

April 21, 2011

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1047

That the House accede to the Senate amendments as printed on pages 1423 and 1424 of the House Journal and page 1191 of the Senate Journal and that Engrossed House Bill No. 1047 be further amended as follows:

Page 1, line 1, after the first comma insert "57-35.3-03, 57-35.3-05, 57-35.3-07, 57-35.3-08, and 57-38-30, subsection 1 of section 57-38-30.3, and sections"

Page 1, line 2, after "Code" insert "and section 13 of chapter 520 of the 2007 Session Laws"

Page 1, line 2, after the first "to" insert "reduction of the rate of the financial institutions tax and adjustment of the allocation of the tax, a reduction in income tax rates for corporations, individuals, estates, and trusts, and"

Page 1, line 5, replace "transfers" with "a transfer"

Page 1, line 5, after the third semicolon insert "to provide for legislative management studies;"

Page 4, after line 3, insert:

"SECTION 2. AMENDMENT. Section 57-35.3-03 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-03. Imposition and basis of tax.

An annual tax is imposed upon each financial institution for the grant to it of the privilege of transacting, or for the actual transacting by it, of business within this state during any part of each tax year. The tax is based upon and measured by the taxable income of the financial institution for the calendar year. The rate of tax is ~~sevensix and one-half~~ percent of taxable income, but the amount of tax may not be less than fifty dollars.

SECTION 3. AMENDMENT. Section 57-35.3-05 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-05. Credits.

1. a. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the taxable year to nonprofit private institutions of higher education located within the state or to the North Dakota independent college fund. The amount allowable as a credit under this subdivision for any taxable year may not exceed ~~five and seven-tenths~~ four and six-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.
- b. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of charitable contributions made by the

taxpayer during the taxable year to nonprofit private institutions of secondary education located within the state. The amount allowable as a credit under this subdivision for any taxable year may not exceed ~~five and seven tenths~~four and six tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.

- c. For the purposes of this subsection, the term "nonprofit private institution of higher education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education at a level above the twelfth grade. The term "nonprofit private institution of secondary education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the department of public instruction and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in the ninth through twelfth grades.
 - d. For the purposes of this subsection, a taxpayer may elect to treat a contribution as made in the preceding taxable year if the contribution and election are made not later than the time prescribed for filing the return for the taxable year.
2. a. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to any overpayment of tax paid pursuant to chapter 57-35 or 57-35.1, for a taxable year beginning before January 1, 1997, to the extent that the overpayment would have been an allowable deduction from tax payable for the current taxable year, under section 57-35-12 or 57-35.1-07, if chapters 57-35 and 57-35.1 applied to the current taxable year. The amount allowable as a credit under this subsection for any taxable year may not exceed five-sevenths of the tax before credits allowed under this section.
- b. For purposes of determining distributions to and from the counties under section 57-35.3-09:
 - (1) The balance in the financial institution tax distribution fund and the amount of the payment received by each county from the state shall be determined as if any credit allowed under subdivision a had not been claimed and the full amount of the tax otherwise due had been timely paid;
 - (2) The credited amount must be deducted from the distributions that would otherwise be made to and from the county that received the tax overpayment until the sum of the deductions equals the credit; and
 - (3) The deductions from distributions made by a county to each distributee must be proportionate to the overpayment of tax received by each distributee.

3. There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to fifty percent of the aggregate amount of contributions made by the taxpayer during the taxable year for tuition scholarships for participation in rural leadership North Dakota conducted through the North Dakota state university extension service. Contributions by a taxpayer may be earmarked for use by a designated recipient. The amount allowable as a credit under this subsection for any taxable year may not exceed ~~five and seven-tenths~~four and six-tenths percent of the tax before credits allowed under this section, or two thousand five hundred dollars, whichever is less.

SECTION 4. AMENDMENT. Section 57-35.3-07 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-07. Payment of tax.

~~Two-sevenths~~Three-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 1 of section 57-35.3-05, must be paid to the commissioner on or before April fifteenth of the year in which the return is due, regardless of any extension of the time for filing the return granted under section 57-35.3-06. ~~Five-sevenths~~Ten-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 2 of section 57-35.3-05, must be paid to the commissioner on or before January fifteenth of the year after the return is due. Payment must be made by check, draft, or money order, payable to the commissioner, or as prescribed by the commissioner under subsection 15 of section 57-01-02.

