

Introduced by

Senators Laffen, Cook, Sitte

Representatives Brabandt, Delmore, Ruby

1 A BILL for an Act create and enact subsections 7 and 8 to section 57-38-34, subsection 11 to  
2 section 57-38-38, and subsection 16 to section 57-38-40 of the North Dakota Century Code,  
3 relating to the time for filing of returns for certain corporations, interest on tax when the time for  
4 filing a return is extended, refunds of tax for certain corporations, and audits of certain  
5 corporations; amend and reenact subsection 5 of section 11-37-08, subsection 8 of section  
6 40-63-01, subsection 5 of section 40-63-04, section 40-63-06, subsections 3 and 4 of section  
7 40-63-07, subsection 3 of section 57-38-01.3, and subsections 5 and 7 of section 57-38-01.32  
8 of the North Dakota Century Code, relating to subjecting financial institutions to the corporate  
9 income tax, adjustments for net operating losses, bonds and other obligations of a commerce  
10 authority, creation of renaissance zones, the housing incentive fund tax credit, and computation  
11 of farm income; to repeal chapter 57-35.3 and subdivisions c and f of subsection 2 of section  
12 57-38-30.3 of the North Dakota Century Code, relating to elimination of the financial institutions  
13 tax and income associated with losses passed through to a financial institution; to provide an  
14 effective date; and to declare an emergency.

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

16 **SECTION 1. AMENDMENT.** Subsection 5 of section 11-37-08 of the North Dakota Century  
17 Code is amended and reenacted as follows:

18 5. Bonds issued by a commerce authority under this section are declared to be issued for  
19 an essential public government purpose, and together with interest and income on the  
20 bonds, are exempt from all individual and corporate taxes imposed under sections  
21 ~~57-35.3-03~~, 57-38-30, and 57-38-30.3.

22 **SECTION 2. AMENDMENT.** Subsection 8 of section 40-63-01 of the North Dakota Century  
23 Code is amended and reenacted as follows:

1           8. "Taxpayer" means an individual, corporation, ~~financial institution~~, or trust subject to the  
2           taxes imposed by chapter ~~57-35.3~~ or 57-38 and includes a partnership, subchapter S  
3           corporation, limited partnership, limited liability company, or any other passthrough  
4           entity.

5           **SECTION 3. AMENDMENT.** Subsection 5 of section 40-63-04 of the North Dakota Century  
6           Code is amended and reenacted as follows:

7           5. The exemptions provided by this section do not eliminate any duty to file a return or to  
8           report income as required under chapter ~~57-35.3~~ or 57-38.

9           **SECTION 4. AMENDMENT.** Section 40-63-06 of the North Dakota Century Code is  
10          amended and reenacted as follows:

11          **40-63-06. Historic preservation and renovation tax credit.**

12          A credit against state tax liability as determined under sections ~~57-35.3-03~~, 57-38-30, and  
13          57-38-30.3 is allowed for investments in the historic preservation or renovation of property  
14          within the renaissance zone. The amount of the credit is twenty-five percent of the amount  
15          invested, up to a maximum of two hundred fifty thousand dollars. The credit may be claimed in  
16          the year in which the preservation or renovation is completed. Any excess credit may be carried  
17          forward for a period of up to five taxable years.

18          **SECTION 5. AMENDMENT.** Subsection 3 of section 40-63-07 of the North Dakota Century  
19          Code is amended and reenacted as follows:

20          3. A renaissance fund organization is exempt from any tax imposed by chapter ~~57-35.3~~  
21          or 57-38. An exemption under this section may be passed through to any shareholder,  
22          partner, and owner if the renaissance fund organization is a passthrough entity for tax  
23          purposes. A corporation or ~~financial institution~~ entitled to the exemption provided by  
24          this subsection shall file required returns and report income to the tax commissioner  
25          as required by the provisions of those chapters as if the exemption did not exist. If an  
26          employer, this subsection does not exempt a renaissance fund organization from  
27          complying with the income tax withholding laws.

