

**HOUSE BILL NO. 156**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

**BY REPRESENTATIVES GALVIN, Groh, Armstrong**

**Introduced: 4/10/23**

**Referred: House Special Committee on Ways and Means, 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; repealing tax credits applied against the tax on**  
3 **individuals under the Alaska Net Income Tax Act; and providing for an effective date."**

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

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

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

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

2 **Chapter 22. Income Tax.**

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

5 (1) resident individual, trust, or estate;

6 (2) nonresident individual, trust, or estate that is derived from or  
7 connected with a source in the state.

8 (b) The tax under this section for an individual or individuals filing jointly is  
9 two percent of taxable income over \$200,000.

10 (c) Two resident individuals who file a joint federal income tax return may  
11 determine the tax imposed by this chapter jointly under this section.

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

14 (1) individually; or

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

18 (e) In addition to the tax under (a) - (d) of this section, each individual who  
19 has wages, net earnings from self-employment, or combined wages and net earnings  
20 from self-employment in the state shall pay an annual tax of \$20. In this subsection,  
21 "net earnings from self-employment" has the meaning given in 26 U.S.C. 1402.

22 **Sec. 43.22.015. Calculation of tax on a nonresident individual.** (a) Except as  
23 otherwise provided in (b) of this section, the tax on a nonresident individual is the  
24 product of

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

28 (2) a fraction, the

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

31 (B) denominator of which is the nonresident individual's

1 taxable income computed as if the nonresident individual were a resident  
2 individual.

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

7 **Sec. 43.22.020. Tax on trusts and estates.** (a) A tax is imposed for each  
8 taxable year or portion of a taxable year on the taxable income of a resident or  
9 nonresident trust or estate. The tax under this section for a trust or estate is \$20 plus  
10 two percent of taxable income over \$200,000.

11 (b) In this section, the taxable income of a nonresident trust or estate is the  
12 income of the trust or estate that is derived from or connected with a source in the  
13 state.

14 (c) A trust is not subject to tax under this chapter if

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

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

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

20 (d) For purposes of (c)(1) of this section, a trustee that is a nonresident  
21 banking corporation at the time the banking corporation becomes a trustee is a  
22 nonresident trustee even if the banking corporation later becomes a resident trustee  
23 because it is acquired by or becomes an office or branch of a resident trustee.

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

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

29 (1) "disabled beneficiary" means an individual who has

30 (A) a physical or mental impairment that substantially limits  
31 one or more major life activities; or

1 (B) a condition that may require the use of a prosthesis, special  
2 equipment for mobility, or a service animal;

3 (2) "special needs trust" has the meaning given in AS 13.36.215(b).

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

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

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

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

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

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

30 (c) If the tax administration of another state or a political subdivision of  
31 another state determines that a taxpayer has overpaid tax, affecting the computation of

1 the credit allowed under this section for any taxable year, the taxpayer shall file an  
 2 amended return with the department not later than 90 days after the final determination  
 3 by the state or political subdivision that the tax was overpaid. The department may  
 4 assess a taxpayer additional tax, proportional to the amount overpaid in the other state  
 5 or political subdivision.

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

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

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

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

19 (A) interest on obligations of another state, a political  
 20 subdivision of another state, the public instrumentality of another state, or the  
 21 local authority of another state;

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

24 (i) the state;

25 (ii) a municipality of the state; or

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

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

31 (i) the state;

1 (ii) a municipality of the state; or

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

4 (D) interest or dividends on obligations or securities issued by  
5 the United States, or an authority, commission, or instrumentality of the United  
6 States, that the Internal Revenue Code exempts from federal income tax;

7 (E) income taxes under this chapter;

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

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

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

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

19 (ii) the trust is a resident trust;

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

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

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

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

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

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

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

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

5 (F) compensation prohibited from state taxation by 50 U.S.C.  
6 3901 - 4043 (Servicemembers Civil Relief Act);

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

9 (i) the state;

10 (ii) a municipality of the state; or

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

13 (H) a permanent fund dividend received by the taxpayer or the  
14 taxpayer's dependent under AS 43.23.

