

# FORM 60

INCLUDES:  
SCHEDULE FACT  
SCHEDULE BG  
SCHEDULE K  
SCHEDULE KS  
SCHEDULE K-1



# 2016 NORTH DAKOTA S CORPORATION INCOME TAX



NORTH DAKOTA  
RYAN RAUSCHENBERGER  
TAX COMMISSIONER

GO TO [WWW.ND.GOV/TAX](http://WWW.ND.GOV/TAX) FOR  
tax forms, guidelines, FAQs and more.

EMAIL ADDITIONAL TAX QUESTIONS TO  
[individualtax@nd.gov](mailto:individualtax@nd.gov)

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## Required forms

The following forms are needed to complete Form 60:

<b>Form 60</b>	S corporation return
<b>Schedule FACT</b>	Calculation of North Dakota apportionment factor
<b>Schedule BG</b>	Tax on excess net passive income and built-in gains
<b>Schedule K</b>	Total North Dakota adjustments, credits, and other items distributable to shareholders
<b>Schedule KS</b>	Shareholder information
<b>Schedule K-1</b>	Shareholder's share of North Dakota income (loss), deductions, adjustments, credits, and other items

The following forms may be needed:

<b>Form 60-PV</b>	S corporation return payment voucher
<b>Form 60-EXT</b>	S corporation extension payment voucher
<b>Form 101</b>	Application for extension of time to file a North Dakota income tax return
<b>Form PWA</b>	Passthrough entity withholding adjustment
<b>Form PWE</b>	Nonresident passthrough entity member exemption and certification

Download these forms from our website at [www.nd.gov/tax](http://www.nd.gov/tax).



## Taxpayer Bill of Rights

You may get a copy of the North Dakota Taxpayer Bill of Rights by contacting the Office of State Tax Commissioner or by going to our website at

[www.nd.gov/tax](http://www.nd.gov/tax)

## Need help?

You can download forms and find other information on our website at:

[www.nd.gov/tax](http://www.nd.gov/tax)

### E-mail

Individual, estate, trust, partnership, and S corporation income tax—

[individualtax@nd.gov](mailto:individualtax@nd.gov)

### Call

Individual income tax—

Questions **701.328.1247**

Forms **701.328.1243**

S Corporation income tax—

Questions **701.328.1258**

Forms **701.328.1243**

Speech/hearing impaired

TDD **800.366.6888**

### Write

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

### Walk-in service

State Capitol, 16th Floor  
Monday through Friday  
8:00 a.m. to 5:00 p.m.  
(except holidays)

## Privacy Act Notification

In compliance with the Privacy Act of 1974, disclosure of a Federal Employer Identification Number (FEIN) or social security number on this form is required under N.D.C.C. §§ 57-01-15 and 57-38-32, and will be used for tax reporting, identification, and administration of North Dakota tax laws. Disclosure is mandatory. Failure to provide the FEIN or social security number may delay or prevent the processing of this form.

## Changes affecting S corporations

Developments, updates, and items of interest relating to S corporation income tax

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### April 18 filing deadline for 2016 return

North Dakota income tax filers with an April 15 due date will have until Tuesday, April 18, 2017, to file their 2016 North Dakota income tax returns and pay any tax due on them. The extra time for filing the state return recognizes the movement of the federal income tax filing deadline to April 18, 2017, because of the Emancipation Day holiday in the District of Columbia. This holiday falls on April 16 of each year. Because April 16 falls on Sunday in 2017, the holiday will be observed on Monday, April 17, which pushes the federal due date to Tuesday, April 18.

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### North Dakota extension period change for S corporation

North Dakota income tax law gives the tax commissioner the discretion to grant an extension of time to file a state income tax return for good cause. Because the state income tax return is dependent on information reported on the federal income tax return, it has been the long-standing administrative policy of the tax commissioner to recognize a federal extension of time to file as an automatic extension of time to file the North Dakota return. The length of the state extension generally has been the same number of months as the federal extension, which has been 6 months in the case of an S corporation.

Starting with S corporation income tax returns filed for the 2016 tax year, if an extension of time to file the federal return is obtained, North Dakota will follow the federal extended due date, not the number of months of the federal extension period. Thus, the extended due date for North Dakota purposes will be the same as the federal extended due date (September 15 for a calendar year filer).

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### Schedule K and K-1 changes

On Schedule K (Form 60), line 17 (Housing Incentive Fund tax credit) was split into two lines. The credit amount is to be entered on line 17a, and the amount of the contribution on which the credit is based must be entered on the new line 17b. A corresponding change was made to Schedule K-1 (Form 60). The instructions for these schedules were revised accordingly. These changes were made because a shareholder may have to add part or all of the contribution amount to taxable income on the shareholder's North Dakota income tax return. For more information on the adjustment to North Dakota taxable income, see the instructions to the shareholder's North Dakota income tax return.

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### Schedule FACT changes

A minor change was made to Schedule FACT of Form 60 to combine lines 11a and 11b into one line. A more substantial change was made to expand the Schedule FACT instructions to provide information on how to calculate the apportionment factor, including what is to be included in its property, payroll, and sales factor components.

The additional instructions are intended to provide basic information. For more complete details, including special provisions for certain industries or unique circumstances that may apply, taxpayers are advised to see N.D.C.C. ch. 57-38.1 and N.D. Admin. Code ch. 81-03-09. The text of these statutory and administrative rule provisions can be accessed on the Office of State Tax Commissioner's website at [www.nd.gov/tax](http://www.nd.gov/tax) (click on the "Tax Resources" tab).

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### Oil and gas royalty payment withholding

Oil and gas royalty payments made to certain owners of a nonworking interest in North Dakota oil and gas production are subject to North Dakota income tax withholding. This includes owners that are business entities, such as an S corporation, if the principal place from which the business operations are directed or managed is located outside North Dakota. If North Dakota income tax is withheld from an S corporation's oil or gas royalty payments, the S corporation must claim credit for the withheld tax on Form 60, page 1, line 5, and must attach a copy of Form 1099-MISC to support the claimed amount.

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### Electronic filing of Form 60

Form 60, North Dakota S Corporation Income Tax Return, may be filed electronically through the Modernized E-File (MeF) system. Through a partnership with the Internal Revenue Service, the MeF system allows both the federal and North Dakota S corporation income tax returns to be submitted at the same time. For a list of the software vendors who support the electronic filing of the 2016 North Dakota Form 60, go to the North Dakota Office of State Tax Commissioner's website at [www.nd.gov/tax](http://www.nd.gov/tax).

# Form 60 Instructions

# 2016

## North Dakota S Corporation Income Tax Return

"N.D.C.C." references are to the North Dakota Century Code, which contains North Dakota's statutes.

"N.D. Admin. Code" references are to the North Dakota Administrative Code, which contains North Dakota's rules.

## General instructions

### Who must file

A 2016 Form 60, *S Corporation Income Tax Return*, must be filed by a corporation that meets both of the following:

- It is required to file a 2016 Form 1120S, *U.S. Income Tax Return for an S Corporation*.
- It carries on business, or derives gross income from sources, in North Dakota during the 2016 tax year.

### Exception for certain S corporations.

An S corporation must file Form 40, *North Dakota Corporation Income Tax Return*, for the 2016 tax year if all of the following apply:

- The corporation is a bank or other financial institution that formerly was subject to the North Dakota financial institution tax under N.D.C.C. ch. 57-35.3 and filed Form 35 for tax years prior to 2013.
- The corporation made an election under N.D.C.C. § 57-38-01.35 to be taxed as a C corporation for the 2013 tax year and filed a 2013 Form 40.
- The corporation's North Dakota net tax liability on the 2015 Form 40 (page 1, line 20) is zero and the corporation is not revoking the election for 2016, which is done by filing Form 60 for the 2016 tax year.

