

HOUSE BILL NO. 227

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES FINKELSTEIN, Brown, Davies, Ulmer

Introduced: 3/12/93

Referred: State Affairs, Labor & Commerce, Health, Education & Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the taxation of income, and authorizing appropriation of the
2 estimated proceeds of the tax to support public education."

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

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

5 (g) For each taxable year or fractional part of a taxable year after
6 December 31, 1993, there is imposed a tax upon the taxable income of every resident,
7 nonresident, and part-year resident individual and fiduciary of the state. The tax
8 imposed by this subsection is 15 percent of the taxpayer's entire federal income tax
9 liability, except that the tax on a nonresident or part-year resident individual or
10 fiduciary is the tax computed on the taxpayer's entire federal income tax liability
11 multiplied by a fraction the numerator of which is the taxpayer's taxable income from
12 sources in the state and the denominator of which is the taxpayer's taxable income
13 from all sources.

14 (h) An individual shall determine the tax under this section using the same

1 filing status as used on the individual's federal return.

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

3 (a) An individual, fiduciary, [IF A] corporation, or [A] partnership that has
4 a corporation as a partner that is required to make a return under the provisions of the
5 Internal Revenue Code [, IT] shall file with the department [, WITHIN 30 DAYS
6 AFTER THE FEDERAL RETURN IS REQUIRED TO BE FILED,] a return setting
7 out

8 (1) the amount of tax due under this chapter, less allowable credits and
9 payments claimed against the tax; and

10 (2) other information for the purpose of carrying out the provisions of
11 this chapter that the department requires.

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

13 (c) The [NOTWITHSTANDING (a) OF THIS SECTION, THE] total amount
14 of tax imposed by this chapter is due and payable to the department at the same time
15 and in the same manner as the tax payable to the United States Internal Revenue
16 Service.

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

18 (d) A taxpayer [, UPON REQUEST BY THE DEPARTMENT,] shall file with
19 the return [FURNISH TO THE DEPARTMENT] a [TRUE AND] correct copy of the
20 taxpayer's tax return [WHICH THE TAXPAYER HAS] filed with the United States
21 Internal Revenue Service for the taxable year. Every taxpayer shall file an amended
22 return with the department, and remit any additional tax and interest due
23 [NOTIFY THE DEPARTMENT IN WRITING OF ANY ALTERATION IN, OR
24 MODIFICATION OF, THE TAXPAYER'S FEDERAL INCOME TAX RETURN
25 AND OF A RECOMPUTATION OF TAX OR DETERMINATION OF DEFICIENCY
26 (WHETHER WITH OR WITHOUT ASSESSMENT). A FULL STATEMENT OF
27 THE FACTS SHALL ACCOMPANY THIS NOTICE. THE NOTICE SHALL BE
28 FILED] within 60 days after the final determination of the taxpayer's federal tax
29 liability [MODIFICATION, RECOMPUTATION OR DEFICIENCY, AND THE
30 TAXPAYER SHALL PAY THE ADDITIONAL TAX OR PENALTY UNDER THIS
31 CHAPTER]. For purposes of this section, a final determination means [SHALL

1 MEAN] the time that an amended federal return is filed or the date a federal [A
2 NOTICE OF DEFICIENCY OR AN] assessment is made [MAILED TO THE
3 TAXPAYER BY THE INTERNAL REVENUE SERVICE, EXCEPT THAT IN NO
4 EVENT WILL THERE BE A FINAL DETERMINATION FOR PURPOSES OF THIS
5 SECTION UNTIL THE TAXPAYER HAS EXHAUSTED RIGHTS OF APPEAL
6 UNDER FEDERAL LAW].

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

8 Sec. 43.20.032. TAX CALCULATION FOR NONRESIDENTS AND PART-
9 YEAR RESIDENTS AND FIDUCIARIES. (a) In computing the tax under
10 AS 43.20.011(g) of a nonresident or a part-year resident individual, or a fiduciary, the
11 part of the taxpayer's taxable income attributable to sources in the state is determined
12 under AS 43.20.040.

13 (b) In computing the taxpayer's taxable income attributable to sources in the
14 state for a nonresident or a part-year resident individual, or a fiduciary, deductions and
15 adjustments are allowed only to the extent that they are connected with income that
16 arises from sources in the state or property having a situs for taxation in the state.

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

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

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

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

22 (3) [REPEALED

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

24 (4) [(5)] a corporation that [WHICH] transacts business in the state
25 and that [WHICH] has elected to file federal returns under 26 U.S.C. 1361 - 1379
26 (Subtitle A. Ch. 1S. Internal Revenue Code) [SUBCHAPTER S OF THE
27 INTERNAL REVENUE CODE];

28 (5) [(6) REPEALED

29 (7)] engaging in any other activity from which income is received,
30 realized, or derived in the state;

31 (6) working for salary or wages in the state;

1 **(7) an estate or trust deriving income from sources in the state.**

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

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

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

8 Sec. 43.20.062. CREDITS AGAINST TAX. (a) A resident or part-year
9 resident is allowed as a credit against the tax otherwise due under this chapter the
10 amount of income tax imposed on the taxpayer for the taxable year by another state
11 or territory of the United States on income derived from sources in the other state or
12 territory that is also subject to tax under this chapter. However, the credit allowed in
13 this subsection is limited to that proportion of the tax computed under this chapter that
14 the taxable income from the other state or territory bears to total taxable income, and
15 the credit may not exceed the actual tax paid to the other state or territory.

