

**HOUSE BILL NO. 1409**

Introduced by

Representatives Owens, Headland, Streyle, Thoreson

1 A BILL for an Act to amend and reenact subsection 12 of section 57-38-01 and section  
2 57-38-30.3 of the North Dakota Century Code, relating to income taxes of individuals, estates,  
3 and trusts; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Subsection 12 of section 57-38-01 of the North Dakota  
6 Century Code is amended and reenacted as follows:

7 12. a. "Taxable income" in the case of ~~individuals, estates, trusts, and~~ corporations  
8 means the taxable income as computed for an ~~individual, estate, trust, or a~~  
9 corporation for federal income tax purposes under the United States Internal  
10 Revenue Code of 1954, as amended, plus or minus such adjustments as may be  
11 provided by this chapter or other provisions of law. ~~Except as otherwise expressly~~  
12 ~~provided, "taxable income" does not include any amount computed for federal~~  
13 ~~alternative minimum tax purposes.~~

14 b. "Taxable income" in the case of ~~individuals, estates, and trusts~~ means the  
15 adjusted gross income as computed for an individual, estate, or trust for federal  
16 income tax purposes under the United States Internal Revenue Code of 1954, as  
17 amended, plus or minus such adjustments as may be provided by this chapter or  
18 other provisions of law. Except as otherwise expressly provided, "adjusted gross  
19 income" does not include any amount computed for federal alternative minimum  
20 tax purposes.

21 **SECTION 2. AMENDMENT.** Section 57-38-30.3 of the North Dakota Century Code is  
22 amended and reenacted as follows:

1       **57-38-30.3. (Effective for the first two taxable years beginning after December 31,**  
2 **2010) Individual, estate, and trust income tax.**

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.

If North Dakota taxable income is:	The tax is equal to:
Not over \$34,500	1.51%
Over \$34,500	\$520.95 plus 2.82%
but not over \$83,600	of amount over \$34,500
Over \$83,600	\$1,905.57 plus 3.13%
but not over \$174,400	of amount over \$83,600
Over \$174,400	\$4,747.61 plus 3.63%
but not over \$379,150	of amount over \$174,400
Over \$379,150	\$12,180.04 plus 3.99%
	of amount over \$379,150

26       b. Married filing jointly and surviving spouse.

If North Dakota taxable income is:	The tax is equal to:
Not over \$57,700	1.51%
Over \$57,700	\$871.27 plus 2.82%
but not over \$139,350	of amount over \$57,700
Over \$139,350	\$3,173.80 plus 3.13%

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1	but not over \$212,300	of amount over \$139,350
2	Over \$212,300	\$5,457.14 plus 3.63%
3	but not over \$379,150	of amount over \$212,300
4	Over \$379,150	\$11,513.79 plus 3.99%
5		of amount over \$379,150
6	e. Married filing separately.	
7	If North Dakota taxable income is:	The tax is equal to:
8	Not over \$28,850	1.51%
9	Over \$28,850	\$435.64 plus 2.82%
10	but not over \$69,675	of amount over \$28,850
11	Over \$69,675	\$1,586.90 plus 3.13%
12	but not over \$106,150	of amount over \$69,675
13	Over \$106,150	\$2,728.57 plus 3.63%
14	but not over \$189,575	of amount over \$106,150
15	Over \$189,575	\$5,756.90 plus 3.99%
16		of amount over \$189,575
17	d. Head of household.	
18	If North Dakota taxable income is:	The tax is equal to:
19	Not over \$46,250	1.51%
20	Over \$46,250	\$698.38 plus 2.82%
21	but not over \$119,400	of amount over \$46,250
22	Over \$119,400	\$2,761.21 plus 3.13%
23	but not over \$193,350	of amount over \$119,400
24	Over \$193,350	\$5,075.84 plus 3.63%
25	but not over \$379,150	of amount over \$193,350
26	Over \$379,150	\$11,820.38 plus 3.99%
27		of amount over \$379,150
28	e. Estates and trusts.	
29	If North Dakota taxable income is:	The tax is equal to:
30	Not over \$2,300	1.51%
31	Over \$2,300	\$34.73 plus 2.82%

1	but not over \$5,450	of amount over \$2,300
2	Over \$5,450	\$123.56 plus 3.13%
3	but not over \$8,300	of amount over \$5,450
4	Over \$8,300	\$212.77 plus 3.63%
5	but not over \$11,350	of amount over \$8,300
6	Over \$11,350	\$323.48 plus 3.99%
7		of amount over \$11,350

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

11 (1) The numerator is the federal adjusted gross income allocable and  
12 apportionable to this state; and

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

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

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

30 h. The tax commissioner shall prescribe an optional simplified method of computing  
31 tax under this section that may be used by an individual taxpayer who is not

