

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1298

Introduced by

Representatives Kasper, Beadle, Dosch, Owens, Ruby, Schatz, Thoreson

Senators Burckhard, Larsen, O'Connell, Sorvaag, Wanzek

1 A BILL for an Act to amend and reenact sections 57-38-01.28 and 57-38-30 and subsection 1
2 and subdivision d of subsection 2 of section 57-38-30.3 of the North Dakota Century Code,
3 relating to reduction of the rates of individual and corporate income taxes and an income tax
4 exclusion for social security benefits; and to provide an effective date.

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

6 **SECTION 1. AMENDMENT.** Section 57-38-01.28 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **57-38-01.28. Marriage penalty credit.**

- 9 1. A married couple filing a joint return under section 57-38-30.3 is allowed a credit of not
10 to exceed three hundred dollars per couple as determined under this section. The tax
11 commissioner shall adjust the maximum amount of the credit under this subsection
12 each taxable year at the time and rate adjustments are made to rate schedules under
13 subdivision g of subsection 1 of section 57-38-30.3.
- 14 2. The credit under this section is the difference between the tax on the couple's joint
15 North Dakota taxable income under the rates and income levels in subdivision b of
16 subsection 1 of section 57-38-30.3 and the sum of the tax under the rates and income
17 levels of subdivision a of subsection 1 of section 57-38-30.3 on the qualified income of
18 the lesser-earning spouse, and the tax under the rates and income levels of
19 subdivision a of subsection 1 of section 57-38-30.3 on the couple's joint North Dakota
20 taxable income, minus the qualified income of the lesser-earning spouse.
- 21 3. For a nonresident or part-year resident, the credit under this section must be adjusted
22 based on the percentage calculated under subdivision f of subsection 1 of section
23 57-38-30.3.
- 24 4. For purposes of this section:

- 1 a. "Qualifying income" means the sum of the following, to the extent included in
2 North Dakota taxable income:
- 3 (1) Earned income as defined in section 32(c)(2) of the Internal Revenue Code;
4 (2) Income received from a retirement pension, profit-sharing, stock bonus, or
5 annuity plan; and
6 (3) Social security benefits as defined in section 86(d)(1) of the Internal
7 Revenue Code.
- 8 b. "Qualifying income of the lesser-earning spouse" means the qualifying income of
9 the spouse with the lesser amount of qualifying income for the taxable year
10 minus the sum of:
- 11 (1) The amount for one exemption under section 151(d) of the Internal Revenue
12 Code; and
13 (2) One-half of the amount of the standard deduction under section 63(c)(2)(A)
14 (4) of the Internal Revenue Code.

15 **SECTION 2. AMENDMENT.** Section 57-38-30 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **57-38-30. Imposition and rate of tax on corporations.**

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

- 20 1. For the first twenty-five thousand dollars of taxable income, at the rate of one ~~and~~
21 ~~forty-eight hundredths~~ percent.
- 22 2. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty
23 thousand dollars, at the rate of three and ~~seventy-three hundredths~~two-tenths percent.
- 24 3. On all taxable income exceeding fifty thousand dollars, at the rate of four and
25 ~~fifty-three hundredths~~one-tenth percent.

26 **SECTION 3. AMENDMENT.** Subsection 1 of section 57-38-30.3 of the North Dakota
27 Century Code is amended and reenacted as follows:

- 28 1. A tax is hereby imposed for each taxable year upon income earned or received in that
29 taxable year by every resident and nonresident individual, estate, and trust. A taxpayer
30 computing the tax under this section is only eligible for those adjustments or credits
31 that are specifically provided for in this section. Provided, that for purposes of this

1 section, any person required to file a state income tax return under this chapter, but
 2 who has not computed a federal taxable income figure, shall compute a federal
 3 taxable income figure using a pro forma return in order to determine a federal taxable
 4 income figure to be used as a starting point in computing state income tax under this
 5 section. The tax for individuals is equal to North Dakota taxable income multiplied by
 6 the rates in the applicable rate schedule in subdivisions a through d corresponding to
 7 an individual's filing status used for federal income tax purposes. For an estate or
 8 trust, the schedule in subdivision e must be used for purposes of this subsection.

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

10 If North Dakota taxable income is:

11	Over	Not over	The tax is equal to	Of amount over
12	\$0	\$36,250	1.22%	\$0
13	\$36,250	\$87,850	\$442.25 + 2.27%	\$36,250
14	\$87,850	\$183,250	\$1,613.57 + 2.52%	\$87,850
15	\$183,250	\$398,350	\$4,017.65 + 2.93%	\$183,250
16	\$398,350		\$10,320.08 + 3.22%	\$398,350
17	<u>\$0</u>	<u>\$37,450</u>	<u>0.70%</u>	<u>\$0</u>
18	<u>\$37,450</u>	<u>\$90,750</u>	<u>\$262.15 + 2.04%</u>	<u>\$37,450</u>
19	<u>\$90,750</u>	<u>\$189,300</u>	<u>\$1,349.47 + 2.27%</u>	<u>\$90,750</u>
20	<u>\$189,300</u>	<u>\$411,500</u>	<u>\$3,586.56 + 2.64%</u>	<u>\$189,300</u>
21	<u>\$411,500</u>		<u>\$9,452.64 + 2.90%</u>	<u>\$411,500</u>

22 b. Married filing jointly and surviving spouse.

