North Dakota Office of State Tax Commissioner

Income Tax Newsletter

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Tax Commissioner

May 2017

2017 Legislative Rundown

This newsletter provides a summary of the bills passed by the 2017 North Dakota Legislative Assembly that affect North Dakota's income and estate tax laws. If a bill contains changes affecting areas of the law not related to income or estate tax, this summary only covers the income and estate tax portions of the bill. For the text of the bills and other legislative information, see 65th Legislative Assembly.

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HB 1044 - Uniform Definition of Primary Sector Business

Being a primary sector business is a prerequisite to eligibility for a number of North Dakota's economic development assistance and incentive programs. In the laws governing the various programs, there are variations in how a primary sector business is defined. This bill provides for a single definition of a primary sector business and places it in Chapter 1-01, General Principles and Definitions, of the North Dakota Century Code. All other sections of the law in which the terminology "primary sector business" is used were amended to make reference to the definition placed in Chapter 1-01.

The uniform definition provides that a "primary sector business" means an individual, corporation, limited liability company, partnership, or association certified by the North Dakota Department of Commerce, Division of Economic Development and Finance, which through the employment of knowledge or labor adds value to a product, process, or service which results in the creation of new wealth. For purposes of this definition, "new wealth" means revenues generated by a business in North Dakota through the sale of products or services to customers outside North Dakota, or sales to customers in North Dakota if the products or services were previously unavailable or difficult to obtain from a business in North Dakota.

If you have questions about the primary sector business designation, call the North Dakota Commerce Department, Division of Economic Development and Finance at 701.328.5300, or go to the agency's website at www.business.nd.gov.

Statutory change: *Amended N.D.C.C. §§ 1-01-49, 10-30.5-01, 10-33-124, 26.1-50-01, 40-57.1-02, 52-02.1-01, 57-38-01.33, 57-38-30.5, 57-38.5-01, and 57-39.2-04.3.*

Effective date: *The amendment to N.D.C.C. § 57-39.2-04.3 is effective for taxable events occurring on or after July 1, 2017. The amendments to the other sections of the law are effective for taxable years beginning on or after January 1, 2017.*

HB 1045 - Angel Investor Income Tax Credit

Prior Law - "Angel Fund" Tax Credit Program: Prior law provided for an "angel fund" income tax credit program, under which an income tax credit was allowed to an individual, "C" corporation, or passthrough entity (e.g., partnership) for making an investment in a North Dakota-certified angel fund. An angel fund had to be organized for the purpose of investing in at least three primary sector nonpublicly traded businesses with annual revenues of $10 million or less. The credit was earned when the taxpayer made the investment in the angel fund, and the investment had to remain at risk in the angel fund for at least three years. The credit was equal to 45% of the amount invested, up to a maximum credit of $45,000 per tax year. An unused credit could be carried over and used on the following tax years' returns up to seven years. The maximum amount of credits allowed to a taxpayer was limited to $500,000 for all tax years, and the maximum amount of credits allowed to all investors in a specific angel fund was limited to $5 million.

New Law - "Angel Investor" Tax Credit Program: House Bill 1045 made significant changes to the law governing the angel fund income tax credit program. The changes discontinue the "angel fund" tax credit program and replace it with the "angel investor" tax credit program. Investments made in North Dakota-certified angel funds before July 1, 2017, remain subject to the prior law's provisions. The provisions of the new program apply to angel funds organized (and certified), and to investments made, on or after July 1, 2017. While some similarities remain between the programs, the legislation fundamentally alters the eligibility criteria and the workings of the credit. Under the new program, angel investors will still set up an angel fund to pool their monies; however, the income tax credit is allowed to the angel investors only when the angel fund makes a qualifying investment in a qualified business, and the credit rate will depend on whether the qualified business operates primarily inside or outside North Dakota. The following paragraphs describe the details of the new program.

Angel Investor: The income tax credit is allowed only to an individual. An individual may obtain the credit in one or both of the following ways:

- The individual is a member of a qualified angel fund.
- The individual owns an interest in a passthrough entity, such as a partnership, that is a member of a qualified angel fund.

Wherever used in this article, "angel investor" means an individual.