28          **SECTION 6. AMENDMENT.** Subsection 4 of section 40-63-07 of the North Dakota Century  
29          Code is amended and reenacted as follows:

30          4. A credit against state tax liability as determined under section ~~57-35.3-03~~, 57-38-30, or  
31          57-38-30.3 is allowed for investments in a renaissance fund organization. The amount

1 of the credit is fifty percent of the amount invested in the renaissance fund  
2 organization during the taxable year. Any amount of credit which exceeds a taxpayer's  
3 tax liability for the taxable year may be carried forward for up to five taxable years after  
4 the taxable year in which the investment was made.

5 **SECTION 7. AMENDMENT.** Subsection 3 of section 57-38-01.3 of the North Dakota  
6 Century Code is amended and reenacted as follows:

7 3. The sum calculated pursuant to subsection 1 must be reduced by the amount of any  
8 net operating loss that is attributable to North Dakota sources, including a net  
9 operating loss calculated under chapter 57-35.3 for tax years beginning before  
10 January 1, 2013. If the net operating loss that is attributable to North Dakota sources  
11 exceeds the sum calculated pursuant to subsection 1, the excess may be carried  
12 forward for the same time period that an identical federal net operating loss may be  
13 carried forward. If a corporation uses an apportionment formula to determine the  
14 amount of income that is attributable to North Dakota, the corporation must use the  
15 same formula to determine the amount of net operating loss that is attributable to  
16 North Dakota. In addition, no deduction may be taken for a carryforward when  
17 determining the amount of net operating loss that is attributable to North Dakota  
18 sources.

19 **SECTION 8. AMENDMENT.** Subsection 5 of section 57-38-01.32 of the North Dakota  
20 Century Code is amended and reenacted as follows:

21 5. The aggregate amount of tax credits allowed to all eligible contributors is limited to  
22 fifteen million dollars per biennium. ~~This limitation applies to all contributions for which~~  
23 ~~tax credits are claimed under section 57-35.3-05 and this section.~~

24 **SECTION 9. AMENDMENT.** Subsection 7 of section 57-38-01.32 of the North Dakota  
25 Century Code is amended and reenacted as follows:

26 7. To receive the tax credit provided under this section, a taxpayer shall claim the credit  
27 on the taxpayer's state income ~~or financial institutions~~ tax return in the manner  
28 prescribed by the tax commissioner and file with the return a copy of the form issued  
29 by the housing finance agency under subsection 6.

30 **SECTION 10.** Subsection 7 to section 57-38-34 of the North Dakota Century Code is  
31 created and enacted as follows:

1        7. For a person that was subject to the tax under chapter 57-35.3 for the calendar year  
2            ending December 31, 2012, payment of the tax under this chapter is due six months  
3            after the due date of the return as required under this section. The provisions of  
4            subdivision a of subsection 1 of section 57-38-45 do not apply to the tax due under  
5            this subsection.

6        **SECTION 11.** Subsection 8 to section 57-38-34 of the North Dakota Century Code is  
7 created and enacted as follows:

8        8. A person that previously reported under chapter 57-35.3 on a calendar year basis and  
9            files its federal income tax return on a fiscal year basis must file a short period return  
10          for the period beginning January 1, 2013, and ending on the last day of the tax year in  
11          calendar year 2013.

12        **SECTION 12.** Subsection 11 to section 57-38-38 of the North Dakota Century Code is  
13 created and enacted as follows:

14        11. This section applies if additional tax would be due under the provisions of chapter  
15          57-35.3 in effect for taxable years beginning before January 1, 2013.

16        **SECTION 13.** Subsection 16 to section 57-38-40 of the North Dakota Century Code is  
17 created and enacted as follows:

18        16. A person that would have been entitled to a credit or refund under chapter 57-35.3 for  
19          a taxable year beginning before January 1, 2013, may file a claim for refund or credit  
20          of an overpayment of tax.

21        **SECTION 14. REPEAL.** Chapter 57-35.3 and subdivisions c and f of subsection 2 of  
22 section 57-38-30.3 of the North Dakota Century Code are repealed.

23        **SECTION 15. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
24 December 31, 2012.

25        **SECTION 16. EMERGENCY.** Section 1 of this Act is declared to be an emergency  
26 measure.