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1 IN THE HOUSE

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2

HOUSE BILL NO. 252

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the taxation of income and to
7 individual tax credits; and providing for an effec-
8 tive 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) - (j) of this section, the tax on a nonresident or
 19 part-year resident individual or fiduciary is the tax computed on
 20 taxable income from all sources, multiplied by a fraction the numera-
 21 tor of which is adjusted gross income from sources in the state and
 22 the denominator of which is adjusted gross income from all sources.

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

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

27 (a) An individual, fiduciary, [IF A] corporation, or [A] part-
 28 nership that has a corporation as a partner, that is required to make
 29 a return under the provisions of the Internal Revenue Code, [IT] shall

1 file with the department [, WITHIN 30 DAYS AFTER THE FEDERAL RETURN IS
2 REQUIRED TO BE FILED,] 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 that the department requires.

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

8 (c) The [NOTWITHSTANDING (A) OF THIS SECTION, THE] total amount
9 of tax imposed by this chapter is due and payable to the department at
10 the same time and in the same manner as the tax payable to the United
11 States Internal Revenue Service.

12 * Sec. 4. AS 43.20.030(d) is amended to read:

13 (d) A taxpayer [, UPON REQUEST BY THE DEPARTMENT,] shall file
14 with the return [FURNISH TO THE DEPARTMENT] a [TRUE AND] correct copy
15 of the taxpayer's tax return [WHICH THE TAXPAYER HAS] filed with the
16 United States Internal Revenue Service for the taxable year. Every
17 taxpayer shall file an amended return with the department, and remit
18 any additional tax and interest due [NOTIFY THE DEPARTMENT IN WRITING
19 OF ANY ALTERATION IN, OR MODIFICATION OF, THE TAXPAYER'S FEDERAL
20 INCOME TAX RETURN AND OF A RECOMPUTATION OF TAX OR DETERMINATION OF
21 DEFICIENCY (WHETHER WITH OR WITHOUT ASSESSMENT). A FULL STATEMENT OF
22 THE FACTS SHALL ACCOMPANY THIS NOTICE. THE NOTICE SHALL BE FILED]
23 within 60 days after the final determination of the taxpayer's federal
24 tax liability [MODIFICATION, RECOMPUTATION OR DEFICIENCY, AND THE
25 TAXPAYER SHALL PAY THE ADDITIONAL TAX OR PENALTY UNDER THIS CHAPTER].
26 For purposes of this section, a final determination means [SHALL MEAN]
27 the time that an amended federal return is filed or the date a federal
28 [A NOTICE OF DEFICIENCY OR AN] assessment is made [MAILED TO THE
29 TAXPAYER BY THE INTERNAL REVENUE SERVICE, EXCEPT THAT IN NO EVENT WILL

1 THERE BE A FINAL DETERMINATION FOR PURPOSES OF THIS SECTION UNTIL THE
2 TAXPAYER HAS EXHAUSTED RIGHTS OF APPEAL UNDER FEDERAL LAW].

3 * Sec. 5. AS 43.20.031 is amended by adding new subsections to read:

4 (j) The gross income of an individual or a fiduciary is gross
5 income as defined in 26 U.S.C. 61 (Internal Revenue Code), and in-
6 cludes those items specifically included in gross income under 26
7 U.S.C. 71 - 26 U.S.C. 90 (Subtitle A, Ch. 1B, Part II of the Internal
8 Revenue Code) and excludes those items specifically excluded from
9 gross income under 26 U.S.C. 101 - 26 U.S.C. 135 (Subtitle A, Ch. 1B,
10 Part III of the Internal Revenue Code), with the following modifica-
11 tions:

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

16 (2) a taxpayer who receives interest upon obligations of a
17 state, or interest upon obligations of a political or municipal subdi-
18 vision of a state, that is exempt from federal income tax shall deter-
19 mine and include that amount as part of the taxpayer's income as if
20 the interest were not exempt.

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

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

26 (A) attributable to a trade or business carried on by
27 a taxpayer;

28 (B) from the sale or exchange of property;

29 (C) attributable to property held for the production

1 of rents or royalties;

2 (D) for the premature withdrawal of money from time
3 savings accounts or deposits;

4 (E) for alimony;

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

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

7 (1) The taxable income of a fiduciary is its adjusted gross
8 income.

9 (m) The taxable income of an individual taxpayer is the taxpay-
10 er's adjusted gross income, less personal exemptions. An individual
11 taxpayer may deduct from adjusted gross income an amount that is the
12 greater of

13 (1) the number of personal exemptions to which the taxpayer
14 is entitled under 26 U.S.C. 151 (Internal Revenue Code) multiplied by
15 the amount per exemption authorized by that section, limited to \$3,000
16 per exemption, and not adjusted for inflation; or

17 (2) an amount of the taxpayer's income equal to 100 percent
18 of the federal poverty level guidelines for the tax year applicable to
19 the number of exemptions claimed by the taxpayer; the federal poverty
20 level guidelines are those computed for Alaska and reported as re-
21 quired by 42 U.S.C. 9847 and 42 U.S.C. 9902(2) (Omnibus Budget Rec-
22 onciliation Act of 1981).

