

# HB 262 – An Act Relating to Taxation of Income

## Sectional Analysis

### Introduction:

HB 262 would re-impose a state income tax on individuals and fiduciaries (estates and trusts) only in certain instances. A state income tax was last on the books in Alaska in 1980. HB 262 reflects the elements of HB 470 (introduced in 2004) except for Section 1.

The core of the bill reinstates the individual income tax if there is a negative fiscal gap, makes the tax a percentage of a taxpayer's federal income tax liability (form 1040, line 60), and sets up a graduated scale of taxation depending on the size of the State's fiscal gap. The bill also provides requirements for completing filing and employer responsibilities, makes provision for amended filings, and identifies those credits available to the taxpayer.

The major tax credit of interest to Alaskans would be the tax credit authorized for real and personal property taxes paid to a municipality if the tax is imposed. This credit impacts the greater potential for revenue under this measure, but is designed to soften the effect of the contingent income tax on working families.

**Bill Section 1:** Adds to AS 43.20.011, a provision for the taxation of income of every resident, nonresident, and part year resident, individual and fiduciary in the state. It apportions the tax liability of a non-resident, part year resident, or fiduciary, as a percentage of their federal income tax liability that is their taxable income from sources within Alaska only. However, tax would be paid only if the State's expenses exceed revenues. The tax would only be imposed if the gap were as follows:

<u>Gap (millions \$)</u>	<u>Tax Rate (%)</u>
≤ 20	0.5
20-80	1.0
80-100	2.0
100-300	3.0
300-600	5.0
600-800	8.0
≥800	10.0

This section further requires the use of one's federal filing status as that which would be used in determining the state income tax liability.

**Bill Section 2:** Directs individuals and fiduciaries to file state income tax returns with the

Department of Revenue, the same as corporations and others required to file under 26 U.S.C., the Internal Revenue Code. Provides for allowable credits and payments against the state tax liability.

**Bill Section 3:** Makes the state income tax liability due and payable at the same time and in the same manner as one's federal income tax liability.

**Bill Section 4:** Requires the taxpayer to file with the state tax return, a copy of one's federal tax return for the same tax year. It also provides for the filing of an amended return within sixty days following a final determination of the taxpayer's federal tax liability if such should be in question.

**Bill Section 5:** Adds a new section to AS 43.20 that determines income sources within the state, which would be used in calculating the tax liabilities of non-residents, part-year residents, or fiduciaries. For purposes of calculating taxable income attributable to sources from within the state, this section also provides that deductions and adjustments are allowed only to the extent they are connected with income that arises from sources within the state.

**Bill Section 6:** Adds salaries or wages, and estate or trust income, to the list of income sources considered as being from within the state.

**Bill Section 7:** Provides for the Multi-state Tax Compact, AS 43.19, as the authority in determining what income is taxable from entities, which do business both partly inside and partly outside of the state.

**Bill Section 8:** Establishes credits against the state income tax liability, beginning with the amount of payroll tax withheld. It further establishes a credit for resident and part-year resident taxpayers for income taxes imposed by other U.S. states or territories, on income that is also subject to tax in Alaska. This credit, though, is limited to the proportion of the tax calculated under Alaska statute that relates to the percentage the taxable income from the other jurisdiction bears to the taxpayer's total taxable income. The credit may not exceed actual taxes paid to the other jurisdiction.

A significant tax credit authorized under this section allows a tax deduction for real and personal property taxes paid to a municipality in this state.

**Bill Section 9:** Provides for corporate taxpayers to allocate and apportion their net income as provided in the Multi-state Tax Compact, on income taxable both inside and outside the state, or on income from other sources both inside and outside Alaska.

**Bill Section 10:** Establishes tax collection procedures, including deduction and withholding features and instructions to employers regarding tax payments and other information due the state. This section also describes the employer reporting responsibilities to the employee, annually by January 31<sup>st</sup>, or thirty days after termination,

of wages / compensation, and withholding/deductions. Employer penalties are also referenced as those in AS 43.05.220 (d).

This section also establishes the authority for governmental entities to deduct and withhold from employees, as well as return deductions and withholdings to those officers of the entities appropriately designated to perform these functions. The terms “employee,” “employer,” and “wages” are defined by the Internal Revenue Code under 26 U.S.C.

**Bill Section 11:** Imposes the same time limitations on the assessment and collection of taxes by the state, and the same exceptions, as is found in the Internal Revenue Code, 26 U.S.C. 6501- 6503. When additional tax is due from changes made to a federal income tax return, the period of limitation begins from the date that one files an amended return. If no amended return is filed, the additional tax due may be assessed at any time.

**Bill Section 12:** Defines the terms “bank,” “corporation,” “fiduciary,” “fiscal year,” “individual,” “Internal Revenue Code,” “resident,” “non-resident,” “part-year resident,” “person,” “taxable year,” “taxpayer,” and “trade or business.”

**Bill Section 13:** Identifies necessary repealers.