- 1                   entitled to claim an adjustment under subsection 2 or credit against income tax  
2                   liability under subsection 7.
- 3       2. For purposes of this section, "North Dakota taxable income" means the federal taxable  
4       income of an individual, estate, or trust as computed under the Internal Revenue Code  
5       of 1986, as amended, adjusted as follows:
- 6       a. Reduced by interest income from obligations of the United States and income  
7       exempt from state income tax under federal statute or United States or North  
8       Dakota constitutional provisions.
- 9       b. Reduced by the portion of a distribution from a qualified investment fund  
10       described in section 57-38-01 which is attributable to investments by the qualified  
11       investment fund in obligations of the United States, obligations of North Dakota or  
12       its political subdivisions, and any other obligation the interest from which is  
13       exempt from state income tax under federal statute or United States or North  
14       Dakota constitutional provisions.
- 15       c. Reduced by the amount equal to the earnings that are passed through to a  
16       taxpayer in connection with an allocation and apportionment to North Dakota  
17       under chapter 57-35.3.
- 18       d. Reduced by thirty percent of:
- 19           (1) The excess of the taxpayer's net long term capital gain for the taxable year  
20           over the net short term capital loss for that year, as computed for purposes  
21           of the Internal Revenue Code of 1986, as amended. The adjustment  
22           provided by this subdivision is allowed only to the extent the net long term  
23           capital gain is allocated to this state.
- 24           (2) The qualified dividend income that is taxed at the same rate as long term  
25           capital gain for federal income tax purposes under Internal Revenue Code  
26           provisions in effect on December 31, 2008. The adjustment provided by this  
27           subdivision is allowed only to the extent the qualified dividend income is  
28           allocated to this state.
- 29       e. Increased by the amount of a lump sum distribution for which income averaging  
30       was elected under section 402 of the Internal Revenue Code of 1986 [26 U.S.C.  
31       402], as amended. This adjustment does not apply if the taxpayer received the

- 1 lump-sum distribution while a nonresident of this state and the distribution is  
2 exempt from taxation by this state under federal law.
- 3 f. Increased by an amount equal to the losses that are passed through to a  
4 taxpayer in connection with an allocation and apportionment to North Dakota  
5 under chapter 57-35.3.
- 6 g. Reduced by the amount received by the taxpayer as payment for services  
7 performed when mobilized under title 10 United States Code federal service as a  
8 member of the national guard or reserve member of the armed forces of the  
9 United States. This subdivision does not apply to federal service while attending  
10 annual training, basic military training, or professional military education.
- 11 h. Reduced by income from a new and expanding business exempt from state  
12 income tax under section 40-57.1-04.
- 13 i. Reduced by interest and income from bonds issued under chapter 11-37.
- 14 j. Reduced by up to ten thousand dollars of qualified expenses that are related to a  
15 donation by a taxpayer or a taxpayer's dependent, while living, of one or more  
16 human organs to another human being for human organ transplantation. A  
17 taxpayer may claim the reduction in this subdivision only once for each instance  
18 of organ donation during the taxable year in which the human organ donation and  
19 the human organ transplantation occurs but if qualified expenses are incurred in  
20 more than one taxable year, the reduction for those expenses must be claimed in  
21 the year in which the expenses are incurred. For purposes of this subdivision:
- 22 (1) "Human organ transplantation" means the medical procedure by which  
23 transfer of a human organ is made from the body of one person to the body  
24 of another person.
- 25 (2) "Organ" means all or part of an individual's liver, pancreas, kidney, intestine,  
26 lung, or bone marrow.
- 27 (3) "Qualified expenses" means lost wages not compensated by sick pay and  
28 unreimbursed medical expenses as defined for federal income tax  
29 purposes, to the extent not deducted in computing federal taxable income,  
30 whether or not the taxpayer itemizes federal income tax deductions.

