

Sixtieth  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2079**

Introduced by

Finance and Taxation Committee

(At the request of the Tax Commissioner)

1 A BILL for an Act to amend and reenact section 57-38-30.3 of the North Dakota Century Code,  
2 relating to the simplified method of computing tax for individual income tax purposes and the tax  
3 credit for unused federal alternative minimum tax; and to provide an effective date.

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

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

7 **57-38-30.3. Simplified method of computing tax.**

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

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

22 If North Dakota taxable income is:	The tax is equal to:
23 Not over \$27,050	2.10%
24 Over \$27,050 but not over \$65,550	\$568.05 plus 3.92% of amount over \$27,050

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1	Over \$65,550 but not over \$136,750	\$2,077.25 plus 4.34% of amount over \$65,550
2	Over \$136,750 but not over \$297,350	\$5,167.33 plus 5.04% of amount over \$136,750
3	Over \$297,350	\$13,261.57 plus 5.54% of amount over \$297,350
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	2.10%
7	Over \$45,200 but not over \$109,250	\$949.20 plus 3.92% of amount over \$45,200
8	Over \$109,250 but not over \$166,500	\$3,459.96 plus 4.34% of amount over \$109,250
9	Over \$166,500 but not over \$297,350	\$5,944.61 plus 5.04% of amount over \$166,500
10	Over \$297,350	\$12,539.45 plus 5.54% of amount over \$297,350
11	c. Married filing separately.	
12	If North Dakota taxable income is:	The tax is equal to:
13	Not over \$22,600	2.10%
14	Over \$22,600 but not over \$54,625	\$474.60 plus 3.92% of amount over \$22,600
15	Over \$54,625 but not over \$83,250	\$1,729.98 plus 4.34% of amount over \$54,625
16	Over \$83,250 but not over \$148,675	\$2,972.31 plus 5.04% of amount over \$83,250
17	Over \$148,675	\$6,269.73 plus 5.54% of amount over \$148,675
18	d. Head of household.	
19	If North Dakota taxable income is:	The tax is equal to:
20	Not over \$36,250	2.10%
21	Over \$36,250 but not over \$93,650	\$761.25 plus 3.92% of amount over \$36,250
22	Over \$93,650 but not over \$151,650	\$3,011.33 plus 4.34% of amount over \$93,650
23	Over \$151,650 but not over \$297,350	\$5,528.53 plus 5.04% of amount over \$151,650
24	Over \$297,350	\$12,871.81 plus 5.54% of amount over \$297,350
25	e. Estates and trusts.	
26	If North Dakota taxable income is:	The tax is equal to:
27	Not over \$1,800	2.10%
28	Over \$1,800 but not over \$4,250	\$37.80 plus 3.92% of amount over \$1,800
29	Over \$4,250 but not over \$6,500	\$133.84 plus 4.34% of amount over \$4,250
30	Over \$6,500 but not over \$8,900	\$231.49 plus 5.04% of amount over \$6,500
31	Over \$8,900	\$352.45 plus 5.54% of amount over \$8,900

- 1           f.    For an individual who is not a resident of this state for the entire year, or for a  
2                nonresident estate or trust, the tax is equal to the tax otherwise computed  
3                under this subsection multiplied by a fraction in which:
- 4                (1)   The numerator is the federal adjusted gross income allocable and  
5                      apportionable to this state; and
- 6                (2)   The denominator is the federal adjusted gross income from all sources  
7                      reduced by the net income from the amounts specified in subdivisions a  
8                      and b of subsection 2.

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

- 13           g.   For taxable years beginning after December 31, 2001, the tax commissioner  
14               shall prescribe new rate schedules that apply in lieu of the schedules set forth  
15               in subdivisions a through e. The new schedules must be determined by  
16               increasing the minimum and maximum dollar amounts for each income  
17               bracket for which a tax is imposed by the cost-of-living adjustment for the  
18               taxable year as determined by the secretary of the United States treasury for  
19               purposes of section 1(f) of the United States Internal Revenue Code of 1954,  
20               as amended. For this purpose, the rate applicable to each income bracket  
21               may not be changed, and the manner of applying the cost-of-living adjustment  
22               must be the same as that used for adjusting the income brackets for federal  
23               income tax purposes.

- 24           2.   For purposes of this section, "North Dakota taxable income" means the federal  
25               taxable income of an individual, estate, or trust as computed under the Internal  
26               Revenue Code of 1986, as amended, adjusted as follows:
- 27               a.   Reduced by interest income from obligations of the United States and income  
28                      exempt from state income tax under federal statute or United States or North  
29                      Dakota constitutional provisions.
- 30               b.   Reduced by the portion of a distribution from a qualified investment fund  
31                      described in section 57-38-01 which is attributable to investments by the

1 qualified investment fund in obligations of the United States, obligations of  
2 North Dakota or its political subdivisions, and any other obligation the interest  
3 from which is exempt from state income tax under federal statute or United  
4 States or North Dakota constitutional provisions.

