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1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 154

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taxation of income derived by  
7 individuals; relating to amended tax returns filed by  
8 taxpayers; and providing for an effective date."

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

10 \* Section 1. AS 43.20.011 is amended by adding new subsections to read:

11 (g) There is imposed for each taxable year upon the taxable  
12 income of every resident, nonresident, and part-year resident indi-  
13 vidual and fiduciary of the state, except those subject to the rates  
14 in (h), (i), and (j) of this section, a tax computed according to the  
15 following table:

16 If the taxable income is:	Then the tax is:
17 Over \$31 but less than \$30,000	3.2 percent of taxable income
18 \$30,000 or more	\$960 plus 5.7 percent of the
19	excess over \$30,000

20 (h) There is imposed for each taxable year upon the taxable  
21 income of every resident, nonresident, and part-year resident married  
22 individual who makes a single return jointly with a spouse, as provid-  
23 ed in 26 U.S.C. 6013 (Internal Revenue Code), and upon every resident,  
24 nonresident, and part-year resident surviving spouse, as defined in 26  
25 U.S.C. 2(a) (Internal Revenue Code), a tax computed according to the  
26 following table:

27 If the taxable income is:	Then the tax is:
28 Over \$31 but less than \$50,000	3.2 percent of taxable income
29 \$50,000 or more	\$1,600 plus 5.7 percent of the

1 excess over \$50,000

2 (i) There is imposed for each taxable year upon the taxable  
3 income of every resident, nonresident, and part-year resident head of  
4 a household, as defined in 26 U.S.C. 2(b) (Internal Revenue Code), a  
5 tax computed according to the following table:

6	If the taxable income is:	Then the tax is:
7	Over \$31 but less than \$40,000	3.2 percent of taxable income
8	\$40,000 or more	\$1,280 plus 5.7 percent of the
9		excess over \$40,000

10 (j) There is imposed for each taxable year upon the taxable  
11 income of every resident, nonresident, and part-year resident married  
12 individual who does not make a single return jointly with a spouse a  
13 tax computed according to the following table:

14	If the taxable income is:	Then the tax is:
15	Over \$31 but less than \$25,000	3.2 percent of taxable income
16	\$25,000 or more	\$800 plus 5.7 percent of the
17		excess over \$25,000

18 (k) In (g), (h), (i), and (j) of this section, the tax on a  
19 nonresident or part-year resident individual or fiduciary is the tax  
20 computed on taxable income from all sources, multiplied by a fraction  
21 the numerator of which is adjusted gross income from sources in the  
22 state and the denominator of which is adjusted gross income from all  
23 sources.

24 (l) An individual shall determine the tax under this section  
25 using the same filing status as used on the individual's federal  
26 return.

27 \* Sec. 2. AS 43.20.030(a) is amended to read:

28 (a) Every individual, fiduciary, and [IF A PARTNERSHIP WHICH HAS  
29 A CORPORATION AS A PARTNER OR A] corporation [IS] required to make a

1 return under the provisions of the Internal Revenue Code, [IT] shall  
2 at the same time file with the department a return setting out  
3 (1) the amount of tax due under this chapter, less allow-  
4 able credits and payments claimed against the tax; and  
5 (2) other information for the purpose of carrying out the  
6 provisions of this chapter, which the department requires.

7 \* Sec. 3. AS 43.20.030(d) is amended to read:

8 (d) A taxpayer[, UPON REQUEST BY THE DEPARTMENT], shall file  
9 with the return [FURNISH TO THE DEPARTMENT] a [TRUE AND] correct copy  
10 of the tax return [WHICH THE TAXPAYER HAS] filed with the United  
11 States Internal Revenue Service. Every taxpayer shall file an amended  
12 return with the department, and remit any additional tax and interest  
13 due [NOTIFY THE DEPARTMENT IN WRITING OF ANY ALTERATION IN, OR MODI-  
14 FICATION OF, THE TAXPAYER'S FEDERAL INCOME TAX RETURN AND OF A RECOM-  
15 PUTATION OF TAX OR DETERMINATION OF DEFICIENCY (WHETHER WITH OR WITH-  
16 OUT ASSESSMENT)]. A FULL STATEMENT OF THE FACTS SHALL ACCOMPANY THIS  
17 NOTICE. THE NOTICE SHALL BE FILED] within 60 days after the final  
18 determination of the taxpayer's federal tax liability [MODIFICATION,  
19 RECOMPUTATION OR DEFICIENCY, AND THE TAXPAYER SHALL PAY THE ADDITIONAL  
20 TAX OR PENALTY UNDER THIS CHAPTER]. For purposes of this section, a  
21 final determination means [SHALL MEAN] the time that an amended feder-  
22 al return is filed or the date a federal [A NOTICE OF DEFICIENCY OR  
23 AN] assessment is made [MAILED TO THE TAXPAYER BY THE INTERNAL REVENUE  
24 SERVICE, EXCEPT THAT IN NO EVENT WILL THERE BE A FINAL DETERMINATION  
25 FOR PURPOSES OF THIS SECTION UNTIL THE TAXPAYER HAS EXHAUSTED RIGHTS  
26 OF APPEAL UNDER FEDERAL LAW].