- 1           k.    Increased by the amount of the contribution upon which the credit under section-
- 2                   57-38-01.21 is computed, but only to the extent that the contribution reduced
- 3                   federal taxable income.
- 4           l.    Reduced by the amount of any payment received by a veteran or beneficiary of a
- 5                   veteran under section 37-28-03 or 37-28-04.
- 6           m.    Reduced by the amount received by a taxpayer that was paid by an employer
- 7                   under paragraph 4 of subdivision a of subsection 2 of section 57-38-01.25 to hire
- 8                   the taxpayer for a hard-to-fill position under section 57-38-01.25, but only to the
- 9                   extent the amount received by the taxpayer is included in federal taxable income.
- 10                   The reduction applies only if the employer is entitled to the credit under section
- 11                   57-38-01.25. The taxpayer must attach a statement from the employer in which
- 12                   the employer certifies that the employer is entitled to the credit under section
- 13                   57-38-01.25 and which specifically identified the type of payment and the amount
- 14                   of the exemption under this section.
- 15           n.    Reduced by the amount up to a maximum of five thousand dollars, or ten
- 16                   thousand dollars if a joint return is filed, for contributions made under a higher
- 17                   education savings plan administered by the Bank of North Dakota, pursuant to
- 18                   section 6-09-38.
- 19           o.    Reduced by the amount of income of a taxpayer, who resides anywhere within
- 20                   the exterior boundaries of a reservation situated in this state or situated both in
- 21                   this state and in an adjoining state and who is an enrolled member of a federally
- 22                   recognized Indian tribe, from activities or sources anywhere within the exterior
- 23                   boundaries of a reservation situated in this state or both situated in this state and
- 24                   in an adjoining state.
- 25           p.    For married individuals filing jointly, reduced by an amount equal to the excess of
- 26                   the recomputed itemized deductions or standard deduction over the amount of
- 27                   the itemized deductions or standard deduction deducted in computing federal
- 28                   taxable income. For purposes of this subdivision, "itemized deductions or
- 29                   standard deduction" means the amount under section 63 of the Internal Revenue
- 30                   Code that the married individuals deducted in computing their federal taxable
- 31                   income and "recomputed itemized deductions or standard deduction" means an

1 amount determined by computing the itemized deductions or standard deduction  
2 in a manner that replaces the basic standard deduction under section 63(c)(2) of  
3 the Internal Revenue Code for married individuals filing jointly with an amount  
4 equal to double the amount of the basic standard deduction under section 63(c)  
5 (2) of the Internal Revenue Code for a single individual other than a head of  
6 household and surviving spouse. If the married individuals elected under  
7 section 63(e) of the Internal Revenue Code to deduct itemized deductions in  
8 computing their federal taxable income even though the amount of the allowable  
9 standard deduction is greater, the reduction under this subdivision is not allowed.  
10 Married individuals filing jointly shall compute the available reduction under this  
11 subdivision in a manner prescribed by the tax commissioner.

12 3. The same filing status used when filing federal income tax returns must be used when  
13 filing state income tax returns.

14 4. a. A resident individual, estate, or trust is entitled to a credit against the tax imposed  
15 under this section for the amount of income tax paid by the taxpayer for the  
16 taxable year by another state or territory of the United States or the District of  
17 Columbia on income derived from sources in those jurisdictions that is also  
18 subject to tax under this section.

19 b. For an individual, estate, or trust that is a resident of this state for the entire  
20 taxable year, the credit allowed under this subsection may not exceed an amount  
21 equal to the tax imposed under this section multiplied by a ratio equal to federal  
22 adjusted gross income derived from sources in the other jurisdiction divided by  
23 federal adjusted gross income less the amounts under subdivisions a and b of  
24 subsection 2.

25 e. For an individual, estate, or trust that is a resident of this state for only part of the  
26 taxable year, the credit allowed under this subsection may not exceed the lesser  
27 of the following:

28 (1) The tax imposed under this chapter multiplied by a ratio equal to federal  
29 adjusted gross income derived from sources in the other jurisdiction  
30 received while a resident of this state divided by federal adjusted gross

- 1                    ~~income derived from North Dakota sources less the amounts under~~  
2                    ~~subdivisions a and b of subsection 2.~~
- 3                    (2) ~~The tax paid to the other jurisdiction multiplied by a ratio equal to federal~~  
4                    ~~adjusted gross income derived from sources in the other jurisdiction~~  
5                    ~~received while a resident of this state divided by federal adjusted gross~~  
6                    ~~income derived from sources in the other states.~~
- 7                    d. ~~The tax commissioner may require written proof of the tax paid to another state.~~  
8                    ~~The required proof must be provided in a form and manner as determined by the~~  
9                    ~~tax commissioner.~~
- 10                  5. ~~Individuals, estates, or trusts that file an amended federal income tax return changing~~  
11                  ~~their federal taxable income figure for a year for which an election to file state income~~  
12                  ~~tax returns has been made under this section shall file an amended state income tax~~  
13                  ~~return to reflect the changes on the federal income tax return.~~
- 14                  6. ~~The tax commissioner may prescribe procedures and guidelines to prevent requiring~~  
15                  ~~income that had been previously taxed under this chapter from becoming taxed again~~  
16                  ~~because of the provisions of this section and may prescribe procedures and guidelines~~  
17                  ~~to prevent any income from becoming exempt from taxation because of the provisions~~  
18                  ~~of this section if it would otherwise have been subject to taxation under the provisions~~  
19                  ~~of this chapter.~~
- 20                  7. ~~A taxpayer filing a return under this section is entitled to the following tax credits:~~
- 21                  a. ~~Family care tax credit under section 57-38-01.20.~~
- 22                  b. ~~Renaissance zone tax credits under sections 40-63-04, 40-63-06, and 40-63-07.~~
- 23                  e. ~~Agricultural business investment tax credit under section 57-38.6-03.~~
- 24                  d. ~~Seed capital investment tax credit under section 57-38.5-03.~~
- 25                  e. ~~Planned gift tax credit under section 57-38-01.21.~~
- 26                  f. ~~Biodiesel fuel or green diesel fuel tax credits under sections 57-38-01.22 and~~  
27                  ~~57-38-01.23.~~
- 28                  g. ~~Internship employment tax credit under section 57-38-01.24.~~
- 29                  h. ~~Workforce recruitment credit under section 57-38-01.25.~~
- 30                  i. ~~Angel fund investment tax credit under section 57-38-01.26.~~
- 31                  j. ~~Microbusiness tax credit under section 57-38-01.27.~~

