

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1052

Introduced by

Representatives Maragos, Nicholas

Senator Wardner

1 A BILL for an Act to amend and reenact subsection 2 of section 57-38-30.3 of the North Dakota
2 Century Code, relating to the exclusion for capital gains under the simplified method of
3 computing individual income tax; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Subsection 2 of section 57-38-30.3 of the North Dakota
6 Century Code is amended and reenacted as follows:

- 7 2. For purposes of this section, "North Dakota taxable income" means the federal
8 taxable income of an individual, estate, or trust as computed under the Internal
9 Revenue Code of 1986, as amended, adjusted as follows:
- 10 a. Reduced by interest income from obligations of the United States and income
11 exempt from state income tax under federal statute or United States or North
12 Dakota constitutional provisions.
- 13 b. Reduced by the portion of a distribution from a qualified investment fund
14 described in section 57-38-01 which is attributable to investments by the
15 qualified investment fund in obligations of the United States, obligations of
16 North Dakota or its political subdivisions, and any other obligation the interest
17 from which is exempt from state income tax under federal statute or United
18 States or North Dakota constitutional provisions.
- 19 c. Reduced by the amount equal to the earnings that are passed through to a
20 taxpayer in connection with an allocation and apportionment to North Dakota
21 under chapter 57-35.3.
- 22 d. Reduced by thirty percent of the excess of the taxpayer's net long-term capital
23 gain for the taxable year over the net short-term capital loss for that year, as
24 computed for purposes of the Internal Revenue Code of 1986, as amended.

The adjustment provided by this subdivision is allowed only to the extent the net long-term capital gain is allocated to this state.

- e. Increased by the amount of a lump sum distribution for which income averaging was elected under section 402 of the Internal Revenue Code of 1986 [26 U.S.C. 402], as amended. This adjustment does not apply if the taxpayer received the lump sum distribution while a nonresident of this state and the distribution is exempt from taxation by this state under federal law.
- f. Increased by an amount equal to the losses that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under chapter 57-35.3.
- g. Reduced by the amount received by the taxpayer as payment for services performed when called or ordered to title 10 United States Code federal service as a member of the national guard or reserve member of the armed forces of the United States. This subdivision does not apply to federal service while attending annual training, basic military training, professional military education, or active guard and reserve tours for which the member has volunteered.
- h. Reduced by income from a new and expanding business exempt from state income tax under section 40-57.1-04.
- i. Reduced by interest and income from bonds issued under chapter 11-37.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2004.