

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

SENATE BILL NO. 2156
(Senators Cook, Campbell, Oehlke)
(Representatives Belter, Drovdal, Headland)

AN ACT to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to a corporate income tax credit for contributions to rural leadership North Dakota; to amend and reenact subsection 3 of section 57-38-01.26, section 57-38-30, and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to authorized investments of an angel fund for income tax credit purposes and a reduction in income tax rates for corporations, individuals, estates, and trusts; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 57-38-01.26 of the North Dakota Century Code is amended and reenacted as follows:

3. An angel fund must:
 - a. Be a partnership, limited partnership, corporation, limited liability company, limited liability partnership, trust, or estate organized on a for-profit basis which is headquartered in this state.
 - b. Be organized for the purpose of investing in a portfolio of at least three primary sector companies that are early-stage and mid-stage private, nonpublicly traded enterprises with strong growth potential. For purposes of this section, an early-stage entity means an entity with annual revenues of up to two million dollars and a mid-stage entity means an entity with annual revenues over two million dollars not to exceed ten million dollars. Early stage and mid-stage entities do not include those that have more than twenty-five percent of their revenue from income-producing real estate. Investments in real estate or real estate holding companies are not eligible investments by certified angel funds. Any angel fund certified before January 1, 2013, which has invested in real estate or a real estate holding company is not eligible for recertification.
 - c. Consist of at least six accredited investors as defined by securities and exchange commission regulation D, rule 501.
 - d. Not have more than twenty-five percent of its capitalized investment assets owned by an individual investor.
 - e. Have at least five hundred thousand dollars in commitments from accredited investors and that capital must be subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.
 - f. Be member-managed or a manager-managed limited liability company and the investor members or a designated board that includes investor members must make decisions as a group on which enterprises are worthy of investments.
 - g. Be certified as an angel fund that meets the requirements of this section by the department of commerce.
 - h. Be in compliance with the securities laws of this state.
 - i. Within thirty days after the date on which an investment in an angel fund is made, the angel fund shall file with the tax commissioner and provide to the investor completed

forms prescribed by the tax commissioner which show as to each investment in the angel fund the following:

- (1) The name, address, and social security number or federal employer identification number of the taxpayer or passthrough entity that made the investment;
 - (2) The dollar amount remitted by the taxpayer or passthrough entity; and
 - (3) The date the payment was received by the angel fund for the investment.
- j. Within thirty days after the end of a calendar year, the angel fund shall file with the tax commissioner a report showing the name and principal place of business of each enterprise in which the angel fund has an investment.

SECTION 2. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Corporate credit for contributions to rural leadership North Dakota.

There is allowed a credit against the tax imposed by section 57-38-30 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.

SECTION 3. 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. For the first twenty-five thousand dollars of taxable income, at the rate of one and ~~sixty-eight~~forty-eight hundredths percent.
2. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~four~~three and ~~twenty-three~~seventy-three hundredths percent.
3. On all taxable income exceeding fifty thousand dollars, at the rate of ~~five~~four and ~~fifteen~~fifty-three hundredths percent.

SECTION 4. 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:
 Not over ~~\$34,500~~\$36,250
 Over ~~\$34,500~~\$36,250
 but not over ~~\$83,600~~\$87,850
 Over ~~\$83,600~~\$87,850
 but not over ~~\$174,400~~\$183,250
 Over ~~\$174,400~~\$183,250
 but not over ~~\$379,150~~\$398,350
 Over ~~\$379,150~~\$398,350

The tax is equal to:
 1.51%1.22%
~~\$520.95~~\$442.25 plus 2.82%2.27%
 of amount over ~~\$34,500~~\$36,250
~~\$1,905.57~~\$1,613.57 plus 3.43%2.52%
 of amount over ~~\$83,600~~\$87,850
~~\$4,747.64~~\$4,017.65 plus 3.63%2.93%
 of amount over ~~\$174,400~~\$183,250
~~\$12,180.04~~\$10,320.08 plus 3.99%3.22%
 of amount over ~~\$379,150~~\$398,350

b. Married filing jointly and surviving spouse.

