

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1399

That the Senate recede from its amendments as printed on pages 1365-1368 of the House Journal and pages 1182-1185 of the Senate Journal and that Engrossed House Bill No. 1399 be amended as follows:

Page 1, line 1, after "Act" insert "to create and enact a new subsection to section 57-38-31 of the North Dakota Century Code, relating to space on income tax returns to report and remit use taxes;", replace "section" with "sections", and after "57-38-30.3" insert "and 57-38-31.1"

Page 1, line 2, after "return" insert "and the filing of composite returns; to repeal section 57-38-34.1 of the North Dakota Century Code, relating to an optional card income tax return"

Page 1, line 17, remove "adjusted gross income and a federal"

Page 1, line 21, overstrike "This tax is", remove "two and seven-tenths", and overstrike "percent of the individual's, estate's, or"

Page 1, line 22, overstrike "trust's adjusted federal", remove "taxable", overstrike "income", remove "that is taxable to this state", and overstrike "for"

Page 1, line 23, overstrike "the taxable year" and replace "if the individual's, estate's, or trust's federal adjusted gross income" with:

- "a. The tax for an individual, estate, or trust is computed at the following rates:
 - (1) On North Dakota taxable income not in excess of forty thousand dollars, a tax of two and eight-tenths percent.
 - (2) On North Dakota taxable income in excess of forty thousand dollars, a tax of four and nine-tenths percent.
- b. The tax for married individuals filing a joint return is computed at the following rates:
 - (1) On North Dakota taxable income not in excess of eighty thousand dollars, a tax of two and eight-tenths percent.
 - (2) On North Dakota taxable income in excess of eighty thousand dollars, a tax of four and nine-tenths percent.
- c. For a nonresident individual, estate or trust, the tax determined under subdivision a or b, whichever applies, must be multiplied by a fraction in which:
 - (1) The numerator is the individual's federal adjusted gross income derived from North Dakota sources, increased by the addition in subdivision e of subsection 3; and
 - (2) The denominator is the individual's federal adjusted gross income from all sources, increased by the addition in

subdivision e of subsection 3, and reduced by the net income from the amounts specified in subdivisions a and b of subsection 3"

Page 1, remove line 24

Page 2, remove lines 1 through 6

Page 2, line 7, remove "wife filing a joint state income tax return"

Page 2, line 8, overstrike "The adjusted federal", remove "taxable", overstrike "income", remove "for purposes of this section", and overstrike "for a"

Page 2, line 9, overstrike "resident", remove "or nonresident", and overstrike "individual, estate, and trust must be determined by"

Page 2, line 11, remove "deducting the taxpayer's taxable", overstrike "income", remove "that is not", and overstrike "taxable to"

Page 2, line 12, overstrike "this state", remove "from", overstrike "the total", and remove "federal"

Page 2, line 13, remove "taxable" and overstrike "income as reported on the federal income tax return. To the extent they"

Page 2, line 14, overstrike "are included in the taxpayer's federal", remove "taxable", and overstrike "income, the following"

Page 2, line 15, overstrike "amounts must", remove "also", overstrike "be", and replace "deducted" with "For purposes of this section, "North Dakota taxable income" means the federal taxable income of an individual, estate, or trust as computed under the Internal Revenue Code of 1986, as amended, adjusted as follows"

Page 2, line 16, overstrike "Interest" and insert immediately thereafter "Reduced by interest"

Page 2, line 19, overstrike "The" and insert immediately thereafter "Reduced by the"

Page 2, line 25, overstrike "An" and insert immediately thereafter "Reduced by the"

Page 2, after line 27, insert:

- "d. Reduced by thirty percent of the excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for that year, as computed for purposes of the Internal Revenue Code of 1986, as amended.
- e. Increased by the amount of any income exempt from federal income tax which consists of interest and dividends from foreign securities or interest from securities of states and political subdivisions that are purchased after June 30,2001, except that interest upon obligations of the state of North Dakota or any of its political subdivisions may not be included.
- f. Increased by the amount of a lump sum distribution for which income averaging was elected under section 402 of the Internal Revenue Code of 1986 [26 U.S.C. 402], as amended. This adjustment does not apply if the taxpayer receives the lump sum distribution while a

nonresident of this state and the distribution is exempt from taxation by this state under federal law.

- g. Increased by an amount equal to the losses that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under chapter 57-35.3."

Page 4, line 21, after the overstruck period insert "Each adjustment in subsection 3, except under subdivision h, may be allowed only to the extent the adjustment is attributable to income allocated and apportioned to this state."

