

Introduced: 9/22/80
Referred: Finance

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 HOUSE BILL NO. 1042

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SPECIAL SESSION

5 A BILL

6 For an Act entitled: "An Act relating to taxes; repealing the Alaska net
7 income tax on individuals; providing for tax credits
8 for political contributions and household and dependent
9 care services; and providing for an effective date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. FINDINGS. The legislature finds

12 (1) Section 1, ch. 22, SLA 1980 afforded complete tax relief to a
13 majority of individual taxpayers under the Alaska Net Income Tax Act and
14 substantial tax relief to most other taxpayers by means of exemptions based
15 on the number of years an individual reported Alaska income. On September 4,
16 1980, the Alaska Supreme Court ruled that these exemptions violate the equal
17 protection clause of art. I, sec. 1 of the state constitution. The effect of
18 that decision is to reimpose the full income tax burden on all taxpayers.

19 (2) It is in the public interest to remedy the constitutional
20 defect and provide tax relief to the public at least equal to that attempted
21 by the exemptions in sec. 1, ch. 22, SLA 1980. This can best be accomplished
22 by repealing the Alaska net income tax on individuals.

23 (3) Because ch. 22, SLA 1980 applied to taxes due for the tax year
24 1979, many taxpayers expected a refund of part or all of their state income
25 tax for 1979, and many of them made plans and commitments in anticipation of
26 the refund. The state has a moral obligation to fulfill this widely held
27 expectation, and this obligation is best discharged by repealing the Alaska
28 net income tax on individuals retroactive to January 1, 1979.

29 * Sec. 2. AS 43.20 is amended by adding new sections to read:

1 Sec. 43.20.012. INDIVIDUALS; RETURNS FOR TAX CREDITS. The tax im-
2 posed by this chapter does not apply to individuals. However, an indi-
3 vidual may file a return under this chapter in order to receive a tax
4 credit under AS 43.20.013.

5 Sec. 43.20.013. INDIVIDUAL TAX CREDITS. (a) A resident individ-
6 ual is entitled to a tax credit not to exceed \$50 for

7 (1) a contribution made in a calendar year to a person or
8 organization for use exclusively

9 (A) for a political campaign for a candidate for

10 (i) President or Vice President of the United
11 States, whether or not the candidate will be voted on in a
12 primary election in Alaska;

13 (ii) United States senator from Alaska;

14 (iii) United States representative from Alaska;

15 (iv) governor or lieutenant governor of Alaska;

16 (v) the Alaska legislature;

17 (vi) delegate to an Alaska constitutional
18 convention;

19 (vii) electoral confirmation as a judge or justice of
20 a court in Alaska; or

21 (viii) municipal office in Alaska; or

22 (B) by a group seeking to influence the outcome of a
23 ballot proposition or question in Alaska; and

24 (2) dues paid in a calendar year to a nonprofit organization
25 organized primarily for the purpose of influencing elections in Alaska.

26 (b) A resident individual is entitled to a tax credit equal to 16
27 percent of the tax credit claimed by the individual on his federal
28 income tax return for household and dependent care services necessary
29 for his gainful employment.

1 (c) The commissioner of revenue shall pay the amount of a tax
2 credit allowed by this section to a resident individual who makes a
3 return as provided in AS 43.20.012. A credit under this section shall
4 be paid in the manner provided in AS 43.20.030(e) for the payment of
5 refunds and payment may not be made without an appropriation for that
6 purpose.

7 * Sec. 3. AS 43.20.021(c) is amended to read:

8 (c) For purposes of calculating the alternative tax on capital
9 gains provided for in the provisions of Internal Revenue Code sec. 1201,
10 the rate is 4.5 percent for corporations [AND 4 PERCENT FOR INDIVIDUALS
11 AND FIDUCIARIES].

12 * Sec. 4. AS 43.20.021(d) is amended to read:

13 (d) Where a credit allowed under the Internal Revenue Code is also
14 allowed in computing Alaska income tax, it is limited to [16 PERCENT FOR
15 INDIVIDUALS AND FIDUCIARIES AND] 18 percent for corporations of the
16 amount of credit determined for federal income tax purposes which is
17 attributable to Alaska.

