

Sixtieth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1170

Introduced by

Representatives Carlson, Delzer, Kasper, Koppelman, Thoreson, Weiler

1 A BILL for an Act to amend and reenact section 57-38-29 and subsection 1 of section
2 57-38-30.3 of the North Dakota Century Code, relating to income tax rates for individuals,
3 estates, and trusts; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 57-38-29 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-38-29. Optional method of computing tax.** Notwithstanding the other provisions
8 of this chapter, an individual, estate, or trust may elect to determine state income tax liability by
9 applying the provisions of this section. A tax is hereby imposed upon every individual, to be
10 levied, collected, and paid annually with respect to the taxable income of such individual as
11 defined in this chapter, computed at the following rates:

- 12 1. On taxable income not in excess of three thousand dollars, a tax of two and
13 ~~sixty-seven~~ fifty-four hundredths percent.
- 14 2. On taxable income in excess of three thousand dollars and not in excess of five
15 thousand dollars, a tax of ~~four~~ three and eighty hundredths percent.
- 16 3. On taxable income in excess of five thousand dollars and not in excess of eight
17 thousand dollars, a tax of five and ~~thirty-three~~ six hundredths percent.
- 18 4. On taxable income in excess of eight thousand dollars and not in excess of fifteen
19 thousand dollars, a tax of six and ~~sixty-seven~~ thirty-four hundredths percent.
- 20 5. On taxable income in excess of fifteen thousand dollars and not in excess of
21 twenty-five thousand dollars, a tax of ~~eight~~ seven and sixty hundredths percent.
- 22 6. On taxable income in excess of twenty-five thousand dollars and not in excess of
23 thirty-five thousand dollars, a tax of ~~nine~~ eight and ~~thirty-three~~ eighty-six
24 hundredths percent.

7. On taxable income in excess of thirty-five thousand dollars and not in excess of fifty thousand dollars, a tax of ten and ~~sixty-seven~~ fourteen hundredths percent.

8. On taxable income in excess of fifty thousand dollars, a tax of ~~twelve~~ eleven and forty hundredths percent.

SECTION 2. AMENDMENT. If House Bill No. 1051 does not become effective or becomes effective and does not contain an amendment to section 57-38-30.3, subsection 1 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

1. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. A taxpayer computing the tax under this section is only eligible for those adjustments or credits that are specifically provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return under this chapter, but who has not computed a federal taxable income figure, shall compute a federal taxable income figure using a pro forma return in order to determine a federal taxable income figure to be used as a starting point in computing state income tax under this section. The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing status used for federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection.

a. Single, other than head of household or surviving spouse.

If North Dakota taxable income is:	The tax is equal to:
Not over \$27,050 <u>\$31,850</u>	2.40% <u>1.90%</u>
Over \$27,050 <u>\$31,850</u> but not over \$65,550 <u>\$77,100</u>	\$568.05 <u>\$605.15</u> plus 3.92% <u>3.72%</u> of amount over \$27,050 <u>\$31,850</u>
Over \$65,550 <u>\$77,100</u> but not over \$136,750 <u>\$160,850</u>	\$2,077.25 <u>\$2,288.45</u> plus 4.34% <u>4.14%</u> of amount over \$65,550 <u>\$77,100</u>
Over \$136,750 <u>\$160,850</u> but not over \$297,350 <u>\$349,700</u>	\$5,167.33 <u>\$5,755.70</u> plus 5.04% <u>4.84%</u> of amount over \$136,750 <u>\$160,850</u>
Over \$297,350 <u>\$349,700</u>	\$13,261.57 <u>\$14,896.04</u> plus 5.54% <u>5.34%</u> of amount over \$297,350 <u>\$349,700</u>

Sixtieth
Legislative Assembly

1 b. Married filing jointly and surviving spouse.

2	If North Dakota taxable income is:	The tax is equal to:
3	Not over \$45,200 <u>\$53,200</u>	2.10% <u>1.90%</u>
4	Over \$45,200 <u>\$53,200</u> but not over	\$949.20 <u>\$1,010.80</u> plus 3.92% <u>3.72%</u> of amount
5	\$109,250 <u>\$128,500</u>	over \$45,200 <u>\$53,200</u>
6	Over \$109,250 <u>\$128,500</u> but not	\$3,459.96 <u>\$3,811.96</u> plus 4.34% <u>4.14%</u> of amount
7	over \$166,500 <u>\$195,850</u>	over \$109,250 <u>\$128,500</u>
8	Over \$166,500 <u>\$195,850</u> but not	\$5,944.61 <u>\$6,600.25</u> plus 5.04% <u>4.84%</u> of amount
9	over \$297,350 <u>\$349,700</u>	over \$166,500 <u>\$195,850</u>
10	Over \$297,350 <u>\$349,700</u>	\$12,539.45 <u>\$14,046.59</u> plus 5.54% <u>5.34%</u> of amount
11		over \$297,350 <u>\$349,700</u>

12 c. Married filing separately.

