

SENATE BILL NO. 326

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY SENATOR LINCOLN

Introduced: 2/14/94
 Referred: STA, JUD, FIN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the taxation of income and to individual tax credits; and
 2 providing for an effective date."

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) There is imposed for each taxable year upon the taxable income of every
 6 resident, nonresident, and part-year resident individual and fiduciary of the state,
 7 except those subject to the rates in (h), (i), and (j) of this section, a tax computed
 8 according to the following table:

9 If the taxable income is:	Then the tax is:
10 Over \$31 but less than \$30,000	3.2 percent of taxable income
11 \$30,000 or more	\$960 plus 5.7 percent of the
	12 excess over \$30,000.

13 (h) There is imposed for each taxable year upon the taxable income of every
 14 resident, nonresident, and part-year resident married individual who makes a single

1 return jointly with a spouse, as provided in 26 U.S.C. 6013 (Internal Revenue Code),
2 and upon every resident, nonresident, and part-year resident surviving spouse, as
3 defined in 26 U.S.C. 2(a) (Internal Revenue Code), a tax computed according to the
4 following table:

5 If the taxable income is:	Then the tax is:
6 Over \$31 but less than \$50,000	3.2 percent of taxable income
7 \$50,000 or more	\$1,600 plus 5.7 percent of the 8 excess over \$50,000.

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

12 If the taxable income is:	Then the tax is:
13 Over \$31 but less than \$40,000	3.2 percent of taxable income
14 \$40,000 or more	\$1,280 plus 5.7 percent of the 15 excess over \$40,000.

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

19 If the taxable income is:	Then the tax is:
20 Over \$31 but less than \$25,000	3.2 percent of taxable income
21 \$25,000 or more	\$800 plus 5.7 percent of the 22 excess over \$25,000.

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

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

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

30 (a) An individual, fiduciary, [IF A] corporation, or [A] partnership that has
31 a corporation as a partner, that is required to make a return under the provisions of

1 the Internal Revenue Code. [IT] shall file with the department [, WITHIN 30 DAYS
2 AFTER THE FEDERAL RETURN IS REQUIRED TO BE FILED,] a return setting
3 out

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

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

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

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

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

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

1 SECTION UNTIL THE TAXPAYER HAS EXHAUSTED RIGHTS OF APPEAL
2 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 income as defined
5 in 26 U.S.C. 61 (Internal Revenue Code), and includes those items specifically
6 included in gross income under 26 U.S.C. 71 - 26 U.S.C. 90 (Subtitle A, Ch. 1B, Part
7 II of the Internal Revenue Code) and excludes those items specifically excluded from
8 gross income under 26 U.S.C. 101 - 26 U.S.C. 135 (Subtitle A, Ch. 1B, Part III of the
9 Internal Revenue Code), with the following modifications:

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

13 (2) a taxpayer who receives interest upon obligations of a state, or
14 interest upon obligations of a political or municipal subdivision of a state, that is
15 exempt from federal income tax shall determine and include that amount as part of the
16 taxpayer's income as if the interest were not exempt.

17 (k) The following adjustments to the gross income of an individual or fiduciary
18 are allowed as deductions in arriving at adjusted gross income under this section:

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

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

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

23 (C) attributable to property held for the production of rents or
24 royalties;

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

27 (E) for alimony;

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

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

30 (l) The taxable income of a fiduciary is its adjusted gross income.

31 (m) The taxable income of an individual taxpayer is the taxpayer's adjusted

1 gross income, less personal exemptions. An individual taxpayer may deduct from
2 adjusted gross income an amount that is the greater of

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

7 (2) an amount of the taxpayer's income equal to 100 percent of the
8 federal poverty level guidelines for the tax year applicable to the number of
9 exemptions claimed by the taxpayer; the federal poverty level guidelines are those
10 computed for Alaska and reported as required by 42 U.S.C. 9847 and 42 U.S.C.
11 9902(2) (Omnibus Budget Reconciliation Act of 1981).

12 (n) In this section, "individual" means a resident, nonresident, or part-year
13 resident individual, and "fiduciary" means a resident, nonresident, or part-year resident
14 fiduciary.

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

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

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

25 (c) In computing the personal exemptions authorized by AS 43.20.031(m), a
26 nonresident or part-year resident is allowed a prorated deduction in the ratio provided
27 by this subsection. The ratio for prorating is the taxpayer's adjusted gross income
28 from state sources divided by the taxpayer's adjusted gross income from all sources.
29 The ratio may not exceed 100 percent. For purposes of this subsection, the adjusted
30 gross income means the taxpayer's gross income as defined by 26 U.S.C. 62, modified
31 by AS 43.20.031(j) and (k).

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

2 Sec. 43.20.034. SURCHARGE ON INDIVIDUAL TAXABLE INCOME. (a)

3 In addition to the tax imposed by AS 43.20.011(g) - (j), there is levied a surcharge on
4 the amount of the income taxable under AS 43.20.011(g) - (j). The surcharge is
5 computed according to the following table:

6 If the taxable income is:	Then the surcharge is:
7 \$50,000, but less than \$100,000	one percent of taxable income
8 \$100,000 or more	\$1,000, plus an additional one 9 percent of taxable income for each 10 \$50,000 or fraction of \$50,000 of 11 taxable income that exceeds 12 \$100,000, not to exceed a total of 13 eight percent of taxable income.