18 * Sec. 5. AS 43.20.021(f) is amended to read:

19 (f) For the purpose of calculating the minimum tax on tax prefer-
20 ences provided for in secs. 56 - 58 of the Internal Revenue Code (26
21 U.S.C. secs. 56 - 58), the rate is [16 PERCENT FOR INDIVIDUALS AND] 18
22 percent for corporations of the applicable minimum federal tax rate.

23 * Sec. 6. AS 43.20.030(a) is amended to read:

24 (a) If a [EVERY INDIVIDUAL, FIDUCIARY,] partnership which has a
25 corporation as a partner or a [AND] corporation is required to make a
26 return under the provisions of the Internal Revenue Code, it shall at
27 the same time file with the department a return setting out

28 (1) the amount of tax due under this chapter, less credits
29 claimed against the tax; and

1 (2) other information for the purpose of carrying out the
2 provisions of this chapter which the department requires.

3 * Sec. 7. REFUND OF 1979 AND 1980 INCOME TAXES. (a) An individual is
4 entitled to a refund of his Alaska net income taxes paid or withheld after
5 December 31, 1978 for all or part of a tax year occurring after December 31,
6 1978. An individual is also entitled to a refund of his estimated net income
7 tax payments made under AS 43.20 after December 31, 1978, for a tax year for
8 which he has not filed a year-end return under AS 43.20.030.

9 (b) A refund under this section may be made only as provided in this
10 section. Refunds of Alaska net income taxes paid may not be made without an
11 appropriation for that purpose.

12 (c) The department shall establish procedures for determining the
13 amount of and for making the refunds described in (a) of this section.

14 (d) The commissioner may adopt regulations to implement this section,
15 and those regulations may be adopted as emergency regulations under AS 44.-
16 62.040 - 44.62.290.

17 (e) In this section,

18 (1) "commissioner" means the commissioner of revenue;

19 (2) "department" means the Department of Revenue.

20 * Sec. 8. The provisions of AS 43.05.280 do not apply to refunds made
21 under sec. 7 of this Act.

22 * Sec. 9. AS 43.20.013(a) is amended to read:

23 (a) A resident individual is entitled to a tax credit not to
24 exceed \$100 [\$50] for

25 (1) a contribution made in a calendar year to a person or
26 organization for use exclusively

27 (A) for a political campaign for a candidate for

28 (i) President or Vice President of the United
29 States, whether or not the candidate will be voted on in a

1 primary election in Alaska;

2 (ii) United States senator from Alaska;

3 (iii) United States representative from Alaska;

4 (iv) governor or lieutenant governor of Alaska;

5 (v) the Alaska legislature;

6 (vi) delegate to an Alaska constitutional conven-
7 tion;

8 (vii) electoral confirmation as a judge or justice of
9 a court in Alaska; or

10 (viii) municipal office in Alaska; or

11 (B) by a group seeking to influence the outcome of a
12 ballot proposition or question in Alaska; and

13 (2) dues paid in a calendar year to a nonprofit organization
14 organized primarily for the purpose of influencing elections in Alaska.

15 * Sec. 10. The following laws are repealed: AS 43.20.011(a) - (d) and
16 (f), 43.20.015, 43.20.017, 43.20.021(e), 43.20.030(f) and (g), 43.20.031(a),
17 (b), and (f) - (h), 43.20.033, 43.20.035, 43.20.036(d) - (i), 43.20.038,
18 43.20.039, 43.20.040(b)(3) and (6), 43.20.045, 43.20.061, 43.20.160(e),
19 43.20.215, 43.20.340(4), (7), (13), (14), (16), and (17), and secs. 6 - 11 of
20 ch. 22 SLA 1980.

21 * Sec. 11. AS 43.20.170 and 43.20.180 are repealed.

22 * Sec. 12. Sections 3 - 6 and 10 of this Act are retroactive to
23 January 1, 1979.

24 * Sec. 13. Sections 9 and 11 of this Act take effect January 1, 1981.
25 Sections 1 - 8, 10, 12, and 13 of this Act take effect immediately in accor-
26 dance with AS 01.10.070(c).