

**Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013**

SENATE BILL NO. 2330
(Senators Mathern, Cook, Robinson)
(Representatives Carlson, Holman)

AN ACT to amend and reenact section 57-38-62 of the North Dakota Century Code, relating to underpayment of estimated taxes; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-38-62 of the North Dakota Century Code is amended and reenacted as follows:

57-38-62. Payment of estimated income tax.

1. An individual, estate, or trust that is subject to section 6654 of the Internal Revenue Code relating to a failure to pay federal estimated income tax shall, at the time prescribed in this chapter, pay estimated tax for the current taxable year. Notwithstanding any other provision of this section, an individual, estate, or trust whose net tax liability for the preceding taxable year was less than ~~five hundred~~ one thousand dollars is not required to pay estimated tax for the current taxable year. Married individuals who file a joint federal income tax return and are subject to section 6654 of the Internal Revenue Code must each be deemed to be subject to the federal provision. If payment of estimated tax is required, the individual, estate, or trust shall, at the time prescribed in this chapter, pay the lesser of the following:
 - a. An amount which, when added to the taxpayer's withholding, equals ninety percent of the taxpayer's current taxable year's net tax liability.
 - b. An amount which, when added to the taxpayer's withholding, equals one hundred percent of the taxpayer's net tax liability for the immediately preceding taxable year.
 - (1) This subdivision does not apply to any taxpayer who was not required by this chapter to file a return for the immediately preceding taxable year, to an individual who moved into this state during the immediately preceding taxable year, or to an estate or trust that was not in existence for the entire immediately preceding taxable year. The amount under this subdivision must be deemed to be equal to the amount in subdivision a if this part applies.
 - (2) In order to satisfy the requirements of this subdivision, married individuals who are required to file separate state returns for the current taxable year but who were required to file a joint state return for the immediately preceding taxable year must each be required to pay estimated tax in an amount which, when added to the individual's withholding, equals the net tax liability which would have been computed for the immediately preceding taxable year if separate state returns had been required to be filed.
 - (3) In order to satisfy the requirements of this subdivision, married individuals who are required to file a joint state return for the current taxable year but were required to file separate state returns for the immediately preceding taxable year must be required to pay estimated tax in an amount which, when added to their withholding, equals the sum of their separate net tax liabilities for the immediately preceding taxable year.
2. A corporation shall, at the time prescribed in this chapter, pay estimated tax for the current taxable year if the corporation's estimated tax can reasonably be expected to exceed five

thousand dollars and if the corporation's net tax liability for the immediately preceding taxable year exceeded five thousand dollars. If payment of estimated tax is required, the corporation shall, at the time prescribed in this chapter, pay the lesser of the following:

- a. Ninety percent of the corporation's current taxable year's net tax liability.
 - b. One hundred percent of the corporation's net tax liability for the immediately preceding taxable year.
3. The provisions of section 57-38-45, except those provisions relating to the imposition of a penalty, apply in case of nonpayment, late payment, or underpayment of estimated tax. For purposes of applying the interest provisions of section 57-38-45, interest accrues on a per annum basis from the due date of an installment to the fifteenth day of the fourth month following the end of the current taxable year or, with respect to any portion of the estimated tax required to be paid, the date on which the portion thereof is paid, whichever date is earlier. Notwithstanding the other provisions of this section, no interest is due if the estimated tax paid on or before each due date under section 57-38-63 by a corporation is based on the annualized or adjusted seasonal method under section 6655 of the Internal Revenue Code. Notwithstanding the other provisions of this section, no interest is due if the estimated tax of an individual, estate, or trust is less than ~~five hundred~~ one thousand dollars per income tax return filed.
 4. For purposes of this section, "estimated tax" means the amount that a taxpayer estimates to be income tax under this chapter for the current taxable year less the amount of any credits allowable, including tax withheld.
 5. For purposes of this section, "net tax liability" means the amount of income tax computed for the taxable year as shown on the return less the amount of any credits allowable except tax withheld and estimated tax paid.
 6. An individual or corporation may apply a tax overpayment from a preceding taxable year as an estimated tax payment on the individual's or corporation's behalf for the taxable year succeeding the overpayment. The individual or corporation may elect to apply the overpayment to specific estimated tax installments. If the individual or corporation does not specify the installment period toward which the overpayment is to be applied, the individual or corporation must be considered to have elected to apply the overpayment toward the first required estimated tax installment for the succeeding taxable year.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2012.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2330.

Senate Vote: Yeas 45 Nays 1 Absent 1

House Vote: Yeas 92 Nays 0 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2013.

Approved at _____ M. on _____, 2013.

Governor

Filed in this office this _____ day of _____, 2013,

at _____ o'clock _____ M.

Secretary of State