27 \* Sec. 4. AS 43.20.031 is amended by adding new subsections to read:

28 (j) The gross income of an individual or a fiduciary is gross  
29 income as defined in 26 U.S.C. 61 (Internal Revenue Code), and

1 includes those items specifically included in gross income under  
2 Subtitle A, Ch. 1B, Part II of the Internal Revenue Code (26 U.S.C. 71  
3 -- 89) and excludes those items specifically excluded from gross  
4 income under Subtitle A, Ch. 1B, Part III of the Internal Revenue Code  
5 (26 U.S.C. 101 -- 135), with the following modifications:

6 (1) a taxpayer who receives a cost-of-living allowance that  
7 is exempt from federal income tax shall determine and include that  
8 amount as part of the taxpayer's income as if the cost-of-living  
9 allowance were not exempt;

10 (2) a taxpayer who receives interest upon obligations of a  
11 state, or interest upon obligations of a political or municipal subdi-  
12 vision of a state, which is exempt from federal income tax, shall  
13 determine and include that amount as part of the taxpayer's income as  
14 if the interest were not exempt.

15 (k) The following adjustments to the gross income of an indi-  
16 vidual or fiduciary are allowed as deductions in arriving at adjusted  
17 gross income under this section:

18 (1) the deductions allowable under 26 U.S.C. 62 (Internal  
19 Revenue Code)

20 (i) attributable to a trade or business carried  
21 on by a taxpayer;

22 (ii) from the sale or exchange of property;

23 (iii) attributable to property held for the produc-  
24 tion of rents or royalties;

25 (iv) for the premature withdrawal of money from  
26 time savings accounts or deposits;

27 (v) for alimony;

28 (2) interest received on obligations of the United States;

29 (3) refunds of state income taxes included in gross income.

1 (1) The taxable income of a fiduciary is its adjusted gross  
2 income. The taxable income of an individual taxpayer is the taxpay-  
3 er's adjusted gross income less personal exemptions. An individual  
4 taxpayer may deduct from adjusted gross income the number of personal  
5 exemptions to which the taxpayer is entitled under 26 U.S.C. 151  
6 (Internal Revenue Code). The exemption amount is \$3,000 and is not  
7 adjusted for inflation.

8 (m) In this section, "individual" means a resident, nonresident,  
9 or part-year resident individual, and "fiduciary" means a resident,  
10 nonresident, or part-year resident fiduciary.

11 \* Sec. 5. AS 43.20 is amended by adding a new section to read:

12 Sec. 43.20.032. TAX CALCULATION FOR NONRESIDENTS AND PART-YEAR  
13 RESIDENTS. (a) In computing the tax of a nonresident or part-year  
14 resident individual or fiduciary under AS 43.20.011(k), the part of  
15 the adjusted gross income attributable to sources in the state is  
16 determined under AS 43.20.040.

17 (b) In computing adjusted gross income attributable to sources  
18 in the state, deductions and adjustments are allowed only to the  
19 extent that they are connected with income that arises from sources in  
20 the state or property having a situs for taxation in the state.

21 \* Sec. 6. AS 43.20.040(b) is amended to read:

22 (b) In this section, income is from a source having a taxable or  
23 business situs in the state if it is derived from

24 (1) owning or operating business facilities or property in  
25 the state;

26 (2) conducting business, farming, or fishing operations in  
27 the state;

28 (3) [Repealed, sec. 10, ch. 1, SSSLA 1980.]

29 (4) a partnership that [WHICH] transacts business in the

- 1 state;
- 2 (5) a corporation that [WHICH] transacts business in the  
3 state and that [WHICH] has elected to file federal returns under 26  
4 U.S.C. 1361 -- 1379 (Subtitle A, Chapter 1, Subchapter S, Internal  
5 Revenue Code) [SUBCHAPTER S OF THE INTERNAL REVENUE CODE];
- 6 (6) [Repealed, sec. 10, ch. 1, SSSLA 1980.]
- 7 (7) engaging in any other activity from which income is  
8 received, realized, or derived in the state;
- 9 (8) working for salary or wages in the state;
- 10 (9) an estate or trust deriving income from sources in the  
11 state.