Qualified Angel Fund: The criteria that an angel fund must satisfy to qualify for participation under the new program are the same as the criteria under prior law, with the following additional conditions:

- It must be organized (and certified) on or after July 1, 2017.
- It must not have invested, or intend on investing during its certification period, in real estate or real estate activity. *(See the qualified business criteria later in this article for the scope of this prohibition on real estate activity.)*
- It, and the qualified businesses in which it invests, must be in compliance with federal and state securities laws.

Qualified Investment: A qualified investment is an exchange of cash for an equity (ownership) interest in a qualified business, including an exchange of cash for debt if the terms of the debt agreement include a mandatory conversion to equity. For the period July 1, 2017, through December 31, 2019, and for each subsequent two-calendar-year period thereafter, at least 50% of the qualifying investments that an angel fund makes in qualified businesses must be in ***in-state*** qualified businesses.

Qualified Business: A qualified business is one that meets the following criteria, as certified by the North Dakota Department of Commerce, Division of Economic Development and Finance:

- It is a nonpublicly traded for-profit entity with annual revenues of $10 million or less.
- It relies on research or the development of new products or processes in its plans for growth and profits.

- It is ***NOT*** any of the following:
  - A real estate holding company.
  - An entity engaged in real estate development.
  - An entity that derives its income from the sale or lease of residential or commercial real estate.
  - An entity that operates in the hotel, restaurant, convention, or hospitality industries.
  - An entity that makes any other similar use of real estate.
- It is in compliance with federal and North Dakota securities laws.

An ***in-state*** qualified business is one that meets the qualified business criteria and the following additional criteria:

- It is created under North Dakota law, or it has a satellite operation in North Dakota.
- It has its principal office in North Dakota and performs the majority of its business activity (except sales activity) in North Dakota, or it has a significant operation in North Dakota that employs or is projected to employ over 10 employees.

An ***out-of-state*** qualified business is one that meets the qualified business criteria but does not meet the in-state qualified business criteria.

Credit: The credit is allowed to an angel investor when the angel fund makes a qualified investment in a qualified business. An angel fund must separately account for each angel investor's monies placed in the angel fund. Each angel investor is allowed a credit equal to the amount of the investor's own monies included in the qualified investment multiplied by the applicable credit rate. The applicable rate is 35% if the qualified investment is made in an ***in-state*** qualified business, or 25% if the qualified investment is made in an ***out-of-state*** qualified business.

If an angel investor owns an interest in a passthrough entity that is a member of an angel fund, a credit is calculated at the passthrough entity's level by multiplying the amount of the passthrough entity's own monies included in the angel fund's qualified investment by the applicable credit rate. The angel investor owner is allowed a portion of the total credit calculated at the passthrough entity level based on the angel investor's interest in the passthrough entity. *(Note: Only those owners who are angel investors—that is, individuals—are allowed to claim their share of the passthrough entity's credit. Any portion of the passthrough entity's credit that is allocated to an owner that is not an individual, such as a corporation or another passthrough entity, is not allowed and may not be claimed on any state income tax return.)*

The following conditions and limitations apply to the credit:

- The maximum amount of credits allowed to an angel investor in a tax year is $45,000.
- An angel investor is allowed no more than $500,000 in credits over all tax years. *(Note: This applies to qualified investments made on or after July 1, 2017.)*
- If the amount of credits allowed in a tax year exceed an angel investor's tax liability, the unused portion of the allowable credits may be carried over and used on the following tax years' returns, up to a maximum of five tax years.
- The maximum amount of credits allowed to the angel investors in a specific angel fund is limited to $5 million over the life of that angel fund.
- An angel fund must hold a qualified investment in a qualified business for a minimum of three years from the date of the investment. The following exceptions apply:
  - o The investment becomes worthless.
  - o 80% or more of the qualified business's assets are sold.
  - o The qualified business is sold.
  - o The common stock of the qualified business begins trading on a public exchange.

- An angel investor dies, in which case the exception only applies to the amount of the investment made by that investor.