15 (b) In addition to the adjustments made to taxable income under (a) of this  
16 section, a taxpayer may receive a standard deduction. Subject to adjustment under (d)  
17 of this section, the deduction under this subsection for

18 (1) an individual resident taxpayer is \$12,950;

19 (2) an individual resident who files federal income taxes as a head of  
20 household is \$19,400;

21 (3) two resident taxpayers filing jointly is \$25,900;

22 (4) an individual nonresident is the product of \$12,950 and a fraction,  
23 the numerator of which is the nonresident individual's income taxable under  
24 AS 43.22.045, computed without the deduction under this subsection, and the  
25 denominator of which is the nonresident individual's taxable income computed as if  
26 the nonresident individual were a resident individual and without the deduction under  
27 this subsection; the deduction under this paragraph may not exceed \$12,950 for each  
28 exemption claimed;

29 (5) an individual nonresident who files federal income taxes as a head  
30 of household is the product of \$19,400 and a fraction, the numerator of which is the  
31 nonresident individual's income taxable under AS 43.22.045, computed without the

1 deduction under this subsection, and the denominator of which is the nonresident  
 2 individual's taxable income computed as if the nonresident individual were a resident  
 3 individual and without the deduction under this subsection; the deduction under this  
 4 paragraph may not exceed \$19,400 for each exemption claimed;

5 (6) two nonresident individuals filing jointly is the product of \$25,900  
 6 and a fraction, the numerator of which is the nonresident individuals' income taxable  
 7 under AS 43.22.045, computed without the deduction under this subsection, and the  
 8 denominator of which is the nonresident individuals' taxable income computed as if  
 9 the nonresident individuals were resident individuals and without the deduction under  
 10 this subsection; the deduction under this paragraph may not exceed \$25,900 for each  
 11 exemption claimed.

12 (c) The deduction under (b) of this section may not

13 (1) be claimed by a trust;

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

15 (d) Each year, the department shall adjust the amounts of the standard  
 16 deduction under (b) of this section for inflation. The adjustment for inflation is equal  
 17 to the adjustment for inflation calculated for the standard deduction against the federal  
 18 income tax as set out in 26 U.S.C. 63.

19 (e) When calculating taxable income, a taxpayer

20 (1) may not carry back a net operating loss under 26 U.S.C.  
 21 172(b)(1)(A)(i) (Internal Revenue Code);

22 (2) may carry over a net operating loss under 26 U.S.C.  
 23 172(b)(1)(A)(ii) (Internal Revenue Code), except that a loss may not be carried over  
 24 for more than five years; for a taxpayer subject to AS 43.19 (Multistate Tax Compact),  
 25 the amount of a net operating loss allowed to be carried over is limited to the amount  
 26 apportioned to the state in the taxable year in which the loss was generated under  
 27 AS 43.19 (Multistate Tax Compact);

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

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

1 A partner or shareholder shall make an adjustment described in AS 43.22.030 to  
2 income or a gain, loss, or deduction from a partnership or S corporation in proportion  
3 to a partner's distributive share of a partnership or a shareholder's pro rata share of an  
4 S corporation. If a partner's distributive share or a shareholder's pro rata share of an  
5 adjustment is not required to be accounted for separately for federal income tax  
6 purposes, the partner's or shareholder's share of the adjustment must be determined in  
7 proportion to the partner's or shareholder's share of partnership or S corporation  
8 income or losses for federal income tax purposes.

9 (b) In determining taxable income, a partner or shareholder shall treat income  
10 or a gain, loss, or deduction from a partnership or S corporation as if it has the same  
11 character as it does for federal income tax purposes. If income or a gain, loss, or  
12 deduction from a partnership or S corporation is not accounted for separately for  
13 federal income tax purposes, a partner or shareholder shall treat the income, gain, loss,  
14 or deduction as if it were realized directly from the source from which it was realized  
15 by the partnership or S corporation or incurred in the same manner it was incurred by  
16 the partnership or S corporation.

17 (c) If the principal purpose of a special allocation of partnership income or a  
18 gain, loss, or deduction is the evasion of tax under this chapter, the partner's  
19 distributive share is determined as if the partnership agreement did not have the  
20 special allocation. In this subsection, "special allocation" means an allocation of the  
21 distributive share of partnership income or a gain, loss, or deduction made under the  
22 partnership agreement to a partner in a proportion different than the partner's  
23 partnership interest.