See the instructions to Form 40 for more information.

**Nonfiler penalty.** If an S corporation does not file Form 60 as required, a minimum \$500 penalty may be assessed if the failure continues after receiving a thirty-day notice to file from the Office of State Tax Commissioner.

### When and where to file

The 2016 Form 60 must be filed on or before (1) April 15, 2017, if filing for the 2016 calendar year, or (2) the 15th day of the 4th month following the end of the tax year, if filing for a fiscal year beginning in the 2016 calendar year. If the due date falls on a

Saturday, Sunday, or holiday, the return may be filed on or before the next day that is not a Saturday, Sunday, or holiday.

*Note: Use the 2015 Form 60 if filing for a fiscal year beginning in the 2015 calendar year.*

Mail Form 60 and all required attachments to:

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

### Extension of time to file

An extension of time to file Form 60 may be obtained in one of the following ways:

- Obtain a federal extension.
- Separately apply for a North Dakota extension.

**Federal extension.** If an extension of time to file the federal corporation return is obtained, it is automatically accepted as an extension of time to file Form 60. If this applies, a separate North Dakota extension does not have to be applied for, nor does the Office of State Tax Commissioner have to be notified that a federal extension has been obtained prior to filing Form 60. The extended due date for North Dakota purposes is the same as the federal extended due date.

**North Dakota extension.** If a federal extension is not obtained, but additional time is needed to complete and file Form 60, a separate North Dakota extension may be applied for by filing Form 101, *Application for Extension of Time to File a North Dakota Tax Return*. This is not an automatic extension—there must be good cause to request a North Dakota extension. Form 101 must be postmarked on or before the due date of Form 60. Notification of whether the extension is accepted or rejected will be provided by the Office of State Tax Commissioner.

**Extension interest.** If Form 60 is filed on or before the extended due date, and the total amount of tax due is paid with the return, no penalty will be charged. Interest on the tax due will be charged at the rate of 12% per year from the original due date of the return to the earlier of the date the return is filed or the extended due date.

**Prepayment of tax due.** If an extension of time to file Form 60 is obtained, any tax expected to be due may be paid on or before the regular due date to avoid paying extension interest. For more information, including payment options, obtain the 2016 Form 60-EXT.

Alternatively, a check or money order may be sent with a letter containing the following: (1) name of corporation, (2) last four digits of the corporation's FEIN, (3) corporation's address and phone number, and (4) statement that the payment is a 2016 Form 60-EXT payment.

### Penalty and interest

The tax due must be paid by the due date (without extension) of Form 60 to avoid penalty and interest charges. However, if an extension of time to file the return was obtained, the tax due may be paid by the extended due date of the return without penalty, but extension interest will apply at the rate of 12% per year—see "Extension interest" and "Prepayment of tax due" on this page.

If Form 60 is filed on or before its due date (or extended due date), but the total amount of tax due is not paid with the return, a penalty equal to 5% of the unpaid tax or \$5.00, whichever is greater, must be paid.

If Form 60 is not filed on or before its due date (or extended due date), a penalty equal to 5% of the tax due or \$5.00, whichever is greater, for the month in which the return was due plus 5% of the tax due for each additional month (or fraction of a month) during which the return remains delinquent must be paid. This penalty may not exceed 25% of the tax due.

In addition to any penalty, interest must be paid at the rate of 1% per month (or fraction of a month), except for the month in which the tax was due, on any tax due that remains unpaid after the due date (or extended due date) of the return.

### Estimated tax payment (for 2017)

An S corporation may, but is not required to, make estimated income tax payments. For more information, including payment options, obtain the 2017 Form 60-ES.



## Withholding from nonresident shareholders

An S corporation must withhold North Dakota income tax at the rate of 2.90% from the year-end distributive share of North Dakota income of a nonresident shareholder.

**Nonresident shareholder.** For purposes of this withholding requirement, a nonresident shareholder means:

- an individual who is not domiciled in North Dakota, or
- a trust, including a grantor trust, that is not organized under North Dakota law. This only includes trusts that are subject to income tax.

**Exception from withholding.** No withholding is required if any of the following apply:

- The distributive share of North Dakota income is less than \$1,000.
- The nonresident shareholder elects to include the distributive share in a composite filing—see “Composite filing” on this page.
- The nonresident shareholder is a trust and elects exemption from withholding on its distributive share of North Dakota income. For more information, obtain Form PWE.

**Withholding procedure.** This withholding requirement applies to a nonresident shareholder’s year-end distributive share of North Dakota income, which is determined at the end of the S corporation’s tax year and reported on Form 60, Schedule KS, Column 6. The requirement does not apply to actual distributions made to a nonresident shareholder during the tax year. The withholding amount is calculated and reported on Schedule KS, Column 7. If a nonresident shareholder meets certain conditions, an amount less than the amount calculated at the 2.90% tax rate may be withheld. For the qualifying conditions, see Form PWA. An S corporation must submit a payment for the total amount of withholding reported on Schedule KS, Column 7, with Form 60 when it is filed.

## Composite filing

A composite filing method is available to an S corporation with one or more eligible nonresident shareholders. Under this method, an S corporation calculates the North Dakota income tax on an eligible nonresident shareholder’s year-end distributive share of North Dakota income and pays the tax

with Form 60. The tax is calculated at the highest individual income tax rate (which is 2.90% for the 2016 tax year), and no adjustments, deductions, or tax credits are allowed in calculating the tax. A composite filing satisfies the North Dakota income tax filing and payment obligations of the eligible nonresident shareholders included in it, which means they do not have to separately file their own North Dakota income tax returns. The composite filing method is optional and does not require prior approval from the Office of State Tax Commissioner, and a choice to use it may be made on a year-to-year basis.

**Eligible nonresident shareholder.** For this purpose, a nonresident shareholder has the same meaning as that used for withholding income tax from nonresident shareholders—see “Withholding from nonresident shareholders” on this page. A nonresident shareholder is eligible to be included in a composite filing if both of the following apply:

- The nonresident shareholder’s only source of income within North Dakota is one or more passthrough entities. A passthrough entity includes a trust, partnership, S corporation, limited liability company treated like a partnership or S corporation, and any other similar entity.
- The nonresident shareholder elects to be included in a composite filing. An election is indicated by the S corporation’s calculation and reporting of a tax amount for the nonresident shareholder on Form 60, Schedule KS, Column 8. (If the distributive share is a loss, the tax is zero.)

The distributive share of North Dakota income included in a composite return is subject to tax even if it is under \$1,000.

### Composite filing method procedure.

The tax under the composite filing method is calculated and reported on Form 60, Schedule KS, Column 8. An S corporation must submit a payment for the total tax reported on Schedule KS, Column 8, with Form 60 when it is filed.

## Correcting a previously filed return

If a corporation needs to correct an error on Form 60 after it is filed, the corporation must file an amended return. There is no special form for this purpose. See “How to prepare an amended 2016 return” below.

If a corporation paid too much tax because of an error on its 2016 Form 60, the corporation generally has three years from the due date of the return (excluding extensions) or the date the return was actually filed, whichever is later, in which to file an amended return to claim a refund of the overpayment. See N.D.C.C. § 57-38-40 for other time periods that may apply.

