

HOUSE BILL NO. 182

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

BY REPRESENTATIVES SEATON, Edgmon

Introduced: 4/3/15
Referred: Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the taxation of income of individuals; repealing tax credits applied**
2 **against the tax on individuals under the Alaska Net Income Tax Act; and providing for**
3 **an effective date."**

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

5 *** Section 1.** AS 43 is amended by adding a new chapter to read:

6 **Chapter 22. Individual Income Tax.**

7 **Sec. 43.22.010. Tax on individuals.** (a) A tax is imposed for each calendar
8 year or fraction of a calendar year on every

9 (1) resident individual with income from a source in the state; and

10 (2) nonresident individual with income from a source in the state.

11 (b) The tax under this section is equal to the sum of

12 (1) 15 percent of the taxpayer's total federal income tax due on the
13 amount of the taxpayer's income that is from a source in the state; and

14 (2) the amount resulting from multiplying the taxpayer's long-term

1 capital gains for the calendar year by the lesser of

2 (A) 10 percent; or

3 (B) the difference between the taxpayer's incremental federal
4 income tax rate on ordinary income and the taxpayer's federal tax rate on long-
5 term capital gains.

6 (c) In this section,

7 (1) "federal income tax due" means the total tax due to the federal
8 government as reported by the taxpayer on a federal individual income tax return;

9 (2) "long-term capital gains" means the total long-term capital gains
10 required to be reported on the federal individual income tax form related to capital
11 gains attached to a federal individual income tax return.

12 **Sec. 43.22.020. Returns and payment of taxes.** (a) An individual required to
13 make a return under the provisions of the Internal Revenue Code shall file with the
14 department a return setting out

15 (1) the amount of tax due under this chapter; and

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

18 (b) The return shall either be on oath or contain a written declaration that it is
19 made under penalty of perjury, and the department shall prescribe forms accordingly.

20 (c) The total amount of tax imposed by this chapter is due and payable to the
21 department at the same time and in the same manner as the tax payable to the United
22 States Internal Revenue Service.

23 (d) A taxpayer, upon request by the department, shall furnish to the
24 department a true and correct copy of the tax return that the taxpayer has filed with the
25 United States Internal Revenue Service. Every taxpayer shall notify the department in
26 writing of an alteration in, or modification of, the taxpayer's federal income tax return
27 and of a recomputation of tax or determination of deficiency, whether with or without
28 assessment. A full statement of the facts must accompany this notice. The taxpayer
29 shall file the notice within 60 days after the final determination of the alteration,
30 modification, recomputation, or deficiency, and the taxpayer shall pay the additional
31 tax under this chapter. For purposes of this subsection, a final determination means the

1 time that an amended federal return is filed or a notice of deficiency or an assessment
 2 is mailed to the taxpayer by the Internal Revenue Service, and the taxpayer has
 3 exhausted rights of appeal under federal law.

4 (e) The department may credit or refund overpayments of taxes, taxes
 5 erroneously or illegally assessed or collected, penalties collected without authority,
 6 and taxes that are found unjustly assessed or excessive in amount, or otherwise
 7 wrongfully collected. The department shall set limitations, specify the manner in
 8 which claims for credits or refunds are made, and give notice of allowance or
 9 disallowance. When a refund is allowed to a taxpayer, it shall be paid out of the
 10 general fund on a warrant issued under a voucher approved by the department.

11 **Sec. 43.22.030. Income from sources in the state.** (a) For purposes of
 12 AS 43.22.010(a), income from a source in the state includes

- 13 (1) compensation for personal services rendered in the state;
 14 (2) salary or wages earned in the state;
 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 from a source with a taxable or business situs in the state of
 26 (A) a trust not established under or governed by the laws of the
 27 state; or
 28 (B) the estate of a decedent who on the date of death was not
 29 domiciled in the state;
 30 (8) income of whatever nature from a source with a taxable or business
 31 situs in the state.

1 (b) In (a) of this section, income is from a source with a taxable or business
2 situs in the state if it is attributed to or derived from

- 3 (1) business facilities or property in the state;
4 (2) business, farming, or fishing activities in the state;
5 (3) conducting in the state the management or investment function for
6 intangible property;
7 (4) a partnership, limited liability company, estate, or trust conducting
8 business activities in the state;
9 (5) a corporation transacting business activities in the state that has
10 elected to file federal returns under subchapter S of the Internal Revenue Code;
11 (6) any other activity from which income is received, realized, or
12 derived in the state.

13 (c) For purposes of (a) of this section, if a business, trade, or profession is
14 carried on partly inside and partly outside the state, other than the rendering of purely
15 personal services by an individual, the income from sources in the state shall be
16 determined as provided in AS 43.19.

17 (d) For purposes of AS 43.22.010(b), long-term capital gains shall be reported
18 from all property, regardless of the location of the property.

19 **Sec. 43.22.040. Tax withholding on wages of individuals.** (a) Every
20 employer making payment of wages, salaries, or crew shares

21 (1) shall deduct and withhold an amount of tax computed in a manner
22 to approximate the amount of tax due on those wages, salaries, or crew shares under
23 this chapter for that calendar year;

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

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

30 (4) shall furnish to the employee on or before January 31 of the
31 succeeding year, or within 30 days after a request by the employee after the

1 employee's termination if the 30-day period ends before January 31, a written
2 statement on a form prescribed by the department showing

3 (A) the name and taxpayer identification number of the
4 employer;

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

6 (C) the total amount of wages, salary, or crew shares for the
7 calendar year; and

8 (D) the total amount deducted and withheld as tax under this
9 chapter for the calendar year.

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

12 (c) In this section,

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

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

17 **Sec. 43.22.050. Administration.** The department shall prescribe all necessary
18 forms and adopt regulations to implement and interpret this chapter, including
19 regulations for the online filing and payment of tax due under this chapter. The
20 department may incorporate into the regulations provisions of the Internal Revenue
21 Code that are necessary or useful to the administration of this chapter.

22 **Sec. 43.22.190. Definitions.** In this chapter,

23 (1) "domiciled" means established in a true principal permanent home
24 to which the individual has the intention of returning whenever absent;

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

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

- 1 (4) "nonresident" means an individual who is not a resident;
- 2 (5) "resident" means an individual who
- 3 (A) was domiciled in the state or resided in the state for the
- 4 entire calendar year;
- 5 (B) claims to be a resident of the state on the individual's
- 6 federal tax forms;
- 7 (C) receives a permanent fund dividend under AS 43.23;
- 8 (D) is registered to vote under AS 15; or
- 9 (E) received a resident fishing, hunting, or trapping license
- 10 during the calendar year under AS 16;
- 11 (6) "taxpayer" means a person subject to a tax imposed by this chapter.
- 12 * **Sec. 2.** AS 43.05.085; AS 43.20.012(b), and 43.20.013 are repealed.
- 13 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
- 14 read:
- 15 APPLICABILITY. This Act applies to income received on or after the effective date
- 16 of this Act.
- 17 * **Sec. 4.** This Act takes effect January 1, 2016.