

COMMITTEE REPORT

HOUSE

FURTHER:

3/18/81

(11)

Date: 5-15-81

Mr. Speaker:

The Committee on FINANCE has had HE 187

"An Act relating to the penalty on tax."

under consideration and reports it back as follows:

- do pass do not pass
 do pass with attached amendments(s)
 replace with CS for HB 187 (Jud) same title
 new title
and recommends it do pass
 AND attaches a "Letter of Intent" New Fiscal Note \$0
 reports it back without recommendation
 referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Freeman
Jan A. L.
T. Buckholdt
Robert A. L.
John H. L.
Haugen
Montgomery
H. H. L.

Jan A. L.
CHAIRMAN

Original sponsors: Montgomery, Hayes,
Anderson, et al

Offered: 3/18/81
Referred: Finance

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 187 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the penalty on tax."

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

8 * Section 1. AS 43.05.220(a) is amended to read:

9 (a) Five percent shall be added to a tax for each 30-day period
10 or fraction of the period during which the taxpayer fails to file at
11 the time or times required by law or regulation a return or report, or
12 pay the full amount of the tax, or a portion or a deficiency of the
13 tax, as finally determined by the department and required by this
14 title, unless it is shown that the failure is due to a reasonable cause
15 and not to wilful neglect. The penalty shall not exceed 25 percent in
16 the aggregate. The penalty is computed only on the unpaid balance of
17 the tax liability as determined by the department. The department
18 shall prescribe by regulation circumstances which constitute reasonable
19 cause for purposes of this section.
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Introduced: 2/19/81
Referred: Judiciary and Finance

1 IN THE HOUSE BY MONTGOMERY, HAYES, ANDERSON,
2 BARNES, COTTEN AND HALFORD

3 HOUSE BILL NO. 187

4 IN THE LEGISLATURE OF THE STATE OF ALASKA

5 TWELFTH LEGISLATURE - FIRST SESSION

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9 * Section 1. AS 43.05.220(a) is amended to read:

10 (a) Five percent shall be added to a tax for each full 30-day
11 period [OR FRACTION OF THE PERIOD] during which the taxpayer fails to
12 file at the time or times required by law or regulation a return or
13 report, or pay the full amount of the tax, or a portion or a deficiency
14 of the tax, as finally determined by the department and required by
15 this title, unless it is shown that the failure is due to a reasonable
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Original sponsors: Montgomery, Hayes,
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Offered: 3/18/81
Referred: Finance

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THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

HB 187

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 187
 Title An Act relating to penalty on tax
 Requested by House Juducuary Committee Date 2-21-81

II. FISCAL DETAIL

Agency Affected Department of Revenue
 Program Category Affected Revenue Collection and Management
 BRU, Program, or Subprogram(s) Affected Audit Division

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

FUNDING (Thousands of Dollars) NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attached memorandum to R. D. Stevenson dated February 27, 1981.

IV. DATE February 27, 1981 PREPARED BY Gary L. Jenkins
 AGENCY Audit Division
 PHONE 465-2320
 Original: Legislative Finance
 cc: Budget and Management
Prime Sponsor (First Legislator Named)

MEMORANDUM

State of Alaska

TO: R. D. Stevenson
Legislative Assistant

DATE February 27, 1981

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenkins
Director
Audit Division

SUBJECT HB 187

This bill would make two changes to AS 43.05.220(a) which would significantly alter the functioning of the penalty provision. The first change would give all delinquent taxpayers an additional 30 days in which to file a return or pay a tax before either a failure to file penalty or a failure to pay penalty could be assessed. If for some reason the Legislature feels the filing deadline for filing any particular tax return is not appropriate, then the specific filing deadline should be amended and not permit a carte blanche extension of 30 days before any penalties can be assessed.

The second proposed change in the section would limit either the failure to file or the failure to pay penalty to being computed using only the unpaid balance as a computational base. Our current regulations provide that the failure to pay penalty is computed on the unpaid balance so the only penalty affected by this provision is the failure to file penalty. This provision would seriously thwart our efforts to obtain proper and timely filings of tax returns. This penalty is in the law to insure that taxpayers will meet the statutory requirements to file sufficient information with the department in order that we might ascertain the correctness of the amount of tax which they have paid. All of our statutes have adequate lead times for the filing of returns as well as provisions for obtaining an extension of time to file, most of which are up to six months. If this provision is enacted into law, a taxpayer could pay us a tax, take the position that that is all the tax that was due and refuse to file a return. To ascertain whether he was correct or not, we would be required to expend hundreds of manhours to gather enough information to determine if his original ascertainment was correct. If it was correct, then we would not be able to assert any penalty because there would be no additional tax liability. The end result would be that taxpayers could completely destroy any attempt that we might make at effective tax administration by employing these kind of tactics.