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- 1 k. ~~Marriage penalty credit under section 57-38-01.28.~~
- 2 l. ~~Homestead income tax credit under section 57-38-01.29.~~
- 3 m. ~~Commercial property income tax credit under section 57-38-01.30.~~
- 4 n. ~~Research and experimental expenditures under section 57-38-30.5.~~
- 5 o. ~~Geothermal energy device installation credit under section 57-38-01.8.~~
- 6 p. ~~Long-term care partnership plan premiums income tax credit under section~~
- 7 ~~57-38-29.3.~~
- 8 q. ~~Employer tax credit for salary and related retirement plan contributions of~~
- 9 ~~mobilized employees under section 57-38-01.31.~~
- 10 r. ~~Housing incentive fund tax credit under section 57-38-01.32.~~
- 11 s. ~~Automating manufacturing processes tax credit under section 57-38-01.33~~
- 12 ~~(effective for the first three taxable years beginning after December 31, 2012).~~
- 13 8. ~~A taxpayer filing a return under this section is entitled to the exemption provided under~~
- 14 ~~section 40-63-04.~~
- 15 9. a. ~~If an individual taxpayer engaged in a farming business elects to average farm~~
- 16 ~~income under section 1301 of the Internal Revenue Code [26 U.S.C. 1301], the~~
- 17 ~~taxpayer may elect to compute tax under this subsection. If an election to~~
- 18 ~~compute tax under this subsection is made, the tax imposed by subsection 1 for~~
- 19 ~~the taxable year must be equal to the sum of the following:~~
- 20 (1) ~~The tax computed under subsection 1 on North Dakota taxable income~~
- 21 ~~reduced by elected farm income.~~
- 22 (2) ~~The increase in tax imposed by subsection 1 which would result if North~~
- 23 ~~Dakota taxable income for each of the three prior taxable years were~~
- 24 ~~increased by an amount equal to one-third of the elected farm income.~~
- 25 ~~However, if other provisions of this chapter other than this section were~~
- 26 ~~used to compute the tax for any of the three prior years, the same~~
- 27 ~~provisions in effect for that prior tax year must be used to compute the~~
- 28 ~~increase in tax under this paragraph. For purposes of applying this~~
- 29 ~~paragraph to taxable years beginning before January 1, 2001, the increase~~
- 30 ~~in tax must be determined by recomputing the tax in the manner prescribed~~
- 31 ~~by the tax commissioner.~~

- 1           b. For purposes of this subsection, "elected farm income" means that portion of  
2           North Dakota taxable income for the taxable year which is elected farm income  
3           as defined in section 1301 of the Internal Revenue Code of 1986 [26 U.S.C.  
4           1301], as amended, reduced by the portion of an exclusion claimed under  
5           subdivision d of subsection 2 that is attributable to a net long-term capital gain  
6           included in elected farm income.
- 7           e. The reduction in North Dakota taxable income under this subsection must be  
8           taken into account for purposes of making an election under this subsection for  
9           any subsequent taxable year.
- 10          d. The tax commissioner may prescribe rules, procedures, or guidelines necessary  
11          to administer this subsection.

- 12      40. The tax commissioner may prescribe tax tables, to be used in computing the tax  
13      according to subsection 1, if the amounts of the tax tables are based on the tax rates  
14      set forth in subsection 1. If prescribed by the tax commissioner, the tables must be  
15      followed by every individual, estate, or trust determining a tax under this section.

