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3AAC26.070. Standards for Prompt, Fair and Equitable Settlements Applicable to All Insurers. (a) An insurer or a person designated by the insurer to act on its behalf involved in the settlement of a claim must, within 15 days or the time frame specified in the insurance contract, after receiving a properly executed proof of loss or other evidence of loss acceptable to the

insurer from a first party claimant, advise the claimant of the acceptance or denial of the claim.

(b) A claim denial must be in writing and a copy of the capability of reproducing its text must be included in the claim file.---

(c) A claim denial based on a specific policy provision, condition or exclusion must include, in the written denial, reference to that specific provision, condition, or exclusion.

(d) If an insurer or a person designated by the insurer to act on its behalf needs more time to determine whether the claim of a first party claimant should be accepted or denied, notification must be given to the first party claimant within 15 working days after the receipt of the proof of loss giving the reason more time is needed. 45 days from the date of the initial notification and every 45 days thereafter while the investigation remains incomplete, written notification must be provided to the claimant stating the reason additional time is necessary to complete the investigation.

(e) An insurer or a person designated by the insurer to act on its behalf may not fail to settle a claim for first party claimant on the grounds that responsibility for payment should be assumed by others, except as may be expressly provided otherwise by the provisions of the insurance policy issued by the insurer.

(f) If negotiations for settlement of a claim continues directly with a claimant who is neither an attorney nor represented by an attorney to a point in time when the claimant's rights may be affected by a statute of limitations or a policy time limit, written notification must be provided to the claimant stating that the time limit may be expiring and may affect the claimant's rights. Notice must be given to first party claimants not less than 30 days before, and to third party claimants not less than 60 days before, the date on which the insurer believes the time limit may expire.

(g) A statement may not be made that indicates the rights of a third party claimant may be impaired if a form or release is not completed within a given period of time, unless the statement is given for the purpose of notifying the third party claimant of the provision of a relevant statute of limitation.

(h) If an insurer has a reasonable basis, supported by specific information available for inspection by the division of insurance, for suspecting that a first party claimant has fraudulently caused or contributed to the loss, the insurer is relieved from the requirements of this section. However, the insurer must, within a reasonable time for full investigation and after receipt of a properly executed proof of loss, advise the claimant of the acceptance or denial of the claim. (Eff. / / , Reg. )

Authority: AS21.06.090  
AS21.36.125  
AS21.36.350

**Sec. 43.20.031. Taxable income of residents; deductions; exemp-**

**ns. (a) [Repealed, § 10 ch 1 SSSLA 1980.]**

**(b) [Repealed, § 10 ch 1 SSSLA 1980.]**

**(c) In computing the tax under this chapter, the taxpayer is not allowed to deduct any taxes based on or measured by net income.**

**(d) Banks and savings and loan associations chartered by the federal government or the state are exempt from income tax under this chapter.**

**(e) An affiliated group of corporations may make or the commissioner may require them to make a consolidated return for the taxable year in place of separate returns. For purposes of calculating the amount of tax payable by the group under a consolidated filing, 26 U.S.C. 1501 — 1552 (Internal Revenue Code), as amended, apply.**

**(f) [Repealed, § 10 ch 1 SSSLA 1980.]**

**(g) [Repealed, § 10 ch 1 SSSLA 1980.]**

**(h) [Repealed, § 10 ch 1 SSSLA 1980.]**

**(i) A corporation which is a member of a group of unitary corporations which collectively has income from business activity taxable both inside and outside the state, or income from other sources both inside and outside the state, shall determine its income from sources in this state by use of the combined method of accounting. (§ 5 ch 70 SLA 1975; am §§ 3 — 5 ch 125 SLA 1976; am § 8 ch 73 SLA 1977; am § 6 ch 133 SLA 1977; am § 1 ch 8 SLA 1978; am § 235 ch 100 SLA 1980; am §§ 14 — 17 ch 113 SLA 1980; am § 10 ch 1 SSSLA 1980; am § 9 ch 2 SSSLA 1980)**

**Cross references. —** For legislative history and purpose of the third and fourth 1980 amendments, see § 1, ch. 1, SSSLA 1980, and § 1, ch. 2, SSSLA 1980, and Temporary and Special Acts; for disclosure of contributions, see AS 24.45.121; for exemption for permanent fund dividends, see AS 43.23.090.

The second and fourth 1980 amendments affected subsections (a) and (h) repealed by the third 1980 amendment, deleted "or combined" following "make a consolidated" in the first sentence of subsection (e), and added subsection (i).  
The third 1980 amendment repealed subsections (a), (b), (d), (g), and (h).