14 (b) The surcharge imposed by (a) of this section is in addition to the tax
15 imposed by AS 43.20.011. A person required to pay the surcharge imposed by (a) of
16 this section shall make a report and pay the tax in the same manner as required for the
17 tax imposed by AS 43.20.011. Provisions in this chapter applicable to determination
18 of and adjustments to the tax imposed by AS 43.20.011(g) - (j) also apply to the
19 surcharge imposed by (a) of this section.

20 * Sec. 8. AS 43.20.040(b) is amended to read:

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

- 23 (1) owning or operating business facilities or property in the state;
- 24 (2) conducting business, farming, or fishing operations in the state;
- 25 (3) [REPEALED
- 26 (4)] a partnership that [WHICH] transacts business in the state;
- 27 (4) [(5)] a corporation that [WHICH] transacts business in the state
28 and that [WHICH] has elected to file federal returns under 26 U.S.C. 1361 - 1379
29 (Subtitle A, Ch. 1S, Internal Revenue Code) [SUBCHAPTER S OF THE
30 INTERNAL REVENUE CODE];
- 31 (5) [(6) REPEALED

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

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

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

5 * Sec. 9. AS 43.20.040 is amended by adding a new subsection to read:

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

10 * Sec. 10. AS 43.20 is amended by adding a new section to read:

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

16 (b) The credit allowed in (a) of this section is limited to that proportion of the
17 tax computed under this chapter that the taxable income from the other state or
18 territory bears to total taxable income. The credit may not exceed the actual tax paid
19 to the other state or territory.

20 (c) The amounts deducted and withheld as taxes under this chapter during a
21 calendar year are allowed as credits to the taxpayer against the tax imposed by this
22 chapter.

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

27 * Sec. 11. AS 43.20.065 is amended to read:

28 Sec. 43.20.065. ALLOCATION AND APPORTIONMENT. A corporate
29 taxpayer who has income from business activity that [WHICH] is taxable both inside
30 and outside the state or income from other sources both inside and outside the state
31 shall allocate and apportion net income under AS 43.19 (Multistate Tax Compact), or

1 as provided by this chapter.

2 * Sec. 12. AS 43.20.160 is amended by adding a new subsection to read:

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

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

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

- 20 (1) the name and taxpayer identification number of the employer;
21 (2) the name and social security number of the employee;
22 (3) the total amount of wages and other compensation; and
23 (4) the total amount deducted and withheld as tax.

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

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

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

31 (c) An employer who fails to comply with this section is subject to the

1 penalties set out in AS 43.05.220(d).

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

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

9 * Sec. 14. AS 43.20.340 is amended to read:

10 Sec. 43.20.340. DEFINITIONS. In this chapter,

11 (1) "bank" means a financial institution, including a national banking
12 association;

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

15 (3) [REPEALED,

16 (4)] "domicile" means the location of an individual's true, fixed,
17 permanent home and principal establishment, to which the individual intends to
18 return from a temporary or transitory absence;

19 (4) "fiduciary" means an estate, a trust, a guardian, trustee,
20 executor, administrator, receiver, conservator, or a person acting in a fiduciary
21 capacity for another or for the estate of a deceased person;

22 (5) "fiscal year" means an accounting period of 12 months ending on
23 the last day of a month other than December;

24 (6) [(5)] "includes" and "including" when used in a definition do not
25 exclude other things otherwise within the meaning of the word defined;

26 (7) "individual" means a natural person, married or unmarried,
27 adult or minor, subject to payment of an income tax under 26 U.S.C. (Internal
28 Revenue Code);

29 (8) [(6)] "Internal Revenue Code" means the Internal Revenue Code of
30 the United States (26 U.S.C.) as the code exists now or as hereafter amended, as the
31 code and amendments apply to the normal taxes and surtax on net incomes, which

1 amendments are operative for the purposes of this chapter as of the time they became
2 operative or will become operative under federal law;

3 (9) "nonresident" means an individual who is not a resident or
4 part-year resident;

5 (10) [(7)] "part-year resident" means an individual who enters or leaves
6 the state during the taxable year and who has resided or was domiciled in the state for
7 a period of less than 12 months during the taxable year;

8 (11) [(8)] "person" means an individual, a trust or estate, or partnership,
9 or a corporation;

10 (12) "resident" means an individual who, during the entire taxable
11 year, was domiciled in or resided in the state; an individual does not lose resident
12 status simply by reason of attending an educational institution or by serving in
13 the armed forces;

14 (13) [(9)] "taxable year" means the calendar year or the fiscal year
15 ending during the calendar year upon the basis of which the net income is computed
16 under this chapter; "taxable year" includes, in the case of a return made for a fractional
17 part of a year under this chapter, the period for which the return is made;

18 (14) [(10)] "taxpayer" means a person subject to a tax imposed by this
19 chapter;

20 (15) [(11)] "trade or business" includes the engaging in or carrying on
21 of a trade, business, profession, vocation, employment, and rendition of services or
22 commercial activity and includes the performance of the function of a public office.

23 * Sec. 15. AS 47.45.120(a) is amended to read:

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

28 * Sec. 16. AS 43.05.085, AS 43.20.012, and 43.20.013 are repealed.

29 * Sec. 17. Sections 1 - 15 of this Act apply to income received after December 31, 1994.

30 * Sec. 18. This Act takes effect January 1, 1995.