

HOUSE BILL NO. 1055

Introduced by

Representative Maragos

1 A BILL for an Act to amend and reenact section 57-38-30.3 of the North Dakota Century Code,
2 relating to individual income tax determination under the simplified optional method of
3 computing state income taxes; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 57-38-30.3 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-38-30.3. Simplified optional method of computing tax.**

8 1. Notwithstanding the other provisions of this chapter, an individual, estate, or trust
9 may elect to determine ~~state~~ an income tax liability ~~by applying the provisions of~~
10 under this section. ~~Any taxpayer~~ An individual, estate, or trust electing to
11 determine ~~the taxpayer's~~ an income tax liability ~~pursuant to~~ under this section is
12 ~~only~~ eligible for only those adjustments or credits ~~which~~ that are specifically
13 provided ~~for~~ in this section. ~~Provided, that for purposes of this section, any person~~
14 If a nonresident individual otherwise required to file a state income tax return
15 ~~pursuant to the provisions of~~ under this chapter, ~~but who has not computed a~~
16 ~~federal taxable income or federal income tax liability figure shall compute such a~~ is
17 not required to file a federal income tax return or is allowed to exclude income in
18 computing federal taxable income because of an income tax treaty between the
19 United States and a foreign country, the individual shall compute or recompute
20 federal taxable income figure using a pro forma return pursuant to the provisions of
21 this section in order to determine a federal income tax liability figure in the manner
22 prescribed by the tax commissioner to be used as a starting point in computing
23 ~~state income~~ the tax under subsection 3, the purpose of which is to prevent income

1 otherwise taxable under this chapter from becoming exempt because of the treaty,
2 if the treaty does not specifically preempt state taxation of the income.

3 2. A tax is hereby imposed for each taxable year upon all income earned or received
4 in that taxable year by every a resident and nonresident individual, estate, and or
5 trust, or on the income derived from sources in this state by a nonresident
6 individual, estate, or trust, electing to determine an income tax under this section.

7 ~~This tax is fourteen percent of the individual's, estate's, or trust's adjusted federal~~
8 ~~income tax liability for the taxable year. The tax is equal to the amount determined~~
9 ~~under subsection 3, plus the tax determined under subsection 4, and minus the~~
10 ~~amount determined under subsection 5.~~

11 3. ~~The adjusted federal income tax liability for a resident individual, estate, and trust~~
12 ~~must be determined by multiplying the federal income tax liability by a fraction, the~~
13 ~~numerator of which is the adjusted gross income taxable to this state and the~~
14 ~~denominator of which is the total adjusted gross income as reported on the federal~~
15 ~~income tax return. To the extent they are included in the taxpayer's federal~~
16 ~~adjusted gross income, the following amounts must be excluded from the~~
17 ~~numerator:~~

18 a. ~~Interest income from obligations of the United States and income exempt from~~
19 ~~state income tax under federal statute or United States or North Dakota~~
20 ~~constitutional provisions.~~

21 b. ~~The portion of a distribution from a qualified investment fund described in~~
22 ~~section 57-38-01 which is attributable to investments by the qualified~~
23 ~~investment fund in obligations of the United States, obligations of North~~
24 ~~Dakota or its political subdivisions, and any other obligation the interest from~~
25 ~~which is exempt from state income tax under federal statute or United States~~
26 ~~or North Dakota constitutional provisions.~~

27 e. ~~An amount equal to the earnings that are passed through to a taxpayer in~~
28 ~~connection with an allocation and apportionment to North Dakota under~~
29 ~~chapter 57-35.3.~~

30 The tax under this section applies to taxable income as defined under this
31 subsection. For purposes of this subsection, "taxable income" means federal

1 taxable income computed under the United States Internal Revenue Code of 1954,
2 as amended. The tax for individuals is equal to the amount determined in
3 accordance with the applicable table in subdivisions a through d corresponding to
4 an individual's filing status used for federal income tax purposes multiplied by the
5 fraction determined under subsection 6. For an estate or trust, the table in
6 subdivision e must be used for purposes of this subsection.

