

SENATE BILL NO. 100

IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY SENATOR BEGICH

Introduced: 3/5/21

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the taxation of income of individuals; repealing tax credits applied**
2 **against the tax on individuals under the Alaska Net Income Tax Act; and providing for**
3 **an effective date."**

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

5 * **Section 1.** AS 43.05.045(a) is amended to read:

6 (a) **Except as provided in AS 43.22.020(f), or unless** [UNLESS] an
7 exemption is granted under (b) of this section, a taxpayer required to submit a return
8 or report for a tax levied under this title or for any other tax administered by the
9 department shall submit the return or report electronically in a format prescribed by
10 the department. Failure to comply with this section may result in a civil penalty under
11 AS 43.05.220(f). If a law under this title requires a report or return or a portion of a
12 report or return to be in writing, an electronically filed report or return satisfies this
13 section. A taxpayer shall submit attachments to a report or return required under this
14 title electronically.

1 * **Sec. 2.** AS 43.05.230(a) is amended to read:

2 (a) It is unlawful for a current or former officer, employee, or agent of the
3 state to divulge the amount of income or the particulars set out or disclosed in a report
4 or return made under this title, except

5 (1) in connection with official investigations or proceedings of the
6 department, whether judicial or administrative, involving taxes due under this title;

7 (2) in connection with official investigations or proceedings of the
8 child support enforcement agency, whether judicial or administrative, involving child
9 support obligations imposed or imposable under AS 25 or AS 47;

10 (3) as provided in AS 38.05.036 pertaining to audit functions of the
11 Department of Natural Resources;

12 (4) as provided in AS 43.05.405 - 43.05.499; and

13 (5) as otherwise provided in this section, AS 43.22.050, or
14 AS 43.55.890.

15 * **Sec. 3.** AS 43 is amended by adding a new chapter to read:

16 **Chapter 22. Individual Income Tax.**

17 **Sec. 43.22.010. Tax on individuals.** (a) A tax is imposed for each calendar
18 year or fraction of a calendar year on every

19 (1) resident individual; and

20 (2) nonresident individual with income derived from or connected to a
21 source in the state.

22 (b) The tax under this section for a

23 (1) resident individual is equal to the sum of five percent of the
24 individual's total federal income tax due;

25 (2) nonresident individual is equal to the sum of five percent of the
26 nonresident individual's total federal income tax due on the amount of the individual's
27 income derived from or connected to a source in the state.

28 (c) In this section, "federal income tax due" means the total tax payable to the
29 federal government as reported by the taxpayer on a federal individual income tax
30 return, including alternative minimum tax and other taxes imposed by the Internal
31 Revenue Code, as adjusted to exclude income that may not be taxed by the state under

1 federal law.

2 **Sec. 43.22.020. Returns and payment of taxes.** (a) An individual required to
3 make a return under the provisions of the Internal Revenue Code shall file with the
4 department a return setting out

5 (1) the amount of tax due under this chapter; and

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

8 (b) The return shall either be on oath or contain a written declaration that it is
9 made under penalty of perjury on a form prescribed by the department.

10 (c) The total amount of tax imposed by this chapter is due and payable to the
11 department at the same time and in the same manner as the tax payable to the United
12 States Internal Revenue Service.

13 (d) A taxpayer, upon request by the department, shall furnish to the
14 department a true and correct copy of the tax return that the taxpayer has filed with the
15 United States Internal Revenue Service. Every taxpayer shall notify the department in
16 writing of an alteration in, or modification of, the taxpayer's federal income tax return
17 and of a recomputation of tax or determination of deficiency, whether with or without
18 assessment. A full statement of the facts must accompany this notice. The taxpayer
19 shall file the notice within 60 days after the final determination of the alteration,
20 modification, recomputation, or deficiency, and the taxpayer shall pay the additional
21 tax owed under this chapter, if any, at that time. In this subsection, "final
22 determination" means the time that an amended federal return is filed or a notice of
23 deficiency or an assessment is mailed to the taxpayer by the Internal Revenue Service,
24 after the taxpayer has waived or exhausted rights of appeal under federal law.

25 (e) The department may credit or refund overpayments of taxes, taxes
26 erroneously or illegally assessed or collected, penalties collected without authority,
27 and taxes that are found unjustly assessed or excessive in amount, or otherwise
28 wrongfully collected. The department shall set limitations, specify the manner in
29 which claims for credits or refunds are made, and give notice of allowance or
30 disallowance. When a refund is allowed to a taxpayer, it shall be paid out of the
31 general fund on a warrant issued under a voucher approved by the department.

1 (f) A taxpayer is not required to file a return under this section electronically
 2 unless the person is employed to prepare and file income tax returns for 10 or more
 3 individuals.

