



CORPORATION INCOME TAX RETURN
OFFICE OF STATE TAX COMMISSIONER
SFN 28740 (12-2023)

Form 40
2023

Mark One: Calendar Year January 1, 2023, through December 31, 2023
Fiscal Year beginning, 2023 and ending

Form section with fields: Have A Federal Extension?, Date Of Incorporation, Final Return, Name, Mailing Address, City, State, ZIP Code, Telephone Number, Federal Employer Identification Number\*, Is This A Farming Or Ranching Corporation?, Business Code (See Instructions)

Computation of tax liability

Main calculation section with 25 numbered lines. Includes instructions for each line and a 'Round off to dollars' column on the right.

I declare that this return is correct and complete to the best of my knowledge and belief. \*Privacy Act Notice - See instructions

Signature section with fields for Date, Signature Of Officer, Title, Signature Of Preparer, Address, FEIN

I authorize the North Dakota Office of State Tax Commissioner to discuss this tax return with the preparer.

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

Tax Rate Table
\$ 0 to \$ 25,000 . . . . . 1.41% of North Dakota Taxable Income
\$ 25,000 to \$ 50,000 . . . . \$ 352.50 + 3.55% of amount over \$ 25,000
\$ Over 50,000 . . . . . \$ 1,240.00 + 4.31% of amount over \$ 50,000

PLEASE DO NOT WRITE IN THIS SPACE
CIT





**Schedule SA: Statutory adjustments**  
*This schedule is to be used by all corporations regardless of filing method.*

**Additions**

- 1. Federal net operating loss deduction (Federal Form 1120, line 29a) ..... (CA) 1 \_\_\_\_\_
- 2. Special deductions (Federal Form 1120, line 29b) ..... (CB) 2 \_\_\_\_\_
- 3. All income taxes, franchise or privilege taxes measured by income ..... (CC) 3 \_\_\_\_\_
- 4. Interest on state and local obligations (Excluding North Dakota obligations) ..... (CF) 4 \_\_\_\_\_
- 5. Contribution to endowment fund credit adjustment ..... (CD) 5 \_\_\_\_\_
- 6. Other additions (Attach worksheet) ..... (CG) 6 \_\_\_\_\_
- 7. Total additions (Add lines 1 through 6. Enter amount here and on page 1, line 2) ..... 7 \_\_\_\_\_

**Subtractions**

- 8. Tax refunds received in 2023 (Attach worksheet) ..... (CH) 8 \_\_\_\_\_
- 9. Foreign Derived Intangible Income Deduction (See instructions) ..... (CJ) 9 \_\_\_\_\_
- 10. Interest on United States obligations (Attach statement regarding obligations) ..... (CI) 10 \_\_\_\_\_
- 11. Allocable income (Attach worksheet) ..... (LS) 11 \_\_\_\_\_
- 12. Related expenses (Attach worksheet) ..... (LT) 12 \_\_\_\_\_
- 13. Balance (Subtract line 12 from line 11) ..... (LD) 13 \_\_\_\_\_
- 14. IC-DISC distribution to a non-corporate owner (See instructions) ..... (CM) 14 \_\_\_\_\_
- 15. Others subtractions (Attach worksheet) ..... (CO) 15 \_\_\_\_\_
- 16. Total subtractions (Add lines 8, 9, 10, 13, 14 and 15. Enter amount here and on page 1, line 3) ..... 16 \_\_\_\_\_

