

Sixty-first
Legislative Assembly
of North Dakota

HOUSE BILL NO.

Introduced by

Representative Berg

1 A BILL for an Act create and enact a new section to chapter 57-38 of the North Dakota Century
2 Code, relating to reduction in individual income tax rates; to amend and reenact sections
3 57-38-30 and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to
4 reductions in corporate and individual income tax rates; to repeal sections 57-38-01.3,
5 57-38-01.4, 57-38-11, 57-38-14, 57-38-30, 57-38-30.1, 57-38-30.5, 57-38-30.6, 57-38-32, and
6 57-38-60.1, and chapter 57-38.4 of the North Dakota Century Code, relating to elimination of
7 corporate income taxes; to provide for transfers; and to provide contingent effective dates.

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

9 **SECTION 1. AMENDMENT.** Section 57-38-30 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **57-38-30. Imposition and rate of tax on corporations.** A tax is hereby imposed upon
12 the taxable income of every domestic and foreign corporation which must be levied, collected,
13 and paid annually as in this chapter provided:

- 14 1. a. For the first three thousand dollars of taxable income, at the rate of ~~two one~~
15 and ~~six-tenths~~ three-tenths percent.
- 16 b. On all taxable income above three thousand dollars and not in excess of eight
17 thousand dollars, at the rate of ~~four~~ two and ~~one-tenth~~ eight-tenths percent.
- 18 c. On all taxable income above eight thousand dollars and not in excess of
19 twenty thousand dollars, at the rate of ~~five~~ four and ~~six-tenths~~ three-tenths
20 percent.
- 21 d. On all taxable income above twenty thousand dollars and not in excess of
22 thirty thousand dollars, at the rate of ~~six~~ five and ~~four-tenths~~ one-tenth
23 percent.

e. On all taxable income above thirty thousand dollars, at the rate of ~~six~~ five and ~~one-half~~ two-tenths percent.

2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.

SECTION 2. AMENDMENT. Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

57-38-30. Imposition and rate of tax on corporations. A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

1. a. ~~For the first three thousand dollars of taxable income, at the rate of two and six-tenths percent.~~
 - b. On all taxable income above three thousand dollars and not in excess of eight thousand dollars, at the rate of ~~four~~ one and ~~one-tenth~~ five-tenths percent.
 - c. On all taxable income above eight thousand dollars and not in excess of twenty thousand dollars, at the rate of ~~five and six-tenths~~ three percent.
 - d. On all taxable income above twenty thousand dollars and not in excess of thirty thousand dollars, at the rate of ~~six~~ three and ~~four-tenths~~ eight-tenths percent.
 - e. d. On all taxable income above thirty thousand dollars, at the rate of ~~six~~ three and ~~one-half~~ nine-tenths percent.
2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.

SECTION 3. AMENDMENT. Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

57-38-30. Imposition and rate of tax on corporations. A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

1. a. ~~For the first three thousand dollars of taxable income, at the rate of two and six tenths percent.~~
 - b. On all taxable income above three thousand dollars and not in excess of eight thousand dollars, at the rate of ~~four and one tenth~~ two-tenths of one percent.
 - e. b. On all taxable income above eight thousand dollars and not in excess of twenty thousand dollars, at the rate of ~~five one and six tenths~~ seven-tenths percent.
 - d. c. On all taxable income above twenty thousand dollars and not in excess of thirty thousand dollars, at the rate of ~~six two and four tenths~~ one-half percent.
 - e. d. On all taxable income above thirty thousand dollars, at the rate of ~~six two and one half~~ six-tenths percent.
2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.

SECTION 4. AMENDMENT. Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

57-38-30. Imposition and rate of tax on corporations. A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

1. a. ~~For the first three thousand dollars of taxable income, at the rate of two and six tenths percent.~~
- b. ~~On all taxable income above three thousand dollars and not in excess of eight thousand dollars, at the rate of four and one tenth percent.~~
- e. On all taxable income above eight thousand dollars and not in excess of twenty thousand dollars, at the rate of ~~five and six tenths~~ four-tenths of one percent.
- d. b. On all taxable income above twenty thousand dollars and not in excess of thirty thousand dollars, at the rate of ~~six one and four tenths~~ two-tenths percent.

e. c. On all taxable income above thirty thousand dollars, at the rate of ~~six one~~ and ~~one half~~ three-tenths percent.

2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.