13	If North Dakota taxable income is:	The tax is equal to:
14	Not over \$22,600 <u>\$26,600</u>	2.10% <u>1.90%</u>
15	Over \$22,600 <u>\$26,600</u> but not over	\$474.60 <u>\$505.40</u> plus 3.92% <u>3.72%</u> of amount
16	\$54,625 <u>\$64,250</u>	over \$22,600 <u>\$26,600</u>
17	Over \$54,625 <u>\$64,250</u> but not over	\$1,729.98 <u>\$1,905.98</u> plus 4.34% <u>4.14%</u> of amount
18	\$83,250 <u>\$97,925</u>	over \$54,625 <u>\$64,250</u>
19	Over \$83,250 <u>\$97,925</u> but not over	\$2,972.31 <u>\$3,300.13</u> plus 5.04% <u>4.84%</u> of amount
20	\$148,675 <u>\$174,850</u>	over \$83,250 <u>\$97,925</u>
21	Over \$148,675 <u>\$174,850</u>	\$6,269.73 <u>\$7,023.30</u> plus 5.54% <u>5.34%</u> of amount
22		over \$148,675 <u>\$174,850</u>

23 d. Head of household.

24	If North Dakota taxable income is:	The tax is equal to:
25	Not over \$36,250 <u>\$42,650</u>	2.10% <u>1.90%</u>
26	Over \$36,250 <u>\$42,650</u> but not over	\$761.25 <u>\$810.35</u> plus 3.92% <u>3.72%</u> of amount
27	\$93,650 <u>\$110,100</u>	over \$36,250 <u>\$42,650</u>
28	Over \$93,650 <u>\$110,100</u> but not over	\$3,011.33 <u>\$3,319.49</u> plus 4.34% <u>4.14%</u> of amount
29	\$151,650 <u>\$178,350</u>	over \$93,650 <u>\$110,100</u>
30	Over \$151,650 <u>\$178,350</u> but not	\$5,528.53 <u>\$6,145.04</u> plus 5.04% <u>4.84%</u> of amount

Sixtieth
Legislative Assembly

- 1 over ~~\$297,350~~ \$349,700 over ~~\$151,650~~ \$178,350
2 Over ~~\$297,350~~ \$349,700 ~~\$12,871.81~~ \$14,438.38 plus ~~5.54%~~ 5.34% of amount
3 over ~~\$297,350~~ \$349,700
4 e. Estates and trusts.
5 If North Dakota taxable income is: The tax is equal to:
6 Not over ~~\$1,800~~ \$2,150 ~~2.40%~~ 1.90%
7 Over ~~\$1,800~~ \$2,150 but not over ~~\$37.80~~ \$40.85 plus ~~3.92%~~ 3.72% of amount
8 ~~\$4,250~~ \$5,000 over ~~\$1,800~~ \$2,150
9 Over ~~\$4,250~~ \$5,000 but not over ~~\$133.84~~ \$146.87 plus ~~4.34%~~ 4.14% of amount
10 ~~\$6,500~~ \$7,650 over ~~\$4,250~~ \$5,000
11 Over ~~\$6,500~~ \$7,650 but not over ~~\$231.49~~ \$256.58 plus ~~5.04%~~ 4.84% of amount
12 ~~\$8,900~~ \$10,450 over ~~\$6,500~~ \$7,650
13 Over ~~\$8,900~~ \$10,450 ~~\$352.45~~ \$392.10 plus ~~5.54%~~ 5.34% of amount
14 over ~~\$8,900~~ \$10,450
15 f. For an individual who is not a resident of this state for the entire year, or for a
16 nonresident estate or trust, the tax is equal to the tax otherwise computed
17 under this subsection multiplied by a fraction in which:
18 (1) The numerator is the federal adjusted gross income allocable and
19 apportionable to this state; and
20 (2) The denominator is the federal adjusted gross income from all sources
21 reduced by the net income from the amounts specified in subdivisions a
22 and b of subsection 2.
23 In the case of married individuals filing a joint return, if one spouse is a
24 resident of this state for the entire year and the other spouse is a nonresident
25 for part or all of the tax year, the tax on the joint return must be computed
26 under this subdivision.
27 g. For taxable years beginning after December 31, ~~2004~~ 2007, the tax
28 commissioner shall prescribe new rate schedules that apply in lieu of the
29 schedules set forth in subdivisions a through e. The new schedules must be
30 determined by increasing the minimum and maximum dollar amounts for each
31 income bracket for which a tax is imposed by the cost-of-living adjustment for