**The following questions must be answered**

- |   |      | Yes   | No    |
|---|------|-------|-------|
| 1. Has the IRS issued a Final Determination that affects a previously filed North Dakota return that has not been reported to North Dakota? .....   | ▶ 1  | _____ | _____ |
| 2. Is this return for a tax-exempt organization required to report unrelated business taxable income? .....   | ▶ 2  | _____ | _____ |
| 3. Is this return for a foreign corporation filing Federal Form 1120-F that does not have an office or place of business in the United States? .....  | ▶ 3  | _____ | _____ |
| 4. Has this corporation filed as a cooperative, a Foreign Sales Corporation, or a Domestic International Sales Corporation for federal purposes? .....  | ▶ 4  | _____ | _____ |
| 5. Is this return for an entity, or does the return include an entity, that filed a Financial Institution Tax return (Form 35) for 2012? If yes, mark the circle to indicate if this is an S corporation. ▶ <input type="radio"/> | ▶ 5  | _____ | _____ |
| 6. Does this corporation use the combined report method in any other states? If yes, attach a statement showing all states where the combined report method is used .....   | ▶ 6  | _____ | _____ |
| 7. Does this corporation file its federal income tax return as a member of a consolidated group? If yes, please enter the Federal Employer I.D. No. under which the consolidated return is filed. (AM) _____                      | ▶ 7  | _____ | _____ |
| 8. Does the numerator of the apportionment factor on page 1, line 5 include the property, payroll and/or sales of more than one corporation required to file in this state? If yes: .....   | ▶ 8  | _____ | _____ |
| ● Filing method circle on page 1, line 1 must have been marked b1 or c1.  |      |       |       |
| ● How many corporations are included in the numerator? ▶ _____  |      |       |       |
| ● Complete North Dakota Schedule CR, Parts I, II and III reporting the activities of each company apportioning income to North Dakota.  |      |       |       |
| 9. If this return is filed using the water's edge method, indicate which year of the five-year election this return represents. (List number: 1 through 5) ▶ _____  |      |       |       |
| 10. Is this a limited liability company? .....  | ▶ 10 | _____ | _____ |
| 11. Are any single member LLC's with business activity or apportionment factors in North Dakota that are treated as disregarded entities included in this return? (If yes, attach schedule with names and FEIN) .....             | ▶ 11 | _____ | _____ |
| 12. Is this corporation or any of its affiliates included in this return a captive real estate investment trust (REIT)? (If yes, attach schedule with names and Federal I.D. numbers of all captive REITS) .....                  | ▶ 12 | _____ | _____ |
| 13. Has this corporation changed names, been involved in a merger, reorganization or takeover during this tax year? If so, provide former name and details of change. ... ▶ _____   |      |       |       |

*(former name)*



**Schedule FACT: Apportionment factor for corporations NOT filing a consolidated North Dakota return**

*This schedule is for corporations that are NOT filing a consolidated North Dakota return, i.e., corporations using filing method a, b, c, or d on page 1, line 1.*

*Corporations that are filing a consolidated North Dakota return—i.e., corporations using filing method b1 or c1 on page 1, line 1— must use Schedule CR, Part II, on page 7. Do not use this schedule.*

*If a sales factor weighting election applies, skip lines 1-8 and complete lines 9-12, 15 and 16.*

**Property factor:** Average value at original cost of real and tangible personal property.

	1. Total	2. North Dakota	3. Factor
1. Inventories .....	1 _____	_____	(Use 6-digit decimal only)
2. Buildings and other fixed depreciable assets	2 _____	_____	
3. Depletable assets .....	3 _____	_____	(North Dakota divided by Total = Factor)
4. Land .....	4 _____	_____	
5. Other assets (Attach detail) .....	5 _____	_____	
6. Rented property (Annual rental x 8) .....	6 _____	(BL) _____	
7. Total property (Add lines 1 through 6) .....	(BH) 7 _____	(BA) _____	

**Payroll factor:**

8. Wages, salaries, commissions, and other compensation of employees .....	(BJ) 8 _____	(BC) _____	
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**Sales factor:**

9. Gross receipts or sales (less returns and allowances, if applicable) .....	9 _____		
10. Sales delivered, shipped, or assignable to North Dakota destinations .....	(BM) 10 _____		
11. Sales shipped from North Dakota to the U.S. Government, or to purchasers in a state or foreign country where the taxpayer was not subject to a tax measured by net income .....		11 _____	
12. Total sales (Add lines 9 through 11) .....	(BK) 12 _____	(BE) _____	
13. Sum of factors (Add factors in column 3, lines 7, 8 and 12) .....			13 _____
14. <b>Apportionment factor</b> —If a sales factor weighting election applies, skip this line and go to line 15. Otherwise, divide line 13 by the number of factors having an amount greater than zero in column 1 on lines 7, 8, and 12. Enter factor here and on page 1, line 5 .....			14 _____

**Sales factor weighting election**—If a sales factor weighting election applies, skip lines 1-8 and complete lines 15 and 16. See instructions.

15. a. Sales factor weighting election (Mark circle) .....	(BS) <input type="radio"/>	b. Year of election period (1-5) .....	(BO) _____
16. <b>Apportionment factor</b> —Enter the amount from line 12, column 3. Enter factor here and on page 1, line 5 .....			16 _____



Schedule TC: Tax credits

This schedule is to be used by all corporations to report the total allowable credit(s) regardless of filing method. Corporations filing a consolidated North Dakota tax return, i.e., those corporations using filing method b1 or c1 on page 1, line 1, report each corporation's separate credits on Schedule CR, Part I, line 19 under each corporation's separate column, and on Schedule CR, Part III - Tax Credits.

If a credit is being claimed on lines 6-14, 16-18, or 22, a property tax clearance is required for each county the corporation has 50% or more interest in real property in North Dakota. The tax clearance requirement also applies to any officer responsible for the corporation's state tax filing or payment obligations. Failure to attach a copy of the property tax clearance for each county identified below may result in a credit being disallowed. See instructions for details.

