

Fifty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1471

Introduced by

Representatives Carlson, Timm

1 A BILL for an Act to amend and reenact subsections 1 and 2 of section 57-35.3-02,
2 subsection 1 of section 57-38-01.3, and section 57-38-30 of the North Dakota Century Code,
3 relating to financial institutions taxes, the corporate income tax deduction for federal income
4 taxes paid, and corporate income tax rates; to repeal chapter 57-38.4 of the North Dakota
5 Century Code, relating to the corporate income tax water's edge filing election; and to provide
6 an effective date.

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

8 **SECTION 1. AMENDMENT.** Subsections 1 and 2 of section 57-35.3-02 of the North
9 Dakota Century Code are amended and reenacted as follows:

- 10 1. In determining "taxable income" there must be added to federal taxable income:
- 11 a. The adjustments provided by subdivisions ~~d, e, and i~~ c, d, and g of
12 subsection 1 of section 57-38-01.3;
- 13 b. Interest not subject to federal tax upon obligations of the state of North
14 Dakota and its political subdivisions;
- 15 c. The amount of any charitable contribution deduction taken for federal income
16 tax purposes under section 170 of the Internal Revenue Code;
- 17 d. In the case of a building and loan association or savings and loan association,
18 the amount of any bad debt reserve deduction taken for federal income tax
19 purposes under section 585 of the Internal Revenue Code; and
- 20 e. Dividends paid by a federal reserve bank to the extent not subject to federal
21 tax.
- 22 2. In determining "taxable income" there must be subtracted from federal taxable
23 income:

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- 1 a. The adjustments provided by ~~subdivisions~~ subdivision b, c, and h of
2 subsection 1 of section 57-38-01.3;
- 3 b. In the case of a financial institution described in subdivision a of subsection 2
4 of section 57-35.3-01, the adjustment provided by subdivision g of
5 subsection 1 of section 57-38-01.3;
- 6 c. In the case of a building and loan association or savings and loan association
7 that uses the bad debt reserve method under section 585 of the Internal
8 Revenue Code to account for bad debts for federal income tax purposes, an
9 amount equal to the deduction for bad debts that would have been allowed
10 under section 166(a) of the Internal Revenue Code if a deduction had not
11 been claimed under section 585 or 593;
- 12 d. The amount of any adjustments taken into account for federal income tax
13 purposes under section 593(g) of the Internal Revenue Code;
- 14 e. The amount of any interest and expenses relating to income not taxable for
15 federal income tax purposes if the income is taxable under sections
16 57-35.3-01 through 57-35.3-12 and the interest and expenses were
17 disallowed as deductions under section 171(a)(2), 265, or 291 of the Internal
18 Revenue Code in computing federal taxable income;
- 19 f. The amount of any wage and salary expenses disallowed as deductions
20 under section 280C(a) of the Internal Revenue Code in computing federal
21 taxable income;
- 22 g. An amount equal to the deduction for charitable contributions that would be
23 allowed for federal income tax purposes under section 170 of the Internal
24 Revenue Code if the percentage limitation of section 170(b)(2) of the Internal
25 Revenue Code was applied in all relevant taxable periods to taxable income,
26 rather than federal taxable income, but computed without regard to this
27 subdivision and that portion of subdivision a that refers to subdivision g of
28 subsection 1 of section 57-38-01.3. However, no deduction is allowable for a
29 contribution if and to the extent that a credit is allowed for the contribution
30 under section 57-35.3-05; ~~and~~

1 h. The amount of net income not allocated and apportioned to this state under
2 sections 57-35.3-13 through 57-35.3-17, but only to the extent that the
3 amount of net income not allocated and apportioned to this state under those
4 sections is not included in any adjustment made pursuant to the preceding
5 subdivisions; and

6 i. The amount of federal income tax liability for the same taxable year for which
7 North Dakota taxable income is being determined, to the extent that the
8 federal taxes are computed upon income that becomes part of North Dakota
9 taxable income. Provided, that no adjustment to federal income taxes, paid
10 or accrued, is required because of allowable deductions to federal taxable
11 income made under the cost recovery provisions of subdivision b of
12 subsection 5 of section 57-38-01. Federal income taxes for prior periods
13 assessed against the taxpayer by reason of audit or other adjustment by the
14 internal revenue service, or voluntary disclosure by the taxpayer, are not
15 deductible except in the period in which income so taxed was reported or
16 reportable or in which an adjustment was required but only after an
17 adjustment is made by or with the office of the state tax commissioner. A
18 refund of federal income tax must be reported and included in North Dakota
19 taxable income in the year in which the tax was originally deducted. Income
20 must be further reduced by any federal alternative minimum tax when a
21 federal credit for a prior year minimum tax is taken. This reduction is limited
22 to any federal alternative minimum tax previously disallowed in computing
23 North Dakota taxable income and may not exceed North Dakota taxable
24 income computed before the North Dakota net operating loss deduction. Any
25 excess may be carried forward to the next taxable year a federal credit for a
26 prior year minimum tax is taken.