16      ~~(Effective after the first two taxable years beginning after December 31, 2010)~~

17      **Individual, estate, and trust income tax.**

- 18      1. A tax is hereby imposed for each taxable year upon income earned or received in that  
19      taxable year by every resident and nonresident individual, estate, and trust. A taxpayer  
20      computing the tax under this section is only eligible for those adjustments or credits  
21      that are specifically provided for in this section. Provided, that for purposes of this  
22      section, any person required to file a state income tax return under this chapter, but  
23      who has not computed a federal taxable adjusted gross income figure, shall compute a  
24      federal taxable adjusted gross income figure using a pro forma return in order to  
25      determine a federal taxable adjusted gross income figure to be used as a starting point  
26      in computing state income tax under this section. The tax for individuals is equal to  
27      North Dakota taxable income multiplied by the rates in the applicable rate schedule in  
28      subdivisions a through d corresponding to an individual's filing status used for federal  
29      income tax purposes. For an estate or trust, the schedule in subdivision e must be  
30      used for purposes of this subsection three percent.
- 31      a. Single, other than head of household or surviving spouse.

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1	If North Dakota taxable income is:	The tax is equal to:
2	Not over \$34,500	1.51%
3	Over \$34,500	\$520.95 plus 2.82%
4	but not over \$83,600	of amount over \$34,500
5	Over \$83,600	\$1,905.57 plus 3.13%
6	but not over \$174,400	of amount over \$83,600
7	Over \$174,400	\$4,747.61 plus 3.63%
8	but not over \$379,150	of amount over \$174,400
9	Over \$379,150	\$12,180.04 plus 3.99%
10		of amount over \$379,150
11	b. Married filing jointly and surviving spouse:	
12	If North Dakota taxable income is:	The tax is equal to:
13	Not over \$57,700	1.51%
14	Over \$57,700	\$871.27 plus 2.82%
15	but not over \$139,350	of amount over \$57,700
16	Over \$139,350	\$3,173.80 plus 3.13%
17	but not over \$212,300	of amount over \$139,350
18	Over \$212,300	\$5,457.14 plus 3.63%
19	but not over \$379,150	of amount over \$212,300
20	Over \$379,150	\$11,513.79 plus 3.99%
21		of amount over \$379,150
22	e. Married filing separately:	
23	If North Dakota taxable income is:	The tax is equal to:
24	Not over \$28,850	1.51%
25	Over \$28,850	\$435.64 plus 2.82%
26	but not over \$69,675	of amount over \$28,850
27	Over \$69,675	\$1,586.90 plus 3.13%
28	but not over \$106,150	of amount over \$69,675
29	Over \$106,150	\$2,728.57 plus 3.63%
30	but not over \$189,575	of amount over \$106,150
31	Over \$189,575	\$5,756.90 plus 3.99%

- 1 of amount over \$189,575
- 2 d. Head of household:
- 3 If North Dakota taxable income is: The tax is equal to:
- 4 Not over \$46,250 1.51%
- 5 Over \$46,250 \$698.38 plus 2.82%
- 6 but not over \$119,400 of amount over \$46,250
- 7 Over \$119,400 \$2,761.21 plus 3.13%
- 8 but not over \$193,350 of amount over \$119,400
- 9 Over \$193,350 \$5,075.84 plus 3.63%
- 10 but not over \$379,150 of amount over \$193,350
- 11 Over \$379,150 \$11,820.38 plus 3.99%
- 12 of amount over \$379,150
- 13 e. Estates and trusts:
- 14 If North Dakota taxable income is: The tax is equal to:
- 15 Not over \$2,300 1.51%
- 16 Over \$2,300 \$34.73 plus 2.82%
- 17 but not over \$5,450 of amount over \$2,300
- 18 Over \$5,450 \$123.56 plus 3.13%
- 19 but not over \$8,300 of amount over \$5,450
- 20 Over \$8,300 \$212.77 plus 3.63%
- 21 but not over \$11,350 of amount over \$8,300
- 22 Over \$11,350 \$323.48 plus 3.99%
- 23 of amount over \$11,350
- 24 f. For an individual who is not a resident of this state for the entire year, or for a
- 25 nonresident estate or trust, the tax is equal to the tax otherwise computed under this
- 26 subsection multiplied by a fraction in which:
- 27 (1)a. The numerator is the federal adjusted gross income allocable and apportionable
- 28 to this state; and
- 29 (2)b. The denominator is the federal adjusted gross income from all sources reduced
- 30 by the net income from the amounts specified in subdivisions a and b of
- 31 subsection 2.

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

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

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

18 2. For purposes of this section, "North Dakota taxable income" means the federal  
19 ~~taxable~~adjusted gross income of an individual, estate, or trust as computed under the  
20 Internal Revenue Code of 1986, as amended, adjusted as follows:

21 a. Reduced by capital gains, dividends, and interest income from obligations of the  
22 United States and income exempt from state income tax under federal statute or  
23 United States or North Dakota constitutional provision to the extent they are  
24 included in federal adjusted gross income.

