

for the purpose of reimbursement for additional transportation and payment due on two (2) Model 440 A. B. Dick mimeographs.

Section 4. An emergency is hereby declared to exist and this Act shall be in full force and effect immediately upon its passage and approval. ^{Emergency clause.}

Approved January 18, 1949.

CHAPTER 3

AN ACT

[H. B. 1]

Pertaining to Taxation; levying a general Net Income Tax in Alaska; providing for collection thereof; defining offenses and prescribing penalties; repealing certain portions of Section 35-1-11 Alaska Compiled Laws Annotated 1949, regarding license taxes based on net income; and declaring an emergency.

Be it enacted by the Legislature of the Territory of Alaska:

Section 1. SHORT TITLE. This Act may be cited as the "Alaska Net Income Tax Act".

Short title.

Section 2. ARRANGEMENT AND CLASSIFICATION. No inference, implication or presumption of legislative construction shall be drawn or made by reason of the location or grouping of any particular section or provision or portion of this Act, nor shall the descriptive matter or headings relating to any part, section, subsection or paragraph be given any legal effect.

- Definitions: Section 3. DEFINITIONS.
- A. IN GENERAL: For the purpose of this Act—
- Bank. (1) The word “bank” means a financial institution including national banking associations.
- Tax Commissioner. (2) The term “Tax Commissioner” means the Tax Commissioner of the Department of Taxation of the Territory of Alaska.
- Corporation. (3) The word “corporation” includes associations, joint-stock companies, and insurance companies.
- (4) The word “fiduciary” means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person or the estate of any deceased person.
- Fiduciary.
- (5) The words “fiscal year” mean an accounting period of twelve months ending on the last day of any month other than December.
- Fiscal year.
- (6) The words “includes” and “including” when used in a definition contained in this Act shall not be deemed to exclude other things otherwise within the meaning of the word defined.
- Includes.
- (7) The word “individual” means a natural person, whether married or unmarried, adult or minor, subject to payment of an income tax under the Internal Revenue Code.
- Individual.
- (8) The words “Internal Revenue Code” mean the Internal Revenue Code of the United States (53 Stat. 1) as amended or as hereafter amended.
- Internal Revenue Code.
- (9) The word “person” means an individual, a trust or estate, a partnership, or a corporation.
- Person.

(10) The words "taxable year" mean the calendar year or the fiscal year ending during such calendar year upon the basis of which the net income is computed under this Act. The words "taxable year" include, in the case of a return made for a fractional part of a year under the provisions of this Act, the period for which such return is made. Taxable year.

(11) The word "taxpayer" means any person subject to a tax imposed by this Act. Taxpayer.

(12) The word "Territory" means the Territory of Alaska. Territory.

(13) The words "trade or business" include the engaging in or carrying on of any trade, business, profession, vocation, employment and rendition of services or commercial activity and include the performance of the functions of a public office. Trade or business.

(14) Words in the singular number shall include the plural and the plural include the singular. Words in one gender shall include all other genders. Singular and plural.

B. REFERENCES TO INTERNAL REVENUE CODE.

(1) Whenever the Internal Revenue Code is mentioned in this Act, the particular portions or provisions thereof, as now in effect or hereafter amended, which are referred to, shall be regarded as incorporated in this Act by such reference and shall have effect as though fully set forth herein. Internal Revenue Code adoption by reference.

(2) Whenever any portion of the Internal Revenue Code incorporated by reference as provided in Paragraph (1) of this subsection refers to rules and regulations promulgated by the United States Commissioner of Internal Revenue, or hereafter so promulgated, they Rules and Regulations also adopted.

shall be regarded as regulations promulgated by the Tax Commissioner under and in accord with the provisions of this Act, unless and until the Tax Commissioner promulgates specific regulations in lieu thereof conformable with this Act.

Section 4. TAXABLE YEARS TO WHICH APPLICABLE. The provisions of this Act shall apply (1) to the taxable years beginning January 1, 1949, and be applicable to the entire current year, including that part which has elapsed prior to the effective date of this Act; (2) to fractions of fiscal years ending in 1949 computed from January 1, 1949; (3) to taxable years beginning in 1949 and ending in 1950; and (4) to all ensuing taxable years.

Taxable year
defined.

Section 5. TAX ON INDIVIDUALS, FIDUCIARIES CORPORATIONS AND BANKS.

A. GENERAL RULE. There is hereby levied and there shall be collected and paid for each taxable year upon the net income of every individual (except employees whose sole income in Alaska consists of wages or salary upon which tax has been withheld as referred to in subsection B of this section), fiduciary, corporation and bank, required to make a return and pay a tax under the Federal income tax law, a tax computed by either one of the following methods:

Tax levied.

