

HOUSE BILL NO. 1247

Introduced by

Representatives Ruby, Bellew, Weiler

Senator Hogue

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 individual income tax deduction for a portion of
3 income from passthrough entities; to amend and reenact section 57-38-30 and subsection 1 of
4 section 57-38-30.3 of the North Dakota Century Code, relating to corporate and individual
5 income tax rates; and to provide an effective date.

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

7 **SECTION 1. AMENDMENT.** Section 57-38-30 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **57-38-30. Imposition and rate of tax on corporations.**

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

- 12 1. a. For the first twenty-five thousand dollars of taxable income, at the rate of ~~two and~~
13 ~~one tenth~~eighty-four hundredths of one percent.
- 14 b. On all taxable income exceeding twenty-five thousand dollars and not exceeding
15 fifty thousand dollars, at the rate of ~~five~~two and ~~twenty-five~~ten hundredths
16 percent.
- 17 c. On all taxable income exceeding fifty thousand dollars, at the rate of ~~six~~two and
18 ~~four tenths~~fifty-six hundredths percent.
- 19 2. A corporation that has paid North Dakota alternative minimum tax in years beginning
20 before January 1, 1991, may carry over any alternative minimum tax credit remaining
21 to the extent of the regular income tax liability of the corporation for a period not to
22 exceed four taxable years.

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

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

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

| If North Dakota taxable income is: | The tax is equal to: |
|---|--|
| 14 Not over \$33,950 <u>\$34,500</u> | 1.84% <u>0.74%</u> |
| 15 Over \$33,950 <u>\$34,500</u> | \$624.68 <u>\$253.92</u> plus 3.44% <u>1.38%</u> |
| 16 but not over \$82,250 <u>\$83,600</u> | of amount over \$33,950 <u>\$34,500</u> |
| 17 Over \$82,250 <u>\$83,600</u> | \$2,286.20 <u>\$929.54</u> plus 3.81% <u>1.52%</u> |
| 18 but not over \$171,550 <u>\$174,400</u> | of amount over \$82,250 <u>\$83,600</u> |
| 19 Over \$171,550 <u>\$174,400</u> | \$5,688.53 <u>\$2,313.33</u> plus |
| 20 but not over \$372,950 <u>\$379,150</u> | 4.42% <u>1.77%</u> |
| 21 of amount over \$171,550 <u>\$174,400</u> | |
| 22 Over \$372,950 <u>\$379,150</u> | \$14,590.41 <u>\$5,933.31</u> plus |
| 23 of amount over \$372,950 <u>\$379,150</u> | 4.86% <u>1.94%</u> |
| 24 of amount over \$171,550 <u>\$174,400</u> | |
| 25 Over \$372,950 <u>\$379,150</u> | \$14,590.41 <u>\$5,933.31</u> plus |
| 26 of amount over \$372,950 <u>\$379,150</u> | 4.86% <u>1.94%</u> |
| 27 of amount over \$171,550 <u>\$174,400</u> | |

28 b. Married filing jointly and surviving spouse.

| If North Dakota taxable income is: | The tax is equal to: |
|---|--|
| 29 Not over \$56,750 <u>\$57,700</u> | 1.84% <u>0.74%</u> |
| 30 Over \$56,750 <u>\$57,700</u> | \$1,044.20 <u>\$424.67</u> plus 3.44% <u>1.38%</u> |
| 31 of amount over \$56,750 <u>\$57,700</u> | |

Sixty-second
Legislative Assembly

| | | |
|----|--|--|
| 1 | but not over \$137,050 <u>\$139,350</u> | of amount over \$56,750 <u>\$57,700</u> |
| 2 | Over \$137,050 <u>\$139,350</u> | \$3,806.52 <u>\$1,548.18</u> plus |
| 3 | | 3.81% <u>1.52%</u> |
| 4 | but not over \$208,850 <u>\$212,300</u> | of amount over |
| 5 | | \$137,050 <u>\$139,350</u> |
| 6 | Over \$208,850 <u>\$212,300</u> | \$6,542.10 <u>\$2,659.93</u> plus |
| 7 | | 4.42% <u>1.77%</u> |
| 8 | but not over \$372,950 <u>\$379,150</u> | of amount over |
| 9 | | \$208,850 <u>\$212,300</u> |
| 10 | Over \$372,950 <u>\$379,150</u> | \$13,795.32 <u>\$5,609.84</u> plus |
| 11 | | 4.86% <u>1.94%</u> |
| 12 | | of amount over |
| 13 | | \$372,950 <u>\$379,150</u> |
| 14 | c. Married filing separately. | |
| 15 | If North Dakota taxable income is: | The tax is equal to: |
| 16 | Not over \$28,375 <u>\$28,850</u> | 1.84% <u>0.74%</u> |
| 17 | Over \$28,375 <u>\$28,850</u> | \$522.10 <u>\$212.34</u> plus 3.44% <u>1.38%</u> |
| 18 | but not over \$68,525 <u>\$69,675</u> | of amount over \$28,375 <u>\$28,850</u> |
| 19 | Over \$68,525 <u>\$69,675</u> | \$1,903.26 <u>\$774.09</u> plus 3.81% <u>1.52%</u> |
| 20 | but not over \$104,425 <u>\$106,150</u> | of amount over \$68,525 <u>\$69,675</u> |
| 21 | Over \$104,425 <u>\$106,150</u> | \$3,271.05 <u>\$1,329.97</u> plus |
| 22 | | 4.42% <u>1.77%</u> |
| 23 | but not over \$186,475 <u>\$189,575</u> | of amount over |
| 24 | | \$104,425 <u>\$106,150</u> |
| 25 | Over \$186,475 <u>\$189,575</u> | \$6,897.66 <u>\$2,804.92</u> plus |
| 26 | | 4.86% <u>1.94%</u> |
| 27 | | of amount over |
| 28 | | \$186,475 <u>\$189,575</u> |
| 29 | d. Head of household. | |
| 30 | If North Dakota taxable income is: | The tax is equal to: |
| 31 | Not over \$45,500 <u>\$46,250</u> | 1.84% <u>0.74%</u> |

