

HOUSE BILL NO. 1298

Introduced by

Representatives Kasper, Beadle, Dosch, Owens, Ruby, Schatz, Thoreson

Senators Burckhard, Larsen, O'Connell, Sorvaag, Wanzek

1 A BILL for an Act to ~~create and enact a new subdivision to subsection 2 of section 57-38-30.3 of~~
2 ~~the North Dakota Century Code, relating to an income tax exclusion for social security benefits;~~
3 ~~to~~ amend and reenact sections 57-38-01.28 and 57-38-30 and subsection 1 and subdivision d
4 of subsection 2 of section 57-38-30.3 of the North Dakota Century Code, relating to reduction of
5 the rates of individual and corporate income taxes and an income tax exclusion for social
6 security benefits; and to provide an effective date.

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

8 **SECTION 1. AMENDMENT.** Section 57-38-01.28 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **57-38-01.28. Marriage penalty credit.**

- 11 1. A married couple filing a joint return under section 57-38-30.3 is allowed a credit of not
12 to exceed three hundred dollars per couple as determined under this section. The tax
13 commissioner shall adjust the maximum amount of the credit under this subsection
14 each taxable year at the time and rate adjustments are made to rate schedules under
15 subdivision g of subsection 1 of section 57-38-30.3.
- 16 2. The credit under this section is the difference between the tax on the couple's joint
17 North Dakota taxable income under the rates and income levels in subdivision b of
18 subsection 1 of section 57-38-30.3 and the sum of the tax under the rates and income
19 levels of subdivision a of subsection 1 of section 57-38-30.3 on the qualified income of
20 the lesser-earning spouse, and the tax under the rates and income levels of
21 subdivision a of subsection 1 of section 57-38-30.3 on the couple's joint North Dakota
22 taxable income, minus the qualified income of the lesser-earning spouse.

- 1 3. For a nonresident or part-year resident, the credit under this section must be adjusted
2 based on the percentage calculated under subdivision f of subsection 1 of section
3 57-38-30.3.
- 4 4. For purposes of this section:
- 5 a. "Qualifying income" means the sum of the following, to the extent included in
6 North Dakota taxable income:
- 7 (1) Earned income as defined in section 32(c)(2) of the Internal Revenue Code;
8 ~~and~~
9 (2) Income received from a retirement pension, profit-sharing, stock bonus, or
10 annuity plan; ~~and~~
11 (3) Social security benefits as defined in section 86(d)(1) of the Internal
12 Revenue Code.
- 13 b. "Qualifying income of the lesser-earning spouse" means the qualifying income of
14 the spouse with the lesser amount of qualifying income for the taxable year
15 minus the sum of:
- 16 (1) The amount for one exemption under section 151(d) of the Internal Revenue
17 Code; and
18 (2) One-half of the amount of the standard deduction under section 63(c)(2)(A)
19 (4) of the Internal Revenue Code.

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

22 **57-38-30. Imposition and rate of tax on corporations.**

23 A tax is hereby imposed upon the taxable income of every domestic and foreign corporation
24 which must be levied, collected, and paid annually as in this chapter provided:

- 25 1. For the first twenty-five thousand dollars of taxable income, at the rate of one ~~and~~
26 ~~forty-eight hundredths~~ percent.
- 27 2. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty
28 thousand dollars, at the rate of three and ~~seventy-three hundredths~~ two-tenths percent.
- 29 3. On all taxable income exceeding fifty thousand dollars, at the rate of four and
30 ~~fifty-three hundredths~~ one-tenth percent.

1 **SECTION 3. AMENDMENT.** Subsection 1 of section 57-38-30.3 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 1. A tax is hereby imposed for each taxable year upon income earned or received in that
4 taxable year by every resident and nonresident individual, estate, and trust. A taxpayer
5 computing the tax under this section is only eligible for those adjustments or credits
6 that are specifically provided for in this section. Provided, that for purposes of this
7 section, any person required to file a state income tax return under this chapter, but
8 who has not computed a federal taxable income figure, shall compute a federal
9 taxable income figure using a pro forma return in order to determine a federal taxable
10 income figure to be used as a starting point in computing state income tax under this
11 section. The tax for individuals is equal to North Dakota taxable income multiplied by
12 the rates in the applicable rate schedule in subdivisions a through d corresponding to
13 an individual's filing status used for federal income tax purposes. For an estate or
14 trust, the schedule in subdivision e must be used for purposes of this subsection.

