

SENATE BILL NO. 101

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY SENATOR OLSON, Begich

Introduced: 4/3/17

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the taxation of the income of individuals, partners, shareholders in S
2 corporations, trusts, and estates; relating to a payment against the individual income tax
3 from the permanent fund dividend disbursement; repealing tax credits applied against
4 the tax on individuals under the Alaska Net Income Tax Act; and providing for an
5 effective date."

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

7 * **Section 1.** AS 43.05.045(a) is amended to read:

8 (a) Except as provided in AS 43.22.070(h), or unless [UNLESS] an
9 exemption is granted under (b) of this section, a taxpayer required to submit a return
10 or report for a tax levied under this title or for any other tax administered by the
11 department shall submit the return or report electronically in a format prescribed by
12 the department. Failure to comply with this section may result in a civil penalty under
13 AS 43.05.220(f). If a law under this title requires a report or return or a portion of a

1 report or return to be in writing, an electronically filed report or return satisfies this
 2 section. A taxpayer shall submit attachments to a report or return required under this
 3 title electronically.

4 * **Sec. 2.** AS 43 is amended by adding a new chapter to read:

5 **Chapter 22. Individual Income Tax.**

6 **Sec. 43.22.010. Income tax on individuals.** (a) Each calendar year or fraction
 7 of a calendar year, an income tax is imposed on the income of a

8 (1) resident;

9 (2) nonresident that is derived from or connected with a source in the
 10 state.

11 (b) The tax under this section for an individual is determined as follows:

12 If the taxable income is	Then the tax is
13 Less than \$20,000	\$0
14 \$20,000 but less than \$75,000	2 percent of the amount in 15 excess of \$20,000
16 \$75,000 but less than \$150,000	\$1,100 plus 4 percent of the amount 17 in excess of \$75,000
18 \$150,000 but less than \$250,000	\$4,100 plus 6 percent of the 19 amount in excess of \$150,000
20 \$250,000 or more	\$10,100 plus 8 percent of the 21 amount in excess of \$250,000.

22 (c) Except as otherwise provided in this section, the tax under this section for
 23 two individuals who file a joint federal income tax return is determined as follows:

24 If the taxable income is	Then the tax is
25 Less than \$40,000	\$0
26 \$40,000 but less than \$150,000	2 percent of the amount in 27 excess of \$40,000
28 \$150,000 but less than \$300,000	\$2,200 plus 4 percent of the amount in 29 excess of \$150,000
30 \$300,000 but less than \$500,000	\$8,200 plus 6 percent of the amount in 31 excess of \$300,000

1 section, the taxable income of a nonresident trust or estate is the income of the trust or
2 estate that is derived from or connected with a source in the state.

3 (b) A trust is not subject to tax under this chapter if

4 (1) all of the trustees of the trust are nonresidents;

5 (2) the entire corpus of the trust, including real, tangible, and
6 intangible property, is located outside the state; and

7 (3) no income or gains of the trust are derived from or connected with
8 a source in the state.

9 (c) For purposes of (b)(1) of this section, a trustee that is a nonresident
10 banking corporation at the time the banking corporation becomes a trustee is a
11 nonresident trustee even if the banking corporation later becomes a resident trustee
12 because it is acquired by or becomes an office or branch of a resident trustee.

13 **Sec. 43.22.025. Credit for income taxes imposed by other jurisdictions.** (a)

14 A resident individual, trust, or estate or part-year resident individual, trust, or estate of
15 the state is allowed a credit against the tax due under this chapter for an income tax
16 that was imposed on the resident or part-year resident for the taxable year by another
17 state or the political subdivision of another state on income derived from or connected
18 with that state or political subdivision.

19 (b) A credit allowed under (a) of this section

20 (1) for a resident individual, trust, or estate may not exceed the
21 individual's, trust's, or estate's tax due under this chapter before credits are applied,
22 multiplied by a ratio, the numerator of which is the portion of the individual's, trust's,
23 or estate's taxable income that is derived from or connected with a source in another
24 state or the political subdivision of another state and the denominator of which is the
25 resident individual's, trust's, or estate's taxable income;

26 (2) for a part-year resident individual, trust, or estate may not exceed
27 the individual's, trust's, or estate's tax due for the period of state residency before
28 credits are applied, multiplied by a ratio, the numerator of which is the individual's,
29 trust's, or estate's taxable income derived from or connected with a source in another
30 state or the political subdivision of another state during the period of state residency
31 and the denominator of which is the part-year resident individual's, trust's, or estate's

1 taxable income during the period of state residency;

2 (3) may not reduce the tax due under this chapter to less than the tax
3 that would have been due if the income derived from or connected with a source in
4 another state or the political subdivision of another state and subject to taxation by the
5 other state or political subdivision had been excluded from the resident or part-year
6 resident individual's, trust's, or estate's taxable income during the calculation of tax
7 under this chapter before the application of credits.