24 **Sec. 43.22.040. Taxable income of an estate, trust, or beneficiary.** (a) The  
25 taxable income of an estate or trust is determined as if the estate or trust were an  
26 individual and is subject to adjustments under AS 43.22.030 and reduction under 26  
27 U.S.C. 661 (Internal Revenue Code). The department may establish in regulation the  
28 method for determining the taxable income of an estate or trust, including the manner  
29 in which the adjustments under AS 43.22.030 will be allocated between the estate's or  
30 trust's taxable share and a beneficiary's distributive share. Unless otherwise provided  
31 by the department in regulation, an allocation must be made in proportion to the

1 estate's or trust's taxable share or the beneficiary's distributive share of the trust or  
2 estate for federal income tax purposes.

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

7 **Sec. 43.22.045. Nonresident individuals; income derived from or**  
8 **connected with a source in the state.** (a) The taxable income of a nonresident  
9 individual is the nonresident individual's income derived from or connected with a  
10 source in the state, as adjusted under AS 43.22.030. The taxable income of a  
11 nonresident individual includes

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

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

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

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

22 (5) income or a gain, loss, or deduction from the sale or assignment of  
23 a beneficial interest, or other disposition of an interest in tangible personal property in  
24 the state, or rental income or loss from the use of tangible personal property in the  
25 state; if the income, gain, loss, or deduction is from tangible personal property used or  
26 employed both in and outside the state, the amount included in taxable income is  
27 determined by multiplying the income, gain, loss, or deduction by a fraction, the  
28 numerator of which is the number of days during which the property was used or  
29 employed to earn, accrue, or incur the income, gain, loss, or deduction in the state and  
30 the denominator of which is the total number of days during the taxable year that the  
31 property was used or employed to earn, accrue, or incur the income, gain, loss, or

1 deduction;

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

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

19 (B) the amount of income or a gain, loss, or deduction derived  
20 from or connected with a source in the state from the sale, assignment, or other  
21 disposition of an interest in an entity that is subject to the provisions of this  
22 paragraph is the amount recognized for federal income tax purposes related to  
23 the sale, assignment, or disposition, multiplied by a fraction, the numerator of  
24 which is the fair market value of the real property located in the state on the  
25 date of sale, assignment, or disposition and the denominator of which is the fair  
26 market value of all of the assets of the entity on the date of the sale,  
27 assignment, or disposition;

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

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

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

5 (ii) in connection with a site inspection, review,  
6 analysis, or management or any other supervision of a facility located  
7 in the state;

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

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

14 (v) in connection with fishing, farming, or agriculture in  
15 the state; or

16 (vi) for the federal government;

17 (B) do not include services that are casual, isolated,  
18 inconsequential, or ancillary to out-of-state services;

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

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

25 (B) derived from a business, trade, profession, occupation, or  
26 employment carried on in the state by an individual who maintains or operates  
27 an office, shop, store, warehouse, boat, plane, factory, agency, or other place  
28 where the individual's affairs are systematically and regularly carried on,  
29 regardless of other transactions carried on outside the state; this subparagraph  
30 does not include income from an activity of an individual whose presence in  
31 the state is casual, isolated, inconsequential, or ancillary to out-of-state

1 activities, except that, if a business, trade, profession, occupation, or  
2 employment is carried on partly in and partly outside the state, other than for  
3 the rendering of purely personal services by the individual, the taxable income  
4 derived from or connected with a source in the state is determined under  
5 AS 43.19 (Multistate Tax Compact) and AS 43.22.030;

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

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

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

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

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

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

30 (15) royalties or other compensation received for the use of a patent,  
31 copyright, secret process or formula, good will, mark, trade brand, franchise, or other

1 property having a taxable or business situs in the state;

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

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

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

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

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

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

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

31 (2) shareholder's pro-rata share of an S corporation for purposes of

1 taxation under this chapter.

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

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

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

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

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

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

29 (b) The department shall adopt regulations to determine the taxable income of  
30 a part-year resident taxpayer who is granted a statutory stock option, restricted stock,  
31 nonstatutory stock option, or a stock appreciation right and who, during the grant

1 period, performs services in the state for, or is employed in the state by, the  
2 corporation granting the option, stock, or right.