### How to prepare an amended 2016 return

1. Obtain a blank 2016 Form 60.
2. Enter the corporation’s name, current address, FEIN, etc., in the top portion of page 1 of Form 60.
3. Mark the “Amended return” circle at the top of page 1 of Form 60.
4. Complete Schedules FACT, BG, K, and KS using the corrected information. However, unless there is an increase in the amount reported on Schedule KS, Column 6, of the amended return, enter on Schedule KS, Column 7, the same amount reported on the previously filed return. Then complete lines 1 through 4 on page 1 of Form 60.
5. On line 6 of page 1 of Form 60, enter the total taxes due from the previously filed 2016 Form 60, page 1, line 4.
6. Complete line 8 (overpayment) or line 11 (tax due), whichever applies. If there is an overpayment on line 8, enter the full amount on line 10 (refund). On an amended return, the amount credited to the next year’s estimated tax (line 9) may not be increased or decreased.
7. Attach a statement explaining the reason(s) for filing the amended return. If it is because of changes the corporation or the IRS made to the corporation’s 2016 Federal Form 1120S, attach a copy of the amended federal return or IRS notice.
8. Complete and provide a corrected North Dakota Schedule K-1 (Form 60) to the shareholders, as required.

## Reporting federal changes

If the Internal Revenue Service (IRS) changes or audits the federal corporation return, or if a corporation files an amended federal corporation return, an amended North Dakota Form 60 must be filed within ninety days after the final determination of the IRS changes or the filing of the amended federal return. Enclose a copy of the IRS audit report or the amended federal corporation return with the amended North Dakota Form 60.

## W-2/1099 reporting requirement

Every corporation doing business in North Dakota that is required to file Federal Form 1099 or W-2 must also file one with the Office of State Tax Commissioner. For more information, obtain the guideline *Income Tax Withholding: Information Returns*.

## Use of information

All of the information on Form 60 and its attachments is confidential by law and cannot be given to others except as provided by state law. Information about the shareholders is required under state law so the Office of State Tax Commissioner can determine the shareholder's correct North Dakota taxable income and verify if the shareholder has filed a return and paid the tax.

## General instructions for completing Form 60

### Complete Form 60 as follows:

1. Complete Federal Form 1120S in its entirety.
2. Complete Items A through H at the top of page 1 of Form 60—see page 4.
3. Complete Schedule FACT on page 2 of Form 60—see page 5.
4. Complete Schedule BG, if required, on page 2 of Form 60—see page 6.
5. Complete Schedule K on page 3 of Form 60—see page 6.
6. Complete Schedule KS on page 5 of Form 60—see page 9.
7. Complete lines 1 through 13 on page 1 of Form 60—see page 10.
8. Complete Schedule K-1, if required, for the shareholders—see page 11.

**Rounding of numbers.** Numbers may be entered on the return in dollars and cents, or they may be rounded to the nearest whole dollar. If rounding, drop the cents if less than 50 cents and round up to the next whole dollar amount if 50 cents or higher. For example, \$25.36 becomes \$25.00, and \$25.50 becomes \$26.00.

**Fiscal year filers.** The tax year for North Dakota income tax purposes must be the same as the tax year used for federal income tax purposes. Use the 2016 Form 60 if the corporation's taxable year began in the 2016 calendar year. *Note: Use the 2015 Form 60 if the taxable year began in the 2015 calendar year.*

## Specific line instructions for page 1 of Form 60, Items A-H

**Complete Items A through H at the top of page 1 of Form 60. Then complete Schedule FACT, Schedule BG, Schedule K, and Schedule KS before completing lines 1 through 13 on page 1 of Form 60.**

### Item A Tax year

The same tax year used for federal income tax purposes (as indicated on the federal corporation return) must be used for North Dakota income tax purposes. Mark the applicable circle. If the corporation uses a fiscal year, enter the beginning and ending dates of the fiscal year. Use the 2016 Form 60 only if the corporation's tax year began in the 2016 calendar year.

### Item B Name and address

Enter the legal name of the corporation on the first line of the name and address area. If the corporation publicly operates under a fictitious or assumed name (which, in most states, must be recorded or registered with the state), enter that name on the second line of the name and address area.

### Item C Federal EIN

North Dakota uses the federal employer identification number (FEIN or federal EIN) for identification purposes. Enter the federal employer identification number from page 1 of Federal Form 1120S.

### Item D Business code number

Enter the business code from the NAICS code list found on the Office of State Tax Commissioner's website at [www.nd.gov/tax](http://www.nd.gov/tax). Enter the code that most closely describes the industry from which the corporation derives the majority of its income.

### Item E Date incorporated

Enter the date the business incorporated from page 1 of Federal Form 1120S.

### Item F Indicators

Mark all applicable circles, as follows:

**Initial return.** Mark this circle if this is the first return filed in North Dakota by the corporation.

**Final return.** Mark this circle if this is the last return to be filed in North Dakota by the S corporation.

**Farming/ranching corporation.** Mark this circle if the corporation is registered as a farming or ranching corporation with the North Dakota Secretary of State.

**Composite return.** Mark this circle if one or more nonresident shareholders have elected to be included in a composite filing. See "Composite filing" on page 3 for more information.

**Amended return.** Mark this circle if this return is being filed to correct a previously filed 2016 Form 60. See "Correcting a previously filed return" on page 3 for more information.

**Extension.** Mark this circle if a federal or state extension of time to file the return was obtained. See "Extension of time to file" on page 2 for more information.

### Item G Number of shareholders

Enter the total number of shareholders. Also enter the number of each type of shareholder. For "Trust/estate shareholders," only include trusts that are not tax-exempt organizations for federal income tax purposes.

### Item H Qualified subchapter S subsidiary

Indicate whether the corporation is a parent of one or more qualified subchapter S subsidiaries. Attach a statement to Form 60 listing the name and federal employer identification number of each qualified subchapter S subsidiary.

# Instructions for Schedule FACT (Form 60, page 2)

## General instructions

All corporations must complete the applicable portions of Schedule FACT as follows:

- **100% North Dakota corporation**  
If the corporation conducted all of its trade or business within North Dakota during the tax year, skip lines 1 through 13 and enter "1.000000" on line 14 of Schedule FACT.
- **Multistate corporation**  
If the corporation conducted its trade or business both within and without North Dakota during the tax year, complete lines 1 through 14 of Schedule FACT. However, if all of the shareholders consist of only North Dakota resident individuals, estates, and trusts, and the corporation is not required to complete Schedule BG, skip lines 1 through 13, and enter "1.000000" on line 14 of Schedule FACT.

## Apportionment factor in general

In general, the apportionment factor is a product of a formula consisting of an equally-weighted average of three factors: property, payroll, and sales. Each factor represents the percentage of the corporation's North Dakota activity compared to its total activity everywhere. A corporation multiplies its business income by the apportionment factor to determine the portion of its business income attributable to North Dakota.

If the corporation includes the distributable share of income from a partnership in its apportionable business income, include in the numerator and denominator of each factor the corporation's proportionate share of the partnership's apportionment factors—see the specific line instructions for more information. Do not include in the factors any property, payroll, or sales related to allocable nonbusiness income—see the instructions to Form 60, Schedule K, line 22, on page 8 for what constitutes allocable nonbusiness income.

If the amount of any factor's denominator is zero, exclude that factor from the calculation.

Special apportionment rules may apply in the case of certain industries or unique circumstances. For additional information on the apportionment factor, see N.D.C.C. ch. 57-38.1 and N.D. Admin. Code ch. 81-03-09.