8 (c) If the tax administration of another state or a political subdivision of
9 another state determines that a taxpayer has overpaid tax, affecting the computation of
10 the credit allowed under this section for any taxable year, the taxpayer shall file an
11 amended return with the department not later than 90 days after the final determination
12 by the state or political subdivision that the tax was overpaid. The department may
13 assess a taxpayer additional tax, proportional to the amount overpaid in the other state
14 or political subdivision.

15 (d) A taxpayer is not allowed a credit under this section for taxes paid to
16 another jurisdiction if the taxpayer has or will claim a credit against the income tax
17 imposed by the other jurisdiction for the tax paid or payable under this chapter.

18 (e) Income tax imposed on a partner or the shareholder of an S corporation on
19 the income of the partnership or S corporation, including tax paid by the partnership or
20 S corporation to satisfy the tax liability of the partner or shareholder, may be included
21 in the calculation of a credit under this section. Tax imposed on the partnership or S
22 corporation that is the direct liability of the partnership or S corporation and not that of
23 the partner or shareholder may not be included in the calculation of a credit under this
24 section.

25 **Sec. 43.22.030. Taxable income; general rule.** (a) In this chapter, taxable
26 income is the taxpayer's federal adjusted gross income for the taxable year

27 (1) plus, if not already included in federal adjusted gross income,

28 (A) interest on obligations of another state, a political
29 subdivision of another state, the public instrumentality of another state, or the
30 local authority of another state;

31 (B) interest or dividends on obligations or securities issued by

1 the United States, or an authority, commission, or instrumentality of the United
2 States, that the Internal Revenue Code exempts from federal income tax but
3 does not prevent from including;

4 (C) income taxes under this chapter;

5 (D) a gain realized but not recognized under 26 U.S.C. 1031
6 (Internal Revenue Code); and

7 (E) a deduction allowed in the determination of federal
8 adjusted gross income that is related to income that is not taxable under this
9 chapter;

10 (2) minus, if included in federal adjusted gross income,

11 (A) interest income or a dividend from an obligation that is
12 exempt from taxation by a state under federal law;

13 (B) a refund or credit for the overpayment of an income tax;

14 (C) an ordinary and necessary expense, including an interest
15 expense, paid or incurred during the taxable year that is related to income
16 exempt under the Internal Revenue Code but taxable by the state;

17 (D) a gain recognized under 26 U.S.C. 1031 (Internal Revenue
18 Code) that was included in federal adjusted gross income under (1) of this
19 subsection;

20 (E) income exempt under 4 U.S.C. 114;

21 (F) compensation prohibited from state taxation by 50 U.S.C.
22 3901-4043 (Servicemembers Civil Relief Act);

23 (G) income received under the federal Social Security Act or
24 from a state or local government pension or federal civil service pension, if

25 (i) an individual filing an individual tax return is 65
26 years of age or older and has federal adjusted gross income of less than
27 \$75,000 in the current taxable year; or

28 (ii) both individuals filing a joint tax return are 65 years
29 of age or older and have federal adjusted gross income of less than
30 \$150,000 in the current taxable year;

31 (H) \$5,000 for each exemption claimed on the taxpayer's

1 federal income tax return for the individual, an individual filing jointly with the
2 individual, or a dependent of the individual.

3 (b) When calculating taxable income, a taxpayer

4 (1) may not carry back a net operating loss under 26 U.S.C.
5 172(b)(1)(A)(i) (Internal Revenue Code);

6 (2) may carry over a net operating loss under 26 U.S.C.
7 172(b)(1)(A)(ii) (Internal Revenue Code), except that a loss may not be carried over
8 for more than five years; for a taxpayer subject to AS 43.19 (Multistate Tax Compact),
9 the amount of a net operating loss allowed to be carried over is limited to the amount
10 apportioned to the state in the taxable year in which the loss was generated under
11 AS 43.19 (Multistate Tax Compact);

12 (3) shall include the modifications required by AS 43.20.144(b)(2),
13 concerning intangible drilling and development costs, AS 43.20.144(b)(3), concerning
14 percentage depletion, and AS 43.20.144(b)(3), concerning depreciation.