15 a. Single, other than head of household or surviving spouse.

16 If North Dakota taxable income is:

17	Over	Not over	The tax is equal to	Of amount over
18	\$0	\$36,250	1.22%	\$0
19	\$36,250	\$87,850	\$442.25 + 2.27%	\$36,250
20	\$87,850	\$183,250	\$1,613.57 + 2.52%	\$87,850
21	\$183,250	\$398,350	\$4,017.65 + 2.93%	\$183,250
22	\$398,350		\$10,320.08 + 3.22%	\$398,350
23	<u>\$0</u>	<u>\$37,450</u>	<u>0.70%</u>	<u>\$0</u>
24	<u>\$37,450</u>	<u>\$90,750</u>	<u>\$262.15 + 2.04%</u>	<u>\$37,450</u>
25	<u>\$90,750</u>	<u>\$189,300</u>	<u>\$1,349.47 + 2.27%</u>	<u>\$90,750</u>
26	<u>\$189,300</u>	<u>\$411,500</u>	<u>\$3,586.56 + 2.64%</u>	<u>\$189,300</u>
27	<u>\$411,500</u>		<u>\$9,452.64 + 2.90%</u>	<u>\$411,500</u>

28 b. Married filing jointly and surviving spouse.

29 If North Dakota taxable income is:

30	Over	Not over	The tax is equal to	Of amount over
31	\$0	\$60,650	1.22%	\$0

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1	\$60,650	\$146,400	\$739.93 + 2.27%	\$60,650
2	\$146,400	\$223,050	\$2,686.46 + 2.52%	\$146,400
3	\$223,050	\$398,350	\$4,618.04 + 2.93%	\$223,050
4	\$398,350		\$9,754.33 + 3.22%	\$398,350
5	\$0	\$62,600	0.70%	\$0
6	\$62,600	\$151,200	\$438.20 + 2.04%	\$62,600
7	\$151,200	\$230,450	\$2,245.64 + 2.27%	\$151,200
8	\$230,450	\$411,500	\$4,044.62 + 2.64%	\$230,450
9	\$411,500		\$8,824.34 + 2.90%	\$411,500
10	c. Married filing separately.			
11	If North Dakota taxable income is:			
12	Over	Not over	The tax is equal to	Of amount over
13	\$0	\$30,325	1.22%	\$0
14	\$30,325	\$73,200	\$369.97 + 2.27%	\$30,325
15	\$73,200	\$111,525	\$1,343.23 + 2.52%	\$73,200
16	\$111,525	\$199,175	\$2,309.02 + 2.93%	\$111,525
17	\$199,175		\$4,877.17 + 3.22%	\$199,175
18	\$0	\$31,300	0.70%	\$0
19	\$31,300	\$75,600	\$219.10 + 2.04%	\$31,300
20	\$75,600	\$115,225	\$1,122.82 + 2.27%	\$75,600
21	\$115,225	\$205,750	\$2,022.31 + 2.64%	\$115,225
22	\$205,750		\$4,412.17 + 2.90%	\$205,750
23	d. Head of household.			
24	If North Dakota taxable income is:			
25	Over	Not over	The tax is equal to	Of amount over
26	\$0	\$48,600	1.22%	\$0
27	\$48,600	\$125,450	\$592.92 + 2.27%	\$48,600
28	\$125,450	\$203,150	\$2,337.42 + 2.52%	\$125,450
29	\$203,150	\$398,350	\$4,295.46 + 2.93%	\$203,150
30	\$398,350		\$10,014.82 + 3.22%	\$398,350
31	\$0	\$50,200	0.70%	\$0

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1	<u>\$50,200</u>	<u>\$129,600</u>	<u>\$351.40 + 2.04%</u>	<u>\$50,200</u>
2	<u>\$129,600</u>	<u>\$209,850</u>	<u>\$1,971.16 + 2.27%</u>	<u>\$129,600</u>
3	<u>\$209,850</u>	<u>\$411,500</u>	<u>\$3,792.84 + 2.64%</u>	<u>\$209,850</u>
4	<u>\$411,500</u>		<u>\$9,116.40 + 2.90%</u>	<u>\$411,500</u>

5 e. Estates and trusts.

