

SENATE BILL NO. 12

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY SENATOR BISHOP

Introduced: 1/18/17

Referred: Labor and Commerce, Education, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act imposing a limited educational facilities, maintenance, and construction tax on**
2 **net earnings from self-employment and wages; relating to the administration and**
3 **enforcement of the educational facilities, maintenance, and construction tax; and**
4 **providing for an effective date."**

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

6 * **Section 1.** AS 43.45 is amended by adding new sections to read:

7 **Chapter 45. Educational Facilities, Maintenance, and Construction Tax.**

8 **Sec. 43.45.011. Tax imposed.** (a) A tax is imposed on wages and on net
9 earnings from self-employment of every

10 (1) resident individual; and

11 (2) nonresident and part-year resident individual with income from a
12 source in the state.

13 (b) For an individual whose wages from self-employment, net earnings from
14 self-employment, or combined wages and net earnings from self-employment are

- 1 (1) less than \$20,000, the tax is \$50 a year;
- 2 (2) \$20,000 or more, but less than \$50,000, the tax is \$100 a year;
- 3 (3) \$50,000 or more, but less than \$100,000, the tax is \$200 a year;
- 4 (4) \$100,000 or more, but less than \$500,000, the tax is \$300 a year;
- 5 (5) \$500,000 or more, the tax is \$500 a year.

6 (c) For purposes of (b) of this section, the wages and the net earnings from
7 self-employment of a

8 (1) resident are the total annual wages and the net earnings from self-
9 employment of the resident;

10 (2) nonresident or part-year resident are the annual wages and the net
11 earnings from self-employment of the nonresident or part-year resident that are
12 attributable to a source in the state.

13 **Sec. 43.45.021. Collection of tax by employer.** (a) An employer shall deduct
14 and withhold one half of the estimated taxes due under AS 43.45.011 from an
15 employee's wages subject to withholding under 26 U.S.C. 3401 - 3406 from each of
16 the first two regular payrolls of the calendar year. If the employee's first two payrolls
17 are insufficient to cover the estimated tax due, the employer shall continue to deduct
18 and withhold from subsequent payrolls until the tax due under this chapter is fully
19 withheld. The employer shall withhold any outstanding amount of tax due under
20 AS 43.45.011 from the final regular payroll of the calendar year.

21 (b) An employer is liable for the tax required to be withheld from an employee
22 unless the employer can demonstrate that the employer relied on proof provided by the
23 employee that the total tax for the calendar year imposed under AS 43.45.011 had
24 already been withheld under this section or paid under AS 43.45.031. A deduction of
25 the tax may not be made from the wages of an individual who provides proof to the
26 employer that the entire tax imposed under AS 43.45.011 on that individual for the
27 calendar year has already been withheld or paid under AS 43.45.031. The department
28 may impose a civil penalty on an employer in an amount up to five times the amount
29 of tax due from employees but not remitted to the department. The penalty shall be
30 imposed in the manner provided by AS 43.05.245.

31 (c) Tax withheld by an employer becomes due and shall be paid by an

1 employer to the department in accordance with regulations adopted by the department.

2 (d) An employer shall maintain a record of the amount deducted from the
3 wages of each employee and shall furnish an annual statement of the deductions to
4 each employee and to the department in accordance with regulations adopted by the
5 department.

6 (e) The department shall, if it will result in cost savings for the state in the
7 administration of the tax, for employers in the administration of the tax, or both,
8 coordinate collection and reporting of the tax imposed in this chapter with the
9 collection and reporting of employment security contributions by the Department of
10 Labor and Workforce Development, including permitting the Department of Labor
11 and Workforce Development to collect the tax payments and remit them to the
12 department.

13 **Sec. 43.45.031. Payment of tax by self-employed individual.** A self-
14 employed individual shall remit to the department the tax due under AS 43.45.011 in
15 accordance with regulations adopted by the department until the entire tax has been
16 paid.

17 **Sec. 43.45.041. Refund of overpayments.** (a) If an individual pays to the
18 department, directly or through withholding by an employer, an amount exceeding the
19 total tax imposed under this chapter during a calendar year and the individual applies
20 for a refund in accordance with regulations adopted by the department, the department
21 shall refund the overpayment to the individual.

22 (b) Interest on an overpayment may not be allowed under AS 43.05.280 if the
23 department refunds the overpayment within 90 days after the date the individual
24 correctly files the refund claim.

25 (c) The Department of Revenue may adopt regulations to coordinate refunds
26 of overpayments under this section with refunds of employment security contributions
27 under AS 23.20.165.

28 (d) An individual may apply for a refund under this section only during the
29 calendar year immediately following the calendar year in which the excess was paid.

30 **Sec. 43.45.051. Report of payments to self-employed individuals.** A person
31 required to report a payment to a self-employed individual to the federal government

1 under 26 U.S.C. shall also report that payment to the department in accordance with
2 regulations adopted by the department.

3 **Sec. 43.45.061. Disposition of tax proceeds.** (a) The tax and penalties
4 collected by the department under this chapter shall be deposited into the general fund
5 and accounted for separately.

6 (b) The legislature may appropriate the estimated amounts to be collected and
7 separately accounted for under (a) of this section into the educational facilities,
8 maintenance, and construction fund established under AS 37.05.560. Nothing in this
9 section creates a dedicated fund.

10 **Sec. 43.45.099. Definitions.** In this chapter,

11 (1) "employee" has the meaning given in 26 U.S.C. 3401;

12 (2) "employer" has the meaning given in 26 U.S.C. 3401;

13 (3) "net earnings from self-employment" has the meaning given in 26
14 U.S.C. 1402;

15 (4) "wages" has the meaning given in 26 U.S.C. 3401.

16 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 REGULATIONS. The Department of Revenue may adopt regulations to implement
19 sec. 1 of this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act),
20 but not before the effective date of sec. 1 of this Act.

21 * **Sec. 3.** Section 2 of this Act takes effect immediately under AS 01.10.070(c).

22 * **Sec. 4.** Except as provided in sec. 3 of this Act, this Act takes effect January 1, 2017.