25 b. Reduced by the portion of a distribution of capital gains, dividends, and interest  
26 income received from a qualified investment fund described in section 57-38-01  
27 ~~which is attributable to investments by the qualified investment fund in obligations~~  
28 ~~of the United States, obligations of North Dakota or its political subdivisions, and~~  
29 ~~any other obligation the interest from which is exempt from state income tax~~  
30 ~~under federal statute or United States or North Dakota constitutional provision to~~  
31 the extent they are included in federal adjusted gross income.

- 1           c. Reduced by the amount equal to the earnings that are passed through to a  
2           taxpayer in connection with an allocation and apportionment to North Dakota  
3           under chapter 57-35.3.
- 4           d. ~~Reduced by thirty percent of:~~
- 5           (1) ~~The excess of the taxpayer's net long-term capital gain for the taxable year~~  
6           ~~over the net short-term capital loss for that year, as computed for purposes~~  
7           ~~of the Internal Revenue Code of 1986, as amended. The adjustment~~  
8           ~~provided by this subdivision is allowed only to the extent the net long-term~~  
9           ~~capital gain is allocated to this state.~~
- 10          (2) ~~The qualified dividend income that is taxed at the same rate as long-term~~  
11          ~~capital gain for federal income tax purposes under Internal Revenue Code~~  
12          ~~provisions in effect on December 31, 2008. The adjustment provided by this~~  
13          ~~subdivision is allowed only to the extent the qualified dividend income is~~  
14          ~~allocated to this state.~~
- 15          e. Increased by the amount of a lump sum distribution for which income averaging  
16          was elected under section 402 of the Internal Revenue Code of 1986 [26 U.S.C.  
17          402], as amended. This adjustment does not apply if the taxpayer received the  
18          lump sum distribution while a nonresident of this state and the distribution is  
19          exempt from taxation by this state under federal law.
- 20          f.e. Increased by an amount equal to the losses that are passed through to a  
21          taxpayer in connection with an allocation and apportionment to North Dakota  
22          under chapter 57-35.3.
- 23          g. ~~Reduced by the amount received by the taxpayer as payment for services~~  
24          ~~performed when mobilized under title 10 United States Code federal service as a~~  
25          ~~member of the national guard or reserve member of the armed forces of the~~  
26          ~~United States. This subdivision does not apply to federal service while attending~~  
27          ~~annual training, basic military training, or professional military education.~~
- 28          h. ~~Reduced by income from a new and expanding business exempt from state~~  
29          ~~income tax under section 40-57.1-04.~~
- 30          i. ~~Reduced by interest and income from bonds issued under chapter 11-37.~~

- 1           j. ~~Reduced by up to ten thousand dollars of qualified expenses that are related to a~~  
2           ~~donation by a taxpayer or a taxpayer's dependent, while living, of one or more~~  
3           ~~human organs to another human being for human organ transplantation. A~~  
4           ~~taxpayer may claim the reduction in this subdivision only once for each instance~~  
5           ~~of organ donation during the taxable year in which the human organ donation and~~  
6           ~~the human organ transplantation occurs but if qualified expenses are incurred in~~  
7           ~~more than one taxable year, the reduction for those expenses must be claimed in~~  
8           ~~the year in which the expenses are incurred. For purposes of this subdivision:~~  
9           (1) ~~"Human organ transplantation" means the medical procedure by which~~  
10           ~~transfer of a human organ is made from the body of one person to the body~~  
11           ~~of another person.~~  
12           (2) ~~"Organ" means all or part of an individual's liver, pancreas, kidney, intestine,~~  
13           ~~lung, or bone marrow.~~  
14           (3) ~~"Qualified expenses" means lost wages not compensated by sick pay and~~  
15           ~~unreimbursed medical expenses as defined for federal income tax~~  
16           ~~purposes, to the extent not deducted in computing federal taxable income,~~  
17           ~~whether or not the taxpayer itemizes federal income tax deductions.~~  
18           k. ~~Increased by the amount of the contribution upon which the credit under section~~  
19           ~~57-38-01.21 is computed, but only to the extent that the contribution reduced~~  
20           ~~federal taxable income.~~  
21           l. ~~Reduced by the amount of any payment received by a veteran or beneficiary of a~~  
22           ~~veteran under section 37-28-03 or 37-28-04.~~  
23           m. ~~Reduced by the amount received by a taxpayer that was paid by an employer~~  
24           ~~under paragraph 4 of subdivision a of subsection 2 of section 57-38-01.25 to hire~~  
25           ~~the taxpayer for a hard-to-fill position under section 57-38-01.25, but only to the~~  
26           ~~extent the amount received by the taxpayer is included in federal taxable income.~~  
27           ~~The reduction applies only if the employer is entitled to the credit under section~~  
28           ~~57-38-01.25. The taxpayer must attach a statement from the employer in which~~  
29           ~~the employer certifies that the employer is entitled to the credit under section~~  
30           ~~57-38-01.25 and which specifically identified the type of payment and the amount~~  
31           ~~of the exemption under this section.~~