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

<u>If taxable income is:</u>	<u>The tax is equal to:</u>
8 <u>Not over \$27,050</u>	<u>2.10%</u>
10 <u>Over \$27,050 but not over \$65,550</u>	<u>\$568.05 plus 3.92% of amount over \$27,050</u>
11 <u>Over \$65,550 but not over \$136,750</u>	<u>\$2,077.25 plus 4.34% of amount over \$65,550</u>
12 <u>Over \$136,750 but not over \$297,300</u>	<u>\$5,167.33 plus 5.04% of amount over \$136,750</u>
13 <u>Over \$297,300</u>	<u>\$13,259.05 plus 5.54% of amount over \$297,300</u>

14 b. Married filing jointly and surviving spouse.

<u>If taxable income is:</u>	<u>The tax is equal to:</u>
15 <u>Not over \$45,200</u>	<u>2.10%</u>
17 <u>Over \$45,200 but not over \$109,250</u>	<u>\$949.20 plus 3.92% of amount over \$45,200</u>
18 <u>Over \$109,250 but not over \$166,450</u>	<u>\$3,459.96 plus 4.34% of amount over \$109,250</u>
19 <u>Over \$166,450 but not over \$297,300</u>	<u>\$5,942.44 plus 5.04% of amount over \$166,450</u>
20 <u>Over \$297,300</u>	<u>\$12,537.28 plus 5.54% of amount over \$297,300</u>

21 c. Married filing separately.

<u>If taxable income is:</u>	<u>The tax is equal to:</u>
22 <u>Not over \$22,600</u>	<u>2.10%</u>
24 <u>Over \$22,600 but not over \$54,625</u>	<u>\$474.60 plus 3.92% of amount over \$22,600</u>
25 <u>Over \$54,625 but not over \$83,225</u>	<u>\$1,729.98 plus 4.34% of amount over \$54,625</u>
26 <u>Over \$83,225 but not over \$148,650</u>	<u>\$2,971.22 plus 5.04% of amount over \$83,225</u>
27 <u>Over \$148,650</u>	<u>\$6,268.64 plus 5.54% of amount over \$148,650</u>

28 d. Head of household.

<u>If taxable income is:</u>	<u>The tax is equal to:</u>
29 <u>Not over \$36,250</u>	<u>2.10%</u>
31 <u>Over \$36,250 but not over \$93,600</u>	<u>\$761.25 plus 3.92% of amount over \$36,250</u>

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1	<u>Over \$93,600 but not over \$151,600</u>	<u>\$3,009.37 plus 4.34% of amount over \$93,600</u>
2	<u>Over \$151,600 but not over \$297,300</u>	<u>\$5,526.57 plus 5.04% of amount over \$151,600</u>
3	<u>Over \$297,300</u>	<u>\$12,869.85 plus 5.54% of amount over \$297,300</u>

4 e. Estates and trusts.

5 If taxable income is: The tax is equal to:

6	<u>Not over \$1,800</u>	<u>2.10%</u>
7	<u>Over \$1,800 but not over \$4,250</u>	<u>\$37.80 plus 3.92% of amount over \$1,800</u>
8	<u>Over \$4,250 but not over \$6,500</u>	<u>\$133.84 plus 4.34% of amount over \$4,250</u>
9	<u>Over \$6,500 but not over \$8,900</u>	<u>\$231.49 plus 5.04% of amount over \$6,500</u>
10	<u>Over \$8,900</u>	<u>\$352.45 plus 5.54% of amount over \$8,900</u>

11 f. The tax commissioner shall publish the tax tables under this subsection in the
12 instructions accompanying the individual income tax return in the manner
13 deemed appropriate by the tax commissioner.

14 g. If married persons who file a joint federal income tax return are required to file
15 separate state income tax returns under subsection 7, the tax under this
16 subsection for each spouse must be determined by applying the rates under
17 subdivision b to the spouses' total federal taxable income and prorating the
18 result between the spouses based on their respective shares of the total
19 federal adjusted gross income.

