2019

North Dakota Corporate Income Tax Credits

NORTH DAKOTA

Ryan Rauschenberger
Tax Commissioner

Go to www.nd.gov/tax for
tax forms, guidelines, FAQs and more.

Email additional tax questions to
corptax@nd.gov

Table of Contents

New for 2019

A summary of the 2019 legislative changes affecting corporate income tax credits is below. See the instructions for each separate credit in this booklet for additional details.

Automation tax credit - reinstated
The income tax credit for the purchase of automation equipment that expired after 2017 was reinstated beginning with purchases January 1, 2019. The credit is similar to the previous automation tax credit that existed. The credit is for up to 20% of the cost of equipment purchased or leased to automate a manufacturing process, with a statewide cap of $1 million of credits for each calendar year. New requirements were added that require improved job quality or productivity, which is to be reported on within one year of earning a credit. Current law provides for the credit for four tax years – 2019 through 2022 – after which it is set to expire.

Contributions to nonprofit private schools – limitation increased
The three existing credits for contributions to nonprofit private schools (primary education, secondary education, and higher education) each have a limit based on tax. This limitation was raised from 20% to 25% of the tax. Current law provides this new limit for tax years 2019 and 2020 only.

Research tax credit – alternative simplified method provided
For credits earned beginning with tax year 2019, an alternative simplified computation (ASC) method is allowed for computing the research tax credit. The ASC method is similar to the computation provided for in computing the federal research credit, such as not utilizing a base amount concept and providing for different credit rates as compared to the regular method.

Credit for employment of disabled person – various
A variety of changes were made to this credit, including allowing employers other than C-corporations to earn the credit. Also, to earn the credit, the employer must apply to the Department of Human Services for a determination that an employee qualifies for the program, which is limited to 100 employees for the two-year period of 2019 and 2020. Current law provides for these specific changes to expire after the 2020 tax year.

Special Reminder
Note that when claiming certain credits, a taxpayer must complete and include with its tax return a Property Tax Clearance Record form as certification that it is in good standing with each county the corporation (and its responsible officers) own at least a fifty percent interest in real property. The instructions in this booklet indicate which tax credits include the requirement.

Lines 1, 2, and 3

Contributions to nonprofit private colleges, high schools and primary schools

North Dakota Century Code (N.D.C.C.) § 57-38-01.7

Tax credits are allowed for contributions to qualifying nonprofit private primary, secondary and higher education schools located in North Dakota. A separate credit is allowed for each category of school. To qualify, a contribution must be made directly to or specifically designated for the exclusive use of a qualifying school. If a contribution is made to an account, fund, or entity benefiting both qualifying and nonqualifying schools, it qualifies for the credit only if the entity provides the donor with a statement showing the amount specifically designated for the use of the qualifying school.

If a contribution is made to a qualifying school that provides education in one or more grades in both the primary school category (K through 8th grades) and secondary school category (9th through 12th grades), a separate credit is allowed for the amount contributed to each category of school. Unless the school provides the donor with a statement showing the amount specifically designated for the use of each category of school, one-half of the contribution will be deemed to have been made to each category of school. A corporation may elect to treat a contribution as having been made during a tax year if made on or before the due date, including extensions, for filing Form 40 for that tax year.

Following are the qualifying schools in each category of institutions, but can be subject to change:

Grade schools

Academy for Children (Fargo)
Anne Carlsen Center (Jamestown)
Bishop Ryan Catholic School (Minot)
Brentwood Adventist Christian School (Bis)
Cathedral of the Holy Spirit Elementary School (Bismarck)
Children's Montessori Center (Fargo)
Christ the King Elem School (Mandan)
Dakota Memorial School (Minot)
Dakota Montessori School (Fargo)
Forest River School (Fordville)
Grace Lutheran Elem School (Fargo)
Grand Forks Montessori Academy (GF)
Hillcrest SDA School (Jamestown)
Holy Family - St. Mary's Elem School (GF)
Holy Spirit Elem School (Fargo)
Hope Christian Academy (Dickinson)
Invitation Hill Adventist School (Dickinson)
Johnson Corners Christian Academy (Watford City)
Little Flower Elementary School (Rugby)
Martin Luther School (Bismarck)
Missouri Valley Montessori School (Bis)
Nativity Elementary School (Fargo)
New Testament Baptist Christian School (Larimore)
Oak Grove Lutheran Elem School (Fargo)
Ojibwa Indian School (Belcourt)
Our Redeemer's Christian School (Minot)
Prairie Learning Education Center (Raleigh)
Prairie Voyager Adventist School (GF)
Red River Adventist Elem School (Fargo)
Shanley High-Sullivan Middle School (Fargo)
Shiloh Christian School (Bismarck)
St. Alphonsus Elementary School (Langdon)
St. Anne Elementary School (Bismarck)
St. Ann's Catholic School (Belcourt)
St. Bernard Mission School (Fort Yates)
St. Catherine Elem School (Valley City)
St. John's Academy (Jamestown)
St. John's Elementary School (Wahpeton)
St. Joseph Elementary School (Mandan)
St. Joseph Elementary School (Devils Lake)
St. Joseph's Elementary School (Williston)
St. Mary's Academy (Bismarck)
St. Mary's Elementary School (Bismarck)
St. Michael's Elementary School (GF)
The Innovation School (Bismarck)
Trinity Elementary East School (Dickinson)
Trinity Elementary North School (Dickinson)
Trinity Elementary School (West Fargo)
Trinity Elementary West School (Dickinson)
Trinity Jr/High School (Dickinson)
Victory Christian School (Jamestown)
Wichakini Owayawa Elementary School (Fort Yates)
Williston Trinity Christian School (Williston)

