

HOUSE BILL NO. 9

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE HANNAN

Introduced: 2/18/21

Referred: State Affairs, Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the taxation of 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.** The uncodified law of the State of Alaska is amended by adding a new section
8 to read:

9 SHORT TITLE. This Act may be known as the Education Funding Act.

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

12 LEGISLATIVE INTENT. It is the intent of the legislature that, under this Act,

13 (1) income up to \$14,300 for an individual, plus income from permanent fund

dividends, will not be subject to income tax under AS 43.22;

(2) income up to \$28,600 for two individuals filing jointly who do not have dependents, plus income from permanent fund dividends, will not be subject to the income tax under AS 43.22;

(3) an individual, or two individuals filing jointly, will receive an additional \$4,000 deduction for each dependent, resulting in an increase in the amounts stated in (1) and (2) of this section of \$4,000 for each dependent.

* **Sec. 3.** AS 43.05.045(a) is amended to read:

(a) **Except as provided in AS 43.22.075(i), or unless** [UNLESS] an exemption is granted under (b) of this section, a taxpayer required to submit a return or report for a tax levied under this title or for any other tax administered by the department shall submit the return or report electronically in a format prescribed by the department. Failure to comply with this section may result in a civil penalty under AS 43.05.220(f). If a law under this title requires a report or return or a portion of a report or return to be in writing, an electronically filed report or return satisfies this section. A taxpayer shall submit attachments to a report or return required under this title electronically.

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

Chapter 22. Individual Income Tax.

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

(1) resident;

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

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

If the taxable income is	Then the tax is
Less than \$10,300	\$0
\$10,300 but less than \$50,000	2.5 percent of the amount in excess of \$10,300
\$50,000 but less than \$100,000	\$992.50 plus 4 percent of the amount in excess of \$50,000

1	\$100,000 but less than \$200,000	\$2,992.50 plus 5 percent of the
2		amount in excess of \$100,000
3	\$200,000 but less than \$250,000	\$7,992.50 plus 6 percent of the
4		amount in excess of \$200,000
5	\$250,000 or more	\$10,992.50 plus 7 percent of the
6		amount in excess of \$250,000.

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

9	If the taxable income is	Then the tax is
10	Less than \$20,600	\$0
11	\$20,600 but less than \$100,000	2.5 percent of the amount in
12		excess of \$20,600
13	\$100,000 but less than \$200,000	\$1,985 plus 4 percent of the amount in
14		excess of \$100,000
15	\$200,000 but less than \$400,000	\$5,985 plus 5 percent of the amount in
16		excess of \$200,000
17	\$400,000 but less than \$500,000	\$15,985 plus 6 percent of the amount
18		in excess of \$400,000
19	\$500,000 or more	\$21,985 plus 7 percent of the amount
20		in excess of \$500,000.

21 (d) An individual who is eligible to file a joint federal income tax return but
22 who files an individual federal income tax return shall determine the tax imposed by
23 this chapter under (b) of this section.

24 (e) Two resident individuals who are eligible to file a joint federal income tax
25 return but who do not, individually or jointly, file a federal income tax return may
26 elect to determine the tax imposed by this chapter either

27 (1) individually under (b) of this section; or

28 (2) jointly under (c) of this section.

29 (f) Two individuals who file a joint federal income tax return one or both of
30 whom is not a resident may elect to determine the tax imposed by this chapter either

31 (1) individually under (b) of this section; or

(2) jointly under (c) of this section, as if both individuals were residents; the income of the individuals filing jointly under this paragraph is not subject to the calculation under AS 43.22.015.

Sec. 43.22.015. Calculation of tax on a nonresident individual. (a) Except as otherwise provided in AS 43.22.010(f)(2) or (b) of this section, the tax on a nonresident individual is the product of

(1) the tax determined under AS 43.22.010(b) on the nonresident individual's taxable income computed as if the nonresident individual were a resident individual but taking a reduction under AS 43.22.030(b)(2); and

(2) a fraction, the

(A) numerator of which is the nonresident individual's income taxable under AS 43.22.045; and

(B) denominator of which is the nonresident individual's taxable income computed as if the nonresident individual were a resident individual.

(b) If a nonresident individual's taxable income computed under (a)(2)(B) is less than the nonresident individual's income taxable under (a)(2)(A), the tax imposed by this chapter is on the nonresident individual's taxable income as computed under AS 43.22.045.

