

**Sixty-sixth Legislative Assembly of North Dakota  
In Regular Session Commencing Thursday, January 3, 2019**

HOUSE BILL NO. 1174  
(Representatives Bellew, Dockter, Martinson, Nathe, Rohr, M. Ruby, Trottier)  
(Senators Dever, Schaible)

AN ACT to create and enact a new subdivision to subsection 2 of section 57-38-30.3 of the North Dakota Century Code, relating to an individual income tax deduction for social security benefits; to amend and reenact subsection 5 of section 57-02-08.1 and section 57-38-01.28 of the North Dakota Century Code, relating to the homestead tax credit and the marriage penalty credit; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Subsection 5 of section 57-02-08.1 of the North Dakota Century Code is amended and reenacted as follows:

5. For the purposes of this section:
  - a. "Dependent" has the same meaning it has for federal income tax purposes.
  - b. "Homestead" has the same meaning as provided in section 47-18-01.
  - c. "Income" means income for the most recent complete taxable year from all sources, including the income of any dependent of the applicant, and including any county, state, or federal public assistance benefits, social security, or other retirement benefits, but excluding any federal rent subsidy, any amount excluded from income by federal or state law with the exception of income from social security benefits, and medical expenses paid during the year by the applicant or the applicant's dependent which is not compensated by insurance or other means.
  - d. "Medical expenses" has the same meaning as it has for state income tax purposes, except that for transportation for medical care the person may use the standard mileage rate allowed for state officer and employee use of a motor vehicle under section 54-06-09.
  - e. "Permanently and totally disabled" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than twelve months as established by a certificate from a licensed physician or a written determination of disability from the social security administration or any federal or state agency that has authority to certify an individual's disability.

**SECTION 2. AMENDMENT.** Section 57-38-01.28 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.28. Marriage penalty credit.**

1. A married couple filing a joint return under section 57-38-30.3 is allowed a credit of not to exceed three hundred dollars per couple as determined under this section. The tax commissioner shall adjust the maximum amount of the credit under this subsection each taxable year at the time and rate adjustments are made to rate schedules under subdivision g of subsection 1 of section 57-38-30.3.

2. The credit under this section is the difference between the tax on the couple's joint North Dakota taxable income under the rates and income levels in subdivision b of subsection 1 of section 57-38-30.3 and the sum of the tax under the rates and income levels of subdivision a of subsection 1 of section 57-38-30.3 on the qualified income of the lesser-earning spouse, and the tax under the rates and income levels of subdivision a of subsection 1 of section 57-38-30.3 on the couple's joint North Dakota taxable income, minus the qualified income of the lesser-earning spouse.
3. For a nonresident or part-year resident, the credit under this section must be adjusted based on the percentage calculated under subdivision f of subsection 1 of section 57-38-30.3.
4. For purposes of this section:
  - a. "Qualifying income" means the sum of the following, to the extent included in North Dakota taxable income:
    - (1) Earned income as defined in section 32(c)(2) of the Internal Revenue Code;
    - (2) Income received from a retirement pension, profit-sharing, stock bonus, or annuity plan; and
    - (3) Social security benefits as defined in section 86(d)(1) of the Internal Revenue Code to the extent included in North Dakota taxable income.
  - b. "Qualifying income of the lesser-earning spouse" means the qualifying income of the spouse with the lesser amount of qualifying income for the taxable year minus the sum of:
    - (1) The amount for one exemption under section 151(d) of the Internal Revenue Code; and
    - (2) One-half of the amount of the standard deduction under section 63(c)(2)(A)(4) of the Internal Revenue Code.

**SECTION 3.** A new subdivision to subsection 2 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

For taxpayers with federal adjusted gross income of fifty thousand dollars or less, or one hundred thousand dollars or less if married filing jointly, reduced by an amount equal to social security benefits included in a taxpayer's federal adjusted gross income under section 86 of the Internal Revenue Code.

**SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2018.

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Speaker of the House

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President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1174.

House Vote:    Yeas 82            Nays 7            Absent 5

Senate Vote:    Yeas 36            Nays 11           Absent 0

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2019.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2019.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2019,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State