

NORTH DAKOTA INCOME TAX NEWSLETTER

2023 LEGISLATIVE RECAP

This newsletter provides a summary of the bills passed by the 2023 North Dakota Legislative Assembly that affect North Dakota's income tax laws. This summary specifically addresses income tax aspects of the bill, and excludes any changes affecting areas of the law not related to income tax.



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HOUSE BILL 1158

INDIVIDUAL INCOME TAX RATE REDUCTIONS

Effective beginning with tax year 2023, the existing five-bracket system for individuals, estates, and trusts was replaced with a three-bracket system with overall lower rates, including a substantial first bracket with a zero rate.

The bracket levels will continue to have inflation-related adjustments annually. With the effective date of the rate changes being January 1, 2023, new wage withholding tables were recently made available to employers. Because the highest rate was lowered to 2.5%, income tax withholding rates on nonresident owners of passthrough entities and nonresident royalty owners were also lowered and will be reflected on the new 2023 income tax forms and instructions.

The bill also included other changes affecting property taxes for the existing Homestead Tax Credit Program, as well as authorized a new \$500 property tax credit against the property tax due in 2025 related to an individual's primary ND residence, for which an application will be available in January 2024. Separately, the temporary resident income tax credit of \$350 that was effective for tax years 2021 and 2022 expired.

Statute Affected: N.D.C.C. § 57-38-30.3

Effective Date: Taxable years beginning on or after January 1, 2023.

The new tax brackets and rates are shown on Page 3.

2023 NORTH DAKOTA TAX BRACKETS

SINGLE

NORTH DAKOTA TAXABLE INCOME IS		
OVER	NOT OVER	TAX RATE
\$0	\$44,725	0.00%
\$44,725	\$225,975	1.95%
\$225,975	-	2.50%

MARRIED FILING JOINT (& SURVIVING SPOUSE)

NORTH DAKOTA TAXABLE INCOME IS		
OVER	NOT OVER	TAX RATE
\$0	\$74,750	0.00%
\$74,750	\$275,100	1.95%
\$275,100	-	2.50%

MARRIED FILING SEPARATE

NORTH DAKOTA TAXABLE INCOME IS		
OVER	NOT OVER	TAX RATE
\$0	\$37,375	0.00%
\$37,375	\$137,550	1.95%
\$137,550	-	2.50%

HEAD OF HOUSEHOLD

NORTH DAKOTA TAXABLE INCOME IS		
OVER	NOT OVER	TAX RATE
\$0	\$59,950	0.00%
\$59,950	\$250,550	1.95%
\$250,550	-	2.50%

ESTATE OR TRUST

NORTH DAKOTA TAXABLE INCOME IS		
OVER	NOT OVER	TAX RATE
\$0	\$3,000	0.00%
\$3,000	\$10,750	1.95%
\$10,750	-	2.50%

HOUSE BILL 1168

AUTOMATION TAX CREDIT REENACTMENT AND CHANGES

Changes were made to the existing automation tax credit program, which provides an income tax credit based on the cost of equipment purchased to automate a manufacturing process, as certified by the North Dakota Department of Commerce. The program was expanded to also include automation or robotic equipment purchased to upgrade or advance an animal agricultural process. The following changes to the program were also made:

- The tax credit was changed from up to 20% to 15% of the cost of the qualifying equipment.
- The annual maximum statewide tax credits authorized was increased from \$1 million to \$3 million per year.
- Of the \$3 million annual total amount, \$500,000 of tax credits is reserved each year for first-time claimants for automation equipment and \$500,000 of tax credits is reserved each year for first-time claimants for animal ag equipment.

The expiration date on the program was removed and the program was made permanent. The program's other provisions were unchanged. A credit earned in excess of the tax liability may be carried forward up to five tax years. If the annual maximum amount is not fully allocated to applicants, the unallocated portion is added to the \$3 million amount available for the subsequent year. If the approved credits exceed the annual maximum amount, the available credits are prorated to all applicants based on the approved purchases.

The changes are applicable for purchases during calendar year 2023, for which applications would be due to the Department of Commerce by January 31, 2024. The requirement continues to exist for a claimant to subsequently file with the Office of State Tax Commissioner a report of Improved Job Quality or Increased Productivity.

Statute Affected: N.D.C.C. Ch. 57-38

Effective Date: Taxable years beginning on or after January 1, 2023.

HOUSE BILL 1176

INCOME TAX CREDITS FOR ADOPTIONS AND CERTAIN CONTRIBUTIONS

The bill established two new income tax credits beginning with tax year 2023.

Adoptions – An individual is allowed an income tax credit for adoptions.

- The credit is equal to 10% of the federal adoption credit claimed and allowed against federal income tax for the tax year.
- The credit is limited to 50% of the individual's tax liability.
- Any credit earned in excess of the limit may be carried forward up to three tax years.

Contributions – An income tax credit is allowed for contributions to the following organizations: (1) a child placing agency licensed by the North Dakota Department of Health and Human Services (DHS), (2) a nonprofit maternity home located in North Dakota, or (3) a pregnancy help center recognized by DHS.

