

Introduced: 9/22/80

Referred: Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 591

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 suspending the Alaska Net Income Tax Act for  
7 individuals and fiduciaries; and providing for an ef-  
8 fective date."

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

10 \* Section 1. The legislature finds:

11 (a) Section 1, ch. 22, SLA 1980 afforded complete tax relief to a ma-  
12 jority of individual taxpayers under the Alaska Net Income Tax Act and sub-  
13 stantial relief to most others by means of a series of exemptions based on  
14 the number of years an individual had Alaska income and reported it to the  
15 state. On September 4, 1980, the Alaska Supreme Court ruled that these ex-  
16 emptions violate the equal protection clause of Art. I, sec. 1 of the Alas-  
17 ka State Constitution. The practical effect of that decision is to re-im-  
18 pose the full income tax burden on all taxpayers.

19 (b) It is in the public interest to remedy this constitutional defect  
20 while still providing tax relief to the public at least equal to that at-  
21 tempted by the series of exemptions in sec. 1, ch. 22, SLA 1980. This can  
22 best be accomplished by eliminating the entire income tax burden for all  
23 individuals and fiduciaries until at least 1990.

24 (c) Because ch. 22, SLA 1980 applied to taxes due for the tax year  
25 1979, a great number of taxpayers expected a refund of part or all of their  
26 state income tax for 1979, and many made plans and commitments in anticipa-  
27 tion of their refunds. The state has a moral obligation to fulfill this  
28 widely held expectation, and this obligation is best discharged by provid-  
29 ing for suspension of the net income tax for individuals and fiduciaries

1 retroactive to January 1, 1979.

2 \* Sec. 2. AS 43.05.010 is amended by adding a new subsection to read:

3 (b) On January 15, 1989, and on January 15 of each year thereaf-  
4 ter the commissioner of revenue shall certify to the governor and the  
5 legislature the total expenditures from the general fund of the state  
6 for the fiscal year ending on June 30 of the immediately preceding  
7 year and the amount of sustainable revenues received by the state dur-  
8 ing that fiscal year. In this subsection, "sustainable revenues" are  
9 all revenues, including all income earned from the permanent fund (art.  
10 IX, sec. 15, Alaska State Constitution), received by the state except  
11 (1) mineral lease rentals, royalties, royalty sale proceeds, federal  
12 mineral revenue sharing payments and bonuses; (2) income taxes under  
13 AS 43.21; (3) production taxes under AS 43.55; (4) property taxes un-  
14 der AS 43.56; (5) oil and gas regulation and conservation taxes under  
15 AS 43.57; and (6) mining license taxes under AS 43.65.

16 \* Sec. 3. AS 43.20.011 is amended by adding new subsections to read:

17 (g) The provisions in AS 43.20.015 - 43.20.170 relating to tax-  
18 payers, except those in AS 43.20.030(f) and (g), 43.20.031(f), and 43.-  
19 20.036(i), do not apply to individuals and fiduciaries for tax years  
20 beginning after December 31, 1978.

21 (h) For purposes of AS 43.20.030(f) and (g), 43.20.031(f) and  
22 43.20.036(i), an individual who is a resident of the state is a taxpay-  
23 er with a tax liability of zero. Upon application to the department,  
24 a resident individual is entitled to receive an amount equal to the  
25 tax credit allowed to him under AS 43.20.031(f) and under AS 43.20.-  
26 036(i). Payments under AS 43.20.030(f) and (g) may not be made without  
27 an appropriation for that purpose.

28 (i) AS 43.20.011(a) - (d) and (f) are suspended for tax years  
29 beginning after December 31, 1978. The taxes levied in AS 43.20.011(a)

1 - (d) and (f) are reinstated and imposed for tax years beginning on  
2 January 1 of the year immediately following the year in which a certi-  
3 fication by the commissioner of revenue under AS 43.05.010(b) shows  
4 total expenditures from the general fund of the state in excess of the  
5 amount of sustainable revenues received by the state.