15 **Sec. 43.22.035. Taxable income from partnerships and S corporations.** (a)

16 An individual that, during the taxable year, has income from a partnership or S
17 corporation or a gain, loss, or deduction from a partnership or S corporation shall
18 make an adjustment to taxable income described in AS 43.22.030 in proportion to the
19 partner's distributive or shareholder's pro rata share of the adjustment. If a partner's
20 distributive or shareholder's pro rata share of an adjustment is not required to be
21 accounted for separately for federal income tax purposes, the partner's or shareholder's
22 share of the adjustment must be determined in proportion to the partner's or
23 shareholder's share of partnership or S corporation income or losses for federal income
24 tax purposes.

25 (b) In determining taxable income, a partner or shareholder shall treat income
26 from a partnership or S corporation or a gain, loss, or deduction from a partnership or
27 S corporation as if it has the same character as it does for federal income tax purposes.
28 If income from a partnership or S corporation or a gain, loss, or deduction from a
29 partnership or S corporation is not accounted for separately for federal income tax
30 purposes, a partner or shareholder shall treat it as if the income or gain, loss, or
31 deduction was realized directly from the source from which it was realized by the

1 partnership or S corporation or incurred in the same manner in which it was incurred
2 by the partnership or S corporation.

3 (c) If the principal purpose of a special allocation of partnership income or a
4 partnership gain, loss, or deduction is the avoidance or evasion of tax under this
5 chapter, the partner's distributive share is determined as if the partnership agreement
6 did not contain the special allocation. In this subsection, "special allocation" means an
7 allocation of the distributive share of partnership income or a partnership gain, loss,
8 expense, or deduction made under the partnership agreement to a partner in a
9 proportion different than the partner's partnership interest.

10 **Sec. 43.22.040. Taxable income of an estate, trust, or beneficiary.** (a) The
11 taxable income of an estate or trust is determined as if the estate or trust were an
12 individual and is subject to adjustments under AS 43.22.030 and reduction under
13 section 26 U.S.C. 661 (Internal Revenue Code). The department may establish in
14 regulation the method for determining the taxable income of an estate or trust,
15 including the manner in which the adjustments under AS 43.22.030 will be allocated
16 between the estate's or trust's taxable share and a beneficiary's distributive share.
17 Unless otherwise provided by the department in regulation, an allocation must be
18 made in proportion to the estate's or trust's taxable share or the beneficiary's
19 distributive share of the trust or estate for federal income tax purposes.

20 (b) If the principal purpose for a provision of an instrument directing the
21 distribution of income or a gain or loss of an estate or trust is the avoidance or evasion
22 of tax under this chapter, the taxable income of the estate, trust, or beneficiary shall be
23 determined as if the instrument did not contain that provision.

24 **Sec. 43.22.045. Nonresident individuals; income derived from or**
25 **connected with a source in the state.** (a) The taxable income of a nonresident
26 individual is the nonresident individual's income that is derived from or connected
27 with a source in the state, as adjusted under AS 43.22.030. Taxable income of a
28 nonresident individual includes

29 (1) a partner's distributive share of partnership income or a gain, loss,
30 or deduction of a partnership as determined under AS 43.22.050;

31 (2) a shareholder's pro rata share of an S corporation's net income or

1 loss, increased by the reductions for taxes described in 26 U.S.C. 1366(f)(2) and (3)
2 (Internal Revenue Code), as determined under AS 43.22.050;

3 (3) income or loss of a business conducted by a nonresident individual,
4 nonresident estate, or nonresident trust, other than income or loss from a partnership or
5 S corporation, as determined under AS 43.22.050;

6 (4) the share of estate or trust income or a gain, loss, or deduction
7 determined under AS 43.22.055;

8 (5) income or a gain, loss, or deduction from the sale or assignment of
9 a beneficial interest, or other disposition of an interest in tangible personal property in
10 the state, or rental income or loss from the use of tangible personal property in the
11 state; if the income or gain, loss, or deduction is from tangible personal property used
12 or employed both in and outside the state, the amount included in taxable income is
13 determined by multiplying the income or gain, loss, or deduction by a fraction, the
14 denominator of which is the total number of days during the taxable year that the
15 property was used or employed to earn, accrue, or incur the income or gain, loss, or
16 deduction and the numerator of which is the number of the days during which the
17 property was used or employed to earn, accrue, or incur the income or gain, loss, or
18 deduction in the state;