High schools

Anne Carlsen Center (Jamestown)
Bishop Ryan Catholic School (Minot)
Dakota Adventist Academy (Bismarck)
Dakota Memorial School (Minot)
Hope Christian Academy (Dickinson)
Johnson Corners Christian Academy (Watford City)
New Testament Baptist Christian School (Larimore)
Oak Grove Lutheran High School (Fargo)
Our Redeemer's Christian School (Minot)
Prairie Learning Education Center (Raleigh)
Shanley High-Sullivan High School (Fargo)
Shiloh Christian School (Bismarck)
St. Mary's Central High School (Bismarck)
Trinity Jr/High School (Dickinson)
Williston Trinity Christian School (Williston)

Colleges

Jamestown College (Jamestown)
North Dakota Independent College Fund
Trinity Bible College (Ellendale)
Turtle Mountain Community College (Belcourt)
United Tribes Technical College (Bismarck)
University of Mary (Bismarck)

The tax credit for contributions made to all eligible schools in ***each*** category of institution is equal to the lesser of:

- 50% of the contributions but not to exceed 25% of the total North Dakota income tax due for each corporation;
- $2,500.

A corporation that holds an interest in a passthrough entity that qualifies for any of the three credits may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends.

Enter on line 1 the tax credit computed for contributions to nonprofit private institutions of higher education *(and the North Dakota Independent College Fund)*.

Enter on line 2 the tax credit computed for contributions to nonprofit private institutions of secondary education.

Enter on line 3 the tax credit computed for contributions to nonprofit private institutions of primary education.

For each contribution, attach a copy of a receipt from the nonprofit private institution or a copy of a cancelled check or a copy of donee statement *(front and back)*.

Lines 4 and 5

Geothermal, solar, wind or biomass energy device credits

N.D.C.C. § 57-38-01.8

A corporation may claim a tax credit for the cost of acquisition and installation of a geothermal, solar, wind, or biomass energy device installed before January 1, 2015. For a wind energy device only, a credit may be earned for a device installed after December 31, 2014, and before January 1, 2017, if construction commenced prior to January 1, 2015. The credit is equal to 3% of the cost of the device, each year for five years. The device must be installed in North Dakota on property owned or leased by the taxpayer.

- "Biomass energy device" means a system using agricultural crops, wastes, or residues; wood or wood wastes or residues; animal wastes; landfill gas; or other biological sources to produce fuel or electricity.
- "Geothermal energy device" means a system or mechanism or series of mechanisms designed to provide heating or cooling or to produce electrical or mechanical power, or any combination of these, by a method which extracts or converts the energy naturally occurring beneath the earth's surface in rock structures, water, or steam.
- "Solar or wind energy device" means a system or mechanism or series of mechanisms designed to provide heating or cooling or to produce electrical or mechanical power, or any combination of these, or to store any of these, by a method which converts the natural energy of the sun or wind.

If a geothermal, solar, wind or biomass energy device is part of a system which uses other means of energy, only that portion of the total system directly attributable to the cost of the geothermal, solar, wind or biomass energy device may be included in determining the amount of the credit. The costs of installation may not include costs of redesigning, remodeling, or otherwise altering the structure of a building in which a geothermal, solar, wind or biomass energy device is installed.

For such devices installed after December 31, 2006, if ownership of the device is transferred when installation is complete and the device is fully operational, a purchaser of the device is eligible to claim the credit, rather than the installer of the device. Subsequent purchasers of the device are not eligible for the tax credit.

A corporation that holds an interest in a passthrough entity that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends.

Corporate taxpayers in a consolidated combined return may apply the credit against the aggregate tax liability on their North Dakota income tax return.

The credit may not exceed the corporation's income tax liability. Any excess tax credits earned for wind energy devices installed after September 30, 2008, and before January 1, 2012, may be carried forward to each of the thirty succeeding taxable years. Any excess tax credits for geothermal, solar, or biomass energy devices installed after September 30, 2008, and wind energy devices installed after December 31, 2011, may be carried forward to each of the ten succeeding taxable years.

Enter on line 4 the tax credit for an energy device installed before January 1, 2015 being carried over from prior years.

Enter on line 5 the tax credit for a wind energy device installed after December 31, 2014 and before January 1, 2017.

Attach a worksheet substantiating date of purchase, actual cost of acquisition and installation, and computation of the tax credit. If the tax credit is received through a passthrough entity, attach a statement showing the passthrough entity's name and Federal Employer Identification Number, and a copy of the statement received from the passthrough entity.

Line 6

Employment of individuals with developmental disabilities or severe mental illness credit

N.D.C.C. § 57-38-01.16

A tax credit is available to a corporation for employing an individual with a developmental disability or severe mental illness. To qualify, the corporation must apply for and obtain certification from the North Dakota Department of Human Services, Vocational Rehabilitation Division, that the individual has a severe disability, is eligible for the agency's services, and requires customized employment to become employed. The credit is equal to 25% of the wages paid to the individual during the tax year, up to a maximum credit of $1,500 per employee. The program's provisions are limited to 100 individuals for the two-year period of January 1, 2019 through December 31, 2020, after which the program would expire unless extended by new law.

Attach a copy of the certification letter from Human Services. If the credit is received through a passthrough entity, attach a copy of the statement received from the passthrough entity.

Line 7

Research and experimental expenditure credits generated by the taxpayer

N.D.C.C. § 57-38-30.5

Property Tax Clearance Record Required

A corporation incurring research and experimental expenditures within North Dakota is entitled to a tax credit.

A worksheet must be attached showing computation of the base amount and credit.

The credit is based on the amount of qualified research expenses incurred in North Dakota in excess of the North Dakota base amount. The amount of the credit is 25% of the first $100,000 in excess of the base amount, plus 8% of the amount over $100,000 in excess of the base amount. (Note that in prior tax years, different percentages were applicable.)

