

**HOUSE BILL NO. 262**

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

**BY THE HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS**

**Introduced: 4/8/05**

**Referred: House Special Committee on Ways and Means, State Affairs, 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, 2005, 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 department shall annually  
13 determine the rate of the tax according to the following schedule, and shall notify the  
14 legislature and the governor within 60 days. If, on June 30 of the preceding year,

15 (1) state expenditures for the fiscal year did not exceed revenues for

1 the fiscal year, the rate of the tax is zero;

2 (2) state expenditures for the fiscal year exceeded revenues by \$20  
3 million or less, the rate of the tax is one-half of one percent;

4 (3) state expenditures for the fiscal year exceeded revenues by more  
5 than \$20 million, but not more than \$80 million, the rate of the tax is one percent;

6 (4) state expenditures for the fiscal year exceeded revenues by more  
7 than \$80 million, but not more than \$100 million, the rate of the tax is two percent;

8 (5) state expenditures for the fiscal year exceeded revenues by more  
9 than \$100 million, but not more than \$300 million, the rate of the tax is three percent;

10 (6) state expenditures for the fiscal year exceeded revenues by more  
11 than \$300 million, but not more than \$600 million, the rate of the tax is five percent;

12 (7) state expenditures for the fiscal year exceeded revenues by more  
13 than \$600 million, but not more than \$800 million, the rate of the tax is eight percent;

14 (8) state expenditures for the fiscal year exceeded revenues by more  
15 than \$800 million, the rate of the tax is ten percent.

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

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

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

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

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

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

29 (c) **The** [NOTWITHSTANDING (a) OF THIS SECTION, THE] total amount  
30 of tax imposed by this chapter is due and payable to the department at the same time  
31 and in the same manner as the tax payable to the United States Internal Revenue

1 Service.

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

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

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

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

29 (b) In computing the taxpayer's taxable income attributable to sources in the  
 30 state for a nonresident or a part-year resident individual, or a fiduciary, deductions and  
 31 adjustments are allowed only to the extent that they are connected with income that

1 arises from sources in the state or property having a situs for taxation in the state.

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

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

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

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

7 (3) [REPEALED

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

9 **(4)** [(5)] a corporation **that** [WHICH] transacts business in the state  
10 **and that** [WHICH] has elected to file federal returns under **26 U.S.C. 1361 - 1379**  
11 **(Subtitle A, Ch. 1S, Internal Revenue Code)** [SUBCHAPTER S OF THE  
12 INTERNAL REVENUE CODE];

13 **(5)** [(6) REPEALED

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

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

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

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

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

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

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

27 (b) A resident or part-year resident is allowed as a credit against the tax  
28 otherwise due under this chapter the amount of income tax imposed on the taxpayer  
29 for the taxable year by another state or territory of the United States on income derived  
30 from sources in the other state or territory that is also subject to tax under this chapter.  
31 However, the credit allowed in this subsection is limited to that proportion of the tax

1           computed under this chapter that the taxable income from the other state or territory  
2           bears to total taxable income, and the credit may not exceed the actual tax paid to the  
3           other state or territory.

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

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

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

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

14          **Sec. 43.20.171. Collection of income at source.** (a) Every employer making  
15          payment of wages or salaries after December 31, 2005, shall deduct and withhold an  
16          amount of tax computed in a manner to approximate the amount of tax due on those  
17          wages under this chapter for that year. The employer shall remit withheld taxes to the  
18          department, together with a return or report prescribed by the department, at the time  
19          or times required by the department by regulation. The department shall publish the  
20          rate of withholding required by this section. Every employer making a deduction and  
21          a withholding shall furnish to the employee not later than January 31 of the succeeding  
22          year, or within 30 days after termination of employment, whichever is earlier, a  
23          written statement on a form prescribed by the department showing

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

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

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

1 payment; and

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

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

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

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

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

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

21 \* **Sec. 12.** AS 43.20.340 is amended to read:

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

23 (1) "bank" means a financial institution, including a national banking  
24 association;

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

27 (3) [REPEALED

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

30 **(4)** [(5) "INCLUDES" AND "INCLUDING" WHEN USED IN A  
31 DEFINITION DO NOT EXCLUDE OTHER THINGS OTHERWISE WITHIN THE

1 MEANING OF THE WORD DEFINED;

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

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

12 (6) [(8)] "person" means an individual, a trust, an [OR] estate, a [OR]  
13 partnership, or a corporation;

14 (7) [(9)] "taxable year" means the calendar year or the fiscal year  
15 ending during the calendar year upon the basis of which the net income is computed  
16 under this chapter; "taxable year" includes, in the case of a return made for a fractional  
17 part of a year under this chapter, the period for which the return is made;

18 (8) [(10)] "taxpayer" means a person subject to a tax imposed by this  
19 chapter;

20 (9) [(11)] "trade or business" includes the engaging in or carrying on of  
21 a trade, business, profession, vocation, employment, and rendition of services or  
22 commercial activity and includes the performance of the function of a public office.

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

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

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

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

1 (13) "resident" has the meaning given to the term "state resident" in  
2 AS 43.23.095.  
3 \* **Sec. 14.** AS 43.05.085; AS 43.20.012, 43.20.013; and AS 47.45.120(a) are repealed.