19 (6) income or a gain, loss, or deduction from the sale or assignment of
20 a beneficial interest, or other disposition of an interest in real property in the state, or
21 rental income or loss from the use of real property in the state, including the
22 percentage of ordinary and capital gains received from a real estate investment trust,
23 as defined in 26 U.S.C. 856 (Internal Revenue Code), that is attributable to rents from
24 or sale or other disposition of real property located in the state; in this paragraph,
25 income or a gain, loss, or deduction from the sale, assignment of a beneficial interest,
26 or other disposition of real property in the state includes income or a gain, loss, or
27 deduction derived from the sale or assignment of a beneficial interest in a partnership,
28 S corporation, nonpublicly traded C corporation with 100 or fewer shareholders,
29 estate, or trust, if the entity owns real property in the state that has a fair market value
30 equal to or exceeding 50 percent of all assets of the entity on the date of sale,
31 assignment, or other disposition of the taxpayer's interest in the entity; for purposes of

1 this paragraph,

2 (A) only assets owned for at least two years before the date of
3 the sale, assignment, or other disposition of an interest in the entity shall be
4 used to determine the fair market value of all of the assets of the entity on the
5 date of sale, assignment, or other disposition; and

6 (B) the amount of income or a gain, loss, or deduction derived
7 from or connected with a source in the state from the sale, assignment, or other
8 disposition of an interest in an entity that is subject to the provisions of this
9 paragraph is the amount recognized for federal income tax purposes related to
10 the sale, assignment, or disposition, multiplied by a fraction, the numerator of
11 which is the fair market value of the real property located in the state on the
12 date of sale, assignment, or disposition and the denominator of which is the fair
13 market value of all of the assets of the entity on the date of the sale,
14 assignment, or disposition;

15 (7) compensation, salary, or wages for personal services rendered or
16 performed in the state that are derived from a business, trade, profession, occupation,
17 or employment carried on in the state; for purposes of this paragraph, personal
18 services

19 (A) except as otherwise provided in (B) of this paragraph,
20 include services performed

21 (i) in connection with presenting or receiving
22 employment-related training or education in the state;

23 (ii) in connection with a site inspection, review,
24 analysis, or management or any other supervision of a facility located
25 in the state;

26 (iii) in connection with research and development at a
27 facility located in the state or in connection with the installation of new
28 or upgraded equipment or systems at that facility;

29 (iv) as part of a project team working on the attraction
30 or implementation of new investment in a facility located or planned to
31 be located in the state;

1 (v) in connection with fishing, farming, or agriculture in
2 the state; or

3 (vi) in the state for the federal government for services
4 performed in the state;

5 (B) do not include services that are causal, isolated,
6 inconsequential, or ancillary to out-of-state services;

7 (8) income derived from a business, trade, profession, occupation, or
8 employment carried on in the state, including income

9 (A) received under a covenant not to compete, a severance
10 agreement, a termination agreement, or unemployment compensation
11 insurance attributable to a business, trade, profession, occupation, or
12 employment previously carried on in the state, regardless of when received;

13 (B) derived from a business, trade, profession, occupation, or
14 employment carried on in the state by an individual who maintains or operates
15 an office, shop, store, warehouse, boat, plane, factory, agency, or other place
16 where the individual's affairs are systematically and regularly carried on,
17 regardless of other transactions carried on outside the state; this subparagraph
18 does not include income from an activity of an individual whose presence in
19 the state is casual, isolated, inconsequential, or ancillary to out-of-state
20 activities, except that, if a business, trade, profession, occupation, or
21 employment is carried on partly in and partly outside the state, other than for
22 the rendering of purely personal services by the individual, the taxable income
23 derived from or connected with a source in the state is determined under
24 AS 43.19 (Multistate Tax Compact) and AS 43.22.030;

25 (9) income from the management or investment function or activities
26 conducted in the state from intangible property;

27 (10) dividends, interest, payments received under an annuity, gains, or
28 other intangible income received from, or attributable to, intangible personal property,
29 including stock, bonds, notes, bank deposits, or annuities, if the intangible personal
30 property is employed in a business, trade, profession, occupation, or employment
31 carried on in the state;

1 (11) a gain derived by a nonresident individual from a statutory stock
2 option, restricted stock, nonstatutory stock option, or stock appreciation right, who, at
3 the time the gain is received, performs services in the state for or is employed in the
4 state by the corporation granting the option, stock, or right, as determined in
5 regulations adopted by the department;

6 (12) income from nonqualified deferred compensation plans
7 attributable to services performed in the state, including compensation included in
8 federal gross income under 26 U.S.C. 457A (Internal Revenue Code);

9 (13) proceeds from a gambling activity conducted in the state or lottery
10 tickets purchased in the state, including payments received from a third party for the
11 transfer of the rights to future proceeds related to a gambling activity in the state or
12 lottery tickets purchased in the state;

13 (14) for an S corporation that terminates its taxable status in the state
14 during the tax year, income or a gain recognized on the receipt of payments from an
15 installment sale contract entered into at the time the S corporation was subject to tax in
16 the state, allocated consistent with the applicable methods and rules under this chapter;