For a taxpayer which first earned or claimed a credit in a tax year beginning before January 1, 2007, the maximum credit that may be earned for a taxable year is $2 million. Any credit earned in excess of $2 million may not be carried back or forward.

"Base amount" means base amount as defined in section 41(c) of the I.R.C. [26 U.S.C. 41(c)], except it does not include research conducted or sales outside the state of North Dakota.

"Qualified research" means qualified research as defined in section 41(d) of the I.R.C. [26 U.S.C. 41(d)], except it does not include research conducted outside the state of North Dakota. The qualified research expenses may not exceed 50% of the base amount.

Tax credits that exceed the current income tax liability, must be carried back for three years and then carried forward for up to fifteen years. A claim to carry back credits must be filed within three years of the due date or extended due date of the return for the taxable year in which the credit was earned.

If a taxpayer acquires or disposes of the major portion of a trade or business or the major portion of a separate unit of a trade or business in a transaction with another taxpayer, the taxpayer's qualified research expenses and base period must be adjusted in the manner provided by I.R.C. § 41(f)(3).

Corporate taxpayers in a consolidated combined return may apply the credit against the aggregate tax liability on their North Dakota income tax return. NOTE: This provision does not apply to tax credits received or purchased from other taxpayers (see "Line 8" below).

A corporation that holds an interest in a passthrough entity that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends.

Alternative Simplified Computation Method

Beginning with tax year 2019, a taxpayer may elect to compute its credit using the Alternative Simplified Computation (ASC) method. The ASC method largely mirrors the ASC method included in federal law. A taxpayer may elect to use the ASC method regardless of whether the ASC method is used on its federal tax return. Under the ASC method, the North Dakota credit is equal to the sum of the following:

- 17.5% of the first $100,000 of North Dakota alternative excess research and development expenses for the year.
- 5.6% of the North Dakota alternative excess research and development expenses in excess of $100,000 for the year.

North Dakota alternative excess research and development expenses means the amount by which qualified research expenses incurred in North Dakota exceed 50% of the average qualified research expenses incurred in North Dakota for the three tax years preceding the tax year for which the credit is being determined. Under the ASC method, if zero qualified research expenses were incurred in any of the three preceding tax years, the North Dakota credit for a tax year is equal to the sum of 7.5% of the first $100,000 of qualified research expenses plus 2.4% of qualified research expenses in excess of $100,000.

The ASC method may not be used to calculate the North Dakota research credit for any tax year prior to 2019. A taxpayer may choose between the regular method and the ASC method each tax year. However, the method of computing the credit as shown on the tax return is binding for that tax year, so the method may not be changed with a subsequent amended return.

Line 8

Research and experimental expenditures credit purchased by the taxpayer

Property Tax Clearance Record Required

A taxpayer that is certified as a qualified research and development company may elect to sell, transfer or assign the unused research and experimental expenditure tax credits earned. A qualified research and development company is defined as a company that:

- is a primary sector business,
- has less than $750,000 in annual gross revenues, and
- has not previously conducted research and development in North Dakota.

For more information on the certification process or to apply for certification, contact the Director of the North Dakota Department of Commerce Division of Economic Development and Finance at 701.328.5300 or access their website at www.business.nd.gov. Certification applications may be accessed on the Department of Commerce's website.

For the sale, transfer or assignment of the credits, the transferor and transferee must jointly submit Form CTS. Contact the Office of State Tax Commissioner for a Form CTS. The form must be filed within 30 days after the date of the transfer and is used to report the various information regarding the transaction as required by law.

- A taxpayer's total credit assignment may not exceed $100,000 over any combination of taxable years.
- The purchaser of the tax credit shall claim the credit beginning with the taxable year in which the credit purchase agreement was fully executed by the parties.
- The original purchaser of the tax credit may not sell, assign, or transfer the credit purchased. The purchaser is not allowed to carry back any unused credits.
- If the amount of the credit available is changed as a result of an amended return filed by the transferor, or as the result of an audit conducted by the IRS or the Tax Commissioner, the transferor shall report to the purchaser the adjusted credit amount within thirty days of the amended return or within thirty days of the final determination made by the IRS or the Tax Commissioner. The tax credit purchaser is required to file amended returns reporting the additional tax due or to claim a refund. The Tax Commissioner may audit these returns and assess or issue refunds, even though other time periods prescribed may have expired for the purchaser.
- Gross proceeds received by the tax credit transferor must be assigned to North Dakota. The amount assigned cannot be reduced by the taxpayer's income apportioned to North Dakota or any North Dakota net operating loss of the taxpayer.

- Net proceeds received by the tax credit transferor should be excluded from North Dakota taxable income on Form 40, Schedule SA, line 15.
- The Tax Commissioner has four years after the date of the credit assignment to audit the returns of the credit transferor and the purchaser to verify the correctness of the amount of the transferred credit and if necessary assess the credit purchaser if additional tax is found due.

Line 9
Renaissance zone credits
N.D.C.C. ch. 40-63

Property Tax Clearance Record Required

A corporation may qualify for a credit for purchasing, leasing, or making improvements to real property located in a North Dakota renaissance zone. A renaissance zone is a designated area within a city that is approved by the North Dakota Department of Commerce Division of Community Services. For more information, contact the local zone authority, the Department of Commerce Division of Community Services, or the Office of State Tax Commissioner.

If a corporation is claiming a tax credit as a result of the Renaissance Zone Act, enter the total amount of credits from the summary part of Schedule RZ and attach the Schedule RZ to the Form 40 when filed. Contact the Office of State Tax Commissioner for Schedule RZ or access the schedule on our website at www.nd.gov/tax/incentives/renaissance.

A corporation that holds an interest in a passthrough entity that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends. A copy of the statement received from the passthrough entity must be attached to the Form 40 along with the Schedule RZ.