5 c. Reduced by the amount equal to the earnings that are passed through to a  
6 taxpayer in connection with an allocation and apportionment to North Dakota  
7 under chapter 57-35.3.

8 d. Reduced by thirty percent of the excess of the taxpayer's net long-term capital  
9 gain for the taxable year over the net short-term capital loss for that year, as  
10 computed for purposes of the Internal Revenue Code of 1986, as amended.  
11 The adjustment provided by this subdivision is allowed only to the extent the  
12 net long-term capital gain is allocated to this state.

13 e. Increased by the amount of a lump sum distribution for which income  
14 averaging was elected under section 402 of the Internal Revenue Code of  
15 1986 [26 U.S.C. 402], as amended. This adjustment does not apply if the  
16 taxpayer received the lump sum distribution while a nonresident of this state  
17 and the distribution is exempt from taxation by this state under federal law.

18 f. Increased by an amount equal to the losses that are passed through to a  
19 taxpayer in connection with an allocation and apportionment to North Dakota  
20 under chapter 57-35.3.

21 g. Reduced by the amount received by the taxpayer as payment for services  
22 performed when mobilized under title 10 United States Code federal service  
23 as a member of the national guard or reserve member of the armed forces of  
24 the United States. This subdivision does not apply to federal service while  
25 attending annual training, basic military training, or professional military  
26 education.

27 h. Reduced by income from a new and expanding business exempt from state  
28 income tax under section 40-57.1-04.

29 i. Reduced by interest and income from bonds issued under chapter 11-37.

30 j. Reduced by up to ten thousand dollars of qualified expenses that are related  
31 to a donation by a taxpayer or a taxpayer's dependent, while living, of one or

more human organs to another human being for human organ transplantation.

A taxpayer may claim the reduction in this subdivision only once for each instance of organ donation during the taxable year in which the human organ donation and the human organ transplantation occurs but if qualified expenses are incurred in more than one taxable year, the reduction for those expenses must be claimed in the year in which the expenses are incurred.

For purposes of this subdivision:

(1) "Human organ transplantation" means the medical procedure by which transfer of a human organ is made from the body of one person to the body of another person.

(2) "Organ" means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow.

(3) "Qualified expenses" means lost wages not compensated by sick pay and unreimbursed medical expenses as defined for federal income tax purposes, to the extent not deducted in computing federal taxable income, whether or not the taxpayer itemizes federal income tax deductions.

k. Increased by the amount of the contribution upon which the credit under section 57-38-01.21 is computed, but only to the extent that the contribution reduced federal taxable income.

l. Reduced by the amount of any payment received by a veteran or beneficiary of a veteran under section 37-28-03 or 37-28-04.

3. Married individuals filing a joint federal income tax return shall file a joint state income tax return if the return is filed under this section. If separate federal income tax returns are filed, one spouse's state income tax return may be filed under this section and the other spouse's income tax return may be filed under the other provisions of this chapter.

4. a. A resident individual, estate, or trust must be allowed a credit against the tax otherwise due under this section for the amount of any income tax imposed on the taxpayer for the taxable year by another state or territory of the United

- 1 States or the District of Columbia on income derived from sources therein and  
2 which is also subject to tax under this section.
- 3 b. The credit provided under this subsection may not exceed the proportion of  
4 the tax otherwise due under this section that the amount of the taxpayer's  
5 adjusted gross income derived from sources in the other taxing jurisdiction  
6 bears to the taxpayer's federal adjusted gross income as reported on the  
7 taxpayer's federal income tax return.
- 8 c. The tax commissioner may require written proof of the tax paid to another  
9 state. The required proof must be provided in a form and manner as  
10 determined by the tax commissioner.
- 11 5. Individuals, estates, or trusts that file an amended federal income tax return  
12 changing their federal taxable income figure for a year for which an election to file  
13 state income tax returns has been made under this section shall file an amended  
14 state income tax return to reflect the changes on the federal income tax return.
- 15 6. The tax commissioner may prescribe procedures and guidelines to prevent  
16 requiring income that had been previously taxed under this chapter from becoming  
17 taxed again because of the provisions of this section and may prescribe  
18 procedures and guidelines to prevent any income from becoming exempt from  
19 taxation because of the provisions of this section if it would otherwise have been  
20 subject to taxation under the provisions of this chapter.
- 21 7. A taxpayer filing a return under this section is entitled to the ~~credit provided under~~  
22 ~~section 57-38-01.20~~ following tax credits:
- 23 a. Family care tax credit under section 57-38-01.20.  
24 b. Renaissance zone tax credits under sections 40-63-04, 40-63-06, and  
25 40-63-07.  
26 c. Agricultural business investment tax credit under section 57-38.6-03.  
27 d. Seed capital investment tax credit under section 57-38.5-03.  
28 e. Planned gift tax credit under section 57-38-01.21.  
29 f. Biodiesel fuel tax credits under sections 57-38-01.22 and 57-38-01.23.
- 30 8. A taxpayer filing a return under this section is entitled to the ~~exemptions or credits~~  
31 ~~exemption~~ provided under sections section 40-63-04, 40-63-06, and 40-63-07.

