

Sixty-second  
Legislative Assembly  
of North Dakota

## REENGROSSED SENATE BILL NO. 2320

Introduced by

Senators Nodland, Klein, Miller

Representatives Delmore, Porter, Streyle

A BILL for an Act to amend and reenact sections 57-35.3-03, 57-35.3-05, 57-35.3-07, and 57-35.3-08 of the North Dakota Century Code, relating to reduction of the rate of the financial institutions tax and adjustment of the allocation of the tax; to provide for a legislative management study; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 57-35.3-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-35.3-03. Imposition and basis of tax.**

An annual tax is imposed upon each financial institution for the grant to it of the privilege of transacting, or for the actual transacting by it, of business within this state during any part of each tax year. The tax is based upon and measured by the taxable income of the financial institution for the calendar year. The rate of tax is ~~seven~~six and one-half percent of taxable income, but the amount of tax may not be less than fifty dollars.

**SECTION 2. AMENDMENT.** Section 57-35.3-05 of the North Dakota Century Code is amended and reenacted as follows:

**57-35.3-05. Credits.**

1. a. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the taxable year to nonprofit private institutions of higher education located within the state or to the North Dakota independent college fund. The amount allowable as a credit under this subdivision for any taxable year may not exceed ~~five and seven-tenths~~four and six-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.

b. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the taxable year to nonprofit private institutions of secondary education located within the state. The amount allowable as a credit under this subdivision for any taxable year may not exceed ~~five and seven-tenths~~ four and sixth-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.

c. For the purposes of this subsection, the term "nonprofit private institution of higher education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education at a level above the twelfth grade. The term "nonprofit private institution of secondary education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the department of public instruction and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in the ninth through twelfth grades.

d. For the purposes of this subsection, a taxpayer may elect to treat a contribution as made in the preceding taxable year if the contribution and election are made not later than the time prescribed for filing the return for the taxable year.

2. a. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to any overpayment of tax paid pursuant to chapter 57-35 or 57-35.1, for a taxable year beginning before January 1, 1997, to the extent that the overpayment would have been an allowable deduction from tax payable for the current taxable year, under section 57-35-12 or 57-35.1-07, if chapters 57-35 and 57-35.1 applied to the current taxable year. The amount allowable as a credit under this subsection for any taxable year may not exceed five-sevenths of the tax before credits allowed under this section.

b. For purposes of determining distributions to and from the counties under section 57-35.3-09:

(1) The balance in the financial institution tax distribution fund and the amount of the payment received by each county from the state shall be determined as if any credit allowed under subdivision a had not been claimed and the full amount of the tax otherwise due had been timely paid;

(2) The credited amount must be deducted from the distributions that would otherwise be made to and from the county that received the tax overpayment until the sum of the deductions equals the credit; and

(3) The deductions from distributions made by a county to each distributee must be proportionate to the overpayment of tax received by each distributee.

3. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of contributions made by the taxpayer during the taxable year for tuition scholarships for participation in rural leadership North Dakota conducted through the North Dakota state university extension service. Contributions by a taxpayer may be earmarked for use by a designated recipient. The amount allowable as a credit under this subsection for any taxable year may not exceed ~~five and seven tenths~~four and six tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.

**SECTION 3. AMENDMENT.** Section 57-35.3-07 of the North Dakota Century Code is amended and reenacted as follows:

**57-35.3-07. Payment of tax.**

~~Two-sevenths~~Three-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 1 of section 57-35.3-05, must be paid to the commissioner on or before April fifteenth of the year in which the return is due, regardless of any extension of the time for filing the return granted under section 57-35.3-06.

~~Five-sevenths~~Ten-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 2 of section 57-35.3-05, must be paid to the commissioner on or before January fifteenth of the year after the return is due. Payment must be made by

1 check, draft, or money order, payable to the commissioner, or as prescribed by the  
2 commissioner under subsection 15 of section 57-01-02.

3 **SECTION 4. AMENDMENT.** Section 57-35.3-08 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **57-35.3-08. Disposition of tax.**

6 The commissioner shall deposit the portion of the tax payable in the year the return is due  
7 in the general fund of the state treasury and shall deposit the portion of the tax payable in the  
8 year after the return is due in the financial institution tax distribution fund of the state treasury,  
9 ~~which is hereby created~~. Interest, penalty, and late tax payments attributable to each portion of  
10 the tax must be deposited in the appropriate fund.

11 **SECTION 5. LEGISLATIVE MANAGEMENT STUDY - FINANCIAL INSTITUTIONS**

12 **TAXATION.** During the 2011-12 interim, the legislative management shall consider studying the  
13 feasibility and desirability of revision of the financial institutions taxes, including the feasibility of  
14 taxing financial institutions under the state corporate income tax laws. The legislative  
15 management shall report its findings and recommendations, together with any legislation  
16 required to implement the recommendations, to the sixty-third legislative assembly.

17 **SECTION 6. EFFECTIVE DATE.** Sections 1 through 4 of this Act are effective for taxable  
18 years beginning after December 31, 2010.