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

- 1 i. If an individual, estate, or trust is subject to the provisions of section 1(h) of
2 the Internal Revenue Code of 1954, as amended, relating to computation of
3 the federal income tax when federal taxable income includes a net long-term
4 capital gain, the tax under this subsection may not exceed the lesser of the
5 amount otherwise determined under this subsection or fourteen percent of the
6 federal income tax determined under section 1(h) of the Internal Revenue
7 Code of 1954, as amended.
- 8 j. If an individual, estate, or trust is subject to the provisions of section 1301 of
9 the Internal Revenue Code of 1954, as amended, relating to income
10 averaging for farmers, the tax under this subsection may not exceed the
11 lesser of the amount otherwise determined under this subsection or fourteen
12 percent of the federal income tax determined under section 1301 of the
13 Internal Revenue Code of 1954, as amended.
- 14 k. If an individual is subject to the provisions of section 1(g) of the Internal
15 Revenue Code of 1954, as amended, relating to computation of the federal
16 income tax for a child under age fourteen who has investment income, the tax
17 under this subsection may not exceed the lesser of the amount otherwise
18 determined under this subsection or fourteen percent of the federal income
19 tax determined under section 1(g) of the Internal Revenue Code of 1954, as
20 amended.
- 21 4. ~~The adjusted federal income tax liability of a nonresident individual, estate, and~~
22 ~~trust must be determined by multiplying the federal income tax liability by a fraction,~~
23 ~~the numerator of which is the adjusted gross income derived from sources within~~
24 ~~this state and the denominator of which is the total adjusted gross income as~~
25 ~~reported on the federal income tax return. To the extent they are included in the~~
26 ~~taxpayer's federal adjusted gross income, the following amounts must be excluded~~
27 ~~from the numerator:~~
- 28 a. ~~Interest income from obligations of the United States and income exempt from~~
29 ~~state income tax under federal statute or United States or North Dakota~~
30 ~~constitutional provisions.~~

1 ~~b. The portion of a distribution from a qualified investment fund described in~~
2 ~~section 57-38-01 which is attributable to investments by the qualified~~
3 ~~investment fund in obligations of the United States, obligations of North~~
4 ~~Dakota or its political subdivisions, and any other obligation the interest from~~
5 ~~which is exempt from state income tax under federal statute or United States~~
6 ~~or North Dakota constitutional provisions.~~

7 ~~e. An amount equal to the earnings that are passed through to a taxpayer in~~
8 ~~connection with an allocation and apportionment to North Dakota under~~
9 ~~chapter 57-35.3.~~

10 The tax under this subsection is determined by multiplying the total of the
11 additional federal taxes set forth in subdivision a by fourteen percent and then
12 multiplying the result by the fraction determined under subsection 6.

13 a. For purposes of this subsection, additional federal taxes are:

14 (1) Federal alternative minimum tax computed on federal form 6251;

15 (2) Federal tax on a lump sum distribution computed on federal form 4972;

16 (3) Federal tax on an accumulation distribution of a trust computed on
17 federal form 4970;

18 (4) Federal tax on early distributions, excess contributions, excess
19 accumulations, and excess distributions with respect to qualified
20 retirement plans, individual retirement accounts, annuities, and modified
21 endowment contracts computed on federal form 5329;

22 (5) Federal excess benefits tax under section 72(m)(5) of the Internal
23 Revenue Code of 1954, as amended; and

24 (6) Federal tax computed on federal form 8814.

25 b. For a nonresident individual, estate, or trust, the federal taxes under
26 paragraphs 2 through 6 of subdivision a are included only to the extent the
27 related income is allocated or apportioned to this state under this chapter.

28 5. ~~For purposes of this section, "federal income tax liability" means the individual's,~~
29 ~~estate's, or trust's federal income tax computed for the taxable year under Internal~~
30 ~~Revenue Code sections 1 and 3, relating to the computation of the regular federal~~
31 ~~income tax before credits, including calculation and tax rate modifications~~