## Specific line instructions

### Property Factor

#### Lines 1 through 6 Owned and rented property

Enter on the applicable line the average value of real and tangible personal property owned and rented by the corporation. For owned property, this generally means the average of the original cost (before depreciation) used for federal income tax purposes. For rented property, this generally means the amount of rent paid multiplied by eight. Certain property items are subject to special rules. Do not include amounts related to construction in progress. Include on line 5 the corporation's share of the property factor from a North Dakota Schedule K-1 (Form 58), Part 6, lines 43 and 44.

The average value of owned and rented property is assigned to North Dakota if the property is located in North Dakota. The amount attributable to mobile property is generally assignable to North Dakota based on a ratio of the property's time spent in North Dakota. For more complete information on the property factor, see N.D. Admin. Code §§ 81-03-09-15 through 21 and 81-03-09-33.

### Payroll Factor

#### Line 8

Enter the amount of total compensation paid to employees for the tax year. This includes gross wages, salaries, commissions, and any other form of remuneration paid to the employees. Use the amount before deductions for deferred compensation, flexible spending plans, and other payroll deductions. Do not include amounts paid for employee benefit plans that are not considered taxable wages to the employee. An employee is an individual treated as an employee under the usual common law rules, which generally mirror an individual's status for purposes of unemployment compensation and the Federal Insurance Contribution Act.

### Line 6 Worksheet (for Schedule BG) North Dakota net operating loss deduction

1. Net recognized built-in gain from Form 60, Schedule BG, line 2 ..... **1** \_\_\_\_\_
2. Apportionment factor from Schedule BG, line 4 ..... **2** \_\_\_\_\_
3. North Dakota apportioned built-in gain.  
Multiply line 1 by line 2 ..... **3** \_\_\_\_\_
4. Accumulated North Dakota net operating loss as of the end of the last tax year as a C corporation.  
**Enter as a positive number** ..... **4** \_\_\_\_\_
5. Portion of line 4 that was previously deducted for North Dakota income tax purposes by the corporation.  
**Enter as a positive number** ..... **5** \_\_\_\_\_
6. Remaining North Dakota net operating loss.  
Subtract line 5 from line 4. If less than zero, enter -0- ..... **6** \_\_\_\_\_
7. North Dakota net operating loss deduction. Enter smaller of line 3 or line 6. Enter result on Schedule BG, line 6 ..... **7** \_\_\_\_\_

### 2016 Corporation Tax Rate Schedule

If the amount on  
Schedule BG, line 7 is:                      The tax is equal to:

Over	But not over	
\$ 0	\$ 25,000	1.41% of the amount on line 7
25,000	50,000	.....\$ 352.50 + 3.55% of the amount over \$ 25,000
50,000		.....1,240.00 + 4.31% of the amount over 50,000

Compensation of an employee's services performed entirely within North Dakota is assigned to North Dakota. For an employee whose services are performed in more than one state, compensation is generally assigned to North Dakota based on the amount of compensation reported to North Dakota for unemployment compensation purposes. Whether or not state income tax was withheld from an employee's compensation does not affect where the compensation is assigned for apportionment factor purposes. Include on this line in the applicable column the corporation's share of the payroll factor from a North Dakota Schedule K-1 (Form 58), Part 6, lines 43 and 44. For more complete information on the payroll factor, see N.D. Admin. Code §§ 81-03-09-22 through 25.

## Sales Factor

### Line 9 Everywhere sales

Enter the corporation's total sales or receipts, less returns or allowances, for the tax year. Sales generally means all gross receipts of a corporation. However, the types of sales or gross receipts included in the sales factor depend on the nature of the corporation's regular business activities and may include amounts other than sales reported on Form 1120S, line 1. Include on this line the corporation's share of the everywhere sales from a North Dakota Schedule K-1 (Form 58), Part 6, line 43.

### Line 10 North Dakota sales

For sales of tangible property, the sale is assigned to North Dakota if the destination of the property is in North Dakota, regardless of the shipping terms. For sales of other than tangible property, the sale is assigned to North Dakota if the income-producing activity which gave rise to the receipt is performed in North Dakota. Include on this line the corporation's share of the North Dakota sales from a North Dakota Schedule K-1 (Form 58), Part 6, line 44. For more complete information, see N.D. Admin. Code §§ 81-03-09-26 through 31 and 81-03-09-34.

### Line 11 Throwback sales

Enter the amount of sales shipped from a location in North Dakota that are delivered to the U.S. government or to another state or country where the sales are not subject to a tax measured by income in that jurisdiction. For more complete information, see N.D. Admin. Code §§ 81-03-09-29 and 30.

### Line 14 Apportionment factor

Divide line 13 by the number of factors having an amount greater than zero in column 1 on lines 7, 8, and 12. Enter the result on this line.

## Instructions for Schedule BG (Form 60, page 2)

An S corporation that is subject to the federal income tax on excess net passive income or built-in gains is subject to North Dakota income tax on the same income and must complete Schedule BG.

### Line 4 Apportionment factor

If the corporation conducts its trade or business both within and without North Dakota during the tax year (multistate corporation), it must complete lines 1 through 14 of Schedule FACT to calculate an apportionment factor to enter on Schedule BG, line 4.

### Line 6 North Dakota NOL deduction

If the corporation has always been an S corporation, enter zero on this line. However, if a corporation changed from a C corporation to an S corporation under an election first made on or after January 1, 1987, it may carry forward an unused North Dakota net operating loss incurred while a C corporation and deduct it from the apportioned built-in gain subject to North Dakota tax. Complete the **Line 6 Worksheet** on page 5 to calculate the amount to enter on Schedule BG, line 6. *Attach a copy of the worksheet to Form 60.*

## Instructions for Schedule K (Form 60, page 3)

All corporations must complete Schedule K. The purpose of this schedule is to show the total amount of North Dakota adjustments, credits, and other items distributable to its shareholders. These items may be applicable to the preparation of the shareholders' North Dakota income tax returns.

If the corporation is a partner in a North Dakota partnership, include on the applicable lines of Schedule K the adjustments, credits, etc., shown on the North Dakota Schedule K-1 (Form 58) received from the partnership.

### Line 1 Interest from U.S. obligations

Enter on this line interest income from U.S. obligations and from securities the interest of which is specifically exempted from state income tax by federal statute. Include the portion of dividend income from a mutual fund attributable to the fund's investment in the same kinds of securities.

Do not enter on this line interest income from securities of the Federal Home Loan Mortgage Corporation (Freddie Mac), Federal National Mortgage Association (Fannie Mae), or Government National Mortgage Association (Ginnie Mae), nor from a federal income tax refund or repurchase agreement. **Attach a statement identifying the specific securities from which the interest was derived.**

### Line 2a Renaissance zone exemption (Projects approved before 8/1/13)

Enter on this line the amount from Schedule RZ, Part 7, line 1c. **Attach Schedule RZ.**

### Line 2b Renaissance zone exemption (Projects approved after 7/31/13)

Enter on this line the amount from Schedule RZ, Part 7, line 1h. **Attach Schedule RZ.**

### Line 3 New or expanding business income exemption

If the corporation qualified for the new or expanding business income exemption under N.D.C.C. ch. 40-57.1, enter the exempt portion of the corporation's trade or business income. See N.D. Admin. Code § 81-03-01.1-06 for guidance on calculating the amount of the exempt income. **Attach a statement showing the calculation of the exempt income.**

### Line 4a Renaissance zone historic property preservation tax credit

Enter on this line the amount from Schedule RZ, Part 7, line 4. **Attach Schedule RZ.**



**Line 4b**  
**Renaissance fund organization investment tax credit**

Enter on this line the amount from Schedule RZ, Part 7, line 5. **Attach Schedule RZ.**

**Line 4c**  
**Renaissance zone nonparticipating property owner tax credit**

Enter on this line the amount from Schedule RZ, Part 7, line 6. **Attach Schedule RZ.**

**Line 5**  
**Seed capital investment tax credit**

If the corporation invested in a qualified business for purposes of the seed capital investment tax credit, multiply the total amount invested during the 2016 tax year by 45% and enter the result on this line.