23 (n) In this section, "individual" means a resident, nonresident,
24 or part-year resident individual, and "fiduciary" means a resident,
25 nonresident, or part-year resident fiduciary.

26 * Sec. 6. AS 43.20 is amended by adding a new section to read:

27 Sec. 43.20.032. TAX CALCULATION FOR NONRESIDENTS AND PART-YEAR
28 RESIDENTS AND FIDUCIARIES. (a) In computing the tax of a nonresi-
29 dent, a part-year resident individual, or a fiduciary under

1 AS 43.20.011(k), the part of the adjusted gross income attributable to
2 sources in the state is determined under AS 43.20.040.

3 (b) In computing adjusted gross income attributable to sources
4 in the state for a nonresident, a part-year resident individual, or a
5 fiduciary, deductions and adjustments are allowed only to the extent
6 that they are connected with income that arises from sources in the
7 state or property having a situs for taxation in the state.

8 (c) In computing the personal exemptions authorized by AS 43.-
9 20.031(m), a nonresident or part-year resident is allowed a prorated
10 deduction in the ratio provided by this subsection. The ratio for
11 prorating is the taxpayer's adjusted gross income from Alaska sources
12 divided by the taxpayer's adjusted gross income from all sources. The
13 ratio may not exceed 100 percent. For purposes of this subsection,
14 the adjusted gross income means the taxpayer's gross income as defined
15 by 26 U.S.C. 62, modified by AS 43.20.031(j) and (k).

16 * Sec. 7. AS 43.20.040(b) is amended to read:

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

19 (1) owning or operating business facilities or property in
20 the state;

21 (2) conducting business, farming, or fishing operations in
22 the state;

23 (3) [REPEALED

24 (4)] a partnership that [WHICH] transacts business in the
25 state;

26 (4) [(5)] a corporation that [WHICH] transacts business in
27 the state and that [WHICH] has elected to file federal returns under
28 26 U.S.C. 1361 - 1379 (Subtitle A, Ch. 1S, Internal Revenue Code)
29 [SUBCHAPTER S OF THE INTERNAL REVENUE CODE];

1 (5) [(6) REPEALED
2 (7)] engaging in any other activity from which income is
3 received, realized, or derived in the state;
4 (6) working for salary or wages in the state;
5 (7) an estate or trust deriving income from sources in the
6 state.

7 * Sec. 8. AS 43.20.040 is amended by adding a new subsection to read:

8 (d) With regard to the tax under AS 43.20.011(g) - (j), if a
9 business, trade, or profession, other than the rendering of purely
10 personal services, is carried on partly inside and partly outside the
11 state, the income from sources in the state is determined under
12 AS 43.19 (Multistate Tax Compact).

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

14 Sec. 43.20.062. CREDITS AGAINST TAX. (a) A resident is allowed
15 as a credit against the tax otherwise due under this chapter the
16 amount of income tax imposed on the taxpayer for the taxable year by
17 another state or territory of the United States on income derived from
18 sources in the other state or territory that is also subject to tax
19 under this chapter.

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

25 (c) The amounts deducted and withheld as taxes under this chap-
26 ter during a calendar year are allowed as credits to the taxpayer
27 against the tax imposed by this chapter.

28 (d) A taxpayer who qualifies for receipt of the Alaska permanent
29 fund dividend under AS 43.23 may, under regulations adopted by the

1 department, request the department to apply the dividend as a credit
2 against the tax imposed by this chapter.

3 (e) If paid by the taxpayer during the same taxable year, and if
4 not used by the taxpayer as a deduction for the tax, a taxpayer is
5 allowed as a credit against the tax due under AS 43.20.011(g) - (j)
6 for a taxable year the

7 (1) motor vehicle registration tax levied by a municipality
8 under AS 28.10.431;

9 (2) sales and use tax levied by a municipality in the state
10 under AS 29.45.650 - 29.45.710; and

11 (3) property tax levied by a municipality in the state
12 under AS 29.45.010 - 29.45.250 or 29.45.550 - 29.45.600.

13 (f) If paid by the taxpayer during the same taxable year, and if
14 not used by the taxpayer as a deduction for the tax, a taxpayer who
15 rents a domicile in a municipality that levies a property tax, and
16 occupies it as a permanent place of abode is entitled to a renter's
17 credit against the tax due under AS 43.20.011(g) - (j) for a taxable
18 year for a portion of the rent paid on that residence. The amount of
19 the renter's credit is determined by calculating a property tax equiv-
20 alent percentage at the rate of one percent per mill of property tax
21 levied on the residence and by applying the property tax equivalent
22 percentage to the amount of rent paid by the taxpayer on the resi-
23 dence. The renter's credit claimed may not exceed 20 percent of the
24 taxpayer's rent.