A corporation may also be eligible to claim exempt income as a result of the Renaissance Zone Act. See Schedule RZ for more information on this exemption.

Line 10
Biodiesel or green diesel production credit
N.D.C.C. § 57-38-30.6

Property Tax Clearance Record Required

A corporation is allowed an income tax credit equal to 10% per year for five years of the direct costs incurred to adapt or add equipment to retrofit an existing facility or to construct a new facility in North Dakota to produce or blend diesel fuel containing at least 2% biodiesel or green diesel volume. "Biodiesel" means fuel meeting the specifications adopted by the American Society for Testing and Materials. "Green diesel" means a fuel produced from nonfossil renewable resources, including agricultural or silvicultural plants, animal fats, residue, and waste generated from the production, processing, and marketing of agricultural products, silvicultural products, and other renewable resources, which meets applicable American society for testing and materials specifications.

The first taxable year in which the credit may be claimed is the taxable year in which the facility begins producing or blending biodiesel or green diesel fuel. Eligible costs incurred before the taxable year in which production or blending begins are taken into account in calculating the credit.

The credit may not exceed the corporation's tax liability in any year, but any unused portion of a taxable year's credit may be carried forward for up to five taxable years. The maximum cumulative credit allowed to a taxpayer for all taxable years is limited to $250,000.

Attach a worksheet showing the calculation of the credit.

Line 11
Soybean and canola crushing equipment costs credit
N.D.C.C. § 57-38-30.6

Property Tax Clearance Record Required

Effective for tax years beginning after December 31, 2008, the biodiesel fuel production credit (Line 10) was amended to include direct costs incurred to adapt or add equipment to retrofit an existing facility or to construct a new facility for the purpose of producing crushed soybeans or canola. Refer to Line 10 for further instructions on claiming this credit.

Line 12
Seed capital business investment tax credit
N.D.C.C. ch. 57-38.5

Property Tax Clearance Record Required

A tax credit is available to a corporation or a limited liability company treated like a corporation for its investment in a qualified business certified to participate in the seed capital investment program. The amount of the allowable credit is equal to 45% of the amount invested by the taxpayer in qualified businesses during the taxable year. The maximum annual credit a taxpayer may claim is $112,500. The maximum cumulative amount a qualified business may claim for all tax years is limited to $500,000.

For an investment to qualify it must be made on or after the date the business was certified by the North Dakota Department of Commerce for the program and must be claimed first in the taxable year in which the investment is received by the qualified business. The investment must be at risk and must remain in the business for at least three years. Investment monies placed in escrow are not at risk until paid out of escrow to the qualified business for its use.

A corporation that holds an interest in a passthrough entity that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends.

The amount of the allowable credit not used in the taxable year the investment was made may be carried over to the following four taxable years.

The amount of tax credits allowed for all investments made in all qualified businesses is limited to $3.5 million per calendar year.

A copy of the completed qualified seed capital business investment reporting form (see: www.nd.gov/tax/incentives/income) must be attached to the Form 40 for each year the credit is claimed, or if the credit is received through a passthrough entity, a copy of the statement received from the passthrough entity must be attached.

Line 13

Biodiesel or green diesel fuel blending credit

N.D.C.C. § 57-38-01.22

Property Tax Clearance Record Required

A fuel supplier (wholesaler) licensed under North Dakota law that blends biodiesel fuel in North Dakota is entitled to an income tax credit equal to five cents for each gallon blended during the taxable year. To qualify, the biodiesel or green diesel fuel must have at least a 5% blend ("B5"). "Biodiesel" means fuel meeting the specifications adopted by the American Society for Testing and Materials. "Green Diesel" means a fuel produced from nonfossil renewable resources, including agricultural or silvicultural plants, animal fats, residue, and waste generated from the production, processing, and marketing of agricultural products, silvicultural products, and other renewable resources, which meets applicable American society for testing and materials specifications.

The credit for blending biodiesel may only be earned on the initial blending of B100. Subsequent blending of gallons of other than B100 does not earn a credit.

If the credit exceeds the tax liability, the unused portion of the credit may be carried forward for five taxable years.

A corporation that holds an interest in a passthrough entity that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends.

Attach a worksheet showing the calculation of the credit, or if the credit is received through passthrough entity, attach a statement showing the passthrough entity's name and Federal Employer Identification Number and the corporation's share of the credit.

Line 14

Biodiesel or green diesel fuel sales equipment costs credit

N.D.C.C. § 57-38-01.23

Property Tax Clearance Record Required

A fuel seller (retailer) that incurs costs to adapt or add equipment to a facility licensed under North Dakota law to enable the facility to sell diesel fuel containing at least 2% biodiesel fuel by volume is entitled to an income tax credit. "Biodiesel" means fuel meeting the specifications adopted by the American Society for Testing and Materials. "Green Diesel" means a fuel produced from nonfossil renewable resources, including agricultural or silvicultural plants, animal fats, residue, and waste generated from the production, processing, and marketing of agricultural products, silvicultural products, and other renewable resources, which meets applicable American society for testing and materials specifications.

The credit is equal to 10% of the seller's direct costs incurred to adapt or add the equipment. The credit is allowed in each of five taxable years, beginning with the taxable year in which the seller begins selling the eligible biodiesel or green diesel fuel. The portion of the credit not used in each year may be carried forward for five taxable years. A seller may claim no more than $50,000 in credits for all taxable years. Eligible costs incurred before the taxable year in which sales begin may be included in the calculation of the credit.

A corporation that holds an interest in a passthrough entity that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends.

Attach a worksheet showing the calculation of the credit, or if the credit is received through a passthrough entity, attach a statement showing the passthrough entity's name and Federal Employer Identification Number and the corporation's share of the credit.