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

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

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

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

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

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

19 (c) The constructive ownership of stock rules under 26 U.S.C. 318 (Internal  
20 Revenue Code) apply to this section, except that "5 percent" shall be substituted for  
21 "50 percent" in 26 U.S.C. 318(a)(2)(C) (Internal Revenue Code).

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

24 (e) In this section,

25 (1) "employee-owner" means any employee who owns, on any day  
26 during the taxable year, more than 10 percent of the outstanding stock of a personal  
27 service corporation or S corporation;

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

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

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

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

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

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

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

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

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

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

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

22 (d) A taxpayer, upon request by the department, shall furnish to the  
23 department a true and correct copy of a return that the taxpayer has filed with the  
24 United States Internal Revenue Service.

25 (e) A taxpayer shall notify the department in writing of an alteration in, or  
26 modification of, the taxpayer's federal income tax return and of a recomputation of tax  
27 or determination of deficiency, whether with or without assessment. A full statement  
28 of the facts must accompany the notice. A taxpayer shall file the notice not later than  
29 60 days after the final determination of the alteration, modification, recomputation, or  
30 deficiency and shall pay any additional tax due under this chapter at that time. In this  
31 subsection, "final determination" means the time that an amended federal return is

1 filed, a notice of deficiency or an assessment is mailed to the taxpayer by the Internal  
2 Revenue Service, and the taxpayer has exhausted rights of appeal under federal law.

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

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

13 (h) An individual is not required to file a return under this section  
14 electronically, but a person employed to prepare and file an income tax return for an  
15 individual shall file the return for that individual electronically.

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

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

21 (1) shall, except as provided in (c) of this section, deduct and withhold  
22 an amount of tax computed in a manner to approximate the amount of tax due on those  
23 wages and salaries under this chapter for that taxable year;

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

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

30 (4) shall furnish to an employee on or before January 31 of the  
31 succeeding year, or within 30 days after a request by the employee after an employee's

1 or individual's termination if the 30-day period ends before January 31, a written  
2 statement on a form prescribed by the department showing

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

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

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

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

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

12 (c) An employer shall deduct and withhold the tax due under AS 43.22.010(e)  
13 from an employee's wages subject to withholding from the first regular payroll of the  
14 calendar year. If the employee's first payroll is insufficient to cover the estimated tax  
15 due, the employer shall continue to deduct and withhold from subsequent payrolls  
16 until the tax due under this subsection is fully withheld. A self-employed individual  
17 shall remit to the department the tax due under this subsection in accordance with  
18 regulations adopted by the department.

19 **Sec. 43.22.085. 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 - 761) shall file a partnership return as prescribed by the department and  
23 shall report any income, gains, losses, or deductions 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 income or a gain, loss, or deduction derived from or connected with a source in the  
28 state at the highest marginal income tax rate applicable to individuals for the taxable  
29 year.

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

31 (1) is a publicly traded partnership, as defined in 26 U.S.C. 7704(b)

1 (Internal Revenue Code); and

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

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

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

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

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

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

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

28 (b) A transaction or payment between related persons must have economic  
29 substance, must serve a bona fide business purpose, and must not have occurred for  
30 the primary purpose of lowering the tax due under this chapter. The department, after  
31 review or audit of a taxpayer's return, may determine whether there is sufficient

1 documentation or whether a transaction or payment meets the requirements of this  
2 subsection. If the department determines that the documentation, transaction, or  
3 payment fails to meet the requirements of this subsection, the department may adjust  
4 the amount of a payment or transaction, disregard the payment or transaction, or make  
5 another adjustment necessary for determining the tax under this chapter. If a payment  
6 in an amount greater than \$500,000 is made or required to be made from one person to  
7 a related person, the related persons shall submit documentation substantiating that the  
8 amount of the payment is consistent with 26 U.S.C. 482 (Internal Revenue Code).  
9 Payments subject to this subsection include payments for interest, royalties,  
10 management fees, services, inventory, tangible personal property, intangible property,  
11 and real property.

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

15 (d) The department shall adjust the amount of the exemption under  
16 AS 43.22.030(b) annually for inflation. Adjustments must be consistent with inflation  
17 adjustments made by the Internal Revenue Service to the federal individual income tax  
18 standard deduction. The department shall round amounts under this subsection to the  
19 nearest \$100 and publish the adjusted amounts.