Sixty-second
Legislative Assembly

| | | |
|----|--|--|
| 1 | Over \$45,500 <u>\$46,250</u> | \$837.20 <u>\$340.40</u> plus 3.44% <u>1.38%</u> |
| 2 | but not over \$117,450 <u>\$119,400</u> | of amount over \$45,500 <u>\$46,250</u> |
| 3 | Over \$117,450 <u>\$119,400</u> | \$3,312.28 <u>\$1,346.94</u> plus |
| 4 | | 3.81% <u>1.52%</u> |
| 5 | but not over \$190,200 <u>\$193,350</u> | of amount over |
| 6 | | \$117,450 <u>\$119,400</u> |
| 7 | Over \$190,200 <u>\$193,350</u> | \$6,084.06 <u>\$2,473.94</u> plus |
| 8 | | 4.42% <u>1.77%</u> |
| 9 | but not over \$372,950 <u>\$379,150</u> | of amount over |
| 10 | | \$190,200 <u>\$193,350</u> |
| 11 | Over \$372,950 <u>\$379,150</u> | \$14,161.61 <u>\$5,758.89</u> plus |
| 12 | | 4.86% <u>1.94%</u> |
| 13 | | of amount over |
| 14 | | \$372,950 <u>\$379,150</u> |
| 15 | e. Estates and trusts. | |
| 16 | If North Dakota taxable income is: | The tax is equal to: |
| 17 | Not over \$2,300 | 1.84% <u>0.74%</u> |
| 18 | Over \$2,300 | \$42.32 <u>\$16.93</u> plus 3.44% <u>1.38%</u> |
| 19 | but not over \$5,350 <u>\$5,450</u> | of amount over \$2,300 |
| 20 | Over \$5,350 <u>\$5,450</u> | \$147.24 <u>\$60.27</u> plus 3.81% <u>1.52%</u> |
| 21 | but not over \$8,200 <u>\$8,300</u> | of amount over \$5,350 <u>\$5,450</u> |
| 22 | Over \$8,200 <u>\$8,300</u> | \$255.83 <u>\$103.71</u> plus 4.42% <u>1.77%</u> |
| 23 | but not over \$11,150 <u>\$11,350</u> | of amount over \$8,200 <u>\$8,300</u> |
| 24 | Over \$11,150 <u>\$11,350</u> | \$386.22 <u>\$157.63</u> plus 4.86% <u>1.94%</u> |
| 25 | | of amount over \$11,150 <u>\$11,350</u> |
| 26 | f. For an individual who is not a resident of this state for the entire year, or for a | |
| 27 | nonresident estate or trust, the tax is equal to the tax otherwise computed under | |
| 28 | this subsection multiplied by a fraction in which: | |
| 29 | (1) The numerator is the federal adjusted gross income allocable and | |
| 30 | apportionable to this state; and | |

1 (2) The denominator is the federal adjusted gross income from all sources
2 reduced by the net income from the amounts specified in subdivisions a and
3 b of subsection 2.

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

8 g. For taxable years beginning after December 31, 2009, the tax commissioner shall
9 prescribe new rate schedules that apply in lieu of the schedules set forth in
10 subdivisions a through e. The new schedules must be determined by increasing
11 the minimum and maximum dollar amounts for each income bracket for which a
12 tax is imposed by the cost-of-living adjustment for the taxable year as determined
13 by the secretary of the United States treasury for purposes of section 1(f) of the
14 United States Internal Revenue Code of 1954, as amended. For this purpose, the
15 rate applicable to each income bracket may not be changed, and the manner of
16 applying the cost-of-living adjustment must be the same as that used for
17 adjusting the income brackets for federal income tax purposes.

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

22 **SECTION 3.** A new subdivision to subsection 2 of section 57-38-30.3 of the North Dakota
23 Century Code is created and enacted as follows:

24 Reduced by sixty percent of the amount received by the taxpayer from a
25 passthrough entity as taxable income that is allocated and apportioned to North
26 Dakota income under this chapter or chapter 57-38.1.

27 **SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
28 December 31, 2010.