Line 15

Agricultural commodity processing facility investment credit

N.D.C.C. ch. 57-38.6

Property Tax Clearance Record Required

A tax credit is available to a corporation or a limited liability company treated like a corporation for its investment in a qualified business certified or recertified to participate in the agricultural commodity processing facility investment tax credit program.

An agricultural commodity processing facility means "a facility that through processing involving the employment of knowledge and labor adds value to an agricultural commodity capable of being raised in this state" and includes a livestock feeding, handling, milking, or holding operation that uses as part of its operation a by-product produced at a biofuels production facility. A biofuels production facility is a North Dakota business that produces diesel fuel containing at least 5% biodiesel or green diesel, produces corn-based or cellulose-based ethanol, or crushes soybeans or canola.

The allowable credit is equal to 30% of the total amount invested in all qualified agricultural commodity processing businesses during the taxable year. For an investment to qualify for the credit, the processing facility must have been previously certified for eligibility by the North Dakota Department of Commerce. The maximum allowable credit that may be used in any taxable year is $50,000 and the investment must be made on or after the effective date in which the business became certified. The investment must be at risk and must remain in the business for at least three years. Investment monies placed in escrow are not at risk until paid out of escrow to the qualified business for its use.

A qualified investment may include a transfer of a fee simple interest in real property. In that case, the following conditions apply:

- Personal property that becomes a fixture to the real property after the transfer of the real property to the qualified business is not a qualified investment.
- The value of the contribution may not exceed the appraised value as established by a licensed or certified appraiser.
- The value of the contribution must be approved by the governing body of the qualified business, subject to the standards for valuing consideration for shares under North Dakota corporation law.
- The qualified business is required to provide to the Tax Commissioner a copy of the appraised valuation, a copy of the governing body's resolution approving the value of the contribution, and a copy of the statement of full consideration within thirty days after the instrument transferring title to the real property is recorded with the recorder.
- The tax credit is allowed in the tax year in which the instrument transferring title to the real property is recorded with the recorder.

The tax credit must be claimed first in the taxable year in which the investment is received by the qualified business. The credit cannot exceed the taxpayer's tax liability and any tax credit not used in the taxable year the investment was made may be carried over to the following 10 taxable years. A taxpayer is allowed no more than $250,000 in credits for all tax years under this program.

A corporation that holds an interest in a passthrough entity that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends.

A copy of the completed ag commodity processing facility investment reporting form (see www.nd.gov/tax/incentives/income) must be attached to the Form 40 for each year the tax credit is claimed, or if the credit is from a passthrough entity, a copy of the statement received from the passthrough entity must be attached.

Line 16
Endowment fund contribution credit
N.D.C.C. § 57-38-01.21

A tax credit is available for a corporation that makes a charitable contribution to a qualified endowment fund.

Qualified endowment fund. A qualified endowment funds means a permanent, irrevocable fund that meets all of the following:

1. It is held by a qualified nonprofit organization *(defined below)* or by a bank or trust company on behalf of a qualified nonprofit organization.
2. It is comprised of cash, securities, mutual funds, or other investment assets.
3. It is established for a specific religious, educational, or other charitable purpose.
4. It may expend only the income generated by, or the increase in value of, the assets contributed to it.

Qualified nonprofit organization. A qualified nonprofit organization means:

1. An organization incorporated or established in North Dakota and
   - has a physical presence in North Dakota; and
   - is a tax-exempt organization under I.R.C. § 501(c) that qualifies as a charitable organization under I.R.C. § 170; or
2. An organization incorporated or established in a state bordering North Dakota that:
   - is a tax-exempt organization under I.R.C. § 501(c) that qualifies as a charitable organization under I.R.C. § 170; and
   - supports or benefits a hospital, nursing home, or medical center, or any combination of these, that is located outside North Dakota but within five miles of a North Dakota city with a population of 5,000 or more that does not have a hospital.

The credit is equal to 40% of the contribution and the maximum allowable credit for a tax year is $10,000.

North Dakota taxable income must be increased by the amount of the contribution upon which the credit is computed to the extent the contribution reduced federal taxable income. If claiming the credit, enter the amount of the contribution related to the credit claimed on line 5 of the Form 40, Schedule SA.

A corporation that holds an interest in a passthrough entity that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends.

The credit may not exceed the taxpayer's income tax liability. Any unused credit may be carried forward for three taxable years.

If the contribution is recovered, the tax credit must be added to tax due in the year recovery occurs. Contact our office for instructions on how to report the recovery of the contribution.

Attach a copy of the front and back of the cancelled check, or a receipt from the qualified nonprofit organization acknowledging its I.R.C. § 501(c)(1) status and the date and amount of the eligible contribution. If the credit is received through a passthrough entity, attach a copy of the statement received from the passthrough entity.

Line 17
Internship employment credit
N.D.C.C. § 57-38-01.24

Property Tax Clearance Record Required

A corporation who is an employer in this state may take a tax credit for qualified compensation paid to an intern employed by the taxpayer in this state.

For the internship to qualify for the credit:

- The intern must be an enrolled student in an institution of higher education or vocational technical education program, seeking a degree or certification in a major field of study closely related to the internship work experience;

- The internship must be taken for academic credit or count toward the completion of the vocational technical education program;
- The intern must be supervised and evaluated by the taxpayer; and
- The internship must be located in North Dakota.

The credit is 10% of the stipend or salary paid to the intern employed by the taxpayer and the credit cannot be claimed for more than five interns employed at the same time. A taxpayer may not claim more than $3,000 in credits for all tax years combined.

A corporation that holds an interest in a passthrough entity that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends.

Attach a schedule listing the names of the employees, their social security number and wages paid. If the credit is received through a passthrough entity, attach a copy of the statement received from the passthrough entity.