Amount of tax.

(1) a tax equal to 10 percent of the total income tax payable for the same taxable year to the United States under the provisions of the Internal Revenue Code, as computed without the benefit of the deduction of the tax payable hereunder to the Territory.

Allocation of tax
where part earned
outside
Alaska.

(2) a tax equal to ten percent of that portion of the total income tax payable under the provisions of the Internal Revenue Code, as computed without the benefit of the deduction of tax payable hereunder to the Terri-

tory, that gross receipts derived from sources within the Territory, payroll and value of tangible property located in the Territory, bears to the total gross receipts from sources within and without the Territory, payroll and value of tangible property within and without the Territory.

(a) DETERMINATION OF GROSS RECEIPTS.

Gross receipts from sources within the Territory shall consist of interest, rents, royalties, gains, dividends, all other income, and gross income received or derived in connection with property owned or a business or trade carried on and salaries, wages and fees for personal services performed within the Territory. Income received or derived from sales wherever made of goods, wares and merchandise manufactured or originating in the Territory shall be considered to be a part of gross receipts from sources within the Territory.

Gross receipts defined.

(b) DETERMINATION OF PROPERTY AND PAYROLL FACTORS FOR FREIGHT AND PASSENGER CARRIERS. The value of vessels operating on the high

Interstate carriers on high seas.

seas and compensation of employees engaged in operating such vessels shall be apportioned to the Territory in the ratio which the number of days spent in ports within the Territory bears to the total number of days spent in ports within and without the Territory. The term "days spent in ports" shall not include periods when ships are tied up because of strikes or withheld from the Alaska services for repairs, or because of seasonal reduction of services. Days in port shall be computed by dividing the aggregate number of hours in all ports by 24. The value of aircraft and automotive vehicles operating as freight and passenger carriers from, to and within the Territory and compensation of employees engaged in such operations, shall be apportioned to the Territory in the ratio which the number of days during which such services are rendered within the Territory bears to the total number

Exemption.

Aircraft and land carriers.

of days during which such services are rendered within and without the Territory.

(c) APPORTIONMENT OF TAX BY TAX COMMISSIONER. If the taxpayer, upon petition to the Tax Commissioner, as provided in Section 13 of this Act, conclusively demonstrates that because of other factors, the method of allocation hereinabove provided, results in a larger tax than in equity and good conscience he should have been required to pay, then the tax shall be determined, allocated and apportioned under such processes and formulas as the Tax Commissioner shall provide, and the Tax Commissioner may promulgate proper apportionment rules and regulations conformable with this Act for general application in similar cases. In the case of two or more organizations, trades or businesses owned or controlled directly or indirectly by the same interests, the Tax Commissioner is authorized to distribute, apportion, or allocate the tax where such action is necessary to prevent evasion of payment.

Tax Commissioner may provide formulas for equitable allocation.

B. EMPLOYEES. There is hereby levied upon and there shall be collected from every employee (including persons referred to in subsection (C) of Section 1621 of the Internal Revenue Code) whose sole income in Alaska during the taxable year consists of wages or salary, a tax in the amount of ten percent of the tax deducted and withheld under the provisions of sub-chapter (D), Chapter 9, of the Internal Revenue Code, which tax is to be withheld by the employer under the provisions of Section 8 of this Act. The word "employer" includes all Territorial departments, agencies and institutions and political subdivisions; Provided, that the foregoing language of this subsection shall not apply to Federal employees or others not subject to the withholding provisions of this Act, but such persons shall be liable under the general rule set forth in Section 5, and must file returns and make payment accordingly.

10% of Federal Tax levied by Territory.

Employer includes Territorial agencies.

Federal employees exempt from withholding.

Section 6. CREDITS AGAINST TAX.

A. TAX WITHHELD AT SOURCE. The amount deducted and withheld as tax under Section 8 of this Act during any calendar year shall be allowed as a credit to the taxpayer against the tax imposed by Section 5 of this Act.

Section 7. RETURNS AND PAYMENT OF TAX.