The provisions for the tax credit are:

- The credit is equal to 100% of the contribution.
- The credit is limited to 50% of a taxpayer's tax liability.
- Any credit earned in excess of the limit may not be carried over to succeeding tax years.
- The credit is available to corporations, individuals, estates, trusts, and passthrough entities.
- A tax credit earned by a passthrough entity is passed through and allowed to each owner in proportion to their respective interests in the passthrough entity.

Statute Affected: N.D.C.C. Ch. 57-38 and N.D.C.C. § 57-38-30.3
Effective Date: Taxable years beginning on or after January 1, 2023.



HOUSE BILL 1244

TAX CREDIT FOR EMPLOYMENT OF DEVELOPMENTALLY DISABLED

The existing income tax credit related to the employment of an individual with developmental disabilities or severe mental illness was reenacted and made permanent. The existing provisions of the tax credit were unchanged, except the statewide limitation on the number of eligible employees was removed and there is no limit. The other existing provisions of the tax credit are:

- To qualify for the tax credit, an employer must apply to the Department of Human Services, Vocational Rehabilitation Division, for a determination that the employee has a most significant disability, is eligible for services, and requires customized employment to obtain competitive integrated employment. If an employee is determined to meet these conditions, a letter of certification must be issued to the employer.
- The credit rate is 25% of the first \$6,000 of wages paid per year to each qualifying employee.
- The credit is available to corporations, individuals, estates, trusts, and passthrough entities.

Statute Affected: N.D.C.C. § 57-38-01.16

Effective Date: Taxable years beginning on or after January 1, 2023.



HOUSE BILL 1383

TAX CREDIT FOR COMPENSATION PAID TO AN APPRENTICE

A new income tax credit was created for the employment of an apprentice. The credit allowed against income tax is 10% of the qualified compensation paid to an apprentice employed in North Dakota. The other provisions for the tax credit are:

- The apprentice must be in an apprenticeship program certified by the U.S. Department of Labor or be an electrical apprentice registered under North Dakota law.
- The cumulative amount of tax credits earned by a taxpayer is limited to \$3,000 for all taxable years combined.
- A taxpayer may earn a tax credit for no more than five apprentices at one time.
- Any credit earned in excess of the tax liability may not be carried over to succeeding tax years.
- The credit is available to corporations, individuals, estates, trusts, and passthrough entities.
- A tax credit earned by a passthrough entity is passed through and allowed to each owner in proportion to their respective interests in the passthrough entity.

Statute Affected: N.D.C.C. Ch. 57-38 and N.D.C.C. § 37-38-30.3

Effective Date: Taxable years beginning on or after January 1, 2023.



SENATE BILL 2147

INCOME TAX DEDUCTION FOR PEACE OFFICER RETIREMENT

Beginning with tax year 2023, a new individual income tax deduction is provided for certain peace officer retirement benefits. A deduction is provided for the retirement benefit received from a retirement plan maintained by an employer from which the individual retired as a peace officer.

An individual is eligible for the deduction if (1) the individual has at least 20 years of service as a peace officer, or (2) was a peace officer that has been medically certified with a mental or physical disability resulting in the inability to perform its duties. For purposes of eligibility for the deduction, a peace officer is a licensed individual authorized by federal, state, or local law to investigate and enforce violations of law.

Statute Affected: N.D.C.C. § 57-38-30.3

Effective Date: Taxable years beginning on or after January 1, 2023.

SENATE BILL 2293

INCOME TAX DEDUCTION FOR MILITARY PAY

Beginning with tax year 2023, a new individual income tax deduction is provided for all military pay. Previously, the deduction was only allowed for military pay related to servicemembers mobilized for active duty under Title 10 orders. In addition to service members on active duty, the deduction is applicable for all military pay received by members of the national guard and reserve members, and includes pay for bonuses, education, and training. The deduction is applicable to the extent the pay was includable in the individual's North Dakota taxable income.

Statute Affected: N.D.C.C. § 57-38-30.3

Effective Date: Taxable years beginning on or after January 1, 2023.

SENATE BILL 2391

RENAISSANCE ZONE TAX INCENTIVES CHANGES

The bill made certain changes to the Renaissance Zone program. One of the changes provides for the income tax incentive period to be up to eight years for certain projects. Prior law limited the incentive period to five years. The North Dakota Department of Commerce, Division of Community Services (DCS), may approve an eight-year incentive period for projects that exceed a specified rehabilitation threshold, depending on the type of project or property. The affected income tax incentives include the income tax exemption for business or investment purpose and the purchase or rehabilitation of residential property as a primary residence. The bill did not impact projects already approved and receiving an incentive. The bill also made other non-tax changes related to the allowable composition and renewal of Renaissance Zones.

In addition, the Renaissance Fund Organization investment tax credit program provisions were amended to discontinue the allowance of additional tax credits beyond the \$10.5 million of tax credits previously authorized for the lifetime of the program. The bill also clarified that all of the credits, which have been previously allocated by DCS, are not eligible to be reallocated.

Statute Affected: N.D.C.C. §§ 40-63-01, 40-63-04, 40-63-05, and 40-63-07

Effective Date: August 1, 2023

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