**Line 6**  
**Ag commodity investment tax credit**

If the corporation invested in a qualified business for purposes of the agricultural commodity processing facility investment tax credit, multiply the total amount invested during the 2016 tax year by 30% and enter the result on this line.

**Line 7**  
**Biodiesel or green diesel fuel blending tax credit**

If the corporation is a licensed supplier of biodiesel or green diesel fuel, it is allowed a credit equal to five cents per gallon for blending biodiesel or green diesel fuel having at least a 5% blend ("B5") that meets ASTM specifications. The blending must be done in North Dakota. For this purpose, a "supplier" means a person who distributes the biodiesel or green diesel fuel from a terminal in North Dakota. Enter the credit on this line. **Attach a statement showing the calculation of the credit.**

**Line 8**  
**Biodiesel or green diesel fuel sales equipment tax credit**

If the corporation is a licensed seller of biodiesel or green diesel fuel, it is allowed a credit equal to 10% of the costs to adapt or add equipment to its North Dakota facility to enable it to sell diesel fuel having at least a 2% biodiesel or green diesel blend ("B2") that meets ASTM specifications. For this purpose, a "seller" means a person who acquires the fuel from a wholesale supplier or distributor for resale to a consumer at a retail location.

Except for costs incurred before January 1, 2005, include eligible costs incurred before the tax year in which sales of the eligible biodiesel or green diesel fuel begin. The credit is allowed in each of five tax years, starting with the tax year in which sales of the eligible biodiesel or green diesel fuel begin. Enter the credit on this line. **Attach a statement showing the calculation of the credit.**

**Line 9**  
**Geothermal energy device tax credit**

*Note: The geothermal energy device income tax credit expired on December 31, 2014, and the credit is not allowed for a geothermal energy device installed on or after January 1, 2015.*

Complete this line only if any of the following apply:

- The corporation completed the installation of a qualifying geothermal energy device on or after January 1, 2009, and before January 1, 2015, and the 2016 tax year is one of the five tax years in which the credit is allowed for the installation.
- The corporation owns an interest in a partnership that completed the installation of a qualifying geothermal energy device on or after January 1, 2009, and before January 1, 2015, and the corporation is claiming its share of the allowable credit shown on a North Dakota Schedule K-1 received from the partnership.

For more information, see N.D.C.C. § 57-38-01.8. **Attach a statement describing the device, a detailed list of the costs of acquisition and installation, and the date the device was completely installed.**

**Line 10**  
**Employer internship program credit**

If the corporation hired an eligible college student under a qualifying internship program set up in North Dakota, it is allowed a credit equal to 10% of the compensation paid to the intern. For details, see N.D.C.C. § 57-38-01.24. The corporation is allowed no more than \$3,000 of credits for all tax years.

**Line 10a.** Enter the allowable credit on this line.

**Line 10b.** Enter the number of eligible interns hired during the 2016 tax year. *Disregard this line if the credit is from a passthrough entity.*

**Line 10c.** Enter on this line the total compensation paid to eligible interns during the 2016 tax year (as shown on their 2016 Form W-2s). *Disregard this line if the credit is from a passthrough entity.*

**Line 11**  
**Microbusiness tax credit**

If the corporation is certified as a microbusiness by the North Dakota Commerce Department, it is allowed a tax credit equal to 20% of the eligible cost of new property and employment. For details, see N.D.C.C. § 57-38-01.27. The corporation is allowed no more than \$10,000 of tax credits for all tax years.

**Line 11a.** Enter the allowable credit on this line.

**Line 11b.** Enter on this line the amount of qualifying new investment in property made during the 2016 tax year on which the credit is based. *Disregard this line if the credit is from a passthrough entity.*

**Line 11c.** Enter on this line the amount of compensation paid for qualifying new employment during the 2016 tax year on which the credit is based. *Disregard this line if the credit is from a passthrough entity.*

**Line 12**  
**Research expense tax credit**

A credit is allowed for conducting qualified research in North Dakota. For details, see N.D.C.C. § 57-38-30.5. Enter the credit on this line.

**Line 13**  
**Endowment fund tax credit**

If the corporation made a charitable contribution to a qualified endowment fund in North Dakota, it is allowed a tax credit equal to 40% of the contribution, up to a maximum credit of \$10,000. For details, see N.D.C.C. § 57-38-01.21.

**Line 13a.** Enter the allowable credit on this line.

**Line 13b.** Enter on this line the amount of the qualifying contribution made during the 2016 tax year on which the credit is based.

**Line 14**  
**Workforce recruitment tax credit**

If the corporation employs extraordinary recruitment methods to hire an employee to fill a hard-to-fill position in North Dakota, it is allowed a tax credit equal to 5% of the compensation paid during the first 12 months to the employee hired to fill that position.

The credit may be claimed in the first taxable year beginning after the employee completes the first 12 consecutive months of employment. For details, see N.D.C.C. § 57-38-01.25.

**Line 14a.** Enter the allowable credit on this line.

**Line 14b.** Enter the number of eligible employees whose first 12 months of employment ended during the corporation's 2015 tax year.

**Line 14c.** Enter the total compensation paid to the eligible employees during their first 12 consecutive months of employment ending in the corporation's 2015 tax year.

**Line 15**  
**Credit for wages paid to a mobilized employee**

Enter on this line the amount from Schedule ME, line 13. **Attach Schedule ME.**

**Line 16**  
**Angel fund investment tax credit**

A credit is allowed for making a qualified investment in a North Dakota angel fund. The credit is equal to 45% of the total qualified investments made during the tax year, up to a maximum credit of \$45,000. Enter the allowable credit on this line.

**Line 17**  
**Housing incentive fund tax credit**

A credit is allowed under for making a qualified contribution to the Housing Incentive Fund under N.D.C.C. § 57-38-01.32. Enter on this line the total credit amount shown on the credit certificate received from the North Dakota Housing Finance Agency.

**Line 17a.** Enter the allowable credit on this line.

**Line 17b.** Enter on this line the amount of the contribution made during the 2016 tax year on which the credit is based.

**Line 18**  
**Automation tax credit**

A credit is allowed under N.D.C.C. § 57-38-01.33 to a primary sector business for purchasing new or used automation machinery or equipment. Application must be made to the North Dakota Commerce Department for approval of the purchases. Enter on this line the amount of the credit shown on the credit approval letter received from the Office of State Tax Commissioner.

**Column 6 Worksheet**

**For nonresident individual shareholders only—  
see instructions to Schedule KS, Column 6.**

1. Shareholder's amount from Column 5 .....	1
2. Allocable income (less related expenses) included in the amount on line 1 .....	2
3. Interest from U.S. obligations included in the amount on line 1 .....	3
4. Add lines 2 and 3 .....	4
5. Apportionable income (loss). Subtract line 4 from line 1 .....	5
6. Apportionment factor from Schedule FACT, line 14 .....	6
7. Multiply line 5 by line 6 .....	7
8. Allocable income (less related expenses) <b>reportable to North Dakota</b> .....	8
9. Add lines 7 and 8. Enter result in Column 6.....	9

**Lines 19 through 21**  
**Nonprofit private school tax credits**

Tax credits are allowed under N.D.C.C. § 57-38-01.7 for making charitable contributions to qualifying nonprofit private primary, secondary, and higher education schools located in North Dakota. A separate credit is allowed for each of the three categories of school—primary, secondary, and higher education. For each category of school, the credit equals 50% of the contributions made to all eligible schools within the category. *(Note: Additional limitations on the allowable credit apply at the shareholder level.)* An S corporation may elect, on a contribution by contribution basis, to treat a contribution as having been made during the 2016 tax year if it is made on or before the due date, including extensions, for filing the 2016 Form 60. **For a list of the eligible schools within each of the three categories of schools, see the table on page 12 of this booklet.**

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 or fund that benefits both qualifying and nonqualifying schools, the contribution will qualify only if the donor specifically designates it for the exclusive use of a qualifying school and the account or fund separately accounts for the funds on behalf of the qualifying school. The donor must obtain a statement from the administrator of the account or fund that identifies the qualifying school and shows the amount contributed to it.