- 1 ~~prescribed under other provisions of the Internal Revenue Code, adjusted as~~
2 ~~follows:~~
- 3 ~~a. Add the alternative minimum tax computed under Internal Revenue Code~~
4 ~~section 55;~~
- 5 ~~b. Add the tax on a lump sum distribution computed under Internal Revenue~~
6 ~~Code section 402; however, this adjustment does not apply if the lump sum~~
7 ~~distribution is received while a nonresident of this state and is exempt from~~
8 ~~taxation by this state under federal law;~~
- 9 ~~e. Add the tax on an accumulation distribution of a trust computed under Internal~~
10 ~~Revenue Code section 667;~~
- 11 ~~d. Add the tax computed under Internal Revenue Code section 72(m)(5) on~~
12 ~~excess benefits received from a qualified plan under Internal Revenue Code~~
13 ~~section 401(a) or a qualified annuity under Internal Revenue Code section~~
14 ~~403(a);~~
- 15 ~~e. Add the tax computed under Internal Revenue Code section 72(q)(1) on an~~
16 ~~early distribution from an annuity contract;~~
- 17 ~~f. Add the tax computed under Internal Revenue Code section 72(t)(1) on an~~
18 ~~early distribution from a qualified retirement plan;~~
- 19 ~~g. Add the tax computed under Internal Revenue Code section 4973(a) on~~
20 ~~excess contributions to an individual retirement account, medical savings~~
21 ~~account, and certain Internal Revenue Code section 403(b) and annuity~~
22 ~~contracts; however, this adjustment does not apply if the individual, estate, or~~
23 ~~trust is a nonresident of this state;~~
- 24 ~~h. Add the tax computed under Internal Revenue Code section 4974(a) on~~
25 ~~excess accumulations in a qualified retirement plan; however, this adjustment~~
26 ~~does not apply if the individual, estate, or trust is a nonresident of this state;~~
- 27 ~~i. Add the tax computed under Internal Revenue Code section 4980A on excess~~
28 ~~distributions from a qualified retirement plan; and~~
- 29 ~~j. Subtract the credit for prior year minimum tax computed under Internal~~
30 ~~Revenue Code section 53.~~

1 ~~Unless specifically provided for in this subsection, no federal income tax credit may~~
2 ~~be subtracted in determining the federal income tax liability for purposes of this~~
3 ~~section.~~

4 The amount under this subsection is determined by multiplying the federal credit
5 for prior year minimum tax computed on federal form 8801 by fourteen percent and
6 then multiplying the result by the fraction determined under subsection 6.

7 6. For purposes of subsections 3 through 5, the fraction is equal to North Dakota
8 adjusted gross income divided by federal adjusted gross income. For this purpose,
9 "North Dakota adjusted gross income" means federal adjusted gross income
10 reduced by:

11 a. Interest income from obligations of the United States;

12 b. Income exempt from state income tax under federal statute, the Constitution
13 of the United States, or the Constitution of North Dakota;

14 c. The portion of a distribution from a qualified investment fund as defined under
15 section 57-38-01 which is attributable to investments by the qualified
16 investment fund in obligations of the United States, obligations of North
17 Dakota or its political subdivisions, and any other obligation the interest from
18 which is exempt from state income tax under federal statute, the Constitution
19 of the United States, or the Constitution of North Dakota; and

20 d. For a nonresident individual, estate, or trust, the portion of federal adjusted
21 gross income not allocable or apportionable to this state under this chapter.

22 6. 7. ~~A husband and wife filing a joint federal income tax return shall file a joint state~~
23 ~~income tax return if the return is filed under this section. The same filing status~~
24 ~~used by the taxpayer to file the federal income tax return must be used when filing~~
25 ~~the return under this chapter. However, in the case of married persons filing a joint~~
26 ~~federal income tax return, separate state income tax returns must be filed if one~~
27 ~~spouse is a resident and the other spouse is a nonresident. If separate federal~~
28 ~~income tax returns are filed by married persons, or if separate state income tax~~
29 ~~returns are required to be filed under this subsection, one spouse's state income~~
30 ~~tax return may be filed under this section and the other spouse's state income tax~~
31 ~~return may be filed under the other provisions of this chapter.~~

1 11. A taxpayer filing a return under this section is entitled to the exemptions or credits
2 provided under sections 40-63-04, 40-63-06, and 40-63-07.

3 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
4 December 31, 2000.