- 1           n. ~~Reduced by the amount up to a maximum of five thousand dollars, or ten-~~  
2           ~~thousand dollars if a joint return is filed, for contributions made under a higher-~~  
3           ~~education savings plan administered by the Bank of North Dakota, pursuant to-~~  
4           ~~section 6-09-38.~~
- 5           e.f. Reduced by the amount of income of a taxpayer, who resides anywhere within  
6           the exterior boundaries of a reservation situated in this state or situated both in  
7           this state and in an adjoining state and who is an enrolled member of a federally  
8           recognized Indian tribe, from activities or sources anywhere within the exterior  
9           boundaries of a reservation situated in this state or both situated in this state and  
10          in an adjoining state.
- 11          p. ~~For married individuals filing jointly, reduced by an amount equal to the excess of~~  
12          ~~the recomputed itemized deductions or standard deduction over the amount of~~  
13          ~~the itemized deductions or standard deduction deducted in computing federal~~  
14          ~~taxable income. For purposes of this subdivision, "itemized deductions or~~  
15          ~~standard deduction" means the amount under section 63 of the Internal Revenue~~  
16          ~~Code that the married individuals deducted in computing their federal taxable~~  
17          ~~income and "recomputed itemized deductions or standard deduction" means an~~  
18          ~~amount determined by computing the itemized deductions or standard deduction~~  
19          ~~in a manner that replaces the basic standard deduction under section 63(c)(2) of~~  
20          ~~the Internal Revenue Code for married individuals filing jointly with an amount~~  
21          ~~equal to double the amount of the basic standard deduction under section 63(c)~~  
22          ~~(2) of the Internal Revenue Code for a single individual other than a head of~~  
23          ~~household and surviving spouse. If the married individuals elected under~~  
24          ~~section 63(e) of the Internal Revenue Code to deduct itemized deductions in~~  
25          ~~computing their federal taxable income even though the amount of the allowable~~  
26          ~~standard deduction is greater, the reduction under this subdivision is not allowed.~~  
27          ~~Married individuals filing jointly shall compute the available reduction under this~~  
28          ~~subdivision in a manner prescribed by the tax commissioner.~~
- 29          g. Reduced by living exemptions in the following amounts:

- 1           (1) For a single filer or married individual filing separately and not eligible to be  
2           claimed as a dependent on any other individual's return, twenty thousand  
3           dollars;
- 4           (2) For married individuals filing a joint return, forty thousand dollars; and  
5           (3) For an individual filing under head of household status, thirty thousand  
6           dollars.
- 7           h. Reduced by individual exemptions in the following amounts:
- 8           (1) For each taxpayer and dependent of the taxpayer, ten thousand dollars;  
9           (2) For a blind person, as defined in subsection 22 of section 57-02-08, an  
10           additional exemption of ten thousand dollars; and
- 11           (3) For an unremarried widow or widower sixty-five years of age or older, an  
12           additional exemption of ten thousand dollars.
- 13        3. The same filing status used when filing federal income tax returns must be used when  
14        filing state income tax returns.
- 15        4. a. A resident individual, estate, or trust is entitled to a credit against the tax imposed  
16        under this section for the amount of income tax paid by the taxpayer for the  
17        taxable year by another state or territory of the United States or the District of  
18        Columbia on income derived from sources in those jurisdictions that is also  
19        subject to tax under this section.
- 20        b. For an individual, estate, or trust that is a resident of this state for the entire  
21        taxable year, the credit allowed under this subsection may not exceed an amount  
22        equal to the tax imposed under this section multiplied by a ratio equal to federal  
23        adjusted gross income derived from sources in the other jurisdiction divided by  
24        federal adjusted gross income less the amounts under subdivisions a and b of  
25        subsection 2.
- 26        c. For an individual, estate, or trust that is a resident of this state for only part of the  
27        taxable year, the credit allowed under this subsection may not exceed the lesser  
28        of the following:
- 29           (1) The tax imposed under this chapter multiplied by a ratio equal to federal  
30           adjusted gross income derived from sources in the other jurisdiction  
31           received while a resident of this state divided by federal adjusted gross

1 income derived from North Dakota sources less the amounts under  
2 subdivisions a and b of subsection 2.

3 (2) The tax paid to the other jurisdiction multiplied by a ratio equal to federal  
4 adjusted gross income derived from sources in the other jurisdiction  
5 received while a resident of this state divided by federal adjusted gross  
6 income derived from sources in the other states.