**Sec. 43.20.033. Taxable income of fiduciary. [Repealed, § 10 ch 1 SLA 1980.]**

**Sec. 43.20.035. Taxable income of nonresidents and part-year residents. [Repealed, § 10 ch 1 SSSLA 1980.]**

**Sec. 43.20.036. Federal tax deductions and credits. (a) For purposes of calculating the income tax payable under this chapter, the taxpayer may not apply as a credit against his tax liability the foreign tax credit allowed as to federal taxes under 26 U.S.C. 33 (Internal Revenue Code).**

**(b) For purposes of calculating the income tax payable under this chapter, the taxpayer may apply as a credit against tax liability the**

license. 1960 Op. Att'y Gen., No. 27.

AS 43.70.110 and this section make no provision for the exemption from the license requirement of a religious corporation which is doing business. 1960 Op. Att'y Gen., No. 25.

A religious corporation receiving rents from the renting of an apartment or apartments must obtain an Alaska business license as a condition precedent to

engaging in such business. 1960 Op. Att'y Gen., No. 25.

The state may revoke the license of a collection agency which does not have a proper bond on file with the tax commission. 1960 Op. Att'y Gen., No. 27.

A guide to a workable procedure for license revocation is found in chapter 2 of the Alaska Administrative Procedure Act. 1960 Op. Att'y Gen., No. 27.

#### NOTES TO DECISIONS

A license confers no right of property. *Thiinket Packing Co. v. Harris & Co.*, 5 Alaska 471 (1916).

It merely authorizes the holder to carry on a certain business, but does not grant to the holder any place of business, any more than the issuance of a saloon license grants to the holder a building in which to conduct a saloon, or the issuance of a mercantile license, a building in which to conduct a store. *Columbia Salmon Co. v.*

*Berg*, 5 Alaska 538 (1916).

**Purpose of tax.** — Although this section requires a license for the "privilege" of engaging in a business in Alaska, this language does not render it invalid nor destroy the legislative intent that the purpose of the tax is to raise revenue, and not to regulate any business. *Territory of Alaska v. Journal Printing Co.*, 15 Alaska 676, 135 F. Supp. 169 (D. Alaska 1955).

**Sec. 43.70.030. Levy and computation of license fee.** (a) The license fee for each business is \$25.

(b) The license fee for each national bank and state bank, trust company and savings and loan association is seven percent of its net income. Net income means the taxable income of each taxpayer before net operating loss deduction and special deductions, computed as required under the Internal Revenue Code of the United States and includes all other income, including income from federal, state or municipal obligations. Each of these taxpayers required to make a return under the provisions of the Internal Revenue Code shall at the same time file with the department a return setting out the amount of tax due under this chapter, and other information for the purpose of carrying out the provisions of this chapter which the department requires. Each of these taxpayers shall also at the same time file a true and correct copy of the tax return which it has filed with the Internal Revenue Service. A taxpayer filing under this subsection shall use the same tax year as the taxpayer uses for federal income tax purposes. Any approved extension of time to file the taxpayer's federal income tax return automatically extends the time for filing under this chapter. Any agreement which a taxpayer enters into with the Internal Revenue Service which extends the statute of limitations for any federal income tax return will apply to returns filed under this chapter. The department may, in its discretion, grant an extension of time to file or an extension of the statute of limitations independent of federal action. Every taxpayer shall notify the department in writing, within 90 days, of any alteration in, or modification of its federal income tax return and

of a recomputation of tax or determination of deficiency. For purposes of applying the statute of limitations, this notification constitutes a separate return, and failure to file this notification will have the same effect as the failure to file a return under this title.

(c) The license for the privilege of taking orders through use of catalogs and by mail order offices in the state is the same as set out in this chapter for business generally.

(d) The fee of \$25 applies to all of the provisions of this section, and shall accompany the application. The balance is due and payable on the last day of the taxpayer's tax year and shall be paid before the 15th day of the third month following the end of the tax year, except that the time for filing the return may be extended as provided in (b) of this section. To enable accurate determination of the balance of the tax due at the end of each year, each person to whom this chapter applies shall keep records, give statements under oath, and make returns which the department requires. Returns are made under penalty of perjury. (§ 5 ch 43 SLA 1949; am § 1 ch 128 SLA 1955; am § 1 ch 101 SLA 1960; am § 1 ch 68 SLA 1973; am § 1 ch 50 SLA 1975; am § 3 ch 144 SLA 1978)

