

SENATE BILL NO. 5003

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIFTH SPECIAL SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 7/11/16

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing an individual income tax; and providing for an effective date."**

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

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

4 **Chapter 22. Individual Income Tax.**

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

7 (1) resident individual; and

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

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

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

12 (2) for a nonresident individual, six percent of the taxpayer's total
13 federal income tax payable on the amount of the taxpayer's income that is from a
14 source in the state.

15 (c) In this section, "federal income tax" means the total tax payable to the

1 federal government, as reported by the taxpayer on a federal individual income tax
2 return, including alternate minimum tax and other taxes imposed by the Internal
3 Revenue Code, net of nonrefundable credits allowed against a liability and net of
4 federal tax attributable to income from stocks and obligations of the United States
5 government exempt from taxation by the state under 31 U.S.C. 3124.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (6) income of whatever nature from a source with a taxable or business
2 situs in the state.

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

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

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

7 (3) conducting in the state the management or investment function for
8 intangible property;

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

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

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

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

20 **Sec. 43.22.050. Tax withholding on wages of individuals.** (a) Every
21 employer making payment of wages or salaries

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

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

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

31 (4) shall furnish to the employee on or before January 31 of the

1 succeeding year, or not later than 30 days after a request by the employee after the
 2 employee's termination if the 30-day period ends before January 31, a written
 3 statement on a form prescribed by the department showing the

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

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

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

7 (D) total amount deducted and withheld as tax under this

8 chapter for the calendar year.

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

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

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

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

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

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

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

27 (5) "resident" means an individual who

28 (A) was domiciled in the state or resided in the state for the
 29 entire calendar year;

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

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

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

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

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

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

7 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 APPLICABILITY. AS 43.22.010 - 43.22.190, added by sec. 1 of this Act, apply to
10 income received on or after the effective date of sec. 1 of this Act.

11 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 TRANSITIONAL PROVISIONS. (a) The Department of Revenue may adopt
14 regulations necessary to implement the changes made by this Act. The regulations take effect
15 under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law
16 implemented by the regulation.

17 (b) Notwithstanding any other provision of state law, actions taken by the Department
18 of Revenue and any other department, division, or office in the executive branch of state
19 government before July 1, 2018, to implement the provisions of this Act are exempt from the
20 requirements of AS 36.30 (State Procurement Code).

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

22 * **Sec. 6.** Except as provided in sec. 5 of this Act, this Act takes effect January 1, 2018.