Line 18

Angel fund investment credit carried forward

N.D.C.C. § 57-38-01.26

(Effective through June 30, 2017)

Property Tax Clearance Record Required

Effective for investments made prior to July 1, 2017, a corporation was entitled to a tax credit for an investment made to a qualified angel fund which is incorporated in North Dakota.

After June 30, 2017, a corporation may no longer earn an angel fund investment credit, but may continue to carryover any unused credit that was previously earned. Any unused credit may be carried forward to each of the seven succeeding taxable years.

Line 19

Workforce recruitment credit

N.D.C.C. § 57-38-01.25

Property Tax Clearance Record Required

A corporation that is an employer in North Dakota is entitled to a credit for costs incurred during the tax year to recruit and hire employees for hard-to-fill employment positions for which the annual salary for the position meets or exceeds the state average wage.

- "Hard-to-fill employment position" means a job that requires the employer to use extraordinary recruitment methods and for which the employer's recruitment efforts for the specific position have been unsuccessful for six consecutive calendar months.
- "State average wage" means 125% of the state average wage published annually by Job Service North Dakota and which is in effect at the time the employee is hired.
- "Extraordinary recruitment methods" means using all of the following:
  - A person with the exclusive business purpose of recruiting employees and for which a fee is charged by the recruiter.
  - An advertisement in a professional trade journal, magazine, or other publication, the main emphasis of which is providing information to a particular trade or profession.
  - A website, the sole purpose of which is to recruit employees and for which a fee is charged by the website.
  - Payment of a signing bonus, moving expenses, or nontypical fringe benefits.

A credit may be claimed for 5% of the salary paid to an employee in a qualified hard-to-fill position for the first 12 consecutive months of that employee's employment in that position. The credit may be claimed in the first tax year beginning after the employee filling the hard-to-fill position has completed their first 12 consecutive months of employment in the hard-to-fill position.

Also enter on line 20, the number of qualified employees hired to claim the credit. Any unused credit may be carried forward for four succeeding taxable years.

A corporation that holds an interest in a passthrough entity that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends.

Attach a schedule listing the names of the employees, their social security numbers, wages paid and employment start date.

Line 20

Wages paid to a mobilized military employee credit

N.D.C.C. § 57-38-01.31

A tax credit is available to an employer of an employee in the National Guard or a reserve component of the U.S. armed forces who is mobilized for federal active duty under Title 10 of the U.S. Code.

The credit is equal to 25% of the lesser of:

- the amount of compensation the employer continues to pay during the period of mobilization; or
- the reduction in compensation.

Reduction in compensation is defined as the excess of the amount of compensation the employer would have paid had there been no mobilization over the total military compensation paid because of the mobilization. In determining the amount of compensation the employer would have paid, the amount may include the employer's portion of any voluntary or matching contributions paid, or that would have been paid, into a defined contribution plan. In determining the reduction in compensation, the civilian and military compensation must be compared for the same time period. If the military compensation is equal to or more than the civilian compensation, the reduction in compensation is zero and no credit is allowed.

The maximum credit allowed per eligible employee is $1,000, and the credit may not exceed the taxpayer's income tax liability.

Any unused credit may be carried foward for five taxable years.

A corporation that holds an interest in a passthrough entity that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends.

To claim this credit, attach a copy of the completed Schedule ME, Credit for Wages Paid to Mobilized Employee (see www.nd.gov/tax/incentives/income) to the Form 40. If the credit is received through a passthrough entity, a copy of the statement received from the passthrough entity must be attached.

Line 21

Housing incentive fund credit carried forward

N.D.C.C. § 57-38-01.32 (Effective through 2016)

For taxable years prior to 2017, a tax credit could be earned for a contribution to the Housing Incentive Fund. A credit that exceeded the tax liability for the year of the contribution may be carried forward up to 10 years. Include on this line any amount of credit that is carried forward from a previous year to 2019.

Attach a schedule showing the calculation of the amount carried over from prior years and claimed for 2019.

Line 22

Automation manufacturing equipment purchase credit carried forward

N.D.C.C. § 57-38-01.3

Property Tax Clearance Record Required

For taxable years prior to 2018 a tax credit was available to a corporation for purchases of equipment for the purpose of automating a manufacturing process.

A credit that exceeded the tax liability for the year the credit was earned may be carried over for up to five years. Include on this line any amount of credit that is carried over from a previous year to 2019.

Attach a schedule showing the calculation of the amount carried over from prior years and claimed for 2019.

Line 23

Automation manufacturing equipment purchase credit

N.D.C.C. § 57-38-01.36

A tax credit is available to a corporation for purchases of equipment for the purpose of automating a manufacturing process. To qualify for the credit, the corporation must be certified as a primary sector business and timely file an application with the North Dakota Department of Commerce. Visit the Department of Commerce website www.commerce.nd.gov/ for application information including deadlines and includable costs. The credit includes the following provisions:

- The credit is first allowed in the tax year in which the taxpayer takes title to the machinery and equipment. For purposes of this credit, a purchase includes equipment acquired with a capital lease.
- The credit is equal to 20% of the cost of qualifying new or used equipment purchased, as approved by the Department of Commerce.
- The equipment must result in either improved job quality or increased productivity. Improved job quality means either a 5% increase in average wages or a 5% improvement in workplace safety as documented through participation in a ND Workforce Safety & Insurance safety incentive program. Increased productivity means a 5% or more increase in either output or number of units produced per automated line per time period.
- Within one year after earning a credit, a business is required to file a report with the Office of State Tax Commissioner documenting the improved job quality or increased productivity.
- If the credit exceeds the tax liability, the excess may be carried over for up to five years.
- The total credit allowed for all qualifying purchases by all taxpayers is limited to $1 million for each calendar year. If the statewide limit for a year is met, credits are allowed to each taxpayer in proportion of all the approved credits for that year. If the statewide limit for any year is not met, the amount of unused credits are rolled over and added to the available statewide credits for the following year.
- Corporate taxpayers in a consolidated combined return may apply the credit against the aggregate tax liability on their North Dakota tax return.
- In current law, the credit is set to expire December 31, 2022.