#### NOTES TO DECISIONS

**Tax imposed on state obligations and bonds.** — To the extent that all federal obligations are subject to the business license tax, including those obligations afforded a specific tax exemption by Congress, subsection (b) of this section must equally impose the tax on state obligations and bonds, which are otherwise tax exempt pursuant to specific state tax exemptions, in order to avoid any unlawful discrimination against federal securities. *National Bank v. State, Dep't of Revenue, Sup. Ct. Op. No. 2480 (File No. 5482), 642 P.2d 811 (1982).*

The legislature intended to define the term "net income" broadly for business license tax calculation purposes. *National Bank v. State, Dep't of Revenue Sup. Ct. Op. No. 2480 (File No. 5482), 642 P.2d 811 (1982).*

The "all other income" category in subsection (b) is interpreted as an attempt by the legislature to reach those types of income, such as bond interest, which are not otherwise subject to federal income taxation. *National Bank v. State, Dep't of Revenue, Sup. Ct. Op. No. 2480 (File No. 5482), 642 P.2d 811 (1982).*

Alaska State Housing Authority and Alaska Housing Finance Corporation bonds are not "state obligations" for purposes of subsection (b) of this section.

*National Bank v. State, Dep't of Revenue, Sup. Ct. Op. No. 2480 (File No. 5482), 642 P.2d 811 (1982).*

Alaska State Housing Authority and Alaska Housing Finance Corporation bond interest falls within the meaning of the phrase "all other income" in subsection (b) of this section and is to be considered as "net income" of the banks for purposes of determining their business license tax liability pursuant to subsection (b). *National Bank v. State, Dep't of Revenue, Sup. Ct. Op. No. 2480 (File No. 5482), 642 P.2d 811 (1982).*

The purpose of excluding "insurance businesses" from the coverage of subsection (a) by virtue of the definition in AS 43.70.110(1) is apparently to avoid taxing these businesses twice, since insurers are subject to a premiums tax imposed by AS 21.09.210. *Northern Adjusters, Inc. v. Department of Revenue, Sup. Ct. Op. No. 2332 (File No. 5128), 627 P.2d 205 (1981).*

Adjusters. — Because adjusters are not "insurers" subject to the premiums tax, they should not be viewed as "insurance businesses" exempt from the general license tax. *Northern Adjusters, Inc. v. Department of Revenue, Sup. Ct. Op. No. 2332 (File No. 5128), 627 P.2d 205 (1981).*



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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

March 21, 1984

The Honorable Jalmar Kerttula  
Alaska State Senate  
Pouch V  
Juneau, AK 99811

Dear Senator Kerttula:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to amend AS 43, the Revenue and Taxation Code, by repealing AS 43.20.031(d) and AS 43.70.030(b).

This bill repeals AS 43.20.031(d), which exempts banks and savings and loan associations from taxation under AS 43.20, the corporate income tax chapter. It also repeals AS 43.70.030(b), which taxes banks, trust companies, and savings and loan associations under AS 43.70, the Business License Act.

Currently, banks and savings and loan associations are specifically exempted from the corporate income tax under AS 43.20 because of federal restrictions which required states to tax national banks and savings and loan associations separately from other corporations. Those federal restrictions no longer exist. Therefore, we may now tax banks under AS 43.20 along with all other corporate taxpayers, and that is what this bill will accomplish.

Sincerely,

  
Bill Sheffield  
Governor

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date

REQUEST

Bill/Resolution No: \_\_\_\_\_  
 Title: State taxation of national banks  
 Sponsor: Governor  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<u>OPERATING</u>						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 SUPPLIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
<u>TOTAL OPERATING</u>	-	-	-	-	-	-
<u>CAPITAL</u>	-	-	-	-	-	-
<u>REVENUE</u>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<u>TOTAL</u>	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis.

Prepared By: Maureen O'Brien  
 Division: Audit Division

Phone: 465-2320

Date: March 20, 1984

Approved by Commissioner: R. H. Heston  
 Agency: Revenue

Date: 3/20/84

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Currently banks are required to file returns and pay tax under a statute separate from all other corporations (AS 43.70). This results in significant administrative and legal problems. The Department of Revenue therefore recommends that banks be taxed under the same income tax statutes as other corporations (AS 43.20).

Although state and municipal interest is currently taxable under AS 43.70 and would not be subject to tax under AS 43.20, we estimate that requiring banks to file under AS 43.20 rather than AS 43.70 will result in no loss of revenue to the State. The Department's position is that under IRC sec. 265(2), which is adopted by reference in AS 43.20.021(a), no deduction is allowed for expenses and interest incurred or continued to purchase or carry obligations the interest on which is exempt from tax. This includes not only expenses and interest related to tax exempt state and municipal interest income, but also expenses and interest related to tax exempt U.S. interest income. Therefore, the total amount of nondeductible expenses under AS 43.20 will be close to the amount of nontaxable income.