

SENATE BILL NO. 134

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/19/16

Referred: Labor and Commerce, 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; and

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

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

12 (1) for a resident individual, six percent of the taxpayer's total federal
13 income tax;

14 (2) for a nonresident individual, six percent of the taxpayer's total

1 federal income tax payable on the amount of the taxpayer's income that is from a
2 source in the state.

3 (c) In this section, "federal income tax" means the total tax payable to the
4 federal government, as reported by the taxpayer on a federal individual income tax
5 return, including alternate minimum tax and other taxes imposed by the Internal
6 Revenue Code, net of nonrefundable credits allowed against a liability.

7 **Sec. 43.22.020. Credit for taxes paid.** (a) A resident is entitled to a credit
8 against the tax liability under this chapter for the amount of tax paid to other states,
9 territories, or possessions of the United States on income derived from sources in
10 those jurisdictions that is also subject to tax in this chapter.

11 (b) The claim for credit under (a) of this section may include tax paid by an S
12 corporation or partnership on behalf of the individual, based on that individual's share
13 of income derived in the other jurisdiction; in this subsection, "S corporation" has the
14 meaning given in 26 U.S.C. 1361.

15 (c) The credit allowed under this section may not exceed an amount equal to
16 the tax imposed under this chapter multiplied by a ratio equal to federal adjusted gross
17 income derived from sources in the other jurisdiction divided by total federal adjusted
18 gross income.

19 (d) The application of the tax credit provided under this section may not
20 operate to reduce the tax payable under this chapter to an amount less than would have
21 been payable if the income from the other state was disregarded.

22 **Sec. 43.22.030. Returns and payment of taxes.** (a) An individual required to
23 make a return under the provisions of the Internal Revenue Code shall file with the
24 department a return setting out

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

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

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

30 (c) The total amount of tax imposed by this chapter is due and payable to the
31 department at the same time and in the same manner as the tax payable to the United

1 States Internal Revenue Service.

2 (d) A taxpayer, upon request by the department, shall furnish to the
3 department a true and correct copy of the tax return that the taxpayer has filed with the
4 United States Internal Revenue Service. Every taxpayer shall notify the department in
5 writing of an alteration in, or modification of, the taxpayer's federal income tax return
6 and of a recomputation of tax or determination of deficiency, whether with or without
7 assessment. A full statement of the facts must accompany this notice. The taxpayer
8 shall file the notice within 60 days after the final determination of the alteration,
9 modification, recomputation, or deficiency, and the taxpayer shall pay any additional
10 tax due under this chapter at that time. For purposes of this subsection, a final
11 determination means the time that an amended federal return is filed or a notice of
12 deficiency or an assessment is mailed to the taxpayer by the Internal Revenue Service,
13 and the taxpayer has exhausted rights of appeal under federal law.

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

21 **Sec. 43.22.040. Income from sources in the state.** (a) For purposes of
22 AS 43.22.010(a), income from a source in the state includes

- 23 (1) compensation for personal services rendered in the state;
- 24 (2) salary or wages earned in the state;
- 25 (3) income from real or tangible personal property located in the state;
- 26 (4) income from stocks, bonds, notes, bank deposits, and other
27 intangible personal property having a taxable or business situs in the state; however,
28 the receipt of interest income from intangible property in the state does not alone
29 establish a taxable or business situs in the state;
- 30 (5) rentals and royalties for the use of or for the privilege of using, in
31 the state, patents, copyrights, secret processes and formulas, good will, marks, trade

1 brands, franchises, and other property having a taxable or business situs in the state;

2 (6) income distributed from a trust established under or governed by
3 the laws of the state;

4 (7) income from a source with a taxable or business situs in the state of
5 (A) a trust not established under or governed by the laws of the
6 state; or

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

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

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

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

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

15 (3) conducting in the state the management or investment function for
16 intangible property;

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

19 (5) a corporation transacting business activities in the state that has
20 elected to file federal returns as a subchapter under 26 U.S.C. 1362 (Internal Revenue
21 Code);

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

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

28 **Sec. 43.22.050. Tax withholding on wages of individuals.** (a) Every
29 employer making payment of wages, salaries, or crew shares

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, salaries, or crew shares under

1 this chapter for that calendar 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 on or before January 31 of the
9 succeeding year, or not later than 30 days after a request by the employee after the
10 employee's termination if the 30-day period ends before January 31, a written
11 statement on a form prescribed by the department showing the

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

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

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

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

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

20 (c) In this section,

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

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

25 **Sec. 43.22.060. Administration.** The department shall prescribe all necessary
26 forms and adopt regulations to implement and interpret this chapter, including
27 regulations for the online filing and payment of tax due under this chapter. The
28 department may incorporate into the regulations provisions of the Internal Revenue
29 Code that are necessary or useful to the administration of this chapter.

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

31 (1) "domiciled" means established in a true principal permanent home

1 to which the individual has the intention of returning whenever absent;

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

4 (3) "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 (4) "nonresident" means an individual who is not a resident;

10 (5) "resident" means an individual who

11 (A) was domiciled in the state or resided in the state for the
12 entire calendar year;

13 (B) claims to be a resident of the state on the individual's
14 federal tax forms;

15 (C) receives a permanent fund dividend under AS 43.23;

16 (D) is registered to vote under AS 15; or

17 (E) received a resident fishing, hunting, or trapping license
18 during the calendar year under AS 16;

19 (6) "taxpayer" means a person subject to a tax imposed by this chapter.

20 * **Sec. 2.** AS 43.05.085; AS 43.20.012(b), and 43.20.013 are repealed.

21 * **Sec. 3.** The uncoded law of the State of Alaska is amended by adding a new section to
22 read:

23 APPLICABILITY. This Act applies to income received on or after the effective date
24 of this Act.

25 * **Sec. 4.** The uncoded law of the State of Alaska is amended by adding a new section to
26 read:

27 TRANSITIONAL PROVISION: REGULATIONS. The Department of Revenue may
28 adopt regulations necessary to implement the changes made by this act. The regulations take
29 effect under AS 44.62 (Administrative Procedure Act), but not before January 1, 2017.

30 * **Sec. 5.** Section 4 of this Act takes effect immediately under AS 01.10.070(c).

31 * **Sec. 6.** Except as provided in sec. 5 of this Act, this Act takes effect January 1, 2017.