17 (15) royalties or other compensation received for the use of a patent,
18 copyright, secret process or formula, good will, mark, trade brand, franchise, or other
19 property having a taxable or business situs in the state;

20 (16) royalties or other compensation received for the use of a patent if
21 the patent is employed in production, fabrication, manufacturing, or other process in
22 the state;

23 (17) income or a gain from the disposition of an asset if the
24 acquisition, management, or disposition of the asset constitutes an integral part of the
25 nonresident individual's regular trade or business operation;

26 (18) income from the transmission, broadcast, distribution, or
27 dissemination of a service directly or indirectly attributable to the performance in the
28 state of an athlete, entertainer, singer, musician, dancer, comedian, magician,
29 performing artist, actor, actress, or similar person, including syndication fees.

30 (b) A deduction included in taxable income that results from a capital loss,
31 passive activity loss, or net operating loss must be based solely on income or a gain,

1 loss, or deduction derived from or connected with a source in the state. A nonresident
2 individual shall treat a deduction under this subsection in the same manner as the
3 corresponding federal deduction, unless the department requires otherwise in
4 regulation.

5 **Sec. 43.22.050. Business conducted by a nonresident individual, trust, or**
6 **estate; income derived from or connected with a source in the state.** The
7 department shall adopt regulations governing the amount of income or a gain, loss, or
8 deduction from a business conducted by a nonresident individual, trust, or estate that is
9 derived from or connected with a source in the state for purposes of determining
10 taxable income. Regulations adopted under this subsection must be consistent with
11 AS 43.19 (Multistate Tax Compact) and AS 43.22.045 and include adjustments under
12 AS 43.22.030. The department may by regulation require a taxpayer to allocate rather
13 than apportion income or a gain, loss, or deduction under this section.

14 **Sec. 43.22.055. Nonresident trust, estate, or beneficiary; income derived**
15 **from or connected with a source in the state.** (a) The department shall adopt
16 regulations governing whether the income or a gain or loss of a nonresident estate or
17 nonresident trust is taxable income derived from or connected with a source in the
18 state. Regulations adopted under this subsection must be consistent with the remainder
19 of this section and AS 43.22.045.

20 (b) A nonresident beneficiary shall include in taxable income derived from or
21 connected with a source in the state a distribution from an estate or trust as if the
22 nonresident beneficiary earned or incurred the income, gain, or loss attributable to the
23 distribution directly from the source. For purposes of this subsection, the department
24 may establish one or more methods for a nonresident beneficiary to determine the
25 income or a gain or loss attributable to a distribution. The department shall
26 consistently apply a method from year to year and apply the same method to other
27 nonresident beneficiaries of the same trust or estate. Nothing in this subsection
28 requires the department to give effect to a provision of an instrument creating an estate
29 or trust if the department reasonably believes that the principal purpose of the
30 provision is to avoid or evade the tax imposed under this chapter.

31 **Sec. 43.22.060. Part-year resident individual, trust, or estate; residency**

1 **income; income derived from or connected with a source in the state.** (a) Except as
 2 otherwise provided in this section, the taxable income of a part-year resident
 3 individual, trust, or estate is the sum of

4 (1) the taxable income of the part-year resident individual, trust, or
 5 estate during the period of residency; and

6 (2) the taxable income derived from or connected with a source in the
 7 state for the period of nonresidency of the individual, trust, or estate.

8 (b) The department shall adopt regulations to determine the taxable income of
 9 a part-year resident taxpayer who is granted a statutory stock option, restricted stock,
 10 nonstatutory stock option, or a stock appreciation right and who, during the grant
 11 period, performs services in the state for, or is employed in the state by, the
 12 corporation granting the option, stock, or right.

13 **Sec. 43.22.065. Determination of taxable year and method of accounting.**

14 (a) For purposes of the tax imposed under this chapter, a taxpayer's

15 (1) taxable year is the same as the taxpayer's taxable year for federal
 16 income tax purposes; and

17 (2) method of accounting is the same as the taxpayer's method of
 18 accounting for federal income tax purposes.

19 (b) The department shall adopt regulations to determine the taxable income of
 20 a taxpayer whose method of accounting changes during a taxable year or between
 21 taxable years.

22 **Sec. 43.22.070. Returns and payment of taxes.** (a) A person required to pay
 23 tax under this chapter shall file with the department a return setting out

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

25 (2) other information necessary to carry out this chapter, as required by
 26 the department in regulation.

27 (b) A return filed under this chapter must be made under oath and on penalty
 28 of perjury.

