

**HOUSE BILL NO. 1399**

Introduced by

Representatives Carlson, Kasper, Koppelman, Wald

Senators Christmann, G. Nelson

1 A BILL for an Act to amend and reenact section 57-38-30.3 of the North Dakota Century Code,  
2 relating to determination of income tax liability on the short-form state income tax return; and to  
3 provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 57-38-30.3 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **57-38-30.3. Simplified optional method of computing tax.**

- 8 1. Notwithstanding the other provisions of this chapter, an individual, estate, or trust  
9 may elect to determine state income tax liability by applying the provisions of this  
10 section. Any taxpayer electing to determine the taxpayer's income tax liability  
11 pursuant to this section is only eligible for those adjustments or credits which are  
12 specifically provided for in this section. Provided, that for purposes of this section,  
13 any person required to file a state income tax return pursuant to the provisions of  
14 this chapter, but who has not computed a federal taxable income ~~or federal income~~  
15 ~~tax liability~~ figure shall compute such a federal taxable income figure using a  
16 pro forma return pursuant to the provisions of this section in order to determine a  
17 federal taxable income ~~tax liability~~ figure to be used as a starting point in  
18 computing state income tax.
- 19 2. A tax is hereby imposed for each taxable year upon income earned or received in  
20 that taxable year by every resident and nonresident individual, estate, and trust.  
21 This tax is ~~fourteen~~ three percent of the individual's, estate's, or trust's adjusted  
22 federal taxable income ~~tax liability~~ that is taxable to this state for the taxable year.
- 23 3. The adjusted federal taxable income ~~tax liability~~ for purposes of this section for a  
24 resident or nonresident individual, estate, and trust must be determined by

- 1           ~~multiplying the federal income tax liability by a fraction, the numerator of which is~~  
2           ~~the adjusted gross~~ deducting the taxpayer's taxable income that is not taxable to  
3           ~~this state and the denominator of which is from the total adjusted gross federal~~  
4           taxable income as reported on the federal income tax return. To the extent they  
5           are included in the taxpayer's federal ~~adjusted gross~~ taxable income, the following  
6           amounts must also be excluded from the numerator deducted:
- 7           a.   Eight thousand dollars for a husband and wife filing a joint state income tax  
8           return and four thousand dollars for any other return under this section.
- 9           b.   Interest income from obligations of the United States and income exempt from  
10           state income tax under federal statute or United States or North Dakota  
11           constitutional provisions.
- 12           ~~b.~~ c.   The portion of a distribution from a qualified investment fund described in  
13           section 57-38-01 which is attributable to investments by the qualified  
14           investment fund in obligations of the United States, obligations of North  
15           Dakota or its political subdivisions, and any other obligation the interest from  
16           which is exempt from state income tax under federal statute or United States  
17           or North Dakota constitutional provisions.
- 18           ~~e.~~ d.   An amount equal to the earnings that are passed through to a taxpayer in  
19           connection with an allocation and apportionment to North Dakota under  
20           chapter 57-35.3.
- 21           4.   ~~The adjusted federal income tax liability of a nonresident individual, estate, and~~  
22           ~~trust must be determined by multiplying the federal income tax liability by a fraction,~~  
23           ~~the numerator of which is the adjusted gross income derived from sources within~~  
24           ~~this state and the denominator of which is the total adjusted gross income as~~  
25           ~~reported on the federal income tax return. To the extent they are included in the~~  
26           ~~taxpayer's federal adjusted gross income, the following amounts must be excluded~~  
27           ~~from the numerator:~~
- 28           a.   ~~Interest income from obligations of the United States and income exempt from~~  
29           ~~state income tax under federal statute or United States or North Dakota~~  
30           ~~constitutional provisions.~~