23 If North Dakota taxable income is:

24	Over	Not over	The tax is equal to	Of amount over
25	\$0	\$60,650	1.22%	\$0
26	\$60,650	\$146,400	\$739.93 + 2.27%	\$60,650
27	\$146,400	\$223,050	\$2,686.46 + 2.52%	\$146,400
28	\$223,050	\$398,350	\$4,618.04 + 2.93%	\$223,050
29	\$398,350		\$9,754.33 + 3.22%	\$398,350
30	<u>\$0</u>	<u>\$62,600</u>	<u>0.70%</u>	<u>\$0</u>
31	<u>\$62,600</u>	<u>\$151,200</u>	<u>\$438.20 + 2.04%</u>	<u>\$62,600</u>

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1	<u>\$151,200</u>	<u>\$230,450</u>	<u>\$2,245.64 + 2.27%</u>	<u>\$151,200</u>
2	<u>\$230,450</u>	<u>\$411,500</u>	<u>\$4,044.62 + 2.64%</u>	<u>\$230,450</u>
3	<u>\$411,500</u>		<u>\$8,824.34 + 2.90%</u>	<u>\$411,500</u>
4	c. Married filing separately.			
5	If North Dakota taxable income is:			
6	Over	Not over	The tax is equal to	Of amount over
7	\$0	\$30,325	1.22%	\$0
8	\$30,325	\$73,200	\$369.97 + 2.27%	\$30,325
9	\$73,200	\$111,525	\$1,343.23 + 2.52%	\$73,200
10	\$111,525	\$199,175	\$2,309.02 + 2.93%	\$111,525
11	\$199,175		\$4,877.17 + 3.22%	\$199,175
12	\$0	\$31,300	0.70%	\$0
13	\$31,300	\$75,600	\$219.10 + 2.04%	\$31,300
14	\$75,600	\$115,225	\$1,122.82 + 2.27%	\$75,600
15	\$115,225	\$205,750	\$2,022.31 + 2.64%	\$115,225
16	\$205,750		\$4,412.17 + 2.90%	\$205,750
17	d. Head of household.			
18	If North Dakota taxable income is:			
19	Over	Not over	The tax is equal to	Of amount over
20	\$0	\$48,600	1.22%	\$0
21	\$48,600	\$125,450	\$592.92 + 2.27%	\$48,600
22	\$125,450	\$203,150	\$2,337.42 + 2.52%	\$125,450
23	\$203,150	\$398,350	\$4,295.46 + 2.93%	\$203,150
24	\$398,350		\$10,014.82 + 3.22%	\$398,350
25	\$0	\$50,200	0.70%	\$0
26	\$50,200	\$129,600	\$351.40 + 2.04%	\$50,200
27	\$129,600	\$209,850	\$1,971.16 + 2.27%	\$129,600
28	\$209,850	\$411,500	\$3,792.84 + 2.64%	\$209,850
29	\$411,500		\$9,116.40 + 2.90%	\$411,500
30	e. Estates and trusts.			
31	If North Dakota taxable income is:			

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	Over	Not over	The tax is equal to	Of amount over
1				
2	\$0	\$2,450	1.22%	\$0
3	\$2,450	\$5,700	\$29.89 plus 2.27%	\$2,450
4	\$5,700	\$8,750	\$103.67 plus 2.52%	\$5,700
5	\$8,750	\$11,950	\$180.53 plus 2.93%	\$8,750
6	\$11,950		\$274.29 plus 3.22%	\$11,950
7	<u>\$0</u>	<u>\$2,500</u>	<u>0.70%</u>	<u>\$0</u>
8	<u>\$2,500</u>	<u>\$5,900</u>	<u>\$17.50 + 2.04%</u>	<u>\$2,500</u>
9	<u>\$5,900</u>	<u>\$9,050</u>	<u>\$86.86 + 2.27%</u>	<u>\$5,900</u>
10	<u>\$9,050</u>	<u>\$12,300</u>	<u>\$158.37 + 2.64%</u>	<u>\$9,050</u>
11	<u>\$12,300</u>		<u>\$244.17 + 2.90%</u>	<u>\$12,300</u>

- f. For an individual who is not a resident of this state for the entire year, or for a nonresident estate or trust, the tax is equal to the tax otherwise computed under this subsection multiplied by a fraction in which:
- (1) The numerator is the federal adjusted gross income allocable and apportionable to this state; and
 - (2) The denominator is the federal adjusted gross income from all sources reduced by the net income from the amounts specified in subdivisions a and b of subsection 2.

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

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

1 the same as that used for adjusting the income brackets for federal income tax
2 purposes.

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

7 **SECTION 4. AMENDMENT.** Subdivision d of subsection 2 of section 57-38-30.3 of the
8 North Dakota Century Code is amended and reenacted as follows:

9 d. Reduced by forty percent of:

10 (1) The excess of the taxpayer's net long-term capital gain for the taxable year
11 over the net short-term capital loss for that year, as computed for purposes
12 of the Internal Revenue Code of 1986, as amended. The adjustment
13 provided by this subdivision is allowed only to the extent the net long-term
14 capital gain is allocated to this state.

15 (2) Qualified dividends as defined under Internal Revenue Code section 1(h)
16 (11), added by section 302(a) of the Jobs and Growth Tax Relief
17 Reconciliation Act of 2003 [Pub. L. 108-27; 117 Stat. 752; 2 U.S.C. 963
18 et seq.], but only if taxed at a federal income tax rate that is lower than the
19 regular federal income tax rates applicable to ordinary income. If, for any
20 taxable year, qualified dividends are taxed at the regular federal income tax
21 rates applicable to ordinary income, the reduction allowed under this
22 subdivision is equal to thirty percent of all dividends included in federal
23 taxable income. The adjustment provided by this subdivision is allowed only
24 to the extent the qualified dividend income is allocated to this state.

25 **SECTION 5. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
26 December 31, 2014.