25 * Sec. 10. AS 43.20.065 is amended to read:

26 Sec. 43.20.065. ALLOCATION AND APPORTIONMENT. A corporate
27 taxpayer who has income from business activity that [WHICH] is taxable
28 both inside and outside the state or income from other sources both
29 inside and outside the state shall allocate and apportion net income

1 under AS 43.19 (Multistate Tax Compact), or as provided by this chap-
2 ter.

3 * Sec. 11. AS 43.20.160 is amended by adding a new subsection to read:

4 (f) The commissioner shall adopt and publish sales and use tax
5 deduction guides for the purpose of aiding the taxpayer in calculating
6 allowable sales and use tax deductions. The guides shall be based on
7 the amount of income, size of family, and rate of tax. The guides
8 adopted by the commissioner do not preclude a taxpayer from claiming
9 as a deduction the amount of sales and use taxes that the taxpayer
10 actually paid.

11 * Sec. 12. AS 43.20 is amended by adding a new section to read:

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

24 (1) the name and taxpayer identification number of the
25 employer;

26 (2) the name and social security number of the employee;

27 (3) the total amount of wages and other compensation; and

28 (4) the total amount deducted and withheld as tax.

29 (b) Every employer making payments of wages or salaries earned

1 in the state, regardless of the place where the payment is made,

2 (1) is liable for the payment of the tax required to be
3 deducted and withheld under this section and is not liable to an
4 individual for the amount of the payment; and

5 (2) shall make return of and pay to the department the
6 amount of tax levied that the employer is required to deduct and
7 withhold under this chapter.

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

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

16 (e) In this section, "employee," "employer," and "wages" have
17 the meanings attributed to them under 26 U.S.C. (Internal Revenue
18 Code).

19 * Sec. 13. AS 43.20.340 is amended to read:

20 Sec. 43.20.340. DEFINITIONS. In this chapter

21 (1) "bank" means a financial institution, including a
22 national banking association;

23 (2) "corporation" includes an association, joint-stock
24 company, and an insurance company;

25 (3) "department" means the Department of Revenue;

26 (4) "domicile" means the location of an individual's true,
27 fixed, permanent home and principal establishment, to which the indi-
28 vidual intends to return from a temporary or transitory absence;

29 (5) "fiduciary" means an estate, a trust, a guardian,

1 trustee, executor, administrator, receiver, conservator, or a person
2 acting in a fiduciary capacity for another or for the estate of a
3 deceased person.

4 66. "Fiscal year" means an accounting period of 12 months
5 ending on the last day of a month other than December;

6 67. [(56)] "Includes" and "including" when used in a defini-
7 tion do not exclude other things otherwise within the meaning of the
8 word defined.

9 68. "Individual" means a natural person, married or un-
10 married, adult or minor, subject to payment of an income tax under 26
11 U.S.C. Internal Revenue Code);

12 69. [(66)] "Internal Revenue Code" means the Internal Reve-
13 nuce Code of the United States (26 U.S.C.) as the code exists now or as
14 hereafter amended, as the code and amendments apply to the normal
15 taxes and surtaxes on net incomes, which amendments are operative for
16 the purpose of this chapter as of the time they became operative or
17 will become operative under Federal law;

18 70. "Nonresident" means an individual who is not a resident
19 or part-year resident.

20 71. [(70)] "Part-year resident" means an individual who
21 enters or leaves the state during the taxable year and who has resided
22 or was domiciled in the state for a period of less than 12 months
23 during the taxable year.

24 72. [(68)] "Person" means an individual, a trust or estate,
25 or partnership, or a corporation;

26 73. "Resident" means an individual who, during the taxable
27 year, was domiciled in the state or resided in the state for the
28 entire taxable year; an individual does not lose resident status
29 simply by reason of attending an educational institution or by serving

1 in the armed forces;

2 (14) [(9)] "taxable year" means the calendar year or the
3 fiscal year ending during the calendar year upon the basis of which
4 the net income is computed under this chapter; "taxable year" in-
5 cludes, in the case of a return made for a fractional part of a year
6 under this chapter, the period for which the return is made;

7 (15) [(10)] "taxpayer" means a person subject to a tax im-
8 posed by this chapter;

9 (16) [(11)] "trade or business" includes the engaging in or
10 carrying on of a trade, business, profession, vocation, employment,
11 and rendition of services or commercial activity and includes the
12 performance of the function of a public office.

13 * Sec. 14. AS 47.45.120(a) is amended to read:

14 (a) Bonuses received under this chapter are exempt from all
15 municipal [STATE AND POLITICAL SUBDIVISION] taxes except sales and use
16 taxes. [NO BONUS RECEIVED UNDER THIS CHAPTER MAY BE EXEMPT FROM A
17 FEDERAL TAX REQUIREMENT.]

18 * Sec. 15. AS 43.05.085, AS 43.20.012 and 43.20.013 are repealed.

19 * Sec. 16. Sections 1 - 14 of this Act apply to income received after
20 December 31, 1989.

21 * Sec. 17. This Act takes effect January 1, 1990.