A corporation that holds an interest in a passthrough entity that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends.

The Office of State Tax Commissioner issues a final notification of credit to the taxpayer. To claim this credit, attach to the return a copy of that letter indicating the amount of credit allowed to the taxpayer. If the credit is received through a passthrough entity, a copy of the statement received from the passthrough entity must be attached.

Line 24

Rural leadership North Dakota program contributions credit

N.D.C.C. § 57-38-01.34

A tax credit is available to a corporation for contributions to the Rural Leadership North Dakota Program conducted by the NDSU Extension Service. The credit is equal to 50% of the total contributions made during the tax year. Contributions may be designated for a specific individual. Any unused credit may not be carried over to subsequent tax years.

Enclose a copy of a receipt for each qualifying contribution or a cancelled check *(front and back)* with Form 40.

North Dakota Corporate Income Tax Credits – Credit Features at a Glance

Name of Credit	Applies to Tax Years...	Rate / Amount of Credit	Credit Limit Per Taxpayer		Other Limitations / Provisions	Unused Credit Options
			Per Tax Year	Lifetime		
Agricultural commodity processing facility investment credit NDCC ch. 57-38.6	2005 and after (see Notes)	30% of eligible investment	$50,000	$250,000	**Program limit:** ND Commerce Department may certify up to 10 qualified businesses (facilities) each calendar year.	10-year carryforward
Automation manufacturing machinery and equipment credit NDCC § 57-38-01.36	2019-2022 only	20% of purchase price			• Must improve job quality or increase productivity by statutory percentage. • Credit may be used to reduce the tax of an affiliate in a ND consolidated return. • Credit expires after 2022. • **Program limit (all taxpayers):** $1 million of credits per calendar year for 2019-22.	5-year carryforward
Biodiesel fuel blending credit NDCC § 57-38-01.22	2005 and after	$0.05 per gallon blended				5-year carryforward
Biodiesel fuel production facility credit NDCC § 57-38-30.6	2003 and after	• 10% of eligible costs • Allowed in each of first 5 tax years upon production start		$250,000		5-year carryforward
Biodiesel fuel sales equipment costs credit NDCC § 57-38-01.23	2005 and after	• 10% of eligible costs • Allowed in each of first 5 tax years upon sales start		$50,000		5-year carryforward
Canola or soybean crushing facility credit NDCC § 57-38-30.6	2009 and after	• 10% of eligible costs • Allowed in each of first 5 tax years upon production start		$250,000		5-year carryforward

North Dakota Corporate Income Tax Credits – Credit Features at a Glance

Name of Credit	Applies to Tax Years...	Rate / Amount of Credit	Credit Limit Per Taxpayer		Other Limitations / Provisions	Unused Credit Options
			Per Tax Year	Lifetime		
Credit for wages paid to mobilized employee NDCC § 57-38-01.31	2009 and after	25% of the lesser of: • actual civilian compensation paid in tax year while mobilized, or • civilian compensation employee would have received if not mobilized in excess of military compensation paid in tax year while mobilized	$1,000 per eligible employee			5-year carryforward
Developmentally disabled or severely mentally ill person employment credit NDCC § 57-38-01.16	1987-2018	5% of first $6,000 of wages paid during first 12 months of employment	50% of tax			
	2019 and 2020 only	25% of up to $6,000 of wages paid in tax year	50% of tax		• Employee must meet eligibility criteria, as certified by ND Vocational Rehabilitation Division. • **Program limit:** Only 100 individuals may be certified as eligible.	
	2021 and after	5% of first $6,000 of wages paid during first 12 months of employment	50% of tax			
Endowment fund contribution credit NDCC § 57-38-01.21	2007 and after	40% of contributions	$10,000		ND taxable income must be increased to extent contribution reduced federal taxable income.	3-year carryforward

North Dakota Corporate Income Tax Credits – Credit Features at a Glance

Name of Credit	Applies to Tax Years...	Rate / Amount of Credit	Credit Limit Per Taxpayer		Other Limitations / Provisions	Unused Credit Options
			Per Tax Year	Lifetime		
Energy device credit—biomass, geothermal, solar, or wind device NDCC § 57-38-01.8	Solar and wind: 1977-2014 (see "Other Limitations / Provisions" for exception for wind device) Geothermal: 1981-2014 Biomass: 2007-2014	• 3% of eligible costs • Allowed in each of first 5 tax years, starting in year installed			• Except for certain wind devices, device must be installed before 1/1/2015, to qualify. • For a wind device only, if construction began before 1/1/2015, it is eligible for the credit if installed before 1/1/2017. • Credit may be used to reduce the tax of an affiliate in a ND consolidated return.	All devices—If installed in tax years 2005-08 (before 10/1/2008): 5-year carryover. Biomass, geothermal, and solar devices—If installed after 9/30/2008 and before 1/1/2015: 10-year carryover. Wind device—If installed after 9/30/2008 and before 1/1/2012: 30-year carryover. Wind device—If installed after 12/31/2011 and before 1/1/2015 (or 1/1/2017, if construction began before 1/1/2015): 10-year carryover.
Housing incentive fund credit NDCC § 57-38-01.32	2011-2016	100% of contribution			• ND taxable income must be increased to extent contribution reduced federal taxable income. • **Program limit (all taxpayers):** $30 million of credits for 2015-16 tax years.	10-year carryforward
Internship employment credit NDCC § 57-38-01.24	2007 and after	10% of wages		$3,000	Limited to 5 interns per year.	
Nonprofit private primary school contribution credit (Grades K – 8) NDCC § 57-38-01.7	2015-2018	50% of contributions	Lesser of $2,500 or ***20%*** of tax			
	2019 and 2020 only	50% of contributions	Lesser of $2,500 or ***25%*** of tax			

