

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1113

Introduced by

Finance and Taxation Committee

(At the request of the Tax Commissioner)

1 A BILL for an Act to amend and reenact subsection 5 of section 57-38-30.3 of the North Dakota
2 Century Code, relating to the definition of federal income tax liability for short form income tax
3 return purposes.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Subsection 5 of section 57-38-30.3 of the 1997
6 Supplement to the North Dakota Century Code is amended and reenacted as follows:

7 5. For the purposes of this section, ~~the term "federal income tax liability" means the~~
8 ~~individual's, estate's, or trust's federal income tax liability as computed for federal~~
9 ~~income tax purposes using tax tables, tax rate schedules, or form 8615, plus~~
10 ~~additional taxes due on federal income tax schedules or forms 4970, 4972, section~~
11 ~~72(m)(5) penalty tax, 5329, 6251, and 8656, less any credit for prior year minimum~~
12 ~~tax (form 8801), and before credit for the elderly or the disabled (schedule R),~~
13 ~~credit for child and dependent care expenses (form 2441), investment credit (form~~
14 ~~3468), foreign tax credit (form 1116), general business credit (form 3800), jobs~~
15 ~~credit (form 5884), credit for alcohol used as fuel (form 6478), credit for increasing~~
16 ~~research activities (form 6765), low income housing credit (form 8586) and~~
17 ~~nonconventional fuel credit, and before reduction for federal income tax withheld,~~
18 ~~estimated payments, earned income credit, amount paid with form 4868, excess~~
19 ~~social security tax, and the federal Railroad Retirement Tax Act, tax withheld,~~
20 ~~credit for federal tax on gasoline and special fuels (form 4136), and regulated~~
21 ~~investment company credits (form 2439). The term does not include amounts due~~
22 ~~for self-employment tax or social security tax and railroad retirement tax on tips.~~
23 ~~For purposes of this subsection, additional taxes due on federal income tax form~~
24 ~~6251 or form 8656 must be reduced, but not below zero, by the amount of any~~

~~investment credit used to reduce the federal tax liability before calculation of the additional tax due on form 6251 or form 8656.~~ computed for the taxable year under Internal Revenue Code sections 1 and 3, relating to the computation of the regular federal income tax before credits, including calculation and tax rate modifications prescribed under other provisions of the Internal Revenue Code, adjusted as follows:

- a. Add the alternative minimum tax computed under Internal Revenue Code section 55;
- b. Add the tax on a lump sum distribution computed under Internal Revenue Code section 402; however, this adjustment does not apply if the lump sum distribution is received while a nonresident of this state and is exempt from taxation by this state under federal law;
- c. Add the tax on an accumulation distribution of a trust computed under Internal Revenue Code section 667;
- d. Add the tax computed under Internal Revenue Code section 72(m)(5) on excess benefits received from a qualified plan under Internal Revenue Code section 401(a) or a qualified annuity under Internal Revenue Code section 403(a);
- e. Add the tax computed under Internal Revenue Code section 72(q)(1) on an early distribution from an annuity contract;
- f. Add the tax computed under Internal Revenue Code section 72(t)(1) on an early distribution from a qualified retirement plan;
- g. Add the tax computed under Internal Revenue Code section 4973(a) on excess contributions to an individual retirement account, medical savings account, and certain Internal Revenue Code section 403(b) and annuity contracts; however, this adjustment does not apply if the individual, estate, or trust is a nonresident of this state;
- h. Add the tax computed under Internal Revenue Code section 4974(a) on excess accumulations in a qualified retirement plan; however, this adjustment does not apply if the individual, estate, or trust is a nonresident of this state;

- 1 i. Add the tax computed under Internal Revenue Code section 4980A on
- 2 excess distributions from a qualified retirement plan; and
- 3 j. Subtract the credit for prior year minimum tax computed under Internal
- 4 Revenue Code section 53.
- 5 Unless specifically provided for in this subsection, no federal income tax credit may be
- 6 subtracted in determining the federal income tax liability for purposes of this section.