7 d. The tax commissioner may require written proof of the tax paid to another state.  
8 The required proof must be provided in a form and manner as determined by the  
9 tax commissioner.

10 5. Individuals, estates, or trusts that file an amended federal income tax return changing  
11 their federal ~~taxable~~adjusted gross income figure for a year for which ~~an election to~~  
12 ~~file a~~ state income tax ~~returns~~return has been made under this section shall file an  
13 amended state income tax return to reflect the changes on the federal income tax  
14 return.

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

21 7. A taxpayer filing a return under this section is entitled to the following tax credits:

22 a. Family care tax credit under section 57-38-01.20.

23 b. Renaissance zone tax credits under sections 40-63-04, 40-63-06, and 40-63-07.

24 c. Agricultural business investment tax credit under section 57-38.6-03.

25 d. Seed capital investment tax credit under section 57-38.5-03.

26 e. Planned gift tax credit under section 57-38-01.21.

27 f. Biodiesel fuel or green diesel fuel tax credits under sections 57-38-01.22 and  
28 57-38-01.23.

29 g. Internship employment tax credit under section 57-38-01.24.

30 h. Workforce recruitment credit under section 57-38-01.25.

31 i. Angel fund investment tax credit under section 57-38-01.26.

- 1           j.   Microbusiness tax credit under section 57-38-01.27.
- 2           k.   Marriage penalty credit under section 57-38-01.28.
- 3           l.   Homestead income tax credit under section 57-38-01.29.
- 4           m.   Commercial property income tax credit under section 57-38-01.30.
- 5           n.   Research and experimental expenditures under section 57-38-30.5.
- 6           o.   Geothermal energy device installation credit under section 57-38-01.8.
- 7           p.   Long-term care partnership plan premiums income tax credit under section
- 8                 57-38-29.3.
- 9           q.   Employer tax credit for salary and related retirement plan contributions of
- 10                 mobilized employees under section 57-38-01.31.
- 11           r.   Automating manufacturing processes tax credit under section 57-38-01.33
- 12                 (effective for the first three taxable years beginning after December 31, 2012).
- 13         8.   A taxpayer filing a return under this section is entitled to the exemption provided under
- 14                 section 40-63-04.
- 15         9.   ~~a.   If an individual taxpayer engaged in a farming business elects to average farm~~
- 16                 ~~income under section 1301 of the Internal Revenue Code [26 U.S.C. 1301], the~~
- 17                 ~~taxpayer may elect to compute tax under this subsection. If an election to~~
- 18                 ~~compute tax under this subsection is made, the tax imposed by subsection 1 for~~
- 19                 ~~the taxable year must be equal to the sum of the following:~~
- 20                 (1)   ~~The tax computed under subsection 1 on North Dakota taxable income~~
- 21                         ~~reduced by elected farm income.~~
- 22                 (2)   ~~The increase in tax imposed by subsection 1 which would result if North~~
- 23                         ~~Dakota taxable income for each of the three prior taxable years were~~
- 24                         ~~increased by an amount equal to one third of the elected farm income.~~
- 25                         ~~However, if other provisions of this chapter other than this section were~~
- 26                         ~~used to compute the tax for any of the three prior years, the same~~
- 27                         ~~provisions in effect for that prior tax year must be used to compute the~~
- 28                         ~~increase in tax under this paragraph. For purposes of applying this~~
- 29                         ~~paragraph to taxable years beginning before January 1, 2001, the increase~~
- 30                         ~~in tax must be determined by recomputing the tax in the manner prescribed~~
- 31                         ~~by the tax commissioner.~~

- 1           b. ~~For purposes of this subsection, "elected farm income" means that portion of~~  
2           ~~North Dakota taxable income for the taxable year which is elected farm income-~~  
3           ~~as defined in section 1301 of the Internal Revenue Code of 1986 [26 U.S.C.~~  
4           ~~1301], as amended, reduced by the portion of an exclusion claimed under~~  
5           ~~subdivision d of subsection 2 that is attributable to a net long-term capital gain~~  
6           ~~included in elected farm income.~~
- 7           c. ~~The reduction in North Dakota taxable income under this subsection must be~~  
8           ~~taken into account for purposes of making an election under this subsection for~~  
9           ~~any subsequent taxable year.~~
- 10          d. ~~The tax commissioner may prescribe rules, procedures, or guidelines necessary~~  
11          ~~to administer this subsection.~~
- 12          10. ~~The tax commissioner may prescribe tax tables, to be used in computing the tax~~  
13          ~~according to subsection 1, if the amounts of the tax tables are based on the tax rates~~  
14          ~~set forth in subsection 1. If prescribed by the tax commissioner, the tables must be~~  
15          ~~followed by every individual, estate, or trust determining a tax under this section.~~
- 16          **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
17          December 31, 2012.