SECTION 5. AMENDMENT. Section 57-35.3-08 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-08. Disposition of tax.

The commissioner shall deposit the portion of the tax payable in the year the return is due in the general fund of the state treasury and shall deposit the portion of the tax payable in the year after the return is due in the financial institution tax distribution fund of the state treasury, ~~which is hereby created~~. Interest, penalty, and late tax payments attributable to each portion of the tax must be deposited in the appropriate fund.

SECTION 6. AMENDMENT. Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

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

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

1. a. For the first twenty-five thousand dollars of taxable income, at the rate of ~~two~~one and ~~one-tenth~~sixty-eight hundredths percent.
- b. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~five~~four and ~~twenty-five~~twenty-three hundredths percent.

- c. On all taxable income exceeding fifty thousand dollars, at the rate of ~~six~~five and ~~four-tenths~~fifteen hundredths percent.
- 2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.

SECTION 7. AMENDMENT. Subsection 1 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

- 1. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. A taxpayer computing the tax under this section is only eligible for those adjustments or credits that are specifically provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return under this chapter, but who has not computed a federal taxable income figure, shall compute a federal taxable income figure using a pro forma return in order to determine a federal taxable income figure to be used as a starting point in computing state income tax under this section. The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing status used for federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection.

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

If North Dakota taxable income is:	The tax is equal to:
Not over \$33,950 <u>\$34,500</u>	1.84% <u>1.51%</u>
Over \$33,950 <u>\$34,500</u>	\$624.68 <u>\$520.95</u> plus 3.44% <u>2.82%</u>
but not over \$82,250 <u>\$83,600</u>	of amount over \$33,950 <u>\$34,500</u>
Over \$82,250 <u>\$83,600</u>	\$2,286.20 <u>\$1,950.57</u> plus
3.81% <u>3.13%</u>	
but not over \$171,550 <u>\$174,400</u>	of amount over \$82,250 <u>\$83,600</u>
Over \$171,550 <u>\$174,400</u>	\$5,688.53 <u>\$4,747.61</u> plus
4.42% <u>3.63%</u>	
but not over \$372,950 <u>\$379,150</u>	of amount over
\$171,550 <u>\$174,400</u>	
Over \$372,950 <u>\$379,150</u>	\$14,590.41 <u>\$12,180.04</u> plus
4.86% <u>3.99%</u>	
	of amount over
\$372,950 <u>\$379,150</u>	

- b. Married filing jointly and surviving spouse.

<p>If North Dakota taxable income is:</p> <p>Not over \$56,750<u>\$57,700</u></p> <p>Over \$56,750<u>\$57,700</u></p> <p>3.44%<u>2.82%</u></p> <p>but not over \$137,050<u>\$139,350</u></p> <p>Over \$137,050<u>\$139,350</u></p> <p>3.81%<u>3.13%</u></p> <p>but not over \$208,850<u>\$212,300</u></p> <p>\$137,050<u>\$135,350</u></p> <p>Over \$208,850<u>\$212,300</u></p> <p>4.42%<u>3.63%</u></p> <p>but not over \$372,950<u>\$379,150</u></p> <p>\$208,850<u>\$212,300</u></p> <p>Over \$372,950<u>\$379,150</u></p> <p>4.86%<u>3.99%</u></p> <p>\$372,950<u>\$379,150</u></p>	<p>The tax is equal to:</p> <p>1.84%<u>1.51%</u></p> <p>\$1,044.20<u>\$871.27</u> plus</p> <p>of amount over \$56,750<u>\$57,700</u></p> <p>\$3,806.52<u>\$3,173.80</u> plus</p> <p>of amount over</p> <p>\$6,542.10<u>\$5,457.14</u> plus</p> <p>of amount over</p> <p>\$13,795.32<u>\$11,513.79</u> plus</p> <p>of amount over</p>
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c. Married filing separately.