A. TAX RETURNS. Every individual (except an employee whose sole income in Alaska during the taxable year consists of wages or salary upon which tax has been withheld), fiduciary, partnership, corporation and bank Persons required to make returns. required to make a return under the provisions of the Internal Revenue Code, shall at the same time render to the Tax Commissioner a return setting forth: (1) the amount of tax and the balance of tax due or overpayment of tax as reported on returns made to the Collector of Internal Revenue; (2) the amount of tax due under Contents of return. this Act, less credits claimed against tax; (3) such other information for the purpose of carrying out the provisions of this Act as may be prescribed by the Tax Commissioner. The return shall either be on oath or contain a written declaration that it is made under the penalty of perjury, and the Tax Commissioner shall prescribe forms accordingly. The provisions of Sections 51, 52 and 53 of the Internal Revenue Code shall be adopted insofar as such provisions are consistent with other provisions of this Act.

B. PAYMENT OF TAX. The total amount of tax imposed by this Act shall be due and payable to the Tax Commissioner at the same time and in the same manner as the tax payable to the United States Collector of Internal Revenue under the provisions of Section 56 of the Internal Revenue Code. When tax payable to Tax Commissioner.

C. FEDERAL INCOME TAX RETURN. Any taxpayer, upon request by the Tax Commissioner, must

Tax Commissioner may request copy of Federal return.

furnish to the Tax Commissioner a true and correct copy of any tax return which he has filed with the United States Collector of Internal Revenue. Every taxpayer must notify the Tax Commissioner in writing of any alteration in, or modification of, his Federal income tax return and of any recomputation of tax or determination of deficiency (whether with or without assessment). A full statement of the facts shall accompany this notice, which must be filed within twenty days after such modification, recomputation or determination of deficiency, and the taxpayer must pay the additional tax or penalty hereunder.

Refund for taxes not properly assessed.

D. OVERPAYMENT, CREDIT AND REFUND. The Tax Commissioner is authorized to credit or refund all overpayments of taxes, all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that are found unjustly assessed or excessive in amount, or in any manner wrongfully collected. The Tax Commissioner shall by means of rules and regulations specify the manner in which claims for credits or refunds shall be made, prescribe limitations and give notice of allowance or disallowance. These rules and regulations shall be based upon the provisions of Secs. 321 and 322 of the Internal Revenue Code insofar as such provisions are consistent with other provisions of this Act. When refund is allowed to a taxpayer, same shall be paid out of the general fund on a Territorial warrant issued pursuant to a voucher approved by the Tax Commissioner.

Re-payment on Territorial warrant.

Section 8. COLLECTION OF INCOME TAX AT SOURCE.

A. DEFINITIONS. As used in this section, with the exception of Federal government employees, the term "wages", "Payroll period", "employee", and "employer" shall have the meaning attributed to such terms by sub-

sections (a), (b), (c) and (d), respectively, of Section 1621 of the Internal Revenue Code.

B. REQUIREMENT OF WITHHOLDING. Every employer making payment of wages or salaries shall deduct and withhold a tax in the amount of 10 percent of the tax deducted and withheld under the provisions of subchapter (D), Chapter 9 of the Internal Revenue Code. Employer required to withhold. Every employer making a deduction and withholding as outlined above, shall furnish to the employee upon request a record of the amount of tax withheld from such employee on forms to be prescribed, prepared and furnished by the Tax Commissioner.

C. RULES APPLICABLE. The rules with respect to withholding of tax set forth in Section 1622 of the Internal Revenue Code shall apply with respect to this section as though fully set forth herein. Federal rules adopted. Remittance of taxes withheld must be accompanied by returns on forms prescribed by the Tax Commissioner.

D. PAYMENT OF TAX WITHHELD. Every employer making payments of wages or salaries earned in Alaska, regardless of the place where such payment is made:

(1) shall be liable for the payment of the tax required to be deducted and withheld under this section and shall not be liable to any individual for the amount of any such payment; and Employer liable for tax payment.

(2) must make return of and pay to the Tax Commissioner quarterly, or at such other times as the Tax Commissioner may allow, the amount of the tax levied which, under the provisions of this Act, he is required to deduct and withhold. Make return and pay quarterly. Upon failure of the employer to comply with the provisions of this paragraph, the provisions of Section 11 of this Act shall apply. Penalty.

E. RETURN AND PAYMENT BY GOVERNMENTAL EMPLOYER. If the employer is the United States or the Territory or a political subdivision thereof, or an agency or instrumentality of any one or more of the foregoing, the return of the amount deducted and withheld upon any wages or salaries may be made by any officer of said employer having control of the payment of such wages or salaries or appropriately designated for that purpose.

Return by
Federal or
Territorial
employer.

Section 9. PUBLICITY.

A. SECRECY OF RETURNS. Except when required in official investigations, or proceedings in court, and except as hereinafter provided, it shall be unlawful for any officer or employee of the Territory to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return under this Act.