- 1           9.   a.   ~~A taxpayer is entitled to a credit against the tax imposed by this section for~~  
2                   ~~any unused federal credit for prior year minimum tax. "Unused federal credit~~  
3                   ~~for prior year minimum tax" means the amount of the federal credit for prior~~  
4                   ~~year minimum tax attributable to federal alternative minimum tax included in~~  
5                   ~~the taxpayer's federal income tax liability for purposes of this section for~~  
6                   ~~taxable years beginning before January 1, 2001, reduced by the total amount~~  
7                   ~~of the federal credit for prior year minimum tax claimed on the taxpayer's~~  
8                   ~~federal income tax return for all taxable years beginning after December 31,~~  
9                   ~~2000.~~
- 10           b.   ~~The credit under this subsection is equal to fourteen percent of the portion of~~  
11                   ~~the unused federal credit for prior year minimum tax claimed on the taxpayer's~~  
12                   ~~federal income tax return and may not exceed the taxpayer's tax liability under~~  
13                   ~~this section for the taxable year. For a nonresident taxpayer, the credit~~  
14                   ~~determined under this subsection must be multiplied by the percentage that~~  
15                   ~~the nonresident taxpayer's North Dakota adjusted gross income is of the~~  
16                   ~~nonresident's federal adjusted gross income.~~
- 17           e.   ~~The credit under this subsection is not allowed for taxable years beginning~~  
18                   ~~after December 31, 2004.~~
- 19       40.   a.   If an individual taxpayer engaged in a farming business elects to average farm  
20                   income under section 1301 of the Internal Revenue Code [26 U.S.C. 1301],  
21                   the taxpayer may elect to compute tax under this subsection. If an election to  
22                   compute tax under this subsection is made, the tax imposed by subsection 1  
23                   for the taxable year must be equal to the sum of the following:
- 24                   (1)   The tax computed under subsection 1 on North Dakota taxable income  
25                        reduced by elected farm income.
- 26                   (2)   The increase in tax imposed by subsection 1 which would result if North  
27                        Dakota taxable income for each of the three prior taxable years were  
28                        increased by an amount equal to one-third of the elected farm income.  
29                        However, if other provisions of this chapter other than this section were  
30                        used to compute the tax for any of the three prior years, the same  
31                        provisions in effect for that prior tax year must be used to compute the

1 increase in tax under this paragraph. For purposes of applying this  
2 paragraph to taxable years beginning before January 1, 2001, the  
3 increase in tax must be determined by recomputing the tax in the  
4 manner prescribed by the tax commissioner.

5 b. For purposes of this subsection, "elected farm income" means that portion of  
6 North Dakota taxable income for the taxable year which is elected farm  
7 income as defined in section 1301 of the Internal Revenue Code of 1986  
8 [26 U.S.C. 1301], as amended, reduced by the portion of an exclusion  
9 claimed under subdivision d of subsection 2 that is attributable to a net  
10 long-term capital gain included in elected farm income.

11 c. The reduction in North Dakota taxable income under this subsection must be  
12 taken into account for purposes of making an election under this subsection  
13 for any subsequent taxable year.

14 d. The tax commissioner may prescribe rules, procedures, or guidelines  
15 necessary to administer this subsection.

16 ~~44.~~ 10. The tax commissioner may prescribe tax tables, to be used in computing the tax  
17 according to subsection 1, if the amounts of the tax tables are based on the tax  
18 rates set forth in subsection 1. If prescribed by the tax commissioner, the tables  
19 must be followed by every individual, estate, or trust determining a tax under this  
20 section.

21 ~~12.~~ ~~An individual, estate, or trust is entitled to a credit against the tax determined under~~  
22 ~~this section as calculated under section 57-38.6-03.~~

23 ~~13.~~ ~~A taxpayer filing a return under this section is entitled to the credit provided under~~  
24 ~~section 57-38.5-03.~~

25 ~~14.~~ ~~An individual taxpayer filing a return under this section is entitled to the credit~~  
26 ~~provided under section 57-38-01.21.~~

27 ~~15.~~ ~~A taxpayer filing a return under this section is entitled to the credits provided under~~  
28 ~~sections 57-38-01.22 and 57-38-01.23.~~

29 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
30 December 31, 2006.