the taxable year as determined by the secretary of the United States treasury for purposes of section 1(f) of the United States Internal Revenue Code of 1954, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes.

SECTION 3. AMENDMENT. If House Bill No. 1051 becomes effective and contains an amendment to section 57-38-30.3, subsection 1 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

1. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. A taxpayer computing the tax under this section is only eligible for those adjustments or credits that are specifically provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return under this chapter, but who has not computed a federal taxable income figure, shall compute a federal taxable income figure using a pro forma return in order to determine a federal taxable income figure to be used as a starting point in computing state income tax under this section. The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing status used for federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection.

- a. Single, other than head of household or surviving spouse.

If North Dakota taxable income is:	The tax is equal to:
Not over \$27,050 <u>\$31,850</u>	2.40% <u>1.90%</u>
Over \$27,050 <u>\$31,850</u> but not over \$65,550 <u>\$77,100</u>	\$568.05 <u>\$605.15</u> plus 3.92% <u>3.72%</u> of amount over \$27,050 <u>\$31,850</u>
Over \$65,550 <u>\$77,100</u> but not over \$136,750 <u>\$160,850</u>	\$2,077.25 <u>\$2,288.45</u> plus 4.34% <u>4.14%</u> of amount over \$65,550 <u>\$77,100</u>
Over \$136,750 <u>\$160,850</u> but not	\$5,167.33 <u>\$5,755.70</u> plus 5.04% <u>4.84%</u> of amount

Sixtieth
Legislative Assembly

1	over \$297,350 <u>\$349,700</u>	over \$136,750 <u>\$160,850</u>
2	Over \$297,350 <u>\$349,700</u>	\$13,261.57 <u>\$14,896.04</u> plus 5.54% <u>5.34%</u> of amount
3		over \$297,350 <u>\$349,700</u>
4	b. Married filing jointly and surviving spouse.	
5	If North Dakota taxable income is:	The tax is equal to:
6	Not over \$45,200 <u>\$63,700</u>	2.40% <u>1.90%</u>
7	Over \$45,200 <u>\$63,700</u> but not over	\$949.20 <u>\$1,210.30</u> plus 3.92% <u>3.72%</u> of amount
8	\$109,250 <u>\$154,200</u>	over \$45,200 <u>\$63,700</u>
9	Over \$109,250 <u>\$154,200</u> but not	\$3,459.96 <u>\$ 4,576.90</u> plus 4.34% <u>4.14%</u> of amount
10	over \$166,500 <u>\$321,700</u>	over \$109,250 <u>\$154,200</u>
11	Over \$166,500 <u>\$321,700</u> but not	\$5,944.61 <u>\$11,511.40</u> plus 5.04% <u>4.84%</u> of amount
12	over \$297,350 <u>\$699,400</u>	over \$166,500 <u>\$321,700</u>
13	Over \$297,350 <u>\$699,400</u>	\$12,539.45 <u>\$29,792.08</u> plus 5.54% <u>5.34%</u> of amount
14		over \$297,350 <u>\$699,400</u>
15	c. Married filing separately.	
16	If North Dakota taxable income is:	The tax is equal to:
17	Not over \$22,600 <u>\$31,850</u>	2.40% <u>1.90%</u>
18	Over \$22,600 <u>\$31,850</u> but not over	\$474.60 <u>\$605.15</u> plus 3.92% <u>3.72%</u> of amount
19	\$54,625 <u>\$77,100</u>	over \$22,600 <u>\$31,850</u>
20	Over \$54,625 <u>\$77,100</u> but not over	\$1,729.98 <u>\$2,288.45</u> plus 4.34% <u>4.14%</u> of amount
21	\$83,250 <u>\$160,850</u>	over \$54,625 <u>\$77,100</u>
22	Over \$83,250 <u>\$160,850</u> but not over	\$2,972.31 <u>\$5,755.70</u> plus 5.04% <u>4.84%</u> of amount
23	\$148,675 <u>\$349,700</u>	over \$83,250 <u>\$160,850</u>
24	Over \$148,675 <u>\$349,700</u>	\$6,269.73 <u>\$14,896.04</u> plus 5.54% <u>5.34%</u> of amount
25		over \$148,675 <u>\$349,700</u>
26	d. Head of household.	
27	If North Dakota taxable income is:	The tax is equal to:
28	Not over \$36,250 <u>\$42,650</u>	2.40% <u>1.90%</u>
29	Over \$36,250 <u>\$42,650</u> but not over	\$761.25 <u>\$810.35</u> plus 3.92% <u>3.72%</u> of amount
30	\$93,650 <u>\$110,100</u>	over \$36,250 <u>\$42,650</u>
31	Over \$93,650 <u>\$110,100</u> but not over	\$3,011.33 <u>\$3,319.49</u> plus 4.34% <u>4.14%</u> of amount