Does this requirement apply? Yes No If yes, enter county name(s)

Table with 25 rows of tax credit categories and their corresponding codes (GS, LK, LL, EL, LM, LX, LY, TO, RC, LO, TB, TS, TD, TF, TE, TG, TI, TJ, TW, TQ, TU, XA, TZ, TY, XB) and line numbers.

Schedule WW: Combined report method income schedule

This schedule is to be used by all corporations using filing methods b or b1 on Page 1, Line 1.

Table with 10 rows of income schedule categories and their corresponding codes (LP, WN, WU, WF, WW) and line numbers.



**Schedule WE: Water's edge method income schedule**

1. Federal taxable income ( <i>Consolidated Federal Form 1120, line 30</i> ) -----	(LZ) 1 _____	<b>Worksheets containing details of lines 2 through 7 and 10 are required</b>
2. Income or loss not included in line 1 from affiliated U.S. corporations required to file a federal income tax return ( <i>Attach worksheet</i> ) -----	2 _____	
3. Total income or loss from Foreign Sales Corporations, Interest Charge DISCs, affiliated corporations incorporated in a Possession of the U.S., and includable foreign affiliates ( <i>Attach worksheet</i> ) -----	3 _____	
4. Reversal of intercompany eliminations between water's edge corporations and non-water's edge corporations ( <i>Attach worksheet</i> ) -----	4 _____	
5. Intercompany eliminations for water's edge group corporations ( <i>Attach worksheet</i> ) -----	5 _____	
6. Total foreign dividends included in lines 1 through 4 ( <i>Attach worksheet</i> ) -----	6 _____	
7. Taxable income or loss included on lines 1 or 2 from 80/20 corps. ( <i>Attach worksheet</i> ) -----	7 _____	
8. Balance ( <i>Add lines 1 through 4, and then subtract lines 5, 6 and 7 from result</i> ) -----	8 _____	
9. Foreign dividends to be included in water's edge income ( <i>Multiply line 6 by 30%</i> ) -----	9 _____	
10. Total net book income of 80/20 corporations ( <i>Attach worksheet</i> ) -----	10 _____	
11. Net book income of 80/20 corporations to be included in water's edge income ( <i>Multiply line 10 by 30%</i> ) -----	11 _____	
12. Total water's edge income ( <i>Add lines 8, 9, and 11. Enter amount here and on Form 40, page 1, line 1, and mark circle c or c1 on page 1, line 1</i> ) -----	(WE) 12 _____	

**Water's edge method election instructions**

A corporation required to file its North Dakota return using the worldwide unitary combined report method must do so unless it elects to apportion its income using the water's edge method.

A corporation elects the water's edge method by marking the circle entitled "Water's Edge Method" (c or c1) on page 1, line 1, for the first year of a five-year election.

• An election must be made on the return as originally and timely filed.

- Returns for years two through five are then required to be filed under the water's edge method, and circle c or c1 should be marked for each year.
- Marking the circle for years two through five does NOT constitute new, rolling five-year elections.
- Marking the circle for a sixth year is a new five-year election.
- If an election is not made for year six, the prior five-year election period lapses, and the filing method would be the worldwide unitary combined report method.

- Any affiliated unitary foreign or domestic corporation that has income from North Dakota sources and is excluded from the water's edge group because it has less than twenty percent of its average property and payroll inside the U.S. is covered by the water's edge election and must file its water's edge return computing its income based on its single company pro forma federal taxable income.

A corporation electing the water's edge method must include only the apportionment factors and statutory adjustments of the water's edge group.

**Schedule WE general definitions**

**"Water's edge group"** includes a U.S. parent corporation, affiliated corporations incorporated in the U.S. (excluding 80/20 corporations), affiliated corporations incorporated in a possession of the U.S., IC DISCs, FSCs, export trade corporations and foreign affiliated corporations which meet a defined minimum of U.S. activity.

**"Affiliated corporation"** means a parent corporation and any corporation of which more than fifty percent of the voting stock is owned directly or indirectly by the parent corporation or another member of the water's edge group.

**"Reversal of intercompany eliminations between water's edge corporations and 80/20 corporations"** means the reversal of eliminations made between water's edge corporations and 80/20 corporations that are included in the federal consolidated return. Dividends, interest, royalties, capital gains and losses, intercompany profit on sales, etc. between water's edge corporations and 80/20 corporations that have been eliminated in preparing the consolidated federal return must be reversed.

**"Intercompany eliminations for water's edge group corporations"** are eliminations of intercompany transactions between companies included in the water's edge group.