Angel Fund Reporting Requirements: The following reporting requirements, which were included in prior law, have been expanded to require additional information:

- **Investment Report:** Within 30 days after the date on which an angel fund makes a qualified investment in a qualified business, the angel fund must file an investment reporting form with the North Dakota Office of State Tax Commissioner (Tax Department). The report must contain the following:
  - Names, addresses, and federal identification numbers of the angel fund, angel investors, and qualified business.
  - Amount of the investment attributable to each angel investor.
  - Type of security received in exchange for the investment.
  - Type of industry in which the qualified business is engaged.
  - Any other information the Tax Department determines is necessary to administer the program.
- **Annual Report:** An angel fund must file an annual report with the Tax Department by January 31 following the end of each calendar year. The report must contain the following: (1) Name and address of each in-state and out-of-state qualified business in which the angel fund made a qualifying investment. (2) Principal place of business of each qualified business. (3) Total amount invested in each qualified business. (4) Any other information the Tax Department determines is necessary to administer the program.

Penalties: An angel fund is subject to the following new penalties:

- **$1,000 Penalty for Failure to Timely File the Investment Report:** If an angel fund fails to timely file the investment report that is required to be filed within 30 days of making a qualifying investment in a qualified business, the angel fund is subject to a $1,000 penalty for each month (or fraction of a month) the investment report is delinquent.
- **$10,000 Penalty for Failure to File the Annual Report:** If an angel fund fails to file the annual report that is required to be filed at the end of each calendar year, and if the failure continues after the Tax Department issues a 30-day notice to file, the angel fund is subject to a $10,000 penalty.
- **$10,000 Penalty for Material Omission or False Information:** If an angel fund or a representative of the fund knowingly makes a material false statement or representation, or omits a material statement or fact, in any application, report, or other document required to be filed under the program, the angel fund is subject to a $10,000 penalty.

Disallowance and Repayment of Credit: New provisions clarify that failure to comply with any of the program's provisions is cause to revoke the certification of an angel fund or a qualified business, or to disallow the credit. If a revocation of certification or the disallowance of a credit occurs, notice of the action will be provided to the affected angel fund or qualified business. Within 30 days of receipt of the notice from the state, the affected angel fund must provide notice to its angel investors. The angel investors will then have 90 days after the date of the notice to the angel fund to file an amended income tax return for each tax year in which the disallowed credit reduced the investor's tax liability. Any tax due as a result of the disallowed credit must be paid with the amended return. The Tax Department will issue an assessment to any angel investor who fails to file the amended return and pay the additional tax due by the specified due date.

Disclosure and Exchange of Tax Information: Upon written request from the chairman of Legislative Management or the chairman of a legislative standing committee, the Tax Department is required to disclose the information contained in the investment and annual reports filed by angel funds. However, the disclosure does not include an angel investor's name, address, social security number or federal employer identification number, or any other information that is confidential under state income tax law. The Tax Department, North Dakota Securities Department, and the North Dakota Department of Commerce are authorized to exchange any information obtained under the program that is necessary to administer the program.

Note: *For an angel fund organized, and for investments made,* ***before July 1, 2017,*** *the law in effect for tax years before 2017 still applies. Angel funds certified before July 1, 2017, must continue to file the annual report (Form AFI) to report the name and principal place of business of each enterprise in its portfolio; however, starting with the 2017 calendar year, House Bill 1045 provides that the annual report must include the amount invested in each enterprise.*

Statutory change: *Amended N.D.C.C. §§ 57-38-01.26 and 57-38-30.3.*
Effective date: *In general, the changes apply to taxable years beginning on or after January 1, 2017. Investments in certified angel funds made prior to July 1, 2017, are subject to the law in effect for taxable years beginning before January 1, 2017. Except for the change to the annual reporting requirement applicable to angel funds certified before July 1, 2017, the changes in the bill apply to angel funds organized and certified on or after July 1, 2017, and to investments made in qualified businesses on or after July 1, 2017.*

HB 1048, 1049, and 1050 - Repeal of Income Tax Credits

All three of these bills were introduced by the Political Subdivision Taxation Committee, which studied selected tax incentives during the 2015-16 interim. Primarily because they were not being used, the following three income tax credits were repealed:

- **HB 1048**—This bill repealed the income tax credit allowed to a C corporation for buying membership in, paying dues to, or making a contribution to a nonprofit development corporation that is certified by the North Dakota Secretary of State.
- **HB 1049**—This bill repealed the wage and salary income tax credit allowed to eligible C corporations that begin operations in North Dakota. The credit was equal to a percentage of the wages and salaries paid during the first five tax years the corporation operates in North Dakota.
- **HB 1050**—This bill repealed the microbusiness income tax credit allowed to businesses in eligible small communities in North Dakota. The credit was equal to a percentage of the increase in the levels of property purchases and wage payments over the preceding tax year's levels.