Page 4, line 22, after the overstruck period insert "5." and overstrike "A husband and wife" and insert immediately thereafter "Married individuals"

Page 4, line 27, replace "5" with "6"

Page 5, line 4, overstrike "entire" and insert immediately thereafter "federal"

Page 5, line 6, replace "6" with "7"

Page 5, line 19, replace "7" with "8"

Page 5, line 25, replace "8" with "9"

Page 5, line 27, replace "9" with "10"

Page 5, replace lines 29 and 30 with:

- "11. A qualifying taxpayer is entitled to a tax credit of up to twenty-five percent of the tax liability computed under subsection 2, not to exceed two hundred thirty dollars for any return filed under this section. The credit for married individuals filing separate state income tax returns is limited to one hundred fifteen dollars for each spouse, unless separate returns are required under subsection 2 of section 57-38-31 and one of the spouses is not required to file a return under this chapter. For purposes of this subsection, a "qualifying taxpayer" means a taxpayer who, during the taxable year:
- a. Paid property taxes under chapter 57-02 on property in this state;
 - b. Leased and paid rent for real property in this state;
 - c. Paid mobile home tax under chapter 57-55 or lot rent for a mobile home in this state; or
 - d. Occupied housing in this state as a primary residence, which was provided by the taxpayer's employer as part of the employment relationship.
12. a. A taxpayer is entitled to a credit against the tax imposed by this section for any unused federal credit for prior year minimum tax. "Unused federal credit for prior year minimum tax" means the amount of the federal credit for prior year minimum tax attributable to federal alternative minimum tax included in the taxpayer's federal income tax liability for purposes of this section for taxable years beginning before January 1, 2001, reduced by the total amount of the federal credit for

prior year minimum tax claimed on the taxpayer's federal income tax return for all taxable years beginning after December 31, 2000.

- b. The credit under this subsection is equal to fourteen percent of the portion of the unused federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return and may not exceed the taxpayer's tax liability under this section for the taxable year. For a nonresident taxpayer, the credit determined under this subsection must be multiplied by the percentage that the nonresident taxpayer's North Dakota adjusted gross income is of the nonresident's federal adjusted gross income.
 - c. The credit under this subsection is not allowed for taxable years beginning after December 31, 2004.
13. a. At the election of an individual taxpayer engaged in a farming business, the tax imposed by subsection 2 for the taxable year must be equal to the sum of the following:
- (1) The tax computed under subsection 2 on North Dakota taxable income reduced by elected farm income.
 - (2) The increase in tax imposed by subsection 2 which would result if North Dakota taxable income for each of the three prior taxable years were increased by an amount equal to one-third of the elected farm income. For purposes of applying this paragraph to taxable years beginning before January 1, 2001, the increase in tax must be determined by recomputing the tax in the manner prescribed by the tax commissioner.
- b. For purposes of this subsection, "elected farm income" means that portion of North Dakota taxable income for the taxable year which is elected farm income as defined in section 1301 of the Internal Revenue Code [26 U.S.C. 1301].
 - c. The reduction in North Dakota taxable income under this subsection must be taken into account for purposes of making an election under this subsection for any subsequent taxable year.
 - d. The tax commissioner may prescribe rules, procedures, or guidelines necessary to administer this subsection.
14. The tax commissioner may prescribe tax tables, to be used in computing the tax according to subsection 2, if the amounts of the tax tables are based on the tax rates set forth in subsection 2. If prescribed by the tax commissioner, the tables must be followed by every individual, estate, or trust electing to determine a tax under this section.

SECTION 2. A new subsection to section 57-38-31 of the North Dakota Century Code is created and enacted as follows:

The tax commissioner shall include on each individual income tax return a space for reporting use taxes on purchases by the taxpayer from out-of-state retailers during the taxable year. The commissioner shall include in the instructions with individual income tax returns instructions for reporting, computing, and remitting use tax liability under chapter 57-40.2. The commissioner shall keep separate records of use tax collections under this section and those collections must be allocated as provided in chapter 57-39.2. The provisions of chapter 57-39.2 govern the administration of this subsection.

SECTION 3. AMENDMENT. Section 57-38-31.1 of the North Dakota Century Code is amended and reenacted as follows:

57-38-31.1. Composite returns. Partnerships and subchapter S corporations may file a composite return on behalf of nonresidential individual partners or shareholders in the manner prescribed by the tax commissioner. Any amount of tax paid by the partnership or subchapter S corporation on the composite return on behalf of a nonresident partner or shareholder constitutes a credit on the North Dakota return of the nonresident individual on whose behalf the tax was paid by the partnership or subchapter S corporation. Any return filed by a partnership or subchapter S corporation under this section is considered as the return of the nonresident individual partner or shareholder on whose behalf the return is filed. The tax under this section must be computed by multiplying the aggregate of the shares of North Dakota taxable income reportable to North Dakota by the partners or shareholders included in the composite return by the highest federal tax rate for individuals times the tax rate imposed under ~~section 57-38-30.3~~ four and nine-tenths percent.

SECTION 4. REPEAL. Section 57-38-34.1 of the North Dakota Century Code is repealed."

Page 6, remove lines 1 through 9

Renumber accordingly