

Introduced by

Finance and Taxation Committee

(At the request of the Tax Commissioner)

1 A BILL for an Act to create and enact a new section to chapter 57-38 and a new subsection to
2 section 57-38-30.3 of the North Dakota Century Code, relating to an income tax credit for
3 income held under a claim of right; and to provide an effective date.

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

5 **SECTION 1.** A new section to chapter 57-38 of the North Dakota Century Code is
6 created and enacted as follows:

7 **Tax credit for income held under claim of right.**

- 8 1. An individual taxpayer is entitled to a credit against the tax imposed under this
9 chapter if the individual calculates federal income tax under section 1341 of the
10 Internal Revenue Code of 1986 [26 U.S.C. 1341], as amended, but only if the
11 applicable provisions of Internal Revenue Code section 1341 require the federal
12 income tax to be calculated on federal taxable income without reducing it by the
13 amount of income held under claim of right.
- 14 2. The credit is the amount by which the actual North Dakota tax for the taxable year
15 for which the income held under claim of right was included in gross income for
16 federal income tax purposes exceeds the North Dakota tax that would have been
17 computed for the same taxable year had the income held under claim of right not
18 been included in gross income for federal income tax purposes.
- 19 3. The credit is allowed only for the taxable year for which the individual's federal
20 income tax is determined under Internal Revenue Code section 1341.
- 21 4. If the credit exceeds the tax imposed under this chapter for the taxable year, the
22 excess is to be considered a payment of tax on the due date, without extension, of
23 the return, and must be refunded or credited in the same manner as if it were an
24 overpayment for the taxable year.

1 5. As used in this section, "income under claim of right" means the same income for
2 which the federal income tax is adjusted under Internal Revenue Code
3 section 1341.

4 **SECTION 2.** A new subsection to section 57-38-30.3 of the North Dakota Century Code
5 is created and enacted as follows:

6 A taxpayer filing a return under this section is entitled to the credit provided under
7 section 1 of this Act.

8 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
9 December 31, 2002.