SECTION 5. AMENDMENT. 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>\$33,950</u>	2.40% <u>1.68%</u>
Over \$27,050 <u>\$33,950</u> but not over \$65,550 <u>\$82,250</u>	\$568.05 <u>\$570.36</u> plus 3.92% <u>3.50%</u> of amount over \$27,050 <u>\$33,950</u>
Over \$65,550 <u>\$82,250</u> but not over \$136,750 <u>\$171,550</u>	\$2,077.25 <u>\$2,260.86</u> plus 4.34% <u>3.92%</u> of amount over \$65,550 <u>\$82,250</u>
Over \$136,750 <u>\$171,550</u> but not over \$297,350 <u>\$372,950</u>	\$5,167.33 <u>\$5,761.42</u> plus 5.04% <u>4.62%</u> of amount over \$136,750 <u>\$171,550</u>

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1 Over ~~\$297,350~~ \$372,950 ~~\$13,261.57~~ \$15,066.10 plus ~~5.54%~~ 5.12%
2 of amount over ~~\$297,350~~ \$372,950

3 b. Married filing jointly and surviving spouse.

4 If North Dakota taxable income is: The tax is equal to:

5 Not over ~~\$45,200~~ \$56,750 ~~2.10%~~ 1.68%

6 Over ~~\$45,200~~ \$56,750 but not ~~\$949.20~~ \$953.40 plus ~~3.92%~~ 3.50%

7 over ~~\$109,250~~ \$137,050 of amount over ~~\$45,200~~ \$56,750

8 Over ~~\$109,250~~ \$137,050 but not ~~\$3,459.96~~ \$3,763.90 plus ~~4.34%~~ 3.92%

9 over ~~\$166,500~~ \$208,850 of amount over ~~\$109,250~~ \$137,050

10 Over ~~\$166,500~~ \$208,850 but not ~~\$5,944.61~~ \$6,578.46 plus ~~5.04%~~ 4.62%

11 over ~~\$297,350~~ \$372,950 of amount over ~~\$166,500~~ \$208,850

12 Over ~~\$297,350~~ \$372,950 ~~\$12,539.45~~ \$14,159.88 plus ~~5.54%~~ 5.12%

13 of amount over ~~\$297,350~~ \$372,950

14 c. Married filing separately.

15 If North Dakota taxable income is: The tax is equal to:

16 Not over ~~\$22,600~~ \$28,375 ~~2.10%~~ 1.68%

17 Over ~~\$22,600~~ \$28,375 but not ~~\$474.60~~ \$476.70 plus ~~3.92%~~ 3.50%

18 over ~~\$54,625~~ \$68,525 of amount over ~~\$22,600~~ \$28,375

19 Over ~~\$54,625~~ \$68,525 but not ~~\$1,729.98~~ \$1,881.95 plus ~~4.34%~~ 3.92%

20 over ~~\$83,250~~ \$104,425 of amount over ~~\$54,625~~ \$68,525

21 Over ~~\$83,250~~ \$104,425 but not ~~\$2,972.31~~ \$3,289.23 plus ~~5.04%~~ 4.62%

22 over ~~\$148,675~~ \$186,475 of amount over ~~\$83,250~~ \$104,425

23 Over ~~\$148,675~~ \$186,475 ~~\$6,269.73~~ \$7,079.94 plus ~~5.54%~~ 5.12%

24 of amount over ~~\$148,675~~ \$186,475

25 d. Head of household.

26 If North Dakota taxable income is: The tax is equal to:

27 Not over ~~\$36,250~~ \$45,500 ~~2.10%~~ 1.68%

28 Over ~~\$36,250~~ \$45,500 but not ~~\$761.25~~ \$764.40 plus ~~3.92%~~ 3.50%

29 over ~~\$93,650~~ \$117,450 of amount over ~~\$36,250~~ \$45,500

30 Over ~~\$93,650~~ \$117,450 but not ~~\$3,011.33~~ \$3,282.65 plus ~~4.34%~~ 3.92%

31 over ~~\$151,650~~ \$190,200 of amount over ~~\$93,650~~ \$117,450

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1 Over ~~\$151,650~~ \$190,200 but not ~~\$5,528.53~~ \$6,134.45 plus ~~5.04%~~ 4.62%
2 over ~~\$297,350~~ \$372,950 of amount over ~~\$151,650~~ \$190,200
3 Over ~~\$297,350~~ \$372,950 ~~\$12,871.81~~ \$14,577.50 plus ~~5.54%~~ 5.12%
4 of amount over ~~\$297,350~~ \$372,950

5 e. Estates and trusts.