Statutory change: *Repealed N.D.C.C. §§ 57-38-01.17, 57-38-30.1, and 57-38-01.27, and amended N.D.C.C. §§ 10-33-124 and 54-35-26(3).*
Effective date: *Taxable years beginning on or after January 1, 2017.*

HB 1239 - Deduction for Stillborn Child

This bill created a new income tax deduction for an individual who gave birth to a stillborn child. The deduction is equal to the federal income tax dependency exemption amount allowed for the tax year in which the stillbirth occurred. For the 2017 tax year, this amount is $4,050. The deduction is allowed only in the tax year in which the stillbirth occurs. An individual is eligible for this deduction if both of the following apply:

- A fetal death record has been filed with the North Dakota Department of Health, Division of Vital Records, as required under N.D.C.C. § 23-02.1-20. This record must be filed in the case of a fetal death that occurs in North Dakota after a gestation period of twenty or more completed weeks.
- The individual could have claimed the child as a dependent for federal income tax purposes if the child had been born alive.

An individual claiming this deduction must be able to provide a certified copy of a North Dakota Fetal Death Record to the North Dakota Office of State Tax Commissioner. The parent(s) identified on the fetal death record or other authorized person may obtain a certified copy from the North Dakota Division of Vital Records by ordering it online at www.ndhealth.gov/vital/death.htm, or by submitting a request form by fax or mail. It can also be obtained in person at the agency's office in the Judicial Wing, State Capitol, First Floor, Room 118.

Statutory change: *Created a new subdivision under N.D.C.C. § 57-38-30.3(2).*
Effective date: *Taxable years beginning on or after January 1, 2017.*

HB 1354 - Disclosure of Deductions and Credits

Legislation passed in 2015 requires the North Dakota Legislature to review North Dakota's economic-development tax incentives every six years as a means of determining if they are serving their intended purposes in an equitable and cost-effective manner. The first six-year review cycle was initiated during the 2015-16 interim period, during which the Political Subdivision Taxation Committee conducted a review of selected income and sales tax incentives. During the course of its interim work, the Committee found that it was unable to conduct a complete review of certain incentives because the confidentiality protections in the income and sales tax laws prevented the Tax Department from disclosing data when only a few taxpayers claimed the incentive.

This bill changes the confidentiality provisions to provide that, upon receipt of a written request from the chairman of Legislative Management or the chairman of a legislative standing committee, the Tax Department must disclose the amount of any tax deduction or tax credit claimed or earned by a taxpayer. The Tax Department is required to provide notice to taxpayers of the possible disclosure of any tax deduction or credit claimed or earned by them. This bill does not authorize the Tax Department to disclose a taxpayer's name, social security number, federal employer identification number, or other information that is confidential under North Dakota's tax law.

Statutory change: *Created a new subsection under N.D.C.C. § 57-01-02.*
Effective date: *Tax incentives awarded on or after August 1, 2017.*

SB 2016 - New Jobs Training Program

This is the budget bill for Job Service North Dakota. It includes a provision that places a limit on the amount of the new jobs credit from withholding that may be awarded to employers participating in the New Jobs Training Program. The Program provides an incentive for primary-sector businesses to create new jobs through expansion of operations in, or relocation to, North Dakota. An eligible business may enter an agreement under which Job Service will develop and coordinate training of the employees filling the new job positions. The program provides a funding mechanism, called the "new jobs credit from withholding," to offset part or all of the employer's training costs. The new jobs credit from withholding refers to the amount of North Dakota income tax withheld from the wages paid to the employees filling the new jobs identified in the agreement. This bill provides that the amount of the new jobs credit from withholding allowed under new agreements entered into during the period beginning July 1, 2017, and ending June 30, 2019, is limited to $2,500,000.