4 **Sec. 43.22.030. Income from sources in the state.** (a) For purposes of
 5 AS 43.22.010(a), income from a source in the state includes

6 (1) compensation for personal services rendered in the state;

7 (2) salary or wages earned in the state;

8 (3) income from real or tangible personal property located in the state;

9 (4) income from stocks, bonds, notes, bank deposits, and other
 10 intangible personal property having a taxable or business situs in the state; however,
 11 the receipt of interest income from intangible property in the state does not alone
 12 establish a taxable or business situs in the state;

13 (5) rentals and royalties for the use of or for the privilege of using, in
 14 the state, patents, copyrights, secret processes and formulas, good will, marks, trade
 15 brands, franchises, and other property having a taxable or business situs in the state;

16 (6) income of whatever nature from a source with a taxable or business
 17 situs in the state, including income attributed to or derived from

18 (A) business facilities or property in the state;

19 (B) business, farming, or fishing activities in the state;

20 (C) conducting in the state the management or investment
 21 function for intangible property;

22 (D) a partnership, limited liability company, estate, or trust
 23 conducting business activities in the state;

24 (E) a corporation transacting business activities in the state that
 25 has elected to file federal returns under 26 U.S.C. 1362 (Internal Revenue
 26 Code);

27 (F) any other activity from which income is received, realized,
 28 or derived in the state.

29 (b) In this section, if a business, trade, or profession is carried on partly inside
 30 and partly outside the state, other than the rendering of purely personal services by an
 31 individual, the income from sources in the state shall be determined as provided in

1 AS 43.19.

2 **Sec. 43.22.035. Credit for taxes paid.** A resident is entitled to a credit against
3 the tax liability under this chapter for the amount of tax paid to other states, territories,
4 or possessions of the United States on income derived from sources in those
5 jurisdictions that is also subject to tax in this chapter.

6 **Sec. 43.22.040. Tax withholding on wages of individuals.** (a) Every
7 employer making payment of wages or salaries

8 (1) shall deduct and withhold an amount of tax computed in a manner
9 to approximate the amount of tax due on those wages or salaries under this chapter for
10 that calendar year;

11 (2) shall remit the tax withheld to the department accompanied by a
12 return on a form prescribed by the department at the times required by the department
13 by regulation;

14 (3) is liable for the payment of the tax required to be deducted and
15 withheld under this section but is not liable to any individual for the amount of the
16 payment; and

17 (4) shall furnish to the employee on or before January 31 of the
18 succeeding year, or within 30 days after a request by the employee after the
19 employee's termination if the 30-day period ends before January 31, a written
20 statement on a form prescribed by the department showing

21 (A) the name and taxpayer identification number of the
22 employer;

23 (B) the name and social security number of the employee;

24 (C) the total amount of wages, salary, or crew shares for the
25 calendar year; and

26 (D) the total amount deducted and withheld as tax under this
27 chapter for the calendar year.

28 (b) The department shall publish the rate of withholding required by this
29 section.

30 (c) In this section,

31 (1) "employee" includes an individual who receives compensation on a

1 crew share basis in connection with a commercial fishing activity;

2 (2) "employer" includes a person who pays compensation to an
3 individual on a crew share basis in connection with a commercial fishing activity.

4 **Sec. 43.22.050. Release of information to banking institution.** Information
5 on an individual income tax return may be released to a banking institution to verify
6 the direct deposit of an income tax refund or correct an error in that deposit.

7 **Sec. 43.22.060. Administration.** (a) The department shall

8 (1) prescribe all forms necessary to implement this chapter, including a
9 form that requires a taxpayer to itemize deductions and credits taken against the tax
10 due under this chapter; and

11 (2) adopt regulations to implement and interpret this chapter, including
12 regulations for the online filing and payment of tax due under this chapter or the
13 prepayment of an estimated tax due under this chapter.

14 (b) The department may incorporate into the regulations provisions of the
15 Internal Revenue Code that are necessary or useful to the administration of this
16 chapter.

17 **Sec. 43.22.190. Definitions.** In this chapter,

18 (1) "domiciled" means established in a true principal permanent home
19 to which the individual has the intention of returning whenever absent;

20 (2) "individual" means a natural person, married or unmarried, adult or
21 minor, subject to payment of income tax under the Internal Revenue Code;

22 (3) "Internal Revenue Code" means the Internal Revenue Code of the
23 United States (26 U.S.C.) as the code exists now or as hereafter amended, as the code
24 and amendments apply to the normal taxes and surtax on net incomes, which
25 amendments are operative for the purposes of this chapter as of the time they became
26 operative or will become operative under federal law;

27 (4) "nonresident" means an individual who is not a resident;

28 (5) "resident" means an individual who

29 (A) was domiciled in the state or resided in the state for the
30 entire calendar year;

31 (B) claims to be a resident of the state on the individual's

- 1 federal tax forms;
- 2 (C) receives a permanent dividend under AS 43.23;
- 3 (D) is registered to vote under AS 15; or
- 4 (E) received a resident fishing, hunting, or trapping license
- 5 during the calendar year under AS 16;
- 6 (6) "taxpayer" means a person subject to a tax imposed by this chapter.

7 * **Sec. 4.** AS 43.05.085; AS 43.20.012(b), and 43.20.013 are repealed.

8 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to

9 read:

10 APPLICABILITY. AS 43.22, enacted by sec. 3 of this Act, applies to income received

11 on or after the effective date of sec. 3 of this Act.

12 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to

13 read:

14 TRANSITION: REGULATIONS. The Department of Revenue may adopt regulations

15 necessary to implement this Act. The regulations take effect under AS 44.62 (Administrative

16 Procedure Act), but not before the effective date of the law implemented by the regulation.

17 * **Sec. 7.** Section 6 of this Act takes effect immediately under AS 01.10.070(c).

18 * **Sec. 8.** Except as provided in sec. 7 of this Act, this Act takes effect January 1, 2022.