Secrecy of
returns.

B. RETURNS INADMISSIBLE IN EVIDENCE—EXCEPTIONS. Neither the original tax return nor a copy thereof shall be admissible in evidence in any court unless offered either—

Exceptions.

- (1) by the taxpayer who filed the return, or
- (2) by the Territory of Alaska in an action to which the Territory is a party,
- (3) or as otherwise authorized by the Internal Revenue Code.

C. COPIES TO TAXPAYERS. The Tax Commissioner, upon written request, shall furnish to the taxpayer a copy of his return upon payment of a fee of one dollar.

Fee for copy
of return.

D. RECIPROCAL EXCHANGE. The Tax Commissioner may permit the proper officer of the United States or of any other state, territory or possession of the United States or of the Dominion of Canada or of a province or territory therein imposing an income tax, or his authorized representative, to inspect income tax returns, filed with the Tax Commissioner, or may furnish to such officer or representative a copy of any income tax return, provided such other jurisdictions grant substantially similar privileges to the Tax Commissioner or his representative or to counsel for the Territory.

Exchange of information between States and Territories.

E. STATISTICS. Nothing herein shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports and the items thereof, or of the publication of delinquent lists showing the names of taxpayers who have failed to pay their taxes at the time and in the manner provided by law, together with any relevant information which in the opinion of the Tax Commissioner may assist in the collection of such delinquent taxes.

Publication of general statistics.

F. PENALTIES FOR VIOLATION. Any offense against the provisions of this section shall be a misdemeanor and shall be punishable by a fine not exceeding one thousand dollars or imprisonment for not more than six months, or both, in the discretion of the court.

Penalties for disclosure.

Section 10. REVIEW AND ASSESSMENT.

A. REVIEW AND DETERMINATION OF TAX. As soon as practicable after the return is filed, the Tax Commissioner shall examine it and determine the correct amount of the tax, and in case any error shall be disclosed by such examination, shall so notify the taxpayer by firstclass mail. The taxpayer may petition for re-determination of deficiency as provided in Section 13 (A) of this Act.

Review of return.

B. ASSESSMENT AND COLLECTION. The same period of limitation upon the assessment and collection of taxes imposed under this Act and the same exceptions thereto shall apply as are provided under Section 275, 276, and 277 of the Internal Revenue Code.

Section 11. ADDITION TO TAX AND PENALTIES.

In the case of any failure to make and file a return, or whenever the full amount of the tax or any portion or deficiency thereof, as finally determined by the Tax Commissioner, has not been paid, as required by this Act, unless it be shown that such failure is due to reasonable cause, and not due to willful neglect, there shall be added to the tax: 5 per centum if the failure is for not more than thirty days, with an additional 5 per centum for each additional thirty days, or fraction thereof, during which such failure continues, not exceeding 25 per centum in the aggregate. The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, in which case the amount so added should be collected in the same manner as the tax; Provided, that in all cases of delinquency the legal rate of interest shall be assessed.

Penalty for failure to file return.

How collected.

Section 12. ENFORCEMENT.

A. ACTION TO COLLECT. Any tax due and unpaid under this Act, and all increases and penalties thereon, shall constitute a debt to the Territory of Alaska and may be collected by lien foreclosure or other court proceedings in the same manner as any other debt in like amount, which remedies shall be in addition to any and all other existing remedies.

Lien by Territory.

B. LIEN.

(1) **PROPERTY SUBJECT TO LIEN.** If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, penalty, additional amount, or addition to such tax, together with any costs that may accrue in addition thereto) shall be a lien in favor of the Territory upon all property, and rights to property, whether real or personal, belonging to such person, firm or corporation. Real or personal property subject to lien.

(2) **PERIOD OF LIEN.** The lien shall arise at time of delinquency and shall continue until the liability for such amount is satisfied or the lien is foreclosed.

(3) **VALIDITY AGAINST CERTAIN PERSONS.** Such lien shall not be valid as against any mortgagee, or other lien holder, pledgee, purchaser or judgment creditor until notice thereof has been filed in the office of the recorder of the commissioner's and recorder's precinct in the manner provided in the case of Federal tax liens under Sections 48-9-1 to 48-9-5 Alaska Compiled Laws Annotated 1949, inclusive, all of the provisions of which are hereby made applicable to the tax liens arising under this Act. Priority of lien.