If North Dakota taxable income is:
 Not over ~~\$57,700~~\$60,650
 Over ~~\$57,700~~\$60,650
 but not over ~~\$139,350~~\$146,400
 Over ~~\$139,350~~\$146,400
 but not over ~~\$212,300~~\$223,050
 Over ~~\$212,300~~\$223,050
 but not over ~~\$379,150~~\$398,350
 Over ~~\$379,150~~\$398,350

The tax is equal to:
 1.51%1.22%
~~\$871.27~~\$739.93 plus 2.82%2.27%
 of amount over ~~\$57,700~~\$60,650
~~\$3,173.80~~\$2,686.46 plus 3.43%2.52%
 of amount over ~~\$139,350~~\$146,400
~~\$5,457.14~~\$4,618.04 plus 3.63%2.93%
 of amount over ~~\$212,300~~\$223,050
~~\$11,513.79~~\$9,754.33 plus 3.99%3.22%
 of amount over ~~\$379,150~~\$398,350

c. Married filing separately.

If North Dakota taxable income is:
 Not over ~~\$28,850~~\$30,325
 Over ~~\$28,850~~\$30,325
 but not over ~~\$69,675~~\$73,200
 Over ~~\$69,675~~\$73,200
 but not over ~~\$106,150~~\$111,525
 Over ~~\$106,150~~\$111,525
 but not over ~~\$189,575~~\$199,175
 Over ~~\$189,575~~\$199,175

The tax is equal to:
 1.51%1.22%
~~\$435.64~~\$369.97 plus 2.82%2.27%
 of amount over ~~\$28,850~~\$30,325
~~\$1,586.90~~\$1,343.23 plus 3.43%2.52%
 of amount over ~~\$69,675~~\$73,200
~~\$2,728.57~~\$2,309.02 plus 3.63%2.93%
 of amount over ~~\$106,150~~\$111,525
~~\$5,756.90~~\$4,877.17 plus 3.99%3.22%
 of amount over ~~\$189,575~~\$199,175

d. Head of household.

If North Dakota taxable income is:
 Not over ~~\$46,250~~\$48,600
 Over ~~\$46,250~~\$48,600
 but not over ~~\$119,400~~\$125,450
 Over ~~\$119,400~~\$125,450
 but not over ~~\$193,350~~\$203,150
 Over ~~\$193,350~~\$203,150
 but not over ~~\$379,150~~\$398,350
 Over ~~\$379,150~~\$398,350

The tax is equal to:
 1.51%1.22%
~~\$698.38~~\$592.92 plus 2.82%2.27%
 of amount over ~~\$46,250~~\$48,600
~~\$2,761.24~~\$2,337.42 plus 3.43%2.52%
 of amount over ~~\$119,400~~\$125,450
~~\$5,075.84~~\$4,295.46 plus 3.63%2.93%
 of amount over ~~\$193,350~~\$203,150
~~\$11,820.38~~\$10,014.82 plus 3.99%3.22%
 of amount over ~~\$379,150~~\$398,350

e. Estates and trusts.

If North Dakota taxable income is:
 Not over ~~\$2,300~~\$2,450
 Over ~~\$2,300~~\$2,450
 but not over ~~\$5,450~~\$5,700

The tax is equal to:
 1.51%1.22%
~~\$34.73~~\$29.89 plus 2.82%2.27%
 of amount over ~~\$2,300~~\$2,450

Over \$5,450 <u>\$5,700</u>	\$123.56 <u>\$103.67</u> plus 3.13% <u>2.52%</u>
but not over \$8,300 <u>\$8,750</u>	of amount over \$5,450 <u>\$5,700</u>
Over \$8,300 <u>\$8,750</u>	\$212.77 <u>\$180.53</u> plus 3.63% <u>2.93%</u>
but not over \$11,350 <u>\$11,950</u>	of amount over \$8,300 <u>\$8,750</u>
Over \$11,350 <u>\$11,950</u>	\$323.48 <u>\$274.29</u> plus 3.99% <u>3.22%</u>
	of amount over \$11,350 <u>\$11,950</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 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.

SECTION 5. 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. 2156.

Senate Vote: Yeas 42 Nays 5 Absent 0

House Vote: Yeas 89 Nays 1 Absent 4

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