North Dakota Corporate Income Tax Credits – Credit Features at a Glance

Name of Credit	Applies to Tax Years…	Rate / Amount of Credit	Credit Limit Per Taxpayer		Other Limitations / Provisions	Unused Credit Options
			Per Tax Year	Lifetime		
	2021 and after	50% of contributions	Lesser of $2,500 or ***20%*** of tax			
Nonprofit private high school contribution credit (Grades 9 – 12) NDCC § 57-38-01.7	1979-2018	50% of contributions	Lesser of $2,500 or ***20%*** of tax			
	2019 and 2020 only	50% of contributions	Lesser of $2,500 or ***25%*** of tax			
	2021 and after	50% of contributions	Lesser of $2,500 or ***20%*** of tax			
Nonprofit private college contribution credit NDCC § 57-38-01.7	1975-2018	50% of contributions	Lesser of $2,500 or ***20%*** of tax			
	2019 and 2020 only	50% of contributions	Lesser of $2,500 or ***25%*** of tax			
	2021 and after	50% of contributions	Lesser of $2,500 or ***20%*** of tax			
Renaissance zone: Historic property preservation or renovation credit NDCC § 40-63-06	1999 and after	50% of eligible costs			$250,000 of credits per project	5-year carryforward
Renaissance zone: Nonparticipating property owner credit NDCC § 40-63-04	1999 and after	100% of approved costs				5-year carryforward

North Dakota Corporate Income Tax Credits – Credit Features at a Glance

Name of Credit	Applies to Tax Years…	Rate / Amount of Credit	Credit Limit Per Taxpayer		Other Limitations / Provisions	Unused Credit Options
			Per Tax Year	Lifetime		
Renaissance zone: Renaissance fund organization investment credit NDCC § 40-63-07	1999 and after	50% of cash investment			**Program limit (all taxpayers):** $10.5 million of credits for all years.	5-year carryforward
Research & experimental expenditure credit— NDCC § 57-38-30.5 • Regular method	1987 and after	For 2019—Expenses in excess of base amount: • 25% of first $100,000 of excess, plus • 8% of excess over $100,000. *Note: Different rates applied in prior years, depending on when research in ND first began.*	$2 million, if ND research started before 2007		• Taxpayer may choose on a year-to-year basis to use either the regular method or the alternative simplified method, which is then binding for that year. • If certified by ND Commerce Dept. as qualified research and development company, up to $100,000 of credit may be transferred to another taxpayer. • Credit may be used to reduce the tax of an affiliate in a ND consolidated return.	• 3-year carryback • 15-year carryforward (after first being carried back) • If eligible, up to $100,000 may be transferred to another taxpayer.
• Alternative simplified method	2019 and after	Alternative excess expenses: • 17.5% of first $100,000 of excess, plus • 5.6% of excess over $100,000. Rates are 7.5% and 2.4%, respectively, if no qualified expenses in any of the 3 preceding years.				
Rural leadership ND program contributions credit NDCC § 57-38-30.5	2013 and after	50% of contributions				
Seed capital business investment credit NDCC ch. 57-38.5	2005 and after (see Notes)	45% of cash investment	$112,500		• **Program limit per business:** Credit limited to first $500,000 of investments received in all years. • **Program limit (all investors):** $3.5 million of credits per year.	4-year carryforward

North Dakota Corporate Income Tax Credits – Credit Features at a Glance

Name of Credit	Applies to Tax Years...	Rate / Amount of Credit	Credit Limit Per Taxpayer		Other Limitations / Provisions	Unused Credit Options
			Per Tax Year	Lifetime		
Workforce recruitment credit NDCC ch. 57-38-01.25	2007 and after	5% of wages paid in first 12 months of employment			Allowed in year following the year in which the 12th month of employment falls.	4-year carryforward

Notes

- If more than one credit applies in a given year, apply the credits in the order that is most advantageous. Generally, this means applying the credits in the following order: (1) Credits with no carryback or carryforward feature. (2) Credits with a carryback feature. (3) Credits with a carryforward feature. N.D. Admin. Code § 81-03-01.1-08
- If a credit is limited based on a percentage of the tax, apply the percentage to the tax before any credits are subtracted.
- The agricultural commodity processing facility investment credit was created in 2001, but it was not available to a C corporation until 2005.
- The seed capital business investment credit was created in 1993, but it was not available to a C corporation until 2005.
- Information for subsequent tax years reflect North Dakota law as it exists in 2019.

Taxpayer Bill of Rights

You may obtain a copy of the North Dakota Taxpayer Bill of Rights by contacting the Office of State Tax Commissioner or visiting our website at
www.nd.gov/tax

Need forms or assistance?

If you need a North Dakota form or schedule, or if you have a question about preparing your North Dakota return . . .

Call

Questions: 701.328.1249
Forms Requests: 701.328.1243

If speech or hearing impaired,
call us through Relay North Dakota: 1.800.366.6888

Visit our website

On our web site, you will find the following resources:

- Tax forms
- Electronic payment information
- Income tax statutes and regulations
- Calendar of due dates, public meetings, and workshops
- Press releases
- On-line message service

Our website address is:

www.nd.gov/tax

Come in to see us

Stop in to see us in person at our office in Bismarck. You will find us in the—

Corporate Income Tax Section
State Capitol, 16th Floor
Monday through Friday
8:00 a.m. to 5:00 p.m.

Write

Office of State Tax Commissioner
600 E. Boulevard Ave. Dept. 127
Bismarck, ND 58505-0599

Email us

Request forms, ask us a question, or send a message to us via email at:
corptax@nd.gov

Fax

You may fax your request or question to 701.328.1942