27 **SECTION 2. AMENDMENT.** Subsection 1 of section 57-38-01.3 of the North Dakota
28 Century Code is amended and reenacted as follows:

29 1. The taxable income of a corporation as computed pursuant to the provisions of the
30 Internal Revenue Code of 1954, as amended, must be:

- 1 a. Reduced by any interest received from obligations of the United States that is
2 included in taxable income or in the computation thereof on the federal return.
- 3 b. Reduced by any other income included in the taxable income, or in the
4 computation thereof, on the federal return which is exempt from taxation by
5 this state because of the provisions of the Constitution of North Dakota or the
6 Constitution of the United States.
- 7 c. ~~Reduced by the amount of federal income tax liability, as computed under
8 chapter 1 of the Internal Revenue Code of 1986, as amended, for the same
9 taxable year for which the North Dakota return is being filed, to the extent that
10 the taxes are computed upon income which becomes a part of the North
11 Dakota taxable income. Provided, that no adjustment to federal income
12 taxes, paid or accrued, is required because of allowable deductions to federal
13 taxable income made under the cost recovery provisions of subdivision b of
14 subsection 5 of section 57-38-01. Federal income taxes for prior periods
15 assessed against the taxpayer by reason of audit or other adjustment by the
16 internal revenue service, or voluntary disclosure by the taxpayer, are not
17 deductible except in the period in which income so taxed was reported or
18 reportable or in which an adjustment was required but only after an
19 adjustment is made by or with the office of the state tax commissioner. A
20 refund of federal income tax must be reported and included in North Dakota
21 taxable income in the year in which the tax was originally deducted. Income
22 must be further reduced by federal alternative minimum tax when a federal
23 credit for prior year minimum tax is taken. This reduction is limited to federal
24 alternative minimum tax previously disallowed in computing North Dakota
25 taxable income and may not exceed North Dakota taxable income computed
26 before the North Dakota net operating loss deduction. Any excess may be
27 carried forward to the next taxable year a federal credit for prior year
28 minimum tax is taken.~~
- 29 d. Increased by the amount of any income taxes, including income taxes of
30 foreign countries, or franchise or privilege taxes measured by income, to the
31 extent that such taxes were deducted to determine federal taxable income.

- 1 e- d. Increased by the amount of any interest and dividends from foreign securities
2 and from securities of state and their political subdivisions exempt from
3 federal income tax, provided that interest upon obligations of the state of
4 North Dakota or any of its political subdivisions may not be included.
- 5 f- e. Reduced by the amount of net income not allocated and apportioned to this
6 state under the provisions of chapter 57-38.1, but only to the extent that the
7 amount of net income not allocated and apportioned to this state under the
8 provisions of that chapter is not included in any adjustment made pursuant to
9 the preceding subdivisions.
- 10 g- f. Reduced by dividends or income received by any person from stock or
11 interest in any corporation, the income of which has been assessed and paid
12 by a corporation under this chapter or sections 57-35.3-01 through
13 57-35.3-12, received by the taxpayer and included in the gross income within
14 the income year if such corporation has reported the name and address of
15 each person owning stock and the amount of dividends or income paid each
16 such person during the year, but when only part of the income of any
17 corporation has been assessed and income tax paid under this chapter or
18 sections 57-35.3-01 through 57-35.3-12, only a corresponding part of the
19 dividends or income received therefrom may be deducted.
- 20 h- ~~Repealed by S.L. 1999, ch. 487, § 3.~~
- 21 i- g. Increased by the amount of any special deductions and net operating loss
22 deductions to the extent that these items were deducted in determining
23 federal taxable income.
- 24 j- h. Reduced by dividends paid, as defined in section 561 of the Internal Revenue
25 Code of 1986, as amended, by a regulated investment company or a fund of
26 a regulated investment company as defined in section 851(a) or 851(g) of the
27 Internal Revenue Code of 1986, as amended, except that the deduction for
28 dividends paid is not allowed with respect to dividends attributable to any
29 income that is not subject to taxation under this chapter when earned by the
30 regulated investment company. Sections 852(b)(7) and 855 of the Internal
31 Revenue Code of 1986, as amended, apply for computing the deduction for

1 dividends paid. A regulated investment company is not allowed a deduction
2 for dividends received as defined in sections 243 through 245 of the Internal
3 Revenue Code of 1986, as amended.

4 Provided, however, that each adjustment in the above subdivisions authorized
5 under law is allowed only to the extent that the adjustment is allocated and
6 apportioned to North Dakota income.

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

9 **57-38-30. Imposition and rate of tax on corporations.** A tax is hereby imposed upon
10 the taxable income of every domestic and foreign corporation received from the sources
11 described in sections 57-38-12, 57-38-13, and 57-38-14, which must be levied, collected, and
12 paid annually as in this chapter provided:

- 13 1. a. For the first three thousand dollars of taxable income, at the rate of ~~three~~ two
14 and two-tenths percent.
- 15 b. On all taxable income above three thousand dollars and not in excess of eight
16 thousand dollars, at the rate of ~~four and one-half~~ three and two-tenths
17 percent.
- 18 c. On all taxable income above eight thousand dollars and not in excess of
19 twenty thousand dollars, at the rate of ~~six~~ four and three-tenths percent.
- 20 d. On all taxable income above twenty thousand dollars, and not in excess of
21 thirty thousand dollars, at the rate of ~~seven~~ five and one-half four-tenths
22 percent.
- 23 e. On all taxable income above thirty thousand dollars, and not in excess of fifty
24 thousand dollars, at the rate of ~~nine~~ six and five-tenths percent.
- 25 f. On all taxable income above fifty thousand dollars, at the rate of ~~ten~~ seven
26 and one-half five-tenths percent.
- 27 2. A corporation that has paid North Dakota alternative minimum tax in years
28 beginning before January 1, 1991, may carry over any alternative minimum tax
29 credit remaining to the extent of the regular income tax liability of the corporation
30 for a period not to exceed four taxable years.

1 **SECTION 4. REPEAL.** Chapter 57-38.4 of the North Dakota Century Code is
2 repealed.

3 **SECTION 5. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
4 December 31, 2002.