

Introduced by

Representatives Pollert, Devlin, Dockter, Haak

Senators Dotzenrod, Laffen, Oehlke, Wanzek

1 A BILL for an Act to amend and reenact section 57-38-35.2, subsection 1 of section 57-38-45,
2 and subsection 3 of section 57-38-62 of the North Dakota Century Code, relating to the interest
3 rate applied to refunds and underpayments of income tax; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 57-38-35.2 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-38-35.2. Interest payments.**

8 1. ~~Interest at the rate of one percent per month or fraction of a month a rate per annum~~
9 equal to the prime rate published in the Wall Street Journal on the first Monday in
10 December of each year must be allowed and paid upon overpayments of tax remitted
11 during the period beginning the first day of the following January through the last day
12 of December in each year as follows:

- 13 a. Interest on refunds arising from excess income tax withholding or overpayment of
14 estimated tax accrues for payment forty-five days after the due date of the return
15 or after the date the return was filed, whichever comes later.
- 16 b. Interest on refunds arising from amended returns or claims made for credit or
17 refund accrues for payment from the due date of the return to the date of
18 payment of the refund excepting the month in which the return was required to be
19 filed.
- 20 c. Interest on refunds arising from net operating loss carrybacks, capital loss
21 carrybacks, or tax credit carrybacks accrues for payment from the due date of the
22 return for the year, determined without regard to extensions of the time for filing,
23 giving rise to the loss carryback, to the date of payment of the refund, except that
24 no interest accrues if the refund payment is made within forty-five days of the

1 date the amended return or claim is filed to claim the refund attributable to the
2 carryback.

3 2. No interest may be paid on refunds arising from amended returns or other claims filed
4 for taxable years beginning before January 1, 1979.

5 **SECTION 2. AMENDMENT.** Subsection 1 of section 57-38-45 of the North Dakota Century
6 Code is amended and reenacted as follows:

- 7 1. In addition to other increases to tax and penalty prescribed in this chapter, a taxpayer
8 is subject to interest on any amount of unpaid tax at a rate per annum equal to the
9 prime rate published in the Wall Street Journal on the first Monday in December of
10 each year. The published rate is applicable to any amount of unpaid tax due beginning
11 the first day of the following January through the last day of December in each year. A
12 taxpayer is subject to interest at the applicable rate as follows:
- 13 a. Any taxpayer who requests and is granted an extension of time for filing a return
14 shall pay, with the tax, interest on the tax at the applicable rate of ~~twelve percent~~
15 ~~per annum~~ from the date the tax would have been due if the extension had not
16 been granted to the date the tax is paid.
- 17 b. If any amount of tax imposed by this chapter, including tax withheld by an
18 employer, is not paid on or before the due date or extended due date for the
19 payment, there must be added to the tax interest at the applicable rate of ~~one~~
20 ~~one~~calculated as a percent per month or fraction of a month during which the tax
21 remains unpaid, computed from the due date of the return to the date paid
22 excepting the month in which the return was required to be filed or the tax
23 became due.
- 24 c. If upon audit an additional tax is found to be due, there must be added to the
25 additional tax due interest at the applicable rate of ~~one~~calculated as a percent of
26 the additional tax for each month or fraction of a month during which the tax
27 remains unpaid, computed from the due date of the return to the date paid,
28 excepting the month in which the return was required to be filed or the tax
29 became due.
- 30 d. If the mathematical verification of a taxpayer's return results in additional tax due,
31 there must be added to the additional tax interest at the applicable rate of ~~one~~

1 ~~one~~calculated as a percent of the additional tax due for each month or fraction of
2 a month during which the tax remains unpaid, computed from the due date of the
3 return to the date paid, excepting the month in which the return was required to
4 be filed or the tax became due.

- 5 e. If a deficiency is determined for a tax period for which there was an overpayment
6 that was applied to the following tax period's estimated tax under subsection 6 of
7 section 57-38-62, interest accrues with respect to the amount of the deficiency
8 that is equal to or less than the amount of the overpayment applied from the
9 estimated tax payment date to which the overpayment was applied.
- 10 f. If a deficiency is determined for a tax period for which there was an overpayment
11 of estimated tax that was refunded, interest accrues, with respect to the amount
12 of the deficiency which is equal to or less than the amount of the overpayment of
13 estimated tax refunded, from the date of payment of the refund.

14 **SECTION 3. AMENDMENT.** Subsection 3 of section 57-38-62 of the North Dakota Century
15 Code is amended and reenacted as follows:

- 16 3. The provisions of section 57-38-45, except those provisions relating to the imposition
17 of a penalty, apply in case of nonpayment, late payment, or underpayment of
18 estimated tax. For purposes of applying the interest provisions of section 57-38-45,
19 interest accrues on a per annum basis from the due date of an installment to the
20 fifteenth day of the fourth month following the end of the current taxable year or, with
21 respect to any portion of the estimated tax required to be paid, the date on which the
22 portion thereof is paid, whichever date is earlier. Notwithstanding the other provisions
23 of this section, no interest is due if the estimated tax paid on or before each due date
24 under section 57-38-63 by a corporation is based on the annualized or adjusted
25 seasonal method under section 6655 of the Internal Revenue Code. ~~Notwithstanding~~
26 ~~the other provisions of this section, no interest is due if the estimated tax of an~~
27 ~~individual, estate, or trust is less than one thousand dollars per income tax return filed.~~

28 **SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
29 December 31, 2014.