Sixtieth
Legislative Assembly

1 ~~\$151,650~~ \$178,350 over ~~\$93,650~~ \$110,100
2 Over ~~\$151,650~~ \$178,350 but not ~~\$5,528.53~~ \$6,145.04 plus ~~5.04%~~ 4.84% of amount
3 over ~~\$297,350~~ \$349,700 over ~~\$151,650~~ \$178,350
4 Over ~~\$297,350~~ \$349,700 ~~\$12,871.81~~ \$14,438.38 plus ~~5.54%~~ 5.34% of amount
5 over ~~\$297,350~~ \$349,700

6 e. Estates and trusts.

7 If North Dakota taxable income is: The tax is equal to:
8 Not over ~~\$1,800~~ \$2,150 ~~2.10%~~ 1.90%
9 Over ~~\$1,800~~ \$2,150 but not over ~~\$37.80~~ \$40.85 plus ~~3.92%~~ 3.72% of amount
10 ~~\$4,250~~ \$5,000 over ~~\$1,800~~ \$2,150
11 Over ~~\$4,250~~ \$5,000 but not over ~~\$133.84~~ \$146.87 plus ~~4.34%~~ 4.14% of amount
12 ~~\$6,500~~ \$7,650 over ~~\$4,250~~ \$5,000
13 Over ~~\$6,500~~ \$7,650 but not over ~~\$231.49~~ \$256.58 plus ~~5.04%~~ 4.84% of amount
14 ~~\$8,900~~ \$10,450 over ~~\$6,500~~ \$7,650
15 Over ~~\$8,900~~ \$10,450 ~~\$352.45~~ \$392.10 plus ~~5.54%~~ 5.34% of amount
16 over ~~\$8,900~~ \$10,450

17 f. For an individual who is not a resident of this state for the entire year, or for a
18 nonresident estate or trust, the tax is equal to the tax otherwise computed
19 under this subsection multiplied by a fraction in which:

- 20 (1) The numerator is the federal adjusted gross income allocable and
21 apportionable to this state; and
22 (2) The denominator is the federal adjusted gross income from all sources
23 reduced by the net income from the amounts specified in subdivisions a
24 and b of subsection 2.

25 In the case of married individuals filing a joint return, if one spouse is a
26 resident of this state for the entire year and the other spouse is a nonresident
27 for part or all of the tax year, the tax on the joint return must be computed
28 under this subdivision.

29 g. For taxable years beginning after December 31, ~~2004~~ 2007, the tax
30 commissioner shall prescribe new rate schedules that apply in lieu of the
31 schedules set forth in subdivisions a through e. The new schedules must be

1 determined by increasing the minimum and maximum dollar amounts for each
2 income bracket for which a tax is imposed by the cost-of-living adjustment for
3 the taxable year as determined by the secretary of the United States treasury
4 for purposes of section 1(f) of the United States Internal Revenue Code of
5 1954, as amended. For this purpose, the rate applicable to each income
6 bracket may not be changed, and the manner of applying the cost-of-living
7 adjustment must be the same as that used for adjusting the income brackets
8 for federal income tax purposes.

9 **SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
10 December 31, 2007, only if the tax commissioner certifies to the governor, the office of
11 management and budget, and the legislative council by May 31, 2008, that state general fund
12 revenue receipts through April 2008 are at least three and one-half percent more than the
13 amount forecasted for that date in the final budget status report prepared after adjournment of
14 the sixtieth legislative assembly.