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 federal individual income
 31 tax payable to the United 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 a return that the taxpayer has filed with the
3 United States Internal Revenue Service.

4 (e) A taxpayer shall notify the department in writing of an alteration in, or
5 modification of, the taxpayer's federal income tax return and of a recomputation of tax
6 or determination of deficiency, whether with or without assessment. A full statement
7 of the facts must accompany the notice. A taxpayer shall file the notice not later than
8 60 days after the final determination of the alteration, modification, recomputation, or
9 deficiency and shall pay any additional tax due under this chapter at that time. In this
10 subsection, "final determination" means the time that an amended federal return is
11 filed, a notice of deficiency or an assessment is mailed to the taxpayer by the Internal
12 Revenue Service, and the taxpayer has exhausted rights of appeal under federal law.

13 (f) 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, in regulation, set limitations, specify the
17 manner in which claims for credits or refunds are made, and give notice of allowance
18 or disallowance. When a refund is allowed to a taxpayer, the refund may be paid out
19 of the general fund on a warrant issued under a voucher approved by the department.

20 (g) A partnership, S corporation, estate, or trust shall provide to its partners,
21 beneficiaries, or shareholders, and to the department, all information necessary for its
22 partners, beneficiaries, and shareholders to comply with this chapter.

23 (h) A taxpayer is not required to file a return under this section electronically,
24 but a person employed to prepare and file income tax returns shall file the returns for
25 those taxpayers electronically.

26 **Sec. 43.22.075. Tax withholding on wages of individuals and independent**
27 **contractors.** (a) Every employer making payment of wages or salaries

28 (1) shall deduct and withhold an amount of tax computed in a manner
29 to approximate the amount of tax due on those wages and salaries under this chapter
30 for that taxable year;

31 (2) shall remit the tax withheld to the department accompanied by a

1 return on a form prescribed by the department at the times required by the department
2 by regulation;

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

6 (4) shall furnish to the employee on or before January 31 of the
7 succeeding year, or within 30 days after a request by the employee after the
8 employee's or individual's termination if the 30-day period ends before January 31, a
9 written statement on a form prescribed by the department showing

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

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

13 (C) the total amount of wages and salary for the taxable year;

14 and

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

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

19 **Sec. 43.22.080. Withholding on nonresident partners; composite returns.**

20 (a) Unless otherwise provided by this section, a partnership that is required to file an
21 annual information return under subchapter K of the Internal Revenue Code (26
22 U.S.C. 701 - 777) shall file a partnership return as prescribed by the department and
23 shall report any items of income or gain, loss, or deduction that are derived from or
24 connected with a source in the state, as determined under this chapter.

25 (b) A partnership that is required to file a return under (a) of this section shall
26 withhold income tax from a nonresident partner's distributive share of the partnership's
27 items of income or gain, loss, or deduction derived from or connected with a source in
28 the state at the highest marginal income tax rate applicable to individuals for the
29 taxable year.

30 **Sec. 43.22.085. Permanent fund tax payment.** The department shall adopt
31 regulations establishing procedures for an individual eligible for a dividend under

1 AS 43.23.005 to direct the department to hold all or a part of the amount of the
 2 dividend to pay the tax due under this chapter. The amount held under this section
 3 may not exceed the dividend amount after contributions, garnishments, levies, fees,
 4 attachments, assignments, or other reductions or donations allowed under AS 43.23.
 5 The department shall apply the amount held under this section to tax owed in the
 6 taxable year in which the taxpayer applies for the dividend. The department shall
 7 refund the amount of the dividend not applied against taxes under this section to the
 8 individual who appears on the application for the dividend.

9 **Sec. 43.22.090. Administration.** (a) The department shall adopt necessary
 10 regulations and forms to implement and interpret this chapter, including regulations
 11 and forms for the electronic filing and payment of tax due under this chapter. Federal
 12 regulations issued under the Internal Revenue Code shall be considered persuasive
 13 authority in interpreting any provision of the Internal Revenue Code on which the tax
 14 imposed by this chapter relies, whether or not a federal regulation has been
 15 specifically incorporated into a department regulation, unless the federal regulation

16 (1) conflicts with a provision of this chapter;

17 (2) conflicts with a regulation adopted by the department; or

18 (3) is inconsistent with the purposes of this chapter.