Statutory change: *Not applicable. See Senate Bill 2016, § 8.*
Effective date: *Applies to new agreements entered during the period beginning July 1, 2017, and ending June 30, 2019.*

SB 2129 - Estate Tax Return Filing Requirement

Under North Dakota's estate tax law, an estate tax return must be filed for the estate of any decedent for whom a federal estate tax return is required to be filed if the federal gross estate includes any property or interest in property having a situs in North Dakota. The North Dakota estate tax is equal to the maximum federal tax credit for state death taxes allowed against the federal estate tax on a decedent's estate in North Dakota. Even though no estate has had to pay North Dakota estate tax since 2004, the last year the federal state death tax credit was in effect, North Dakota law still requires the filing of a North Dakota estate tax return if a North Dakota estate is required to file a federal estate tax return. This bill changed North Dakota's estate tax law to provide that a North Dakota estate tax return does not have to be filed unless the estate owes North Dakota estate tax, which would apply only if the federal state death tax credit is reinstated.

Statutory change: *Amended N.D.C.C. § 57-37.1-06.*
Effective date: July 1, 2017.

SB 2199 - Tax Relief for Disaster Remediation Work by an Out-of-State Business

This bill creates a new chapter in North Dakota law to provide exemptions from state and local tax obligations, including related registration requirements, to an out-of-state business or out-of-state employee who is in North Dakota during a disaster response period to perform disaster or emergency remediation work because of a state- or presidentially-declared disaster or emergency.

Out-of-State Business and Out-of-State Employee: An "out-of-state business" means an entity that (1) did not have a business presence in North Dakota before the disaster, (2) has a valid license to do business from its principal state of business, and (3) is in North Dakota to perform disaster or emergency remediation work at the request of an officer or agency of North Dakota, a political subdivision, or a business registered to do business in North Dakota. This includes an out-of-state business affiliated with a North Dakota-registered business solely through common ownership. A North Dakota agency means Job Service North Dakota, North Dakota Office of Secretary of State, North Dakota Office of State Tax Commissioner, and North Dakota Workforce safety and Insurance. An "out-of-state employee" means an individual who (1) is not a legal resident of North Dakota, (2) is employed by an out-of-state business, and (3), if applicable, has a valid license from the principal state of employment.

Disaster Response Period: The exemptions provided under the new law only apply during the "disaster response period," which is a period that begins ten days before, and ends sixty days after, the end of the declared disaster or emergency. This period may be extended by executive order of the governor. An out-of-state business or out-of-state employee who remains in North Dakota after the end of the disaster response period is subject to all applicable state and local tax requirements.

Disaster or Emergency Remediation Work: The exemptions are allowed for performing "disaster or emergency work," which means the repair or replacement of critical infrastructure that has been or is under threat of being damaged, impaired, or destroyed as a result of a state- or presidentially-declared disaster or emergency. "Critical infrastructure" means real and personal natural gas, electrical, and telecommunication transmission property so vital to the state that the incapacity or destruction of that natural gas, electrical transmission or distribution system, or telecommunications transmission system would have a debilitating impact on public health or safety and the economic and physical security of the state or region.

Exemptions: The following exemptions apply to an eligible out-of-state business or out-of-state employee:

- An out-of-state business is not considered to have established a business presence in North Dakota that would subject the business or its out-of-state employees to any state or local taxes or fees, including those related to unemployment insurance and workers' compensation, and any tax administered by the North Dakota Office of State Tax Commissioner.
- An out-of-state business or out-of-state employee is not subject to any filing or payment requirements for any state or local tax administered by Job Service North Dakota, North Dakota Office of Secretary of State, North Dakota Office of State Tax Commissioner, and North Dakota Workforce safety and Insurance.