6 If North Dakota taxable income is: The tax is equal to:
7 Not over ~~\$1,800~~ \$2,300 ~~2.10%~~ 1.68%
8 Over ~~\$1,800~~ \$2,300 but not ~~\$37.80~~ \$38.64 plus ~~3.92%~~ 3.50%
9 over ~~\$4,250~~ \$5,350 of amount over ~~\$1,800~~ \$2,300
10 Over ~~\$4,250~~ \$5,350 but not ~~\$133.84~~ \$145.39 plus ~~4.34%~~ 3.92%
11 over ~~\$6,500~~ \$8,200 of amount over ~~\$4,250~~ \$5,350
12 Over ~~\$6,500~~ \$8,200 but not ~~\$231.49~~ \$257.11 plus ~~5.04%~~ 4.62%
13 over ~~\$8,900~~ \$11,150 of amount over ~~\$6,500~~ \$8,200
14 Over ~~\$8,900~~ \$11,150 ~~\$352.45~~ \$393.40 plus ~~5.54%~~ 5.12%
15 of amount over ~~\$8,900~~ \$11,150

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

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

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

28 g. For taxable years beginning after December 31, ~~2004~~ 2009, the tax
29 commissioner shall prescribe new rate schedules that apply in lieu of the
30 schedules set forth in subdivisions a through e. The new schedules must be
31 determined by increasing the minimum and maximum dollar amounts for each

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

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

10 **Individual income tax rate reductions.**

11 1. If the tax commissioner determines that adequate funds are available as provided
12 in subsection 2, the tax commissioner shall administratively adjust the individual
13 income tax rate in sections 57-38-29 and 57-38-30.3 to provide an equivalent
14 percentage reduction in each rate calculated to reduce individual income tax
15 collections by the following amounts:

16 a. Fifty million dollars for the first two taxable years beginning after December
17 31, 2010.

18 b. Fifty million dollars for taxable years beginning after December 31, 2012.

19 c. Fifty million dollars for first two taxable years beginning after December 31,
20 2014.

21 b. Fifty million dollars for the first two taxable years beginning after
22 December 31, 2016.

23 2. Each administrative rate change made by the tax commissioner under
24 subsection 1 is permanent and effective for all following taxable years. The
25 reductions under subsection 1 are accumulative in fiscal effect.

26 **SECTION 7. REPEAL.** Sections 57-38-01.3, 57-38-01.4, 57-38-11, 57-38-14,
27 57-38-30, 57-38-30.1, 57-38-30.5, 57-38-30.6, 57-38-32, and 57-38-60.1 and chapter 57-38.4
28 of the North Dakota Century Code are repealed.

29 **SECTION 8. TRANSFERS - CONTINGENT DELAYS AND EFFECTIVE DATES.** By
30 September first of each even-numbered year, the director of the office of management and
31 budget shall certify to the governor, tax commissioner, and legislative council whether adequate

1 funds are anticipated to be available in the permanent oil tax trust fund to be transferred to the
2 general fund to offset the general fund revenue reduction from an upcoming corporate and
3 individual income tax rate reduction for the ensuing biennium according to the time schedule
4 under sections 6 and 9 of this Act. If adequate funds are available, the director of the office of
5 management and budget shall direct the state treasurer to make transfers during each
6 biennium from the permanent oil tax trust fund to the general fund to offset the general fund
7 revenue reductions from corporate and individual income tax rate changes that have become
8 effective under this Act. If the director of the office of management and budget certifies that
9 adequate funds will not be available to offset the revenue loss to the state general fund of any
10 ensuing rate change under this Act, all ensuing effective dates of rate changes under sections 6
11 and 9 of this Act are delayed by an additional two years and until the next certification by the
12 director of the office of management and budget as required by this section. Transfers from the
13 permanent oil tax trust fund under this Act must be given priority over any transfer or
14 appropriation authorized after the effective date of this Act.

15 **SECTION 9. EFFECTIVE DATES.** Section 1 of this Act is effective for the first two
16 taxable years beginning after December 31, 2008. Section 2 of this Act is effective for the first
17 two taxable years beginning after December 31, 2010. Section 3 of this Act is effective for the
18 first two taxable years beginning after December 31, 2012. Section 4 of this Act is effective for
19 the first two taxable years beginning after December 31, 2014. Section 5 of this Act is effective
20 for taxable year beginning after December 31, 2008. Section 6 of this Act is effective for
21 taxable years beginning after December 31, 2010. Section 7 of this Act is effective for taxable
22 years beginning after December 31, 2016. All of the effective dates in this section are subject
23 to change, as provided in section 8 of this Act.