

**SENATE BILL NO. 2330
with House Amendments
SENATE BILL NO. 2330**

Sixty-third
Legislative Assembly
of North Dakota

Introduced by

Senators Mathern, Cook, Robinson

Representatives Carlson, Holman

1 A BILL for an Act to amend and reenact section 57-38-62 of the North Dakota Century Code,
2 relating to underpayment of estimated taxes; and to provide an effective date.

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

4 **SECTION 1. AMENDMENT.** Section 57-38-62 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **57-38-62. Payment of estimated income tax.**

7 1. An individual, estate, or trust that is subject to section 6654 of the Internal Revenue
8 Code relating to a failure to pay federal estimated income tax shall, at the time
9 prescribed in this chapter, pay estimated tax for the current taxable year.

10 Notwithstanding any other provision of this section, an individual, estate, or trust
11 whose net tax liability for the preceding taxable year was less than ~~five hundred~~one
12 thousand dollars is not required to pay estimated tax for the current taxable year.

13 Married individuals who file a joint federal income tax return and are subject to section
14 6654 of the Internal Revenue Code must each be deemed to be subject to the federal
15 provision. If payment of estimated tax is required, the individual, estate, or trust shall,
16 at the time prescribed in this chapter, pay the lesser of the following:

- 17 a. An amount which, when added to the taxpayer's withholding, equals ninety
- 18 percent of the taxpayer's current taxable year's net tax liability.
- 19 b. An amount which, when added to the taxpayer's withholding, equals one hundred
- 20 percent of the taxpayer's net tax liability for the immediately preceding taxable
- 21 year.

22 (1) This subdivision does not apply to any taxpayer who was not required by
23 this chapter to file a return for the immediately preceding taxable year, to an
24 individual who moved into this state during the immediately preceding

- 1 taxable year, or to an estate or trust that was not in existence for the entire
2 immediately preceding taxable year. The amount under this subdivision
3 must be deemed to be equal to the amount in subdivision a if this part
4 applies.
- 5 (2) In order to satisfy the requirements of this subdivision, married individuals
6 who are required to file separate state returns for the current taxable year
7 but who were required to file a joint state return for the immediately
8 preceding taxable year must each be required to pay estimated tax in an
9 amount which, when added to the individual's withholding, equals the net
10 tax liability which would have been computed for the immediately preceding
11 taxable year if separate state returns had been required to be filed.
- 12 (3) In order to satisfy the requirements of this subdivision, married individuals
13 who are required to file a joint state return for the current taxable year but
14 were required to file separate state returns for the immediately preceding
15 taxable year must be required to pay estimated tax in an amount which,
16 when added to their withholding, equals the sum of their separate net tax
17 liabilities for the immediately preceding taxable year.
- 18 2. A corporation shall, at the time prescribed in this chapter, pay estimated tax for the
19 current taxable year if the corporation's estimated tax can reasonably be expected to
20 exceed five thousand dollars and if the corporation's net tax liability for the
21 immediately preceding taxable year exceeded five thousand dollars. If payment of
22 estimated tax is required, the corporation shall, at the time prescribed in this chapter,
23 pay the lesser of the following:
- 24 a. Ninety percent of the corporation's current taxable year's net tax liability.
25 b. One hundred percent of the corporation's net tax liability for the immediately
26 preceding taxable year.
- 27 3. The provisions of section 57-38-45, except those provisions relating to the imposition
28 of a penalty, apply in case of nonpayment, late payment, or underpayment of
29 estimated tax. For purposes of applying the interest provisions of section 57-38-45,
30 interest accrues on a per annum basis from the due date of an installment to the
31 fifteenth day of the fourth month following the end of the current taxable year or, with

1 respect to any portion of the estimated tax required to be paid, the date on which the
2 portion thereof is paid, whichever date is earlier. Notwithstanding the other provisions
3 of this section, no interest is due if the estimated tax paid on or before each due date
4 under section 57-38-63 by a corporation is based on the annualized or adjusted
5 seasonal method under section 6655 of the Internal Revenue Code. Notwithstanding
6 the other provisions of this section, no interest is due if the estimated tax of an
7 individual, estate, or trust is less than ~~five hundred~~ one thousand dollars per income tax
8 return filed.

9 4. For purposes of this section, "estimated tax" means the amount that a taxpayer
10 estimates to be income tax under this chapter for the current taxable year less the
11 amount of any credits allowable, including tax withheld.

12 5. For purposes of this section, "net tax liability" means the amount of income tax
13 computed for the taxable year as shown on the return less the amount of any credits
14 allowable except tax withheld and estimated tax paid.

15 6. An individual or corporation may apply a tax overpayment from a preceding taxable
16 year as an estimated tax payment on the individual's or corporation's behalf for the
17 taxable year succeeding the overpayment. The individual or corporation may elect to
18 apply the overpayment to specific estimated tax installments. If the individual or
19 corporation does not specify the installment period toward which the overpayment is to
20 be applied, the individual or corporation must be considered to have elected to apply
21 the overpayment toward the first required estimated tax installment for the succeeding
22 taxable year.

23 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
24 December 31, 2012.