16 (b) The amounts deducted and withheld as taxes under this chapter during a
17 calendar year are allowed as credits to the taxpayer against the tax imposed by this
18 chapter.

19 * Sec. 9. AS 43.20.065 is amended to read:

20 Sec. 43.20.065. ALLOCATION AND APPORTIONMENT. A corporate
21 taxpayer who has income from business activity that [WHICH] is taxable both inside
22 and outside the state or income from other sources both inside and outside the state
23 shall allocate and apportion net income under AS 43.19 (Multistate Tax Compact), or
24 as provided by this chapter.

25 * Sec. 10. AS 43.20.160(d) is amended to read:

26 (d) All money collected by the department under this chapter shall be
27 deposited in the general fund of the state. However, the proceeds from the tax
28 levied under AS 43.20.011(g) - (h) shall be separately accounted for, and the
29 legislature may appropriate the estimated balance of the account to the public
30 school foundation account established in AS 14.17.010(a).

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

1 **Sec. 43.20.171. COLLECTION OF INCOME AT SOURCE. (a) Every**
2 **employer making payment of wages or salaries shall deduct and withhold an amount**
3 **of tax computed in a manner to approximate the amount of tax due on those wages**
4 **under this chapter for that year. The employer shall remit withheld taxes to the**
5 **department, together with a return or report prescribed by the department, at the time**
6 **or times required by the department by regulation. The department shall publish the**
7 **rate of withholding required by this section. Every employer making a deduction and**
8 **a withholding shall furnish to the employee no later than January 31 of the succeeding**
9 **year, or within 30 days after termination of employment, whichever is earlier, a written**
10 **statement on a form prescribed by the department showing**

- 11 (1) **the name and taxpayer identification number of the employer;**
12 (2) **the name and social security number of the employee;**
13 (3) **the total amount of wages and other compensation; and**
14 (4) **the total amount deducted and withheld as tax.**

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

17 (1) **is liable for the payment of the tax required to be deducted and**
18 **withheld under this section and is not liable to an individual for the amount of the**
19 **payment; and**

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

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

24 **(d) If the employer is the United States or the state or a political subdivision**
25 **of the state, or an agency or instrumentality of one or more of those entities, the return**
26 **of the amount deducted and withheld on wages or salaries may be made by an officer**
27 **of the employer having control of the payment of the wages or salaries or who is**
28 **appropriately designated for that purpose.**

29 **(e) In this section, "employee," "employer," and "wages" have the meanings**
30 **given to them under 26 U.S.C. (Internal Revenue Code).**

31 * **Sec. 12. AS 43.20.340 is amended to read:**

1 **Sec. 43.20.340. DEFINITIONS. In this chapter,**

2 (1) "bank" means a financial institution, including a national banking
3 association;

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

6 (3) "fiduciary" means an estate, a trust, a guardian, trustee,
7 executor, administrator, receiver, conservator, or a person acting in a fiduciary
8 capacity for another or for the estate of a deceased person; [REPEALED,]

9 (4) "fiscal year" means an accounting period of 12 months ending on
10 the last day of a month other than December;

11 (5) "individual" means a natural person, married or unmarried,
12 adult or minor, who is subject to the obligation to pay an income tax under 26
13 U.S.C. (Internal Revenue Code) ["INCLUDES" AND "INCLUDING" WHEN USED
14 IN A DEFINITION DO NOT EXCLUDE OTHER THINGS OTHERWISE WITHIN
15 THE MEANING OF THE WORD DEFINED];

16 (6) "Internal Revenue Code" means the Internal Revenue Code of the
17 United States (26 U.S.C.) as the code exists now or as hereafter amended, as the code
18 and amendments apply to the normal taxes and surtax on net incomes, which
19 amendments are operative for the purposes of this chapter as of the time they became
20 operative or will become operative under federal law;

21 (7) "nonresident" means an individual who is not a resident or
22 part-year resident;

23 (8) "part-year resident" means an individual who becomes a resident
24 or loses the status of a resident [ENTERS OR LEAVES THE STATE] during the
25 taxable year [AND WHO HAS RESIDED OR WAS DOMICILED IN THE STATE
26 FOR A PERIOD OF LESS THAN 12 MONTHS DURING THE TAXABLE YEAR];

27 (9) [(8)] "person" means an individual, a trust, an [OR] estate, a [OR]
28 partnership, or a corporation;

29 (10) "resident" has the meaning given to the term "state resident"
30 by AS 43.23.095;

31 (11) [(9)] "taxable year" means the calendar year or the fiscal year

1 ending during the calendar year upon the basis of which the net income is computed
2 under this chapter; "taxable year" includes, in the case of a return made for a fractional
3 part of a year under this chapter, the period for which the return is made;

4 (12) [(10)] "taxpayer" means a person subject to a tax imposed by this
5 chapter;

6 (13) [(11)] "trade or business" includes the engaging in or carrying on
7 of a trade, business, profession, vocation, employment, and rendition of services or
8 commercial activity and includes the performance of the function of a public office.

9 * Sec. 13. AS 43.05.085; AS 43.20.012, 43.20.013; and AS 47.45.120(a) are repealed.

10 * Sec. 14. Sections 1 - 12 of this Act apply to income received after December 31, 1993.