  Note: *An out-of-state employee's sole remedy for a workplace injury during a disaster response period is the employee's out-of-state employer's workers compensation policy. Also, see "Non-exempt transaction taxes and fees" below for items that are not exempt from state or local tax under the new law.*
- An out-of-state business or out-of-state employee is not required to pay any use tax on equipment used or brought into North Dakota temporarily for use during the disaster response period, provided the equipment is removed from North Dakota within a reasonable period of time after the end of the disaster response period.
- All activity of an out-of-state business conducted in North Dakota during a disaster response period is disregarded for purposes of the filing requirements for any state or local tax on, or measured by, net or gross income or receipts. This includes a corporation income tax return for a unitary or combined group that includes an out-of-state business. For purposes of apportioning the business income of an out-of-state business or any member of its affiliated group, the apportionment factors (property, payroll, and sales) attributable to the business's activity during the disaster response period are not sourced to North Dakota.
- An out-of-state employee is not considered to have established a presence in North Dakota that would subject the employee or the out-of-state business to any filing and payment requirements under North Dakota's income tax law, including income tax withholding, or to any filing and payment requirements for any other state or local tax or fee. See "Non-exempt transaction taxes and fees" below for items that are not exempt from state or local tax.

Non-Exempt Transaction Taxes and Fees: Certain taxes and fees are not exempted under the new law. An out-of-state business and out-of-state employee are still subject to, and must pay, the following state and local taxes and fees:

- Fuel taxes
- Sales or use taxes on materials or services purchased, consumed, or used in North Dakota
- Hotel taxes
- Car rental taxes or fees on vehicles acquired for use in North Dakota

Notification of Presence in North Dakota for Disaster or Emergency Remediation Work: An out-of-state business that enters North Dakota for the sole purpose of responding to a request to carry on qualifying disaster or emergency remediation work must provide written notice of this to Job Service North Dakota, North Dakota Office of Secretary of State, North Dakota Office of State Tax Commissioner, and North Dakota Workforce Safety and Insurance. If an out-of-state business is affiliated with a North Dakota-registered business through common ownership, the North Dakota-registered business is required to provide the notification on behalf of the out-of-state business affiliate. The notice must include all of the following for the out-of-state business:

- Name
- Principal business address
- Federal employer identification number
- State of domicile

- Date of entry into North Dakota
- Contact information *(if applicable, include tax matters person)*
- Proof of workers' compensation insurance coverage for its employees

Statutory change: *Created N.D.C.C. ch. 37-17.5.*
Effective date: *August 1, 2017.*

SB 2283 - Tax Incentive Eligibility Contingent on No State or Local Tax Delinquency

This bill adds a new section to the law governing the general powers and duties of the tax commissioner. The new section requires taxpayers to be current on all state and local tax obligations, and in some cases requires taxpayers to obtain state and local tax clearances, before claiming certain state and local tax incentives claimed or granted on or after August 1, 2017. The new requirements are summarized below.

General Requirement: A person may not claim a state or local tax incentive identified under N.D.C.C. § 54-35-26 unless the person has satisfied all state and local tax obligations and tax liens of record for taxes owed to North Dakota or any of its political subdivisions. Following are the tax incentives identified under N.D.C.C. § 54-35-26:

- Renaissance zone credits and exemptions
- Research expense credit
- Agricultural commodity processing facility investment credit
- Biodiesel fuel production facility construction or retrofit credit
- Biodiesel fuel blending credit
- Biodiesel fuel equipment credit
- Seed capital investment credit
- Internship program credit
- Angel fund investment credit
- Workforce recruitment credit
- Soybean or canola crushing facility construction or retrofit credit
- Manufacturing automation equipment credit
- New or expanding business income or property tax exemption
- Manufacturing and recycling equipment sales tax exemption
- Coal severance and conversion tax exemptions
- Oil and gas gross production and oil extraction tax exemptions
- Fuel tax refunds for certain users
- New jobs credit from income tax withholding
- Development or renewal area incentives
- Sales and use tax exemption for materials used to construct a fertilizer or chemical processing facility
- Sales and use tax exemption for materials used in compressing, gathering, collecting, storing, transporting, or injecting carbon dioxide for use in enhanced recovery of oil or natural gas
- Sales and use tax exemption for enterprise information technology equipment and computer software used in a qualified data center

State Tax Incentive: To claim a state tax incentive *(identified in the above list)*, a person must attach to the applicable return or other document a copy of a property tax clearance record obtained from each North Dakota county in which the person has a 50% or more ownership in real property.

