

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 309
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE GARA

Introduced: 2/24/16

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act bearing the short title of the 'Corporate Tax Loophole Elimination Act';**
2 **establishing an individual income tax for the taxation of income from certain**
3 **corporations that are not C corporations; relating to exemptions from the tax on**
4 **corporations; repealing tax credits applied against the tax on individuals; and providing**
5 **for an effective date."**

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
8 to read:

9 SHORT TITLE. This Act may be known as the Corporate Tax Loophole Elimination
10 Act.

11 * **Sec. 2.** AS 43.20.012(a) is amended to read:

12 (a) The tax imposed by this chapter does not

13 [(1)] apply to **a public corporation, as defined in AS 45.77.020** [AN

1 INDIVIDUAL;

2 (2) APPLY TO A FIDUCIARY;

3 (3) FOR A TAX YEAR BEGINNING AFTER DECEMBER 31, 2012,
4 APPLY TO AN ALASKA CORPORATION THAT IS A QUALIFIED SMALL
5 BUSINESS AND THAT MEETS THE ACTIVE BUSINESS REQUIREMENT IN 26
6 U.S.C. 1202(e) AS THAT SUBSECTION READ ON JANUARY 1, 2012; OR

7 (4) FOR A TAX YEAR BEGINNING AFTER JUNE 30, 2007,
8 APPLY TO THE INCOME RECEIVED BY A REGIONAL ASSOCIATION
9 QUALIFIED UNDER AS 16.10.380 OR NONPROFIT CORPORATION HOLDING
10 A HATCHERY PERMIT UNDER AS 16.10.400 FROM THE SALE OF SALMON
11 OR SALMON EGGS UNDER AS 16.10.450 OR FROM A COST RECOVERY
12 FISHERY UNDER AS 16.10.455].

13 * **Sec. 3.** AS 43.20 is amended by adding a new section to read:

14 **Sec. 43.20.019. Tax on income of a qualified entity.** (a) Except as provided
15 in (b) of this section, if a qualified entity has taxable net income over \$200,000, a
16 shareholder or member of that qualified entity shall pay a tax of 6.5 percent on the
17 qualified entity's net income attributable to the shareholder or member. The net
18 income attributable to the shareholder or member is the shareholder's or member's pro
19 rata share of the qualified entity's taxable net income, as calculated for federal
20 individual income tax purposes, less the shareholder's or member's pro rata share of a
21 credit usable by a qualified entity under this chapter.

22 (b) The tax under (a) of this section is imposed in addition to an individual
23 income tax, if an individual income tax is imposed under state law. However, if the
24 individual income tax imposed under state law and the tax under (a) of this section
25 result in the income described in (a) of this section being taxed at a rate greater than
26 9.4 percent, the tax in (a) of this section shall be reduced so that the combined total of
27 the individual income tax and the tax under (a) of this section does not exceed 9.4
28 percent. Nothing in this section reduces

29 (1) an individual income tax rate imposed under another provision of
30 law; or

31 (2) the tax imposed under (a) of this section to less than zero.

1 (c) In addition to any other tax credit under this chapter, a shareholder or
2 member of a qualified entity may take as a credit against the taxes due under this
3 section state taxes paid by the shareholder or member and the shareholder or member's
4 pro rata share of state taxes paid by the qualified entity. A tax credit under this
5 subsection may not be the basis for a deduction against the tax levied under this
6 chapter. The tax credit under this subsection

7 (1) does not apply to taxes paid under AS 43.55;

8 (2) is not refundable or transferable; and

9 (3) may not be used to reduce a shareholder or member's tax liability
10 below zero.

11 (d) In this section, "qualified entity" means a limited liability company that
12 has elected to file federal returns under 26 U.S.C. 1361 - 1379 (Internal Revenue
13 Code) or any other corporation or other entity that has elected to file federal returns
14 under 26 U.S.C. 1361 - 1379 (Internal Revenue Code).

15 * **Sec. 4.** AS 43.05.085; AS 43.20.012(b), 43.20.012(c), 43.20.012(d), and 43.20.013 are
16 repealed.

17 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 **APPLICABILITY.** AS 43.20.019, added by sec. 3 of this Act, applies to a shareholder
20 or member of a qualified entity with a taxable income over \$200,000 filing a return for a
21 taxable year commencing after the effective date of this Act. In this section, "qualified entity"
22 has the meaning given in AS 43.20.019.

23 * **Sec. 6.** This Act takes effect December 31, 2016.