If a contribution is made to a qualifying school that provides education in one or more grades in both the primary school category (kindergarten through 8th grades) and the secondary school category (9th through 12th grades), a separate credit is allowed for the portion of the contribution designated for the exclusive use of each school category. The donor must obtain a statement from the qualifying school that identifies the qualifying school and shows the amount contributed to each category of school. If the donor does not obtain a statement showing how the contribution is allocated to each category of school, one-half of the total contribution will be deemed to have been made to each category of school.

**Line 19.** Enter on this line the allowable credit for contributions to qualified nonprofit private primary schools.

**Line 20.** Enter on this line the allowable credit for contributions to qualified nonprofit private high schools.

**Line 21.** Enter on this line the allowable credit for contributions to qualified nonprofit private colleges.

**Line 22**  
**Allocable nonbusiness income**

Lines 22a and 22b apply only if the corporation meets all of the following:

- It is a multistate corporation, i.e., it carries on its business both within and without North Dakota.
- It has one or more nonresident individual, estate, or trust shareholders.

- It has allocable nonbusiness income. Generally, all income received by a corporation is considered business income unless clearly classifiable as nonbusiness income. The classification of income by the labels used to describe it—for example, interest, dividends, rents, royalties, operating income, or nonoperating income—is generally not relevant in determining whether income is business or nonbusiness income. For more information, see N.D. Admin. Code § 81-03-09-03.

Nonbusiness income is not apportioned using the apportionment factor (from Schedule FACT) but is allocated within or without North Dakota as provided under N.D.C.C. §§ 57-38.1-04 through 57-38.1-08 and N.D. Admin. Code § 81-03-09-09. Expenses must be attributed to the nonbusiness income in a manner that fairly distributes all of the corporation's expenses to its business and nonbusiness income.

If the corporation has an item of nonbusiness income subject to allocation, the corporation must take this into account when calculating the North Dakota distributive share of income or loss reportable on Schedule KS and Schedule K-1 (Form 60). See the instructions to Schedule KS, Column 6, for more information. In addition to completing lines 22a and 22b, the corporation must attach the following to Form 60:

- A statement on which each item of nonbusiness income is shown along with its related expenses.
- A statement explaining the basis for treating the item of income as nonbusiness income subject to allocation.
- If an item of nonbusiness income is allocated to a state other than North Dakota, a copy of that other state's income tax return must be attached. If the corporation is not required to file an income tax return with the other state, the corporation must indicate this in the attached statement.

**Line 22a.** Enter the total allocable income (less related expenses) from all sources within and without North Dakota.

**Line 22b.** Enter the portion of the amount on line 22a that is allocable to North Dakota.

### Line 23

#### Disposition of I.R.C. Section 179 property

Lines 23a through 23d apply only if the corporation sold, exchanged, or disposed of property for which an I.R.C. Section 179 deduction was passed through to the shareholders. *Note: The corporation is required to report this same information on a separate statement attached to Federal Form 1120S, Schedule K, line 17d.*

For lines 23a through 23d, multiply the corresponding combined amount for all shareholders as reported on Federal Form 1120S, Schedule K, line 17d, by the North Dakota apportionment factor from Schedule FACT, line 14, and enter the result. However, if the property disposed of is treated as a nonbusiness asset the gain or loss from which is subject to allocation under N.D.C.C. §§ 57-38.1-04 through 57-38.1-08, subtract the amounts for that asset before multiplying by the apportionment factor. Include the nonbusiness gain or loss from the disposition on Form 60, Schedule K, line 22.

## Instructions for Schedule KS (Form 60, page 5)

Schedule KS must be completed to provide information about each shareholder. If the corporation has more than seven shareholders, complete and attach additional schedules as needed to list all shareholders. If more than one Schedule KS is needed, complete lines 1 through 4 on only one of them, and include the combined amount for all of the schedules on that one schedule.

### All Shareholders (Columns 1 through 5)

#### Columns 1 and 2

Enter the name, mailing address, and shareholder's identifying number as shown on the shareholder's Federal Schedule K-1. If the shareholder is a single member limited liability company (LLC) that is a disregarded entity for federal income tax purposes, enter the owner's name, address, and identifying number.

#### Column 3

Identify the entity type of the shareholder by entering the applicable code letter as follows:

#### Entity type

#### Code letter

Individual .....	<b>I</b>
Trust .....	<b>T</b>
Decedent's estate.....	<b>D</b>
Bankruptcy estate.....	<b>B</b>
Exempt organization .....	<b>O</b>

If the shareholder is a limited liability company (LLC) that is a disregarded entity for federal income tax purposes, enter the code letter for the type of entity of the LLC's owner.

***Note:** The "Trust" entity type only applies to a trust that files Federal Form 1041 or, in lieu of filing Federal Form 1041, elects an alternative reporting method under the federal income tax regulations.*

#### Column 4

Enter the shareholder's stock ownership percentage as shown on the shareholder's Federal Schedule K-1.

#### Column 5

Enter the sum of the following items from the shareholder's Federal Schedule K-1 (Form 1120S), Part III:

- Box 1** Ordinary business income (loss)
- Box 2** Net rental real estate income (loss)
- Box 3** Other net rental income (loss)
- Box 4** Interest income
- Box 5a** Ordinary dividends
- Box 6** Royalties
- Box 7** Net short-term capital gain (loss)
- Box 8a** Net long-term capital gain (loss)
- Box 9** Net section 1231 gain (loss)
- Box 10** Other income (loss)
- Box 11** Section 179 deduction
- Box 12** Other deductions (*Only include the deductions allowed as a deduction from gross income in calculating adjusted gross income for federal income tax purposes.*)
- Box 17** Include the gain (loss) from I.R.C. Section 179 property disposition (*For purposes of calculating the gain or loss, include all of the Section 179 deduction passed through to the shareholder, regardless of whether or not the shareholder actually deducted all of it.*)

### Nonresident Shareholders Only (Columns 6 through 8)

For purposes of Columns 6 through 8, a nonresident shareholder means:

- an individual who is not domiciled in North Dakota, or
- a trust, including a grantor trust, that is not organized under North Dakota law. This only applies to trusts that are subject to income tax.

#### Column 6

Complete Column 6 for each nonresident shareholder. Multiply the shareholder's amount in Column 5 by the apportionment factor from Schedule FACT, line 14, and enter the result in Column 6. However, complete the **Column 6 Worksheet** on page 8 to calculate the amount to enter in Column 6 if either or both of the following apply:

- The corporation has an item of nonbusiness income subject to allocation. See the instructions to Form 60, Schedule K, line 22, on page 8 for more information.
- The amount in Column 5 includes interest from U.S. obligations.