Local Tax Incentive: Before a city or county may grant a local tax incentive *(identified in the above list)*, the person applying for the incentive must not be delinquent on any property tax in North Dakota. In addition, the person must provide to the city or county a copy of a state tax clearance record obtained from the North Dakota Office of State Tax Commissioner, and a copy of a property tax clearance record from each county in which the person has a 50% or more ownership in real property.

Personal Liability: If a person applying for a state or local tax incentive is a corporation or passthrough entity, any officer, partner, governor, or managing member charged with the responsibility for the filing and payment of state or local taxes on behalf of the entity is subject to the state or property tax clearance record requirements.

Disallowance of State Tax Incentive: If a person fails to comply with these provisions, the tax commissioner is required to disallow any state tax incentive *(identified in the above list)* claimed by the person, and assess any tax due resulting from the disallowance under the applicable audit and assessment provisions of law.

Statutory change: *Created a new section under N.D.C.C. ch. 57-01.*
Effective date: *Applies to tax incentives claimed or granted on or after August 1, 2017.*

Other Information

Housing Incentive Fund Income Tax Credit

The income tax credit allowed for making a contribution to the North Dakota Housing Incentive Fund expired at the end of the 2016 tax year. The 2017 North Dakota Legislature did not extend the program and the credit is no longer available for tax years 2017 and after. However, taxpayers with unused credits attributable to contributions made in the 2011 through 2016 tax years may continue to carry them over to subsequent tax years under their respective ten-year carryover periods.

Automation Income Tax Credit

The income tax credit allowed for purchasing machinery and equipment to automate a manufacturing process is set to expire at the end of the 2017 tax year. The 2017 North Dakota Legislature did not extend the program and 2017 is the last tax year the credit will be available.

The credit is allowed for purchasing machinery and equipment for the purpose of automating a manufacturing process in North Dakota. A purchase includes acquiring qualifying machinery and equipment through a capital lease agreement. The credit is equal to 20% of the cost of the machinery and equipment approved by the Department of Commerce Division of Economic Development and Finance (EDF). In the case of a capital lease, the cost is the fair market value of the machinery or equipment at the inception of the lease. The business must be certified by EDF as a primary sector business to be eligible for the credit. An unused credit may be carried forward up to five tax years. In the case of a passthrough entity, such as a partnership or S corporation, the credit is passed through to its owners in proportion to their ownership interests.

The credit allowed to a corporation included in a consolidated North Dakota income tax return may be used to reduce the aggregate tax liability of all corporations in the return. The total credits allowed for all qualifying purchases by all taxpayers is limited to $500,000 for purchases made during the 2017 calendar year. If the total credits attributable to qualifying purchases during the calendar year exceed the $500,000 limit on total allowable credits, the $500,000 of available credits must be prorated among the taxpayers based on their respective qualifying purchases.

Assistance

To assist you in your tax preparation work, the following phone numbers and e-mail addresses are provided for your convenience.

General Information

Phone	701.328.7088
Toll free	877.328.7088
TDD (ask for 701.328.7088)	800.366.6888
Fax	701.328.3700
Email	taxinfo@nd.gov

Taxpayer Services (correction notices, calculation worksheets, information requests)

Phone	701.328.1242

Individual Income Tax

Phone	701.328.1247
Email	individualtax@nd.gov

Partnership, S Corporation, Trust and Estate Income Tax

Phone	701.328.1258
Email	individualtax@nd.gov

Corporation Income Tax

Phone	701.328.1249
Email	corptax@nd.gov

Income Tax Withholding from Wages (for employers)

Phone	701.328.1248
Email	withhold@nd.gov

Income Tax Withholding from Oil and Gas Royalties

Phone	701.328.1247
Email	individualtax@nd.gov

Collections (tax due statements, lien notices, payment plans)

Phone	701.328.1244

Business Registration

Phone	701.328.1241
Email	taxregistration@nd.gov

Additional contact information can be found on the Office of State Tax Commissioner's website at www.nd.gov/tax under Contact Us.