6 \* Sec. 4. AS 43.20.030(a) is amended to read:

7 (a) Every [INDIVIDUAL, FIDUCIARY,] partnership and corporation  
8 required to make a return under the provisions of the Internal Revenue  
9 Code shall at the same time file with the department a return setting  
10 out

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

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

15 \* Sec. 5. AS 43.20.030(a) is amended to read:

16 (a) Every individual, fiduciary, partnership and corporation re-  
17 quired to make a return under the provisions of the Internal Revenue  
18 Code shall at the same time file with the department a return setting  
19 out

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

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

24 \* Sec. 6. AS 43.20.170(a) is amended to read:

25 (a) Every employer making payment of wages or salaries shall de-  
26 duct and withhold an amount of tax computed in a manner to approximate  
27 the amount of tax due on those wages under this chapter for that year.  
28 The department shall publish the rate of withholding required by this  
29 section which shall [, EXCEPT AS PROVIDED IN (f) OF THIS SECTION,] be

1 expressed as a percentage of the amount required to be withheld under  
2 sec. 3402 of the Internal Revenue Code of 1954. Every employer making  
3 a deduction and a withholding shall furnish to the employee upon re-  
4 quest a record of the amount of tax withheld from the employee on a  
5 form prescribed by the department.

6 \* Sec. 7. (a) A calendar-year taxpayer is entitled to a refund of the  
7 Alaska net income tax paid for tax year 1979. The department shall use its  
8 tax files for 1979 as the basis for issuing the refunds and shall avoid re-  
9 quiring additional applications from taxpayers for those refunds to the ex-  
10 tent practicable.

11 (b) A fiscal-year taxpayer is entitled to a proportionate refund of  
12 the Alaska net income tax paid for a tax year ending in calendar year 1979,  
13 based on the number of days in that tax year after December 31, 1978, di-  
14 vided by 365. If a fiscal-year taxpayer has paid income tax and filed with  
15 the department a year-end return for a tax year ending in calendar year  
16 1980, the department shall also refund the amount of income tax paid by the  
17 taxpayer for that tax year. The department shall establish procedures for  
18 making these refunds in a manner which avoids requiring additional applica-  
19 tions from taxpayers to the extent practicable.

20 (c) Refunds under (a) and (b) of this section may not be made without  
21 an appropriation for that purpose.

22 (d) A taxpayer is entitled to a refund of withholding payments and  
23 other estimated taxes paid on or after January 1, 1980, under the Alaska  
24 Net Income Tax Act for a tax year for which a year-end return has not been  
25 filed with the department, but a refund may be claimed and paid only as  
26 provided in this section.

27 (e) In order to receive a refund of withholding payments under (d) of  
28 this section, a taxpayer must file a claim with the department on a form  
29 prescribed by the department, together with a copy of each of the taxpayer's

1 federal wage and withholding statements (Form W-2) for 1980. In order to  
2 receive a refund of estimated taxes under (d) of this section, a taxpayer  
3 must file a claim with the department on a form prescribed by the depart-  
4 ment, together with such additional materials as the department may by reg-  
5 ulation require.

6 (f) The department shall prescribe and make available to the public  
7 all forms for claiming refunds of withholding and estimated taxes under (d)  
8 of this section no later than December 31, 1980. A taxpayer may not file a  
9 claim with the department for a refund under (d) of this section after  
10 April 15, 1981. The department shall begin processing each claim for a re-  
11 fund under (d) of this section as soon as it receives the claim.

12 (g) The department may adopt regulations to implement this section,  
13 and those regulations may be adopted as emergency regulations under AS 44.-  
14 62.250 and 44.62.260.

15 (h) In this section,

16 (1) "calendar-year taxpayer" means a taxpayer whose tax year co-  
17 incides with the calendar year;

18 (2) "department" means the Department of Revenue;

19 (3) "fiscal-year taxpayer" means a taxpayer whose tax year does  
20 not coincide with the calendar year;

21 (4) "income tax" means the tax levied under the Alaska Net In-  
22 come Tax Act; and

23 (5) "taxpayer" means an individual or fiduciary.

24 \* Sec. 8. The provisions of AS 43.05.280 and AS 43.20.215 do not apply  
25 to refunds made under sec. 7 of this Act.

26 \* Sec. 9. AS 43.20.017, 43.20.160(e), 43.20.170(f) and secs. 6 - 9, ch.  
27 22, SLA 1980 are repealed.

28 \* Sec. 10. AS 43.05.010(b) and AS 43.20.011(g), (h), and (i) are re-  
29 pealed.

1 \* Sec. 11. AS 43.20.011(i), enacted in sec. 3 of this Act, is retroac-  
2 tive to January 1, 1979.

3 \* Sec. 12. Secs. 5 and 10 of this Act are effective on January 1 of the  
4 year immediately following the year in which a certification by the commis-  
5 sioner of revenue under AS 43.05.010(b), enacted in sec. 2 of this Act,  
6 shows total expenditures from the general fund of the state in excess of  
7 the amount of sustainable revenues received by the state.

8 \* Sec. 13. This Act takes effect immediately in accordance with AS 01.-  
9 10.070(c).

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