19 (b) A transaction or payment between related parties must have economic
 20 substance, must serve a bona fide business purpose, and must not have occurred for
 21 the primary purpose of lowering the tax due under this chapter. The department, upon
 22 review or audit of a taxpayer's return, may determine whether there is sufficient
 23 documentation or whether a transaction or payment meets the requirements of this
 24 subsection. If the department determines that the documentation or the transaction or
 25 payment fail to meet the requirements of this subsection, the department may adjust
 26 the amount of a payment or transaction, disregard the payment or transaction, or make
 27 another adjustment necessary for determining the tax under this chapter. If a payment
 28 in an amount greater than \$500,000 is made, or is required to be made, from one party
 29 to a related party, the parties shall submit documentation substantiating that the
 30 amount of the payment is consistent with 26 U.S.C. 482 (Internal Revenue Code).
 31 Payments subject to this subsection include payments for interest, royalties,

1 management fees, services, inventory, tangible personal property, intangible property,
2 and real property.

3 (c) A tax deficiency assessed by the department under this section is assumed
4 to be correct, and a taxpayer has the burden of proving that the tax deficiency is
5 erroneous.

6 (d) The department shall adjust the income bracket amounts in
7 AS 43.22.010(b) and (c) and the amount of the exemption under
8 AS 43.22.030(a)(2)(H) biennially for inflation from calendar year 2018 using the
9 Consumer Price Index for all urban consumers for Anchorage prepared by the Bureau
10 of Labor Statistics, United States Department of Labor. The department shall round
11 amounts under this subsection to the nearest \$100 and publish the adjusted amounts.

12 **Sec. 43.22.095. Information released to a banking institution.**

13 Notwithstanding AS 43.05.230, information on an individual income tax return may
14 be released to a banking institution to verify the direct deposit of an income tax refund
15 or correct an error in that deposit.

16 **Sec. 43.22.100. References to Internal Revenue Code.** (a) Unless the
17 provision is inconsistent with this chapter or a regulation adopted under this chapter,
18 the provisions of the Internal Revenue Code as now in effect or hereafter amended that
19 are mentioned in this chapter are incorporated in this chapter by reference and have
20 effect as though fully set out in this chapter.

21 (b) When provisions of the Internal Revenue Code incorporated by reference
22 as provided in (a) of this section refer to rules and regulations adopted by the United
23 States Commissioner of Internal Revenue, or hereafter adopted, they are regarded as
24 regulations adopted by the department under and in accordance with the provisions of
25 this chapter, unless and until the department adopts specific regulations in their place
26 conformable with this chapter.

27 **Sec. 43.22.150. Definitions.** In this chapter,

28 (1) "domicile" means an individual's true, fixed, principal, and
29 permanent home, to which the individual intends to return even though currently
30 living elsewhere; if an individual has two or more homes, "domicile" means the one
31 that the individual regards and uses as the individual's more permanent home; once

1 established, a domicile remains as such until an individual demonstrates a real change
2 of intent and moves to a new domicile; indications of domicile include the

3 (A) location of the place of employment of the individual;

4 (B) location of real property owned by the individual;

5 (C) registration and physical location of motor vehicles, planes,
6 boats, and snow machines owned by the individual;

7 (D) location of a bank account or active checking account of
8 the individual;

9 (E) address where the individual receives mail;

10 (F) location of a school where the individual or a member of
11 the individual's immediate family

12 (i) attends; or

13 (ii) receives resident tuition;

14 (G) location of an organization of which the individual is a
15 member;

16 (H) location of a parent, child, grandchild, or great grandchild;

17 (I) location of dental and medical personnel that provide
18 services to the individual on a regular or consistent basis;

19 (J) filing of a prior year tax return by the individual as a
20 resident or nonresident;

21 (K) location where an individual is registered to vote;

22 (L) location where an individual holds a resident fishing,
23 hunting, or trapping license;

24 (2) "federal adjusted gross income" has the meaning given to "adjusted
25 gross income" in 26 U.S.C. 62;

26 (3) "fiduciary" means a guardian, trustee, executor, administrator,
27 receiver, conservator, or a person, whether individual or corporate, acting in a similar
28 position of special confidence toward another;

29 (4) "Internal Revenue Code" means the Internal Revenue Code of 1986
30 (26 U.S.C. 1 et seq.), as amended, and regulations issued thereunder, if the regulations
31 are consistent with this chapter;

1 (5) "irrevocable trust" means a trust or portion of a trust that is not
2 subject to a power to revest title in a person whose property constitutes the trust or a
3 portion of the trust;

4 (6) "nonresident corporation" means a corporation whose place of
5 management and control is outside the state;

6 (7) "nonresident estate" means an estate other than a resident estate or
7 part-year resident estate;

8 (8) "nonresident individual" means an individual who is not a resident
9 of the state for any portion of the taxable year;

10 (9) "nonresident trust" means a trust other than a resident trust or a
11 part-year resident trust;