6 If North Dakota taxable income is:

7	Over	Not over	The tax is equal to	Of amount over
8	\$0	<u>\$2,450</u>	1.22%	\$0
9	<u>\$2,450</u>	<u>\$5,700</u>	\$29.89 plus 2.27%	<u>\$2,450</u>
10	<u>\$5,700</u>	<u>\$8,750</u>	\$103.67 plus 2.52%	<u>\$5,700</u>
11	<u>\$8,750</u>	<u>\$11,950</u>	\$180.53 plus 2.93%	<u>\$8,750</u>
12	<u>\$11,950</u>		\$274.29 plus 3.22%	<u>\$11,950</u>
13	<u>\$0</u>	<u>\$2,500</u>	0.70%	<u>\$0</u>
14	<u>\$2,500</u>	<u>\$5,900</u>	<u>\$17.50 + 2.04%</u>	<u>\$2,500</u>
15	<u>\$5,900</u>	<u>\$9,050</u>	<u>\$86.86 + 2.27%</u>	<u>\$5,900</u>
16	<u>\$9,050</u>	<u>\$12,300</u>	<u>\$158.37 + 2.64%</u>	<u>\$9,050</u>
17	<u>\$12,300</u>		<u>\$244.17 + 2.90%</u>	<u>\$12,300</u>

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

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

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

30 g. The tax commissioner shall prescribe new rate schedules that apply in lieu of the
31 schedules set forth in subdivisions a through e. The new schedules must be

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

- 9 h. The tax commissioner shall prescribe an optional simplified method of computing
10 tax under this section that may be used by an individual taxpayer who is not
11 entitled to claim an adjustment under subsection 2 or credit against income tax
12 liability under subsection 7.

13 **SECTION 4. AMENDMENT.** Subdivision d of subsection 2 of section 57-38-30.3 of the
14 North Dakota Century Code is amended and reenacted as follows:

- 15 d. Reduced by ~~forty~~seventy percent of:

- 16 (1) The excess of the taxpayer's net long-term capital gain for the taxable year
17 over the net short-term capital loss for that year, as computed for purposes
18 of the Internal Revenue Code of 1986, as amended. The adjustment
19 provided by this subdivision is allowed only to the extent the net long-term
20 capital gain is allocated to this state.
- 21 (2) Qualified dividends as defined under Internal Revenue Code section 1(h)
22 (11), added by section 302(a) of the Jobs and Growth Tax Relief
23 Reconciliation Act of 2003 [Pub. L. 108-27; 117 Stat. 752; 2 U.S.C. 963
24 et seq.], but only if taxed at a federal income tax rate that is lower than the
25 regular federal income tax rates applicable to ordinary income. If, for any
26 taxable year, qualified dividends are taxed at the regular federal income tax
27 rates applicable to ordinary income, the reduction allowed under this
28 subdivision is equal to ~~thirty~~forty-five percent of all dividends included in
29 federal taxable income. The adjustment provided by this subdivision is
30 allowed only to the extent the qualified dividend income is allocated to this
31 state.

1 ~~**SECTION 5.** A new subdivision to subsection 2 of section 57-38-30.3 of the North Dakota-~~
2 ~~Century Code is created and enacted as follows:~~
3 ~~Reduced by the amount of social security benefits included in a taxpayer's gross-~~
4 ~~income for federal income tax purposes under section 86 of the Internal Revenue-~~
5 ~~Code.~~

6 **SECTION 5. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
7 December 31, 2014.