Sec. 43.22.020. Tax on trusts and estates. (a) A tax is imposed for each taxable year or portion of a taxable year on the taxable income of a resident or nonresident trust or estate. Except as provided in (b) of this section, the tax under this section for a trust or estate is determined as follows:

If the taxable income is	Then the tax is
Less than \$50,000	2.5 percent of the amount in excess of \$0
\$50,000 but less than \$100,000	\$1,250 plus 4 percent of the amount in excess of \$50,000
\$100,000 but less than \$200,000	\$3,250 plus 5 percent of the amount in excess of \$100,000
\$200,000 but less than \$250,000	\$8,250 plus 6 percent of the amount in

1 excess of \$200,000
 2 \$250,000 or more \$11,250 plus 7 percent of the amount
 3 in excess of \$250,000.

4 (b) A tax of 2.5 percent is imposed on the taxable income of a resident or
 5 nonresident Alaska Native Settlement Trust that has elected for alternative federal tax
 6 treatment under 26 U.S.C. 646 (Internal Revenue Code).

7 (c) In this section, the taxable income of a nonresident trust or estate is the
 8 income of the trust or estate that is derived from or connected with a source in the
 9 state.

10 (d) A trust is not subject to tax under this chapter if
 11 (1) all of the trustees of the trust are nonresidents;
 12 (2) the entire corpus of the trust, including real, tangible, and
 13 intangible property, is located outside the state; and
 14 (3) no income or gains of the trust are derived from or connected with
 15 a source in the state.

16 (e) For purposes of (d)(1) of this section, a trustee that is a nonresident
 17 banking corporation at the time the banking corporation becomes a trustee is a
 18 nonresident trustee even if the banking corporation later becomes a resident trustee
 19 because it is acquired by or becomes an office or branch of a resident trustee.

20 (f) A trust that is exempt from federal income tax because of its purpose or
 21 activities is not subject to tax under this chapter.

22 (g) A special needs trust or other trust established to provide solely for the
 23 housing, living expenses, or medical care of a disabled beneficiary is not subject to tax
 24 under this chapter. In this subsection,

- 25 (1) "disabled beneficiary" means an individual who has
 26 (A) a physical or mental impairment that substantially limits
 27 one or more major life activities; or
 28 (B) a condition that may require the use of a prosthesis, special
 29 equipment for mobility, or a service animal;
 30 (2) "special needs trust" has the meaning given in AS 13.36.215(b).

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

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

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

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

13 (2) for a part-year resident individual, trust, or estate may not exceed
14 the individual's, trust's, or estate's tax due for the period of state residency before
15 credits are applied, multiplied by a ratio, the numerator of which is the individual's,
16 trust's, or estate's taxable income derived from or connected with a source in another
17 state or the political subdivision of another state during the period of state residency
18 and the denominator of which is the part-year resident individual's, trust's, or estate's
19 taxable income during the period of state residency;

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

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

1 or political subdivision.

2 (d) A taxpayer is not allowed a credit under this section for taxes paid to
3 another jurisdiction if the taxpayer claims a credit against the income tax imposed by
4 the other jurisdiction for the tax payable under this chapter.

5 (e) Income tax imposed on a partner or the shareholder of an S corporation on
6 the income of the partnership or S corporation, including tax paid by the partnership or
7 S corporation to satisfy the tax liability of the partner or shareholder, may be included
8 in the calculation of a credit under this section. Tax imposed on the partnership or S
9 corporation that is the direct liability of the partnership or S corporation and not that of
10 the partner or shareholder may not be included in the calculation of a credit under this
11 section.

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

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

15 (A) interest on obligations of another state, a political
16 subdivision of another state, the public instrumentality of another state, or the
17 local authority of another state;

18 (B) a loss on the sale or exchange of an obligation issued by or
19 on behalf of

20 (i) the state;

21 (ii) a municipality of the state; or

22 (iii) a public instrumentality, public authority, or public
23 corporation created under state law;

24 (C) a loss from the sale or exchange of shares in a unit
25 investment trust if the loss is attributable to an obligation issued by or on
26 behalf of

27 (i) the state;

28 (ii) a municipality of the state; or

29 (iii) a public instrumentality, public authority, or public
30 corporation created under state law;

31 (D) 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;

3 (E) income taxes under this chapter;