**"80/20 corporation"** is a corporation that is incorporated in the U.S., is eligible to be included in the federal consolidated return as defined in N.D.C.C. § 57-38.4-01(5) and has 20 percent or less of its average property and payroll for the tax year assigned to locations inside the fifty states, the District of Columbia, and possessions of the United States.

**"Foreign dividends"** means any dividend received by a member of the water's edge group from any affiliated corporation incorporated outside the fifty states and District of Columbia, including amounts included in income computed under sections 951 through 954 of the Internal Revenue Code (IRC) of 1986, as amended. The

amount of global intangible low taxed income under IRC section 951A is considered a foreign dividend. IRC section 78 gross up is not a foreign dividend.

**"Net book income of an 80/20 corporation"** means net book income after taxes for financial statement purposes. However, a corporation's net book income cannot be offset by a net book loss from another 80/20 corporation.

**"Rescission of a water's edge election"**. A corporation's water's edge election is rescinded if:

- It has had more than 50% of its voting stock acquired by a nonaffiliated corporation;
- It was formed as the result of a reorganization or spinoff and is no longer a member of the water's edge group; or
- It is completely liquidated. The water's edge election of any corporation receiving liquidated assets is not affected.



Schedule CR, Part I: Computation of tax due for corporations included in a North Dakota consolidated return

Table with 3 columns: Corporation, Name of corporation, Federal Employer I.D. Includes instructions: List corporations apportioning income to North Dakota with a factor greater than -0- first. Also list each company it declares to have filed a North Dakota tax return. See instructions.

Table with 3 columns: Corporation A, Corporation B, Corporation C. Headers include (name), FEIN, Business Code.

Main calculation table with 20 rows. Columns include description, (CX) 4, (LE) 5, 6, (LF) 7, 8, (CL) 9, (RE) 10, 11, (LH) 12, 13, (EF) 14, (LI) 15, (EE) 16, (ST) 17, (LJ) 18, (AZ) 19, 20.

a. Net income tax due (Add amounts on line 20, for all corporations. Enter total here and on page 1, line 20 and complete lines 21 through 23, on page 1) (GA) 20a

Instructions for consolidated return using the combined report method

All corporations filing a consolidated North Dakota return (i.e. unitary groups including more than one company on this return) must complete the three parts of Schedule CR and attach the completed schedule to Form 40 when filed.

Space has been provided for three corporations (corporations A, B & C) having activity within North Dakota. If

space is needed for additional corporations having activity within North Dakota, additional copies of Schedule CR can be obtained by photocopying both parts of this original schedule or by printing additional copies from our website at www.tax.nd.gov/forms.

Complete page 1, lines 1-4 before starting to complete Schedule CR, part I.

Schedule CR has been designed so the instructions for Form 40 in the booklet also apply to the line numbers on Schedule CR. For example, the instructions for page 1, lines 5-20 also apply to Schedule CR, part I, lines 5-20.

After completing Schedule CR, part I, total lines 5 through 19 and enter each total on the corresponding line on page 1.



Schedule CR, Part II: Computation of factor for corporations filing a North Dakota consolidated return

Note: When dividing numbers, carry the result out to six decimal places. If a sales factor weighted election applies, skip lines 1-8 and complete lines 9-12, 15 and 16.

Property Factor section with columns for All Combined Corporations, Corporation A, Corporation B, and Corporation C. Includes rows for inventories, buildings, depletable assets, land, other assets, and rented property, leading to total average property and total property factor calculations.

Payroll Factor section with columns for Everywhere Payroll and North Dakota Payroll. Includes row for payroll and payroll factor calculations.

Sales Factor section with columns for Everywhere Sales and North Dakota Sales. Includes rows for everywhere sales, sales delivered/shipped, and total sales, leading to sales factor and total sales factor calculations.

Sales factor weighting election—If a sales factor weighting election applies, skip lines 1-8 and complete lines 15a-16a. See instructions.

Final calculation rows including sales factor weighting election (line 15) and apportionment factor (line 16) with instructions for entering results.



Schedule CR, Part III: Tax credits for corporations filing a North Dakota consolidated return using the combined report method

If a credit is being claimed on lines 6-14, 16-18, or 22, a property tax clearance is required for each county the corporation has 50% or more interest in real property in North Dakota. The tax clearance requirement also applies to any officer responsible for the corporation's state tax filing or payment obligations. Failure to attach a copy of the property tax clearance for each county identified below may result in a credit being disallowed. See instructions for details. Does this requirement apply? Yes No If yes, enter county name(s).

Table with 5 columns: County name(s) (GS), Corporation A (name, FEIN), Corporation B (name, FEIN), Corporation C (name, FEIN), and 25 numbered rows of tax credits (LK 1 to XB 24, plus Total tax credits 25).