#### Column 7

If a nonresident shareholder's distributive share of North Dakota income in Column 6 is \$1,000 or more, multiply the amount in Column 6 by 2.90% (.029) and enter the result in Column 7. However, the following exceptions apply:

- If the nonresident shareholder gives you a completed Form PWA, enter the amount from line 6 of Form PWA in Column 7 and fill in the circle under "Form PWA or Form PWE."
- If the nonresident shareholder gives you a completed Form PWE, leave Column 7 blank and fill in the circle under "Form PWA or Form PWE."
- If the nonresident shareholder elected to be included in a composite filing, leave Column 7 blank and see the instructions to Column 8.

See "Withholding from nonresident shareholders" on page 3 for more information.

#### Column 8

*Note: Leave Column 8 blank if Column 7 was completed for the nonresident shareholder.*

Complete Column 8 for each nonresident shareholder electing to be included in a composite filing. Multiply the amount in Column 6 by 2.90% (.029) and enter the result in Column 8. If the amount in

Column 6 is zero or less, enter zero in Column 8. See "Composite filing" on page 3 for more information.

## Specific line instructions for page 1 of Form 60, lines 1-13

### Complete Schedule FACT, Schedule BG, Schedule K, and Schedule KS before completing lines 1 through 13 on page 1 of Form 60.

#### Line 5 Income tax withholding

Enter the North Dakota income tax withholding shown on a 2016 Form 1099 or North Dakota Schedule K-1. Be sure the state identified on the Form 1099 is North Dakota. Also enter the North Dakota income tax withholding shown on a 2015 North Dakota Schedule K-1 if the entity that issued it has a fiscal tax year ending in the corporation's 2016 tax year. Do not enter on this line North Dakota extraction or production taxes withheld from mineral interest income, such as an oil or gas royalty, because they are not income taxes. **Attach a copy of the Form 1099 or North Dakota Schedule K-1.**

#### Line 6 Estimated tax payments

Enter the amount paid with the 2016 Forms 60-EXT and 60-ES plus any overpayment applied from the 2015 Form 60. However, if filing an amended return, do not enter any previously paid estimated tax amount; instead, enter the amount of the total taxes due from line 4 of the previously filed original or amended return.

#### Line 9 Application of overpayment to 2017

If there is an overpayment on line 8, the corporation may elect to apply part or all of it as an estimated payment toward its 2017 tax liability. To make the election, enter the portion of line 8 to be applied on line 9. If this election is made, the election and the amount applied may not be changed after the return is filed. If this is an amended return, do not make an entry on this line.

#### Line 11 Tax due

A tax due must be paid in full with the return when it is filed. See the instructions to line 13 for payment options.

#### Line 12 Penalty and interest

The Office of State Tax Commissioner will notify the corporation of any penalty and interest payable on a tax due shown on Form 60. However, the corporation may calculate the penalty and interest amounts and include them in the balance due on Form 60.

**Penalty.** Calculate the penalty amount as follows:

- If Form 60 is filed on or before the due date (or extended due date), but the total amount of tax due is not paid with the return, the penalty is equal to 5% of the unpaid tax or \$5.00, whichever is greater.
- If Form 60 is not filed on or before the due date (or extended due date), the penalty is equal to 5% of the tax due or \$5.00, whichever is greater, for the month in which the return was due plus 5% of the tax due for each additional month (or fraction of a month) during which the return remains delinquent, not to exceed 25% of the tax due.

**Interest.** Calculate the interest amount as follows:

- If an extension of time to file Form 60 was obtained, extension interest is calculated at the rate of 12% per year on any tax due from the due date of the return to the earlier of the extended due date or the date the return was filed.
- If the total amount of tax due is not paid by the due date (or extended due date) of the return, interest is calculated at the rate of 1% per month (or fraction of a month) on the unpaid tax, except for the month in which the return was due.

#### Line 13 Balance due

The balance due must be paid in full with the return. The payment must be made electronically in one of the following ways.

- **Online**—A payment may be made online with a debit or credit card or electronic check. North Dakota contracts with a national payment service to provide this option. There is a fee for this service, none of which goes to the State of North Dakota.



- **Electronic funds transfer**—A payment may be made by means of an Automated Clearing House (ACH) credit transaction that the taxpayer initiates through its banking institution.

For more information and to make an electronic payment, go to our website at [www.nd.gov/tax](http://www.nd.gov/tax).

If paying by check or money order, make it payable to “ND State Tax Commissioner,” and write the last four digits of the corporation’s FEIN and “2016 Form 60” on the check or money order. A check must be drawn on a U.S. or Canadian bank, be in U.S. dollars, and use a standard 9-digit routing number. A check drawn on a foreign bank (except one in Canada) cannot be accepted.

## Instructions for Schedule K-1

With the exception of the taxes on excess net passive income and built-in gains (calculated on Schedule BG), an S corporation is not subject to North Dakota income tax. Instead, the shareholders are responsible for reporting and paying any applicable North Dakota income tax on their shares of the corporation’s income reportable to North Dakota.

North Dakota Schedule K-1 (Form 60) must be used by an S corporation to provide its shareholders with information they will need to complete a North Dakota income tax return. The information to be included in the schedule will depend on the type of shareholder.

North Dakota Schedule K-1 (Form 60) must be completed and given to:

- Each nonresident shareholder for which the corporation is required to report the North Dakota distributive share of income on Form 60, Schedule KS, Column 6.
- Each shareholder to which a share of a North Dakota adjustment or tax credit from Form 60, Schedule K, lines 1 through 21, is distributable.
- Each shareholder that is a qualified subchapter S trust (QSST) or an electing small business trust (ESBT) with a nonresident individual or estate beneficiary.

If there are no North Dakota adjustments or tax credits on Form 60, Schedule K, lines 1 through 21, a North Dakota Schedule K-1 does not have to be given to a North Dakota resident individual, estate, or trust.

In addition to the North Dakota Schedule K-1 (Form 60), the corporation must provide the shareholder with a copy of the *Shareholder’s Instructions for North Dakota Schedule K-1 (Form 60)*.

A copy of all North Dakota Schedule K-1 forms must be enclosed with Form 60 along with any required supplemental statements.

**Amended schedule.** If a corporation files an amended Federal Form 1120S, or if the IRS makes any changes to the Federal Form 1120S, the corporation must file an amended Form 60 for the same tax year, and must issue amended North Dakota Schedule K-1 forms to its shareholders. Fill in the “Amended” circle at the top of the North Dakota Schedule K-1 (Form 60).

**Final schedule.** Fill in the “Final” circle at the top of the North Dakota Schedule K-1 if it is the last one to be issued by the corporation to the shareholder.

## Part 2 Shareholder information

### Item E

Enter the code letter for the shareholder from Form 60, Schedule KS, Column 3.

### Item F

If the shareholder is an individual, estate, or trust, fill in the applicable circle to indicate the legal residency status of the shareholder for North Dakota income tax purposes. If an individual shareholder changed his or her legal residency to or from North Dakota during the tax year, check the part-year resident status. In the case of an estate or trust shareholder, only the full-year resident or full-year nonresident status will apply.

### Item G

For a nonresident shareholder, indicate whether the shareholder is included in a composite filing by filling in the applicable circle.

## Part 3 All shareholders— North Dakota adjustments and tax credits

If there are any North Dakota adjustments or tax credits on Form 60, Schedule K, lines 1 through 21, complete this part for all shareholders.

### Lines 1 through 21

Enter on the corresponding lines the shareholder’s share of each amount shown on Form 60, Schedule K, lines 1 through 21.

## Part 4 Nonresident individual, estate, or trust shareholder only—North Dakota income (loss)

Complete Part 4 for a nonresident individual, estate, or trust shareholder.

