **that** [WHICH] transacts business in the state

12 **and that** [WHICH] has elected to file federal returns under **26 U.S.C. 1361 - 1379**
 13 **(Subtitle A, Ch. 1S, Internal Revenue Code)** [SUBCHAPTER S OF THE
 14 INTERNAL REVENUE CODE];

15 **(5)** [(6) REPEALED

16 (7)] engaging in any other activity from which income is received,
 17 realized, or derived in the state;

18 **(6) working for salary or wages in the state;**

19 **(7) an estate or trust deriving income from sources in the state.**

20 * **Sec. 7.** AS 43.20.040 is amended by adding a new subsection to read:

21 (d) With regard to the tax under AS 43.20.011(g), if a business, trade, or
 22 profession, other than the rendering of purely personal services, is carried on partly
 23 inside and partly outside the state, the income from sources in the state is determined
 24 under AS 43.19 (Multistate Tax Compact).

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

26 **Sec. 43.20.062. Credits against tax.** (a) The amounts deducted and withheld
 27 as taxes under this chapter during a calendar year are allowed as credits to the taxpayer
 28 against the tax imposed by this chapter.

29 (b) A resident or part-year resident is allowed as a credit against the tax
 30 otherwise due under this chapter the amount of income tax imposed on the taxpayer
 31 for the taxable year by another state or territory of the United States on income derived

1 from sources in the other state or territory that is also subject to tax under this chapter.
 2 However, the credit allowed in this subsection is limited to that proportion of the tax
 3 computed under this chapter that the taxable income from the other state or territory
 4 bears to total taxable income, and the credit may not exceed the actual tax paid to the
 5 other state or territory.

6 (c) An individual or fiduciary is allowed as a credit against the tax otherwise
 7 due under this chapter the amount of any real and personal property taxes paid by the
 8 individual or the fiduciary to a municipality in this state under AS 29.45.

9 * **Sec. 9.** AS 43.20.065 is amended to read:

10 **Sec. 43.20.065. Allocation and apportionment.** A corporate taxpayer who
 11 has income from business activity that is taxable both inside and outside the state or
 12 income from other sources both inside and outside the state shall allocate and
 13 apportion net income as provided in AS 43.19 (Multistate Tax Compact), or as
 14 provided by this chapter.

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

16 **Sec. 43.20.171. Collection of income at source.** (a) Every employer making
 17 payment of wages or salaries after December 31, 2004, shall deduct and withhold an
 18 amount of tax computed in a manner to approximate the amount of tax due on those
 19 wages under this chapter for that year. The employer shall remit withheld taxes to the
 20 department, together with a return or report prescribed by the department, at the time
 21 or times required by the department by regulation. The department shall publish the
 22 rate of withholding required by this section. Every employer making a deduction and
 23 a withholding shall furnish to the employee not later than January 31 of the succeeding
 24 year, or within 30 days after termination of employment, whichever is earlier, a
 25 written statement on a form prescribed by the department showing

- 26 (1) the name and taxpayer identification number of the employer;
- 27 (2) the name and social security number of the employee;
- 28 (3) the total amount of wages and other compensation; and
- 29 (4) the total amount deducted and withheld as tax.

30 (b) Every employer making payments of wages or salaries earned in the state,
 31 regardless of the place where the payment is made,

1 (1) is liable for the payment of the tax required to be deducted and
 2 withheld under this section and is not liable to an individual for the amount of the
 3 payment; and

4 (2) shall make return of and pay to the department the amount of tax
 5 levied that the employer is required to deduct and withhold under this chapter.

6 (c) An employer who fails to comply with this section is subject to the
 7 penalties set out in AS 43.05.220(d).

8 (d) If the employer is the United States or the state or a political subdivision of
 9 the state, or an agency or instrumentality of one or more of those entities, the return of
 10 the amount deducted and withheld on wages or salaries may be made by an officer of
 11 the employer having control of the payment of the wages or salaries or who is
 12 appropriately designated for that purpose.

13 (e) In this section, "employee," "employer," and "wages" have the meanings
 14 given to them under 26 U.S.C. (Internal Revenue Code).

15 * **Sec. 11.** AS 43.20.200(b) is amended to read:

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

23 * **Sec. 12.** AS 43.20.340 is amended to read:

24 **Sec. 43.20.340. Definitions.** In this chapter,

25 (1) "bank" means a financial institution, including a national banking
 26 association;

27 (2) "corporation" includes an association, joint-stock company, and an
 28 insurance company;

29 (3) [REPEALED]

30 (4) "fiscal year" means an accounting period of 12 months ending on
 31 the last day of a month other than December;

1 **(4)** [(5) "INCLUDES" AND "INCLUDING" WHEN USED IN A
2 DEFINITION DO NOT EXCLUDE OTHER THINGS OTHERWISE WITHIN THE
3 MEANING OF THE WORD DEFINED;

4 (6) "Internal Revenue Code" means the Internal Revenue Code of the
5 United States (26 U.S.C.) as the code exists now or as hereafter amended, as the code
6 and amendments apply to the normal taxes and surtax on net incomes, which
7 amendments are operative for the purposes of this chapter as of the time they became
8 operative or will become operative under federal law;

9 **(5)** [(7) "part-year resident" means an individual who **becomes a**
10 **resident or loses the status of a resident** [ENTERS OR LEAVES THE STATE]
11 during the taxable year [AND WHO HAS RESIDED OR WAS DOMICILED IN THE
12 STATE FOR A PERIOD OF LESS THAN 12 MONTHS DURING THE TAXABLE
13 YEAR];

14 **(6)** [(8) "person" means an individual, a trust, **an** [OR] estate, **a** [OR]
15 partnership, or a corporation;

16 **(7)** [(9) "taxable year" means the calendar year or the fiscal year
17 ending during the calendar year upon the basis of which the net income is computed
18 under this chapter; "taxable year" includes, in the case of a return made for a fractional
19 part of a year under this chapter, the period for which the return is made;

20 **(8)** [(10) "taxpayer" means a person subject to a tax imposed by this
21 chapter;

22 **(9)** [(11) "trade or business" includes the engaging in or carrying on of
23 a trade, business, profession, vocation, employment, and rendition of services or
24 commercial activity and includes the performance of the function of a public office.

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

26 (10) "fiduciary" means an estate, trust, guardian, trustee, executor,
27 administrator, receiver, conservator, or a person acting in a fiduciary capacity for
28 another or for the estate of a deceased person;

29 (11) "individual" means a natural person, married or unmarried, adult
30 or minor, who is subject to the obligation to pay an income tax under 26 U.S.C.
31 (Internal Revenue Code);

1 (12) "nonresident" means an individual who is not a resident or part-
2 year resident;

3 (13) "resident" has the meaning given to the term "state resident" in
4 AS 43.23.095.

5 * **Sec. 14.** AS 43.05.085; AS 43.20.012, 43.20.013; and AS 47.45.120(a) are repealed.