

**HOUSE CS FOR CS FOR SENATE BILL NO. 83(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-EIGHTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered: 4/12/13**

**Referred: Rules**

**Sponsor(s): SENATOR MICCICHE**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act making the income received by a regional aquaculture association or a salmon**  
2 **hatchery permit holder from the sale of salmon or salmon eggs under or from a cost**  
3 **recovery fishery exempt from the corporation income tax; relating to the corporation**  
4 **income tax; relating to the computation of interest under the look-back method**  
5 **applicable to long-term contracts in the Internal Revenue Code; relating to the**  
6 **assignment of certain tax credits; providing for an effective date by repealing the**  
7 **effective date of sec. 8, ch. 51, SLA 2012; and providing for an effective date."**

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

9 **\* Section 1.** AS 43.20.012(a) is amended to read:

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

11 (1) apply to an individual;

12 (2) apply to a fiduciary; [OR]

13 (3) for a tax year beginning after December 31, 2012, apply to an

1 Alaska corporation that is a qualified small business and that meets the active business  
 2 requirement in 26 U.S.C. 1202(e) as that subsection read on January 1, 2012; or  
 3 (4) for a tax year beginning after June 30, 2007, apply to the  
 4 income received by a regional association qualified under AS 16.10.380 or  
 5 nonprofit corporation holding a hatchery permit under AS 16.10.400 from the  
 6 sale of salmon or salmon eggs under AS 16.10.450 or from a cost recovery fishery  
 7 under AS 16.10.455.

8 \* **Sec. 2.** AS 43.20.012(a), as amended by sec. 1 of this Act, is repealed and reenacted to  
 9 read:

10 (a) The tax imposed by this chapter does not apply to

11 (1) an individual;

12 (2) a fiduciary; or

13 (3) the income received by a regional association qualified under  
 14 AS 16.10.380 or nonprofit corporation holding a hatchery permit under AS 16.10.400  
 15 from the sale of salmon or salmon eggs under AS 16.10.450 or from a cost recovery  
 16 fishery under AS 16.10.455.

17 \* **Sec. 3.** AS 43.20.021 is amended by adding a new subsection to read:

18 (j) For purposes of calculating interest under the look-back method in 26  
 19 U.S.C. 460 (Internal Revenue Code), the rate of interest shall be as provided in that  
 20 section.

21 \* **Sec. 4.** AS 43.55 is amended by adding a new section to read:

22 **Sec. 43.55.029. Assignment of tax credit certificate.** (a) An explorer or  
 23 producer that has applied for a production tax credit under AS 43.55.023(a), (b), or (l)  
 24 or 43.55.025(a) may make a present assignment of the production tax credit certificate  
 25 expected to be issued by the department to a third-party assignee. The assignment may  
 26 be made either at the time the application is filed with the department or not later than  
 27 30 days after the date of filing with the department. Once a notice of assignment in  
 28 compliance with this section is filed with the department, the assignment is irrevocable  
 29 and cannot be modified by the explorer or producer without the written consent of the  
 30 assignee named in the assignment. If a production tax credit certificate is issued to the  
 31 explorer or producer, the notice of assignment remains effective and shall be filed with

1 the department by the explorer or producer together with any application for the  
2 department to purchase the certificate under AS 43.55.028(e).

3 (b) To be effective, the assignment does not require the approval or consent of  
4 the department. The assignment must, at a minimum,

5 (1) be made in writing and signed by an officer or legally qualified  
6 agent of the explorer or producer making the assignment and the assignee,  
7 respectively;

8 (2) identify the explorer or producer making the assignment, the  
9 assignee in whose favor the assignment is being made, and the production tax credit  
10 application that is the subject of the assignment;

11 (3) define the interest in the production tax credit being assigned,  
12 expressed as either an amount in dollars, which may not exceed 90 percent of the  
13 credit applied for, or a percentage of the credit to be issued by the department;

14 (4) specify an account with a bank located in the state, with sufficient  
15 information for the electronic transfer of funds, to receive any future proceeds from  
16 the purchase of the tax credit certificate under AS 43.55.028(e);

17 (5) cite this section and acknowledge that, once filed with the  
18 department, the assignment is irrevocable and cannot be modified without the written  
19 consent of the assignee.

20 (c) An assignment complying with this section creates a property interest  
21 owned by the assignee in the application and any production tax credit certificates  
22 issued by the department to the explorer or producer and any future proceeds resulting  
23 from the application, in the amount or to the extent set out in the assignment. An  
24 assignee may create a valid and enforceable security interest in that property as  
25 otherwise provided by law.

26 (d) Notwithstanding any other provision of law, and to the maximum extent  
27 permitted under federal laws, an assignment complying with this section shall give the  
28 assignee a first priority claim, not dischargeable in bankruptcy, against the proceeds  
29 received by the explorer or producer, including its estate, trustee or other  
30 representative, resulting from the production tax credit application that is the subject  
31 of the assignment under this section, if the assignee has taken the steps necessary

1 under state and federal law to perfect a security interest in the assignment.

2 (e) Nothing in this section affects the terms and conditions otherwise required  
3 for an explorer or producer to qualify for a production tax credit or the determination  
4 by the department of the amount of credit the explorer or producer is qualified to  
5 receive.

6 (f) Neither the state nor the department, or any other agency, officer, or  
7 employee of the state, shall be subject to suit or any claim arising out of or in  
8 connection with an assignment made under this section, whether by act or omission.

9 (g) The department may adopt regulations to carry out the purposes of this  
10 section.

11 \* **Sec. 5.** AS 43.20.012(c) and 43.20.012(d) are repealed July 1, 2023.

12 \* **Sec. 6.** Section 8, ch. 51, SLA 2012, is repealed.

13 \* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to  
14 read:

15 **TRANSITION; CLAIM FOR CREDIT OR REFUND.** Notwithstanding the limitation  
16 on the period in which a person may file a claim for credit or refund of a tax paid under  
17 AS 43.20, a person that has paid a tax under AS 43.20 on income that is exempt under  
18 AS 43.20.012(a)(4), as enacted by sec. 1 of this Act, may file a claim for credit or refund on  
19 the tax paid on the exempt income within two years after the effective date of sec. 1 of this  
20 Act.

21 \* **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to  
22 read:

23 **RETROACTIVITY.** Section 3 of this Act is retroactive to January 1, 2013.

24 \* **Sec. 9.** Section 45, ch. 51, SLA 2012, is repealed.

25 \* **Sec. 10.** Section 2 of this Act takes effect July 1, 2023.

26 \* **Sec. 11.** Except as provided in sec. 10 of this Act, this Act takes effect immediately under  
27 AS 01.10.070(c).