

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, 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 "The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing status used for federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection. For a nonresident individual, estate, or trust, the tax is equal to the tax determined in accordance with the applicable schedule in subdivisions a through e multiplied by the fraction under subdivision f."

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

| <u>If North Dakota taxable income is:</u>    | <u>The tax is equal to:</u>                            |
|--|--|
| <u>Not over \$27,050</u>                     | <u>2.10%</u>   |
| <u>Over \$27,050 but not over \$65,550</u>   | <u>\$568.05 plus 3.92% of amount over \$27,050</u>     |
| <u>Over \$65,550 but not over \$136,750</u>  | <u>\$2,077.25 plus 4.34% of amount over \$65,550</u>   |
| <u>Over \$136,750 but not over \$297,350</u> | <u>\$5,167.33 plus 5.04% of amount over \$136,750</u>  |
| <u>Over \$297,350</u>                        | <u>\$13,261.57 plus 5.54% of amount over \$297,350</u> |

b. Married filing jointly and surviving spouse.

| <u>If North Dakota taxable income is:</u>    | <u>The tax is equal to:</u>                            |
|--|--|
| <u>Not over \$45,200</u>                     | <u>2.10%</u>   |
| <u>Over \$45,200 but not over \$109,250</u>  | <u>\$949.20 plus 3.92% of amount over \$45,200</u>     |
| <u>Over \$109,250 but not over \$166,500</u> | <u>\$3,459.96 plus 4.34% of amount over \$109,250</u>  |
| <u>Over \$166,500 but not over \$297,350</u> | <u>\$5,944.61 plus 5.04% of amount over \$166,500</u>  |
| <u>Over \$297,350</u>                        | <u>\$12,539.45 plus 5.54% of amount over \$297,350</u> |

c. Married filing separately.

| <u>If North Dakota taxable income is:</u>  | <u>The tax is equal to:</u>                          |
|--|--|
| <u>Not over \$22,600</u>                   | <u>2.10%</u>   |
| <u>Over \$22,600 but not over \$54,625</u> | <u>\$474.60 plus 3.92% of amount over \$22,600</u>   |
| <u>Over \$54,625 but not over \$83,250</u> | <u>\$1,729.98 plus 4.34% of amount over \$54,625</u> |

Over \$83,250 but not over \$148,675  
Over \$148,675

\$2,972.31 plus 5.04% of amount over \$83,250  
\$6,269.73 plus 5.54% of amount over \$148,675

d. Head of household.

If North Dakota taxable income is:  
Not over \$36,250  
Over \$36,250 but not over \$93,650  
Over \$93,650 but not over \$151,650  
Over \$151,650 but not over \$297,350  
Over \$297,350

The tax is equal to:  
2.10%  
\$761.25 plus 3.92% of amount over \$36,250  
\$3,011.33 plus 4.34% of amount over \$93,650  
\$5,528.53 plus 5.04% of amount over \$151,650  
\$12,871.81 plus 5.54% of amount over \$297,350

e. Estates and trusts.

If North Dakota taxable income is:  
Not over \$1,800  
Over \$1,800 but not over \$4,250  
Over \$4,250 but not over \$6,500  
Over \$6,500 but not over \$8,900  
Over \$8,900

The tax is equal to:  
2.10%  
\$37.80 plus 3.92% of amount over \$1,800  
\$133.84 plus 4.34% of amount over \$4,250  
\$231.49 plus 5.04% of amount over \$6,500  
\$352.45 plus 5.54% of amount over \$8,900

f. For a nonresident individual, estate, or trust, the tax determined under the applicable schedule in subdivisions a through e must be multiplied by a fraction in which:

- (1) The numerator is the individual's federal adjusted gross income derived from North Dakota sources; and
- (2) The denominator is the individual's federal adjusted gross income from all sources reduced by the net income from the amounts specified in subdivisions a and b of subsection 3.

g. If married individuals who file a joint federal income tax return are required to file separate state income tax returns under any provision of this chapter, the tax under this subsection for each spouse must be determined by applying the rates under subdivision b to the spouses' joint North Dakota taxable income and prorating the result between the spouses based on their separate North Dakota taxable incomes.

h. For taxable years beginning after December 31, 2001, the tax commissioner shall prescribe new rate schedules that apply in lieu of the schedules set forth in subdivisions a through e. The new schedules must be determined by increasing the minimum and maximum dollar amounts for each income bracket for which a tax is imposed by the cost-of-living adjustment for the taxable year as determined by the secretary of the United States treasury for purposes of section 1(f) of the United States Internal Revenue Code of 1954, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes."

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 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 received the lump sum distribution while a nonresident of this state and the distribution is exempt from taxation by this state under federal law.
- f. 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 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. 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.
12. 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 of 1986 [26 U.S.C. 1301], as amended.
- 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.

13. 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 determining a tax under this section.

**SECTION 2. 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 nonresident 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~~ five and fifty-four hundredths percent.

**SECTION 3. REPEAL.** Section 57-38-34.1 of the North Dakota Century Code is repealed."

Page 6, remove lines 1 through 9

Renumber accordingly