



# 2022 NORTH DAKOTA S CORPORATION INCOME TAX FORM 60

Includes: Schedule Fact  
Schedule BG  
Schedule K  
Schedule KS  
Schedule K-1

Photo credit:  
ND Tourism

Tax forms, guidelines, and more are  
available at **[www.tax.nd.gov](http://www.tax.nd.gov)**.

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Email 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>	Passsthrough entity withholding adjustment
<b>Form PWE</b>	Nonresident passsthrough entity member exemption and certification

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

## Need help?

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

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

### Email

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 or appointment service

State Capitol Building, 8th Floor  
600 E. Boulevard Ave., Bismarck, ND

Monday through Friday  
8:00 a.m. to 5:00 p.m.  
(except holidays)

Walk-ins are welcome. To assure availability and promptness of service, call in advance to make an appointment.

### 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.

## Taxpayer Bill of Rights

Obtain a copy of the North Dakota Taxpayer Bill of Rights on the  
Office of State Tax Commissioner's website at  
**[www.tax.nd.gov](http://www.tax.nd.gov)**

## Changes affecting S corporations

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

### REMINDER: Form 60 efilg requirement

House Bill 1082 passed by the 2021 North Dakota Legislature requires a partnership, S corporation, trust, or other passthrough entity with 10 or more owners (or beneficiaries, if a trust) to file its North Dakota income tax return and pay any tax due on it by electronic means. This new requirement applies to returns filed for tax years 2022 and after. For more information about electronic filing of the North Dakota partnership return (Form 58), S corporation return (Form 60), or fiduciary return (Form 38), go to **www.tax.nd.gov** and click on I Am ...>Business>E-File.

### REMINDER: Change to efilg requirement for W-2s and 1099s

Beginning with returns that are due on January 31, 2023, businesses are required to electronically file Forms W-2 and 1099.

Electronically filing these forms can easily be done in one of the following ways:

- **North Dakota Taxpayer Access Point (ND TAP) at [www.tax.nd.gov/tap](http://www.tax.nd.gov/tap)**

If you do not already have a ND TAP account, select "Sign Up For Access".

- **Third-party accounting software**

A business should check its accounting software or contact the accounting software provider to see if it provides electronic filing of Forms W-2 and 1099 with North Dakota.

For questions and assistance, contact the Office of State Tax Commissioner by sending an email to [withhold@nd.gov](mailto:withhold@nd.gov) or calling 701-328-1248.

### REMINDER: Changes to employer withholding return and payment requirements

House Bill 1082 passed by the 2021 North Dakota Legislature made the following changes affecting the income tax withholding return and payment requirements for employers:

- Effective for calendar years 2022 and after, an employer may file Form 306, Income Tax Withholding Return, on an annual basis instead of quarterly if the amount of North Dakota income tax withheld in the previous calendar year was less than \$1,000. This is a \$500 increase in the threshold applicable to calendar years before 2022.
- Effective for calendar years 2022 and after, Form 306, Income Tax Withholding Return, and the tax due on it must be submitted electronically on a quarterly basis if the amount of North Dakota income tax withheld in the previous calendar year was \$1,000 or more.

For questions and assistance, contact the Office of State Tax Commissioner by sending an email to [withhold@nd.gov](mailto:withhold@nd.gov) or