### Line 22

#### Corporation’s apportionment factor

Enter the corporation’s apportionment factor from Form 60, Schedule FACT, line 14.

### Lines 23 through 35 Income and loss items

Except as provided under **Exception 1** and **Exception 2** below, multiply the corresponding amount from the shareholder’s Federal Schedule K-1, Part III, boxes 1 through 12, and any I.R.C. § 179 property disposition gain (loss) included in box 17 by the corporation’s apportionment factor from Schedule FACT, line 14, and enter the result on the corresponding line of Part 4, lines 23 through 35.

For “Other deductions” from box 12 of Federal Schedule K-1, only include deductions that are allowed as a deduction from gross income in calculating adjusted gross income for federal income tax purposes.

For purposes of calculating the gain or loss for I.R.C. § 179 property dispositions included in box 17 of Federal Schedule K-1, include all of the Section 179 deduction passed through to the shareholder, regardless of whether or not the shareholder actually deducted all of it.

#### Exception 1: Allocable (nonbusiness)

**income.** If the corporation treated any part of a distributable item of income from the shareholder’s Federal Schedule K-1 as nonbusiness income subject to allocation, calculate the amount to enter on the corresponding line of this part in the following steps:

1. Subtract the net nonbusiness income (gross amount less related expenses) from the applicable distributable amount shown on the Federal Schedule K-1.
2. Multiply the remaining distributive amount, if any, (from step 1) by the corporation's apportionment factor from Schedule FACT, line 14.
3. Add the result (from step 2) to the portion, if any, of the net nonbusiness income **allocable to North Dakota**, and enter the result on the corresponding line of Part 4.

**Note:** If any portion of the net nonbusiness income removed from the distributable amount (in step 1 above) is allocable outside North Dakota, do not enter it anywhere on North Dakota Schedule K-1 (Form 60).

If the calculation of any amount on lines 23 through 35 of Part 4 was affected by the removal or inclusion of net nonbusiness income, attach a statement to the shareholder's North Dakota Schedule K-1 (Form 60) identifying the net nonbusiness income and showing the calculation of the amount entered on the applicable line(s) of Part 4.

**Exception 2: Interest from U.S. obligations.** Do not include interest from U.S. obligations in determining the amount to enter on Part 4, line 26.

## Part 5 Nonresident shareholder only

Complete Part 5 for a nonresident shareholder for which an amount was required to be entered on Form 60, Schedule KS, Column 6.

### Line 36 ND distributive share of income (loss)

Enter the shareholder's North Dakota distributive share of income (loss) from Form 60, Schedule KS, Column 6.

### Line 37 ND income tax withheld

Enter the amount of North Dakota income tax withheld from the shareholder's North Dakota distributive share of income from Form 60, Schedule KS, Column 7.

## Qualified nonprofit private schools (for Form 60, Schedule K, lines 19 through 21)

For purposes of the credits on Form 60, Schedule K, lines 19 through 21) the following lists the qualifying schools in each school category. (Note: These lists are subject to change.)

### Primary Schools (Grades K through 8)

Academy for Children (Fargo)	Nativity Elementary School (Fargo)
Anne Carlsen Center (Jamestown)	New Testament Baptist Christian School (Larimore)
Bishop Ryan Catholic School (Minot)	Oak Grove Lutheran Elementary School (Fargo)
Brentwood Adventist Christian School (Bismarck)	Ojibwa Indian School (Belcourt)
Cathedral of the Holy Spirit Elementary School (Bismarck)	Our Redeemer's Christian School (Minot)
Children's Montessori Center (Fargo)	Prairie Learning Education Center (Raleigh)
Christ the King Elementary School (Mandan)	Prairie Voyager Adventist School (Grand Forks)
Dakota Memorial School (Minot)	Red River Adventist Elementary School (Fargo)
Dakota Montessori School (Fargo)	Shanley High-Sullivan Middle School (Fargo)
Dickinson Adventist Christian School (Dickinson)	Shiloh Christian School (Bismarck)
Dickinson Trinity Jr/High School (Dickinson)	St Alphonsus Elementary School (Langdon)
Forest River School (Fordville)	St Anne Elementary School (Bismarck)
Grace Lutheran Elementary School (Fargo)	St Ann's Catholic School (Belcourt)
Grand Forks Montessori Academy (Grand Forks)	St Bernard Mission School (Fort Yates)
Hillcrest SDA School (Jamestown)	St Catherine Elementary School (Valley City)
Holy Family – St. Mary's Elementary School (Grand Forks)	St John's Academy (Jamestown)
Holy Spirit Elementary School (Fargo)	St John's Elementary School (Wahpeton)
Hope Christian Academy (Dickinson)	St Joseph Elementary School (Mandan)
Johnson Corners Christian Academy (Watford City)	St Joseph Elementary School (Devils Lake)
Light of Christ 7th and 8th Grade Academy (Bismarck)	St Joseph's Elementary School (Williston)
Little Flower Elementary School (Rugby)	St Mary's Elementary School (Bismarck)
Martin Luther School (Bismarck)	St Michael's Elementary School (Grand Forks)
Missouri Valley Montessori School (Bismarck)	Trinity Christian School (Williston)
	Trinity Elementary East School (Dickinson)
	Trinity Elementary School (West Fargo)
	Trinity Elementary West School (Dickinson)
	Victory Christian School (Jamestown)

### High Schools (Grades 9 through 12)

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

### Colleges (Education above 12th grade)

- Jamestown College (Jamestown)
- Trinity Bible College (Ellendale)
- United Tribes Technical College (Bismarck)
- University of Mary (Bismarck)
- ND Independent College Fund (Bismarck)

**Line 38****ND composite income tax**

Enter the amount of North Dakota composite income tax on the shareholder's North Dakota distributive share of income from Form 60, Schedule KS, Column 8.

## Before you file Form 60

**Signatures**

The return must be signed and dated by a corporate officer or an authorized representative of the corporation.

If the corporation pays someone other than one of its employees to prepare the return, the paid preparer also must sign and date the return.

**Preparer authorization check-off**

The corporation may authorize the North Dakota Office of State Tax Commissioner (Tax Department) to discuss matters pertaining to its 2016 Form 60 with the preparer who signed it. To do so, fill in the circle next to the signature area in the lower right-hand corner of page 1 of Form 60. This authorization applies only to the individual whose signature and printed name appears in the paid preparer section of the signature area. It does not apply to the firm, if any, shown in that section.

This authorization allows the Tax Department to contact the preparer to answer any questions that may arise during the processing of the corporation's return. It also authorizes the preparer to respond to questions and to provide any information missing from the return, to contact the Tax Department to inquire about the status of the return's processing and related refund or payment, and to respond to Tax Department notices that the corporation shares with the preparer pertaining to math errors or return preparation. *(Tax Department notices will be sent only to the corporation.)*

This authorization automatically expires on the due date (including extensions) for filing the 2017 Form 60.

This authorization does not authorize the preparer to receive a refund check, to bind the corporation in any way (including any additional tax liability), or to represent the corporation before the Tax Department for any other purpose.

**Assembling a paper return**

Please assemble Form 60 and its required attachments in the following order:

1. Form 60.
2. Schedule FACT / Schedule BG.
2. Schedule K.
3. Schedule KS.
4. North Dakota Schedule K-1 forms.
5. Required supporting statements.
6. Complete copy of Form 1120S including Federal Schedule K-1 forms.

A balance due may be paid electronically (see page 10 of these instructions). If paying by check or money order, make it payable to "ND State Tax Commissioner" and enclose it with the return. Do not staple documents together.