12 (10) "partner" means a partner as defined in 26 U.S.C. 7701(a)
13 (Internal Revenue Code) and includes a member of a limited liability company or
14 similar entity that is treated as a partnership for federal income tax purposes;

15 (11) "partnership" means an entity as defined in 26 U.S.C. 7701(a)
16 (Internal Revenue Code) and includes a limited liability company and a similar entity
17 treated as a partnership for federal income tax purposes;

18 (12) "part-year resident estate" means an estate that is a resident of the
19 state for a portion of and not the entire taxable year;

20 (13) "part-year resident individual" means an individual who is a
21 resident of the state for a portion of and not the entire taxable year;

22 (14) "part-year resident trust" means a trust that is a resident of the
23 state for a portion of and not the entire taxable year;

24 (15) "related parties" means any parties that satisfy the definition of a
25 related party in 26 U.S.C. 144, 147, or 267 (Internal Revenue Code);

26 (16) "resident corporation" means a corporation whose place of
27 management and control is in the state;

28 (17) "resident estate" means the estate of a

29 (A) decedent who at the time of death was a resident of the
30 state, regardless of the residence of the fiduciary or beneficiary, if the
31 disposition or administration of the estate is, or will be, subject to state law; or

1 (B) person who, at the time of commencement of a bankruptcy
2 proceeding under Title 11 of the United States Code, was a resident of the
3 state;

4 (18) "resident individual" means an individual who

5 (A) receives a permanent fund dividend under AS 43.23.005;

6 (B) receives a tax benefit available only to an individual
7 domiciled in the state; or

8 (C) is domiciled in the state for the entire taxable year unless
9 the individual maintains a permanent place of abode outside the state and
10 spends, in the aggregate, not more than 30 days during the taxable year in the
11 state;

12 (19) "resident trust" means

13 (A) a trust, or a portion of a trust, consisting of property
14 transferred by will of a decedent who at the time of death was a resident of the
15 state if the disposition or administration of the property is, or will be, subject to
16 state law;

17 (B) a trust consisting of the property of a person who was a
18 resident at the time the property was transferred to the trust and, at the time of
19 the transfer, the trust was

20 (i) an irrevocable trust;

21 (ii) a revocable trust and the trust has not later become
22 irrevocable;

23 (iii) a revocable trust and later became irrevocable at a
24 time the person transferring property to the trust was a resident;

25 (C) a trust consisting of property that is or will be disposed of
26 or administered under state law;

27 (D) a trust with a fiduciary or beneficiary, other than a
28 beneficiary whose interest in the trust is contingent, that is a resident of the
29 state, and the laws of the state will govern the administration of the trust; the
30 residence of a corporate fiduciary means the principal place where the
31 corporation transacts the administration of the trust; or

1 (E) a trust that is administered primarily in the state and
 2 governed by the laws of the state;

3 (20) "revocable trust" means a trust or portion of a trust that is subject
 4 to a power, exercisable immediately or at a future time, to revest title in a person
 5 whose property constitutes the trust or portion of the trust;

6 (21) "S corporation" means a corporation that has elected to file a
 7 federal income tax return under 26 U.S.C. 1361 - 1379 (Internal Revenue Code);

8 (22) "taxable income" means income taxable under this chapter;

9 (23) "taxable year" means the calendar year or a fiscal year ending
 10 during the calendar year;

11 (24) "taxpayer" means an individual, trust, or estate subject to a tax
 12 imposed by this chapter.

13 * **Sec. 3.** AS 43.23 is amended by adding a new section to read:

14 **Sec. 43.23.092. Permanent fund dividend individual income tax payment.**

15 In accordance with AS 43.22.085, the department shall prepare the Alaska permanent
 16 fund dividend application to allow an applicant to direct the department to hold all or
 17 part of the amount of the individual's permanent fund dividend for application against
 18 the individual income tax imposed under AS 43.22.

19 * **Sec. 4.** AS 43.05.085; AS 43.20.012(b), and 43.20.013 are repealed.

20 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
 21 read:

22 **APPLICABILITY.** AS 43.22, added by sec. 2 of this Act, applies to income received
 23 on or after the effective date of sec. 2 of this Act.

24 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
 25 read:

26 **TRANSITION: REGULATIONS.** The Department of Revenue may adopt regulations
 27 necessary to implement this Act. The regulations take effect under AS 44.62 (Administrative
 28 Procedure Act), but not before the effective date of the law implemented by the regulation.

29 * **Sec. 7.** Section 6 of this Act takes effect immediately under AS 01.10.070(c).

30 * **Sec. 8.** Except as provided in sec. 7 of this Act, this Act takes effect January 1, 2019.