20 (e) The tax collected by the department under this chapter shall be deposited  
21 into the general fund and accounted for separately.

22 **Sec. 43.22.100. References to Internal Revenue Code.** (a) Sections 26 U.S.C.  
23 6654, 6662, 6664, 6694, 6695, 6700 - 6702, 6707, 6713, 7201, 7202, 7206, 7207,  
24 7216, 7407, and 7408 (Internal Revenue Code), as those sections read on January 1,  
25 2023, are incorporated by reference as a part of this chapter and, if conflicting,  
26 supersede provisions in AS 43.05 and AS 43.10.

27 (b) When provisions of the Internal Revenue Code incorporated by reference  
28 under (a) of this section refer to rules and regulations adopted by the United States  
29 Commissioner of Internal Revenue, they are regarded as regulations adopted by the  
30 department under this chapter, unless the department adopts specific regulations in  
31 their place.

1           **Sec. 43.22.105. Information released to a banking institution.**

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

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

6                   (1) "domicile" means an individual's true, fixed, principal, and  
7           permanent home, to which the individual intends to return even if currently living  
8           elsewhere; if an individual has two or more homes, "domicile" means the home that  
9           the individual regards and uses as the individual's more permanent home; once  
10          established, a domicile remains the individual's domicile until the individual  
11          demonstrates a real change of intent and moves to a new domicile; indications of  
12          domicile include the

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

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

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

17                               (D) location of a bank account or active checking account of  
18          the individual;

19                               (E) address where the individual receives mail;

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

22                                       (i) attends; or

23                                       (ii) receives resident tuition;

24                               (G) location of an organization of which the individual is a  
25          member;

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

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

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

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

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

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

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

5 (4) "federal adjusted gross income" has the meaning given to "adjusted  
6 gross income" in 26 U.S.C. 62;

7 (5) "fiduciary" means a guardian, trustee, executor, administrator,  
8 receiver, or conservator or a person, whether individual or corporate, acting in a  
9 similar position of special confidence toward another;

10 (6) "head of household" means a single taxpayer, or married taxpayer  
11 where both spouses file separate returns, with a qualified dependent living in the same  
12 home for more than half the taxable year;

13 (7) "Internal Revenue Code" means the Internal Revenue Code (26  
14 U.S.C. 1 et seq.), as amended;

15 (8) "irrevocable trust" means a trust or portion of a trust that is not  
16 subject to a power to revest title in a person whose property constitutes the trust or a  
17 portion of the trust;

18 (9) "nonresident estate" means an estate other than a resident estate or  
19 part-year resident estate;

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

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

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

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

30 (14) "part-year resident estate" means an estate that is a resident of the  
31 state for a portion of but not the entire taxable year;

1 (15) "part-year resident individual" means an individual who is a  
2 resident of the state for a portion of but not the entire taxable year;

3 (16) "part-year resident trust" means a trust that is a resident of the  
4 state for a portion of but not the entire taxable year;

5 (17) "related person" means a person that satisfies the definition of  
6 "related persons" in 26 U.S.C. 144 or 147 or a person in a relationship as described in  
7 26 U.S.C. 267(b) (Internal Revenue Code);

8 (18) "resident estate" means the estate of a

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

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

15 (19) "resident individual" means an individual who

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

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

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

23 (20) "resident trust" means a trust or a portion of a trust consisting of  
24 property

25 (A) transferred by will of a decedent who at the time of death  
26 was a resident of the state if the disposition or administration of the property is  
27 subject to state law; or

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

30 (i) an irrevocable trust;

31 (ii) a revocable trust and the trust has not become

1                   irrevocable; or

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

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

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

10                   (23) "taxable income" means income taxable under this chapter;

11                   (24) "taxable year" means the calendar year or a fiscal year ending  
12                   during the calendar year;

13                   (25) "taxpayer" means a person subject to a tax imposed by this  
14                   chapter;

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

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

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

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

22 \* **Sec. 4.** AS 43.05.085; AS 43.20.012(b), and 43.20.013 are repealed January 1, 2025.

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

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

27 \* **Sec. 6.** This Act takes effect January 1, 2025.