C. **SUSPENSION OF LICENSES.** In addition to the other penalties imposed herein, any person authorized to conduct any business by virtue of a license duly issued to him under the laws of Alaska, whether he be a resident or not, if he fails to pay the tax levied under subsection (a), Section 5 of this Act, shall suffer suspension of his said license or licenses until the tax imposed by this Act, together with penalties, is paid in full. Suspension of license.

Section 13. TAXPAYERS' REMEDIES.

A. **PETITION TO TAX COMMISSIONER.** Any person aggrieved by the action of the Tax Commissioner in

fixing the amount of any tax or in imposing any penalty hereunder, may apply to the Tax Commissioner within sixty days from the date of the notice required to be given to him by the Tax Commissioner, giving notice of such grievance, and request a hearing thereon. At such hearing the Tax Commissioner may subpoena witnesses and may administer oaths and make such inquiries as may be necessary to determine the amount of the tax due to the Territory, and if a correction is warranted, the Tax Commissioner shall make same after such hearing.

Taxpayers may appeal to Tax Commissioner.

Hearing.

B. APPEAL TO COURT. Within thirty days after hearing and decision by the Tax Commissioner as above set forth, the taxpayer may file a complaint of an equitable nature in the District Court in the judicial division in which he resides, naming the Tax Commissioner as defendant, setting forth the facts, and stating reasons why such action is alleged to be erroneous, and praying relief therefrom, and the clerk of such court shall thereupon issue summons in the regular manner. The taxpayer shall have access to the Tax Commissioner's file in the matter for preparation of this case. If, after the case is heard, it shall appear that the tax was correct, the court shall confirm the same; or, if incorrect, the court shall determine the proper amount of the tax; and if it shall appear that the plaintiff, by reason of the payment of the tax, is entitled to recover the same or any part thereof, the court shall order its repayment, without interest, and the Tax Commissioner shall forthwith issue a voucher for same, attaching a certified copy of the judgment to the voucher.

Appeal to District Court.

Access to records by taxpayer.

Section 14. ADMINISTRATIVE POWERS.

A. TAX COMMISSIONER TO ADMINISTER. The Tax Commissioner is hereby required to administer the provisions of this Act.

B. RETURNS BY TAX COMMISSIONER. If any taxpayer fails to file a return at the time required by law or by regulation made under authority of law, or makes an erroneous or fraudulent return, the Tax Commissioner shall proceed to assess the tax and make a return from any information he can obtain. Any return so made and subscribed by the Tax Commissioner shall be prima facie good and sufficient for all legal purposes.

When Tax Commissioner may make return.

C. RULES AND REGULATIONS. The Tax Commissioner shall prescribe and furnish all necessary forms, and promulgate and publish all needful rules and regulations in plain and concise language conformable herewith for the assessment and collection of any tax herein imposed. He shall apply as far as practicable the administrative and judicial interpretations of the Federal income tax law.

Tax Commissioner's rule in making authority.

D. DISPOSAL OF TAX MONEY. All moneys collected by the Tax Commissioner under this Act shall with reasonable promptness be covered into the general fund of the Territorial Treasury.

Collections deposited with Treasurer.

Section 15. SEVERABILITY. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the remainder of the Act and such application to other persons or circumstances shall not be affected thereby.

Savings clause.

Section 16. REPEALS. The tax contained in subsection 3rd of Section 35-1-11 Alaska Compiled Laws Annotated 1949, which reads as follows: "three-quarters of one percent of the net profits from supplies sold" is hereby repealed; and the unnumbered paragraph between subsections (f) and (g) of subsection 7th of Section 35-1-11 Alaska Compiled Laws Annotated 1949, which imposes a net income tax on canneries, is hereby repealed.

Repeals.

Emergency
clause.

Section 17. EMERGENCY CLAUSE. An emergency is hereby declared to exist and this Act shall take effect immediately upon its passage and approval.

Approved January 22, 1949.

CHAPTER 4

AN ACT

[H. B. 11]

To amend Section 4-6-4 Alaska Compiled Laws Annotated 1949, regarding payment of per diem to members of the Legislature; and declaring an emergency.

Be it enacted by the Legislature of the Territory of Alaska:

Per diem rate
for legislators.

Section 1. That Section 4-6-4 Alaska Compiled Laws Annotated 1949, is amended by changing the figures "\$7.00" to read "\$15.00", appearing in line five of said section.

Section 2. The \$15.00 per diem rate above specified shall be retroactive to include all days involved in connection with this extraordinary session.

Emergency
clause.

Section 3. An emergency is hereby declared to exist and this Act shall be in full force and effect immediately upon its passage and approval.

Approved January 22, 1949.