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- 1           b. ~~The portion of a distribution from a qualified investment fund described in~~  
2           ~~section 57-38-01 which is attributable to investments by the qualified~~  
3           ~~investment fund in obligations of the United States, obligations of North~~  
4           ~~Dakota or its political subdivisions, and any other obligation the interest from~~  
5           ~~which is exempt from state income tax under federal statute or United States~~  
6           ~~or North Dakota constitutional provisions.~~
- 7           e. ~~An amount equal to the earnings that are passed through to a taxpayer in~~  
8           ~~connection with an allocation and apportionment to North Dakota under~~  
9           ~~chapter 57-35.3.~~
- 10         5. ~~For purposes of this section, "federal income tax liability" means the individual's,~~  
11         ~~estate's, or trust's federal income tax computed for the taxable year under Internal~~  
12         ~~Revenue Code sections 1 and 3, relating to the computation of the regular federal~~  
13         ~~income tax before credits, including calculation and tax rate modifications~~  
14         ~~prescribed under other provisions of the Internal Revenue Code, adjusted as~~  
15         ~~follows:~~
- 16           a. ~~Add the alternative minimum tax computed under Internal Revenue Code~~  
17           ~~section 55;~~
- 18           b. ~~Add the tax on a lump sum distribution computed under Internal Revenue~~  
19           ~~Code section 402; however, this adjustment does not apply if the lump sum~~  
20           ~~distribution is received while a nonresident of this state and is exempt from~~  
21           ~~taxation by this state under federal law;~~
- 22           e. ~~Add the tax on an accumulation distribution of a trust computed under Internal~~  
23           ~~Revenue Code section 667;~~
- 24           d. ~~Add the tax computed under Internal Revenue Code section 72(m)(5) on~~  
25           ~~excess benefits received from a qualified plan under Internal Revenue Code~~  
26           ~~section 401(a) or a qualified annuity under Internal Revenue Code section~~  
27           ~~403(a);~~
- 28           e. ~~Add the tax computed under Internal Revenue Code section 72(q)(1) on an~~  
29           ~~early distribution from an annuity contract;~~
- 30           f. ~~Add the tax computed under Internal Revenue Code section 72(t)(1) on an~~  
31           ~~early distribution from a qualified retirement plan;~~

- 1           g. ~~Add the tax computed under Internal Revenue Code section 4973(a) on~~  
2           ~~excess contributions to an individual retirement account, medical savings~~  
3           ~~account, and certain Internal Revenue Code section 403(b) and annuity~~  
4           ~~contracts; however, this adjustment does not apply if the individual, estate, or~~  
5           ~~trust is a nonresident of this state;~~
- 6           h. ~~Add the tax computed under Internal Revenue Code section 4974(a) on~~  
7           ~~excess accumulations in a qualified retirement plan; however, this adjustment~~  
8           ~~does not apply if the individual, estate, or trust is a nonresident of this state;~~
- 9           i. ~~Add the tax computed under Internal Revenue Code section 4980A on excess~~  
10           ~~distributions from a qualified retirement plan; and~~
- 11           j. ~~Subtract the credit for prior year minimum tax computed under Internal~~  
12           ~~Revenue Code section 53.~~

13           ~~Unless specifically provided for in this subsection, no federal income tax credit may~~  
14           ~~be subtracted in determining the federal income tax liability for purposes of this~~  
15           ~~section.~~

16           6. A husband and wife filing a joint federal income tax return shall file a joint state  
17           income tax return if the return is filed under this section. If separate federal income  
18           tax returns are filed, one spouse's state income tax return may be filed under this  
19           section and the other spouse's income tax return may be filed under the other  
20           provisions of this chapter.

21           7. ~~5.~~ a. A resident individual, estate, or trust must be allowed a credit against the tax  
22           otherwise due under this section for the amount of any income tax imposed  
23           on the taxpayer for the taxable year by another state or territory of the United  
24           States or the District of Columbia on income derived from sources therein and  
25           which is also subject to tax under this section.

26           b. The credit provided under this subsection may not exceed the proportion of  
27           the tax otherwise due under this section that the amount of the taxpayer's  
28           adjusted gross income derived from sources in the other taxing jurisdiction  
29           bears to the taxpayer's entire adjusted gross income as reported on the  
30           taxpayer's federal income tax return.

1       ~~8.~~ 6.   a.   Individuals, estates, or trusts ~~receiving a refund of that file an amended~~  
2                   federal income tax return changing their federal taxable income figure for a  
3                   year for which an election to file state income tax returns has been made  
4                   under this section shall file an amended state income tax ~~returns reducing the~~  
5                   federal income tax liability for the year for which the federal income tax refund  
6                   is granted and may not report return to reflect the changes on the federal  
7                   income tax ~~refund in the year received~~ return.

8                   b.   Individuals, estates, or trusts ~~assessed additional federal income tax for a~~  
9                   year for which an election to file state income tax returns has been made  
10                  under this section shall file ~~amended state income tax returns increasing the~~  
11                  federal income tax liability for the year for which the additional federal income  
12                  tax is assessed and may not report ~~increased federal income tax liability in the~~  
13                  year in which the ~~additional federal income tax is paid~~.

14       ~~9.~~ 7.   The tax commissioner may prescribe procedures and guidelines to prevent  
15                   requiring income that had been previously taxed under this chapter from becoming  
16                   taxed again because of the provisions of this section and may prescribe  
17                   procedures and guidelines to prevent any income from becoming exempt from  
18                   taxation because of the provisions of this section if it would otherwise have been  
19                   subject to taxation under the provisions of this chapter.

20       ~~40.~~ 8.   A taxpayer filing a return under this section is entitled to the credit provided under  
21                   section 57-38-01.20.

22       ~~44.~~ 9.   A taxpayer filing a return under this section is entitled to the exemptions or credits  
23                   provided under sections 40-63-04, 40-63-06, and 40-63-07.

24               **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
25   December 31, 2000.

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