12 \* Sec. 7. AS 43.20.040 is amended by adding a new subsection to read:

13 (d) If a business, trade, or profession, other than the render-  
14 ing of purely personal services, is carried on partly inside and  
15 partly outside the state, the income from sources in the state must be  
16 determined as provided in AS 43.19.

17 \* Sec. 8. AS 43.20 is amended by adding a new section to read:

18 Sec. 43.20.062. CREDITS AGAINST TAX. (a) A resident is al-  
19 lowed, as a credit against the tax otherwise due under this chapter,  
20 the amount of income tax imposed on the taxpayer for the taxable year  
21 by another state or territory of the United States on income derived  
22 from sources in the other state or territory that is also subject to  
23 tax under this chapter.

24 (b) The credit allowed in (a) of this section is limited to that  
25 proportion of the tax computed under this chapter which the taxable  
26 income from the other state or territory bears to total taxable in-  
27 come. The credit may not exceed the actual tax paid to the other  
28 state or territory.

29 (c) The amounts deducted and withheld as taxes under this

1 chapter during a calendar year are allowed as credits to the taxpayer  
2 against the tax imposed by this chapter.

3 (d) A taxpayer who qualifies for receipt of the Alaska permanent  
4 fund dividend under AS 43.23 may, under regulations adopted by the  
5 department, request the department to apply the dividend as a credit  
6 against the tax imposed by this chapter.

7 \* Sec. 9. AS 43.20 is amended by adding a new section to read:

8 Sec. 43.20.171. COLLECTION OF INCOME AT SOURCE. (a) Every  
9 employer making payment of wages or salaries shall deduct and withhold  
10 an amount of tax computed in a manner to approximate the amount of tax  
11 due on those wages under this chapter for that year. The employer  
12 shall remit withheld taxes to the department, together with a return  
13 or report prescribed by the department, at the time or times required  
14 by the department by regulation. The department shall publish the  
15 rate of withholding required by this section. Every employer making a  
16 deduction and a withholding shall furnish to the employee no later  
17 than January 31 of the succeeding year, or within 30 days after ter-  
18 mination of employment, whichever is earlier, a written statement on a  
19 form prescribed by the department showing (1) the name and taxpayer  
20 identification number of the employer; (2) the name and social securi-  
21 ty number of the employee; (3) the total amount of wages and other  
22 compensation; and (4) the total amount deducted and withheld as tax.

23 (b) Every employer making payments of wages or salaries earned  
24 in the state, regardless of the place where the payment is made

25 (1) is liable for the payment of the tax required to be  
26 deducted and withheld under this section and is not liable to any  
27 individual for the amount of the payment; and

28 (2) shall make return of and pay to the department the  
29 amount of tax levied which the employer is required to deduct and

1 withhold under this chapter.

2 (c) An employer who fails to comply with this section is subject  
3 to the penalties set out in AS 43.05.220(d).

4 (d) If the employer is the United States or the state or a  
5 political subdivision of the state, or an agency or instrumentality of  
6 one or more of those entities, the return of the amount deducted and  
7 withheld on wages or salaries may be made by an officer of the employ-  
8 er having control of the payment of the wages or salaries or who is  
9 appropriately designated for that purpose.

10 (e) In this section, "wages," "employee," and "employer" have  
11 the meaning attributed to them under 26 U.S.C. 1 -- 9602 (Internal  
12 Revenue Code).

13 \* Sec. 10. AS 43.20.340 is amended by adding new paragraphs to read:

14 (12) "fiduciary" means an estate, a trust, a guardian,  
15 trustee, executor, administrator, receiver, conservator, or a person  
16 acting in a fiduciary capacity for another or for the estate of a  
17 deceased person;

18 (13) "individual" means a natural person, married or un-  
19 married, adult or minor, subject to payment of an income tax under 26  
20 U.S.C. 1 -- 9602 (Internal Revenue Code);

21 (14) "domicile" means the location of an individual's true,  
22 fixed, permanent home and principal establishment, to which the indi-  
23 vidual intends to return from any temporary or transitory absence;

24 (15) "nonresident" means an individual who is not a resident  
25 or part-year resident;

26 (16) "residence" means actual physical presence in the state  
27 and is determined without regard to a person's domicile;

28 (17) "resident" means an individual who, during the taxable  
29 year, was domiciled in the state or resided in the state for the

1       entire taxable year; an individual does not lose resident status  
2       simply by reason of attending an educational institution or by serving  
3       in the armed forces.

4       \* Sec. 11. AS 43.20.012, 43.20.013, and AS 47.45.120(a) are repealed.

5       \* Sec. 12. Sections 1 -- 11 of this Act apply to income received after  
6       December 31, 1987.

7       \* Sec. 13. This Act takes effect January 1, 1988.