<p>If North Dakota taxable income is:</p> <p>Not over \$28,375<u>\$28,850</u></p> <p>Over \$28,375<u>\$28,850</u></p> <p>but not over \$68,525<u>\$69,675</u></p> <p>Over \$68,525<u>\$69,675</u></p> <p>3.81%<u>3.13%</u></p> <p>but not over \$104,425<u>\$106,150</u></p> <p>Over \$104,425<u>\$106,150</u></p> <p>4.42%<u>3.63%</u></p> <p>but not over \$186,475<u>\$189,575</u></p> <p>\$104,425<u>\$106,150</u></p> <p>Over \$186,475<u>\$189,575</u></p> <p>4.86%<u>3.99%</u></p>	<p>The tax is equal to:</p> <p>1.84%<u>1.51%</u></p> <p>\$522.10<u>\$424.10</u> plus 3.44%<u>2.82%</u></p> <p>of amount over \$28,375<u>\$28,850</u></p> <p>\$1,903.26<u>\$1,586.90</u> plus</p> <p>of amount over \$68,525<u>\$69,675</u></p> <p>\$3,271.05<u>\$2,728.57</u> plus</p> <p>of amount over</p> <p>\$6,897.66<u>\$5,756.90</u> plus</p>
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of amount over

\$186,475\$189,575

d. Head of household.

If North Dakota taxable income is:

Not over \$45,500\$46,250

Over \$45,500\$46,250

but not over \$117,450\$119,400

Over \$117,450\$119,400

3.81%3.13%

but not over \$190,200\$193,350

\$117,450\$119,400

Over \$190,200\$193,350

4.42%3.63%

but not over \$372,950\$379,150

\$190,200\$193,350

Over \$372,950\$379,150

4.86%3.99%

\$372,950\$379,150

e. Estates and trusts.

If North Dakota taxable income is:

Not over \$2,300

Over \$2,300

but not over \$5,350\$5,450

Over \$5,350\$5,450

but not over \$8,200\$8,300

Over \$8,200\$8,300

but not over \$11,150\$11,350

Over \$11,150\$11,350

The tax is equal to:

1.84%1.51%

\$837.20\$698.38 plus 3.44%2.82%

of amount over \$45,500\$46,250

\$3,312.28\$2,761.21 plus

of amount over

\$6,084.06\$5,075.84 plus

of amount over

\$14,161.61\$11,820.38 plus

of amount over

The tax is equal to:

1.84%1.51%

\$42.32\$34.73 plus 3.44%2.82%

of amount over \$2,300

\$147.24\$123.56 plus 3.81%3.13%

of amount over \$5,350\$5,450

\$255.83\$212.77 plus 4.42%3.63%

of amount over \$8,200\$8,300

\$386.22\$323.48 plus 4.86%3.99%

of amount over \$11,150\$11,350

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. ~~For taxable years beginning after December 31, 2009, the~~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 the same as that used for adjusting the income brackets for federal income tax purposes.
- h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7."

Page 7, replace lines 23 through 29 with:

"SECTION 15. AMENDMENT. Section 13 of chapter 520 of the 2007 Session Laws is amended and reenacted as follows:

SECTION 13. LEGISLATIVE COUNCIL MANAGEMENT STUDY.

The legislative ~~council~~management shall study in each interim through 2012 the feasibility and desirability of property tax reform and providing property tax relief to taxpayers of the state, with the goal of reduction of each taxpayer's annual property tax bill to an amount that is not more than one and one-half percent of the true and full value of property, and including examination of the proper measure of education funding from local taxation and state resources and the variability of funding resources among taxing districts and examination of improved collection and reporting of property tax information to identify residency of property owners with minimized administrative difficulty. The legislative management shall consider the sustainability of state-funded property tax relief in view of the compounding effect of ongoing property taxable valuation increases. The legislative ~~council~~management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the legislative assembly subsequent to each interim.

SECTION 16. LEGISLATIVE MANAGEMENT STUDY - FINANCIAL INSTITUTIONS TAXATION AND CORPORATE INCOME. During the 2011-12 interim, the legislative management shall consider studying the feasibility and desirability of revision of the financial institutions taxes, including the feasibility of taxing financial institutions under the state corporate income tax laws. The study under this section must include consideration of corporate income taxes, including corporate income apportionment factors and potential impact of federal legislation on state corporate income taxes. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly."

Page 7, line 30, replace "Section 1" with "Sections 1 through 7"

Page 7, line 30, replace "is" with "are"

Renumber accordingly