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

6 (G) a deduction allowed in the determination of federal
 7 adjusted gross income that is directly or indirectly related to income that is not
 8 taxable under this chapter; and

9 (H) income of an incomplete gift nongrantor trust to which a
 10 taxpayer transferred property, less deductions of the trust, if

11 (i) the income and deductions of the trust would be
 12 taken into account in computing the taxpayer's federal taxable income
 13 if the trust in its entirety was treated as a grantor trust under the Internal
 14 Revenue Code;

15 (ii) the trust is a resident trust;

16 (iii) the trust does not qualify as a grantor trust under 26
 17 U.S.C. 671 - 679 (Internal Revenue Code); and

18 (iv) the grantor's transfer of assets to the trust is treated
 19 as an incomplete gift under 26 U.S.C. 2511 (Internal Revenue Code);

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

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

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

24 (C) an ordinary and necessary expense, including an interest
 25 expense, paid or incurred during the taxable year, that is directly or indirectly
 26 related to income exempt under the Internal Revenue Code but taxable by the
 27 state;

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

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

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

(G) a gain from the sale or exchange of an obligation issued by or on behalf of

(i) the state;

(ii) a municipality of the state; or

(iii) a public instrumentality, public authority, or public corporation created under state law; and

(H) a permanent fund dividend received under AS 43.23;

(b) In addition to the adjustments made to taxable income under (a) of this section, a taxpayer may receive a reduction from federal adjusted gross income for each exemption claimed on a taxpayer's federal income tax return for the individual, an individual filing jointly with the individual, or a dependent of the individual. The reduction under this subsection for a

(1) resident taxpayer is \$4,000 for each exemption claimed;

(2) nonresident is, for each exemption claimed, the product of \$4,000 and a fraction, the numerator of which is the nonresident individual's income taxable under AS 43.22.045, computed without the reduction under this subsection, and the denominator of which is the nonresident individual's taxable income computed as if the nonresident individual were a resident individual and without the reduction under this subsection; the reduction under this paragraph may not exceed \$4,000 for each exemption claimed.

(c) The reduction under (b) of this section may not

(1) be claimed by a trust;

(2) reduce a taxpayer's tax liability under this chapter to below zero.

(d) When calculating taxable income, a taxpayer

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

(2) may carry over a net operating loss under 26 U.S.C. 172(b)(1)(A)(ii) (Internal Revenue Code), except that a loss may not be carried over for more than five years; for a taxpayer subject to AS 43.19 (Multistate Tax Compact),

1 the amount of a net operating loss allowed to be carried over is limited to the amount
 2 apportioned to the state in the taxable year in which the loss was generated under
 3 AS 43.19 (Multistate Tax Compact);

4 (3) shall include the modifications required by AS 43.20.144(b)(2),
 5 concerning intangible drilling and development costs, AS 43.20.144(b)(3), concerning
 6 percentage depletion, and AS 43.20.144(b)(4), concerning depreciation.

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

8 A partner or shareholder shall make an adjustment described in AS 43.22.030 to
 9 income or a gain, loss, or deduction from a partnership or S corporation in proportion
 10 to a partner's distributive share of a partnership or a shareholder's pro rata share of an
 11 S corporation. If a partner's distributive share or a shareholder's pro rata share of an
 12 adjustment is not required to be accounted for separately for federal income tax
 13 purposes, the partner's or shareholder's share of the adjustment must be determined in
 14 proportion to the partner's or shareholder's share of partnership or S corporation
 15 income or losses for federal income tax purposes.

16 (b) In determining taxable income, a partner or shareholder shall treat income
 17 or a gain, loss, or deduction from a partnership or S corporation as if it has the same
 18 character as it does for federal income tax purposes. If income or a gain, loss, or
 19 deduction from a partnership or S corporation is not accounted for separately for
 20 federal income tax purposes, a partner or shareholder shall treat the income, gain, loss,
 21 or deduction as if it were realized directly from the source from which it was realized
 22 by the partnership or S corporation or incurred in the same manner it was incurred by
 23 the partnership or S corporation.

24 (c) If the principal purpose of a special allocation of partnership income or a
 25 gain, loss, or deduction is the evasion of tax under this chapter, the partner's
 26 distributive share is determined as if the partnership agreement did not have the
 27 special allocation. In this subsection, "special allocation" means an allocation of the
 28 distributive share of partnership income or a gain, loss, or deduction made under the
 29 partnership agreement to a partner in a proportion different than the partner's
 30 partnership interest.

31 **Sec. 43.22.040. Taxable income of an estate, trust, or beneficiary. (a) The**

1 taxable income of an estate or trust is determined as if the estate or trust were an
 2 individual and is subject to adjustments under AS 43.22.030 and reduction under
 3 section 26 U.S.C. 661 (Internal Revenue Code). The department may establish in
 4 regulation the method for determining the taxable income of an estate or trust,
 5 including the manner in which the adjustments under AS 43.22.030 will be allocated
 6 between the estate's or trust's taxable share and a beneficiary's distributive share.
 7 Unless otherwise provided by the department in regulation, an allocation must be
 8 made in proportion to the estate's or trust's taxable share or the beneficiary's
 9 distributive share of the trust or estate for federal income tax purposes.

10 (b) If the principal purpose of a provision of an instrument directing the
 11 distribution of income or a gain, loss, or deduction of an estate or trust is the evasion
 12 of tax under this chapter, the taxable income of the estate, trust, or beneficiary will be
 13 determined as if the instrument did not contain the provision.

14 **Sec. 43.22.045. Nonresident individuals; income derived from or**
 15 **connected with a source in the state.** (a) The taxable income of a nonresident
 16 individual is the nonresident individual's income derived from or connected with a
 17 source in the state, as adjusted under AS 43.22.030. The taxable income of a
 18 nonresident individual includes

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

21 (2) a shareholder's pro rata share of an S corporation's income or loss,
 22 increased by the reductions for taxes described in 26 U.S.C. 1366(f)(2) and (3)
 23 (Internal Revenue Code), as determined under AS 43.22.050;

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

27 (4) estate or trust income or a gain, loss, or deduction of the estate or
 28 trust, as determined under AS 43.22.055;

29 (5) income or a gain, loss, or deduction from the sale or assignment of
 30 a beneficial interest, or other disposition of an interest in tangible personal property in
 31 the state, or rental income or loss from the use of tangible personal property in the

1 state; if the income, gain, loss, or deduction is from tangible personal property used or
 2 employed both in and outside the state, the amount included in taxable income is
 3 determined by multiplying the income, gain, loss, or deduction by a fraction, the
 4 denominator of which is the total number of days during the taxable year that the
 5 property was used or employed to earn, accrue, or incur the income, gain, loss, or
 6 deduction and the numerator of which is the number of days during which the property
 7 was used or employed to earn, accrue, or incur the income, gain, loss, or deduction in
 8 the state;

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

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

26 (B) the amount of income or a gain, loss, or deduction derived
 27 from or connected with a source in the state from the sale, assignment, or other
 28 disposition of an interest in an entity that is subject to the provisions of this
 29 paragraph is the amount recognized for federal income tax purposes related to
 30 the sale, assignment, or disposition, multiplied by a fraction, the numerator of
 31 which is the fair market value of the real property located in the state on the

1 date of sale, assignment, or disposition and the denominator of which is the fair
 2 market value of all of the assets of the entity on the date of the sale,
 3 assignment, or disposition;

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

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

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

12 (ii) in connection with a site inspection, review,
 13 analysis, or management or any other supervision of a facility located
 14 in the state;

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

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

21 (v) in connection with fishing, farming, or agriculture in
 22 the state; or

23 (vi) for the federal government;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) A deduction included in taxable income that results from a capital loss, passive activity loss, or net operating loss must be based solely on income or a gain, loss, or deduction derived from or connected with a source in the state. A nonresident individual shall treat a deduction under this subsection in the same manner as the corresponding federal deduction, unless the department requires otherwise in regulation.

Sec. 43.22.050. Business conducted by a nonresident individual, trust, or estate; income derived from or connected with a source in the state. (a) The department shall adopt regulations governing the amount of income or the amount of a gain, loss, or deduction from a business conducted by a nonresident individual, trust, or estate that is derived from or connected with a source in the state for purposes of determining taxable income. Regulations adopted under this subsection must be consistent with AS 43.19 (Multistate Tax Compact) and AS 43.22.045 and include adjustments under AS 43.22.030.

(b) The department shall adopt regulations governing the amount of income or the amount of a gain, loss, or deduction that is derived from or connected with a source in the state and is included in a nonresident

(1) partner's distributive share for purposes of taxation under this chapter;

(2) shareholder's pro-rata share of an S corporation for purposes of taxation under this chapter.

(c) The department may by regulation require a taxpayer to allocate rather than apportion income or a gain, loss, or deduction under this section.

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

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

Sec. 43.22.060. Part-year resident individual, trust, or estate; residency income; income derived from or connected with a source in the state. (a) Except as otherwise provided in this section, the taxable income of a part-year resident individual, trust, or estate is the sum of

(1) the taxable income of the part-year resident individual, trust, or

1 estate during the period of residency; and

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

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

9 **Sec. 43.22.065. Personal service corporations and S corporations formed**
10 **or used to evade income tax.** (a) The department may allocate all income,
11 deductions, credits, exclusions, and other allowances between a personal service
12 corporation or S corporation and its employee-owners if the

13 (1) personal service corporation or S corporation performs
14 substantially all of its services for or on behalf of another corporation, partnership, or
15 other entity and the effect is the evasion of income tax; and

16 (2) allocation is necessary to reflect the source and amount of the
17 income, regardless of whether the corporation is otherwise taxable.

18 (b) For purposes of this section, evasion of income tax occurs when a personal
19 service corporation or S corporation is used to

20 (1) reduce the taxable income of a resident or the taxable income of a
21 nonresident derived from or connected with a source in the state; or

22 (2) secure the benefit of an expense, deduction, credit, exclusion, or
23 other allowance for any employee-owner that would not otherwise apply under this
24 chapter.

25 (c) The constructive ownership of stock rules under 26 U.S.C. 318 (Internal
26 Revenue Code) apply to this section, except that "5 percent" shall be substituted for
27 "50 percent" in 26 U.S.C. 318(a)(2)(C) (Internal Revenue Code).

28 (d) In this section, all persons specified in 26 U.S.C. 267(b) (Internal Revenue
29 Code) shall be treated as one entity.

30 (e) In this section,

31 (1) "employee-owner" means any employee who owns, on any day

1 during the taxable year, more than 10 percent of the outstanding stock of a personal
2 service corporation or S corporation;

3 (2) "personal service corporation" means a corporation whose principal
4 activity is the performance of personal services that are substantially performed by the
5 employee-owners of the corporation.

6 **Sec. 43.22.070. Determination of taxable year and method of accounting.**

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

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

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

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

15 **Sec. 43.22.075. Returns and payment of taxes.** (a) A taxpayer shall file with
16 the department a return setting out

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

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

20 (b) The department shall determine and publish the federal adjusted gross
21 income below which an individual is not required to file a tax return under this
22 section.

23 (c) A person required to file a return under this chapter shall file the return on
24 a form or in a format prescribed by the department. The return is due to the department
25 at the same time and in the same manner, including extensions, as the taxpayer's
26 federal income tax return to the United States Internal Revenue Service. A return filed
27 under this chapter must be made under oath and on penalty of perjury.

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

31 (e) A taxpayer, upon request by the department, shall furnish to the

1 department a true and correct copy of a return that the taxpayer has filed with the
2 United States Internal Revenue Service.

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

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

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

22 (i) An individual is not required to file a return under this section
23 electronically, but a person employed to prepare and file an income tax return for an
24 individual shall file the return for that individual electronically.

25 (j) The department shall adopt regulations that set out requirements for a
26 spouse, upon request, to be partially or fully relieved from joint and several liability
27 resulting from the joint filing of a tax return.

28 **Sec. 43.22.080. Tax withholding on wages of individuals.** (a) Every
29 employer making payment of wages or salaries

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 and salaries under this chapter

1 for that taxable 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 an employee on or before January 31 of the
9 succeeding year, or within 30 days after a request by the employee after an employee's
10 or individual's termination if the 30-day period ends before January 31, a written
11 statement on a form prescribed by the department showing

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

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

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

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

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

21 **Sec. 43.22.085. Withholding on nonresident partners; composite returns.**

22 (a) Unless otherwise provided by this section, a partnership that is required to file an
23 annual information return under subchapter K of the Internal Revenue Code (26
24 U.S.C. 701 - 761) shall file a partnership return as prescribed by the department and
25 shall report any income, gains, losses, or deductions that are derived from or
26 connected with a source in the state, as determined under this chapter.

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

1 (c) Withholding under this section is not required by a partnership that

2 (1) is a publicly traded partnership, as defined in 26 U.S.C. 7704(b)
3 (Internal Revenue Code); and

4 (2) files with the department an annual information return reporting the
5 name, address, taxpayer identification number, and other information requested by the
6 department concerning each unitholder whose distributive share of partnership
7 income, regardless of source, is more than \$1,000.

8 (d) The department shall adopt regulations that allow a partnership subject to
9 withholding under this section to file a composite return.

10 **Sec. 43.22.090. Permanent fund tax payment.** The department shall adopt
11 regulations establishing procedures for an individual eligible for a dividend under
12 AS 43.23.005 to direct the department to hold all or a part of the amount of the
13 dividend to pay the tax due under this chapter. The amount held under this section
14 may not exceed the dividend amount after contributions, garnishments, levies, fees,
15 attachments, assignments, or other reductions or donations allowed under AS 43.23.
16 The department shall apply the amount held under this section to tax owed in the
17 taxable year in which the taxpayer applies for the dividend. The department shall
18 refund the amount of the dividend not applied against taxes under this section to the
19 taxpayer.

20 **Sec. 43.22.095. Administration.** (a) The department shall adopt necessary
21 regulations and forms to implement and interpret this chapter, including regulations
22 and forms for the electronic filing and payment of tax due under this chapter. Federal
23 regulations issued under the Internal Revenue Code shall be considered persuasive
24 authority in interpreting any provision of the Internal Revenue Code on which the tax
25 imposed by this chapter relies, whether or not a federal regulation has been
26 specifically incorporated into a department regulation, unless the federal regulation

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

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

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

30 (b) A transaction or payment between related persons must have economic
31 substance, must serve a bona fide business purpose, and must not have occurred for

the primary purpose of lowering the tax due under this chapter. The department, after review or audit of a taxpayer's return, may determine whether there is sufficient documentation or whether a transaction or payment meets the requirements of this subsection. If the department determines that the documentation, transaction, or payment fails to meet the requirements of this subsection, the department may adjust the amount of a payment or transaction, disregard the payment or transaction, or make another adjustment necessary for determining the tax under this chapter. If a payment in an amount greater than \$500,000 is made or required to be made from one person to a related person, the related persons shall submit documentation substantiating that the amount of the payment is consistent with 26 U.S.C. 482 (Internal Revenue Code). Payments subject to this subsection include payments for interest, royalties, management fees, services, inventory, tangible personal property, intangible property, and real property.

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

(d) The department shall adjust the income bracket amounts in AS 43.22.010(b) and (c) and the amount of the exemption under AS 43.22.030(b) biennially for inflation from calendar year 2020 using the Consumer Price Index for urban Alaska, prepared by the Bureau of Labor Statistics, United States Department of Labor. The department shall round amounts under this subsection to the nearest \$100 and publish the adjusted amounts.

(e) The tax collected by the department under this chapter shall be deposited into the general fund and accounted for separately. The legislature may appropriate the estimated amounts separately accounted for under this subsection into the public education fund established in AS 14.17.300. Nothing in this subsection creates a dedicated fund.

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

1 set out in this chapter.

2 (b) Sections 26 U.S.C. 6654, 6662, 6664, 6694, 6695, 6700 - 6702, 6707,
3 6713, 7201, 7202, 7206, 7207, 7216, 7407, and 7408 (Internal Revenue Code), as
4 those sections read on January 1, 2022, are incorporated by reference as a part of this
5 chapter and, if conflicting, supersede provisions in AS 43.05 and AS 43.10.

6 (c) When provisions of the Internal Revenue Code incorporated by reference
7 as provided in (a) and (b) of this section refer to rules and regulations adopted by the
8 United States Commissioner of Internal Revenue, they are regarded as regulations
9 adopted by the department under this chapter, unless the department adopts specific
10 regulations in their place under this chapter.

11 **Sec. 43.22.110. Information released to a banking institution.**
12 Notwithstanding AS 43.05.230, information on an individual income tax return may
13 be released to a banking institution to verify the direct deposit of an income tax refund
14 or correct an error in that deposit.

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

16 (1) "domicile" means an individual's true, fixed, principal, and
17 permanent home, to which the individual intends to return even though currently
18 living elsewhere; if an individual has two or more homes, "domicile" means the one
19 that the individual regards and uses as the individual's more permanent home; once
20 established, a domicile remains the individual's domicile until the individual
21 demonstrates a real change of intent and moves to a new domicile; indications of
22 domicile include the

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

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

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

27 (D) location of a bank account or active checking account of
28 the individual;

29 (E) address where the individual receives mail;

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

- 1 (i) attends; or
- 2 (ii) receives resident tuition;
- 3 (G) location of an organization of which the individual is a
- 4 member;
- 5 (H) location of a parent, child, grandchild, or great grandchild;
- 6 (I) location of dental and medical personnel that provide
- 7 services to the individual on a regular or consistent basis;
- 8 (J) filing of a prior year tax return by the individual as a
- 9 resident or nonresident;
- 10 (K) location where an individual is registered to vote;
- 11 (L) location where an individual holds a resident fishing,
- 12 hunting, or trapping license;
- 13 (2) "federal adjusted gross income" has the meaning given to "adjusted
- 14 gross income" in 26 U.S.C. 62;
- 15 (3) "fiduciary" means a guardian, trustee, executor, administrator,
- 16 receiver, conservator, or a person, whether individual or corporate, acting in a similar
- 17 position of special confidence toward another;
- 18 (4) "Internal Revenue Code" means the Internal Revenue Code (26
- 19 U.S.C. 1 et seq.), as amended;
- 20 (5) "irrevocable trust" means a trust or portion of a trust that is not
- 21 subject to a power to vest title in a person whose property constitutes the trust or a
- 22 portion of the trust;
- 23 (6) "nonresident estate" means an estate other than a resident estate or
- 24 part-year resident estate;
- 25 (7) "nonresident individual" means an individual who is not a resident
- 26 of the state for any portion of the taxable year;
- 27 (8) "nonresident trust" means a trust other than a resident trust or a
- 28 part-year resident trust;
- 29 (9) "partner" means a partner as defined in 26 U.S.C. 7701(a) (Internal
- 30 Revenue Code) and includes a member of a limited liability company or similar entity
- 31 that is treated as a partnership for federal income tax purposes;

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

4 (11) "part-year resident estate" means an estate that is a resident of the
 5 state for a portion of but not the entire taxable year;

6 (12) "part-year resident individual" means an individual who is a
 7 resident of the state for a portion of but not the entire taxable year;

8 (13) "part-year resident trust" means a trust that is a resident of the
 9 state for a portion of but not the entire taxable year;

10 (14) "related persons" means any persons that satisfy the definition of
 11 related persons in 26 U.S.C. 144 or 147 or persons in a relationship, as described in 26
 12 U.S.C. 267(b) (Internal Revenue Code);

13 (15) "resident estate" means the estate of a

14 (A) decedent who at the time of death was a resident of the
 15 state, regardless of the residence of the fiduciary or beneficiary, if the
 16 disposition or administration of the estate is subject to state law; or

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

20 (16) "resident individual" means an individual who

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

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

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

28 (17) "resident trust" means a trust or a portion of a trust consisting of
 29 property

30 (A) transferred by will of a decedent who at the time of death
 31 was a resident of the state if the disposition or administration of the property is

1 subject to state law; or

2 (B) of a person who was a resident at the time the property was
3 transferred to the trust if, at the time of the transfer, the trust was

4 (i) an irrevocable trust;

5 (ii) a revocable trust and the trust has not become
6 irrevocable; or

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

10 (18) "revocable trust" means a trust or portion of a trust that is subject
11 to a power, exercisable immediately or at a future time, to revest title in a person
12 whose property constitutes the trust or portion of the trust;

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

15 (20) "taxable income" means income taxable under this chapter;

16 (21) "taxable year" means the calendar year or a fiscal year ending
17 during the calendar year;

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

20 * **Sec. 5.** AS 43.23 is amended by adding a new section to read:

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

22 In accordance with AS 43.22.090, the department shall prepare the Alaska permanent
23 fund dividend application to allow an applicant to direct the department to hold all or
24 part of the amount of the individual's permanent fund dividend for application against
25 the individual income tax imposed under AS 43.22.

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

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

29 **APPLICABILITY.** AS 43.22, added by sec. 4 of this Act, applies to income received
30 on or after the effective date of sec. 4 of this Act.

31 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

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

5 * **Sec. 9.** Section 8 of this Act takes effect immediately under AS 01.10.070(c).

6 * **Sec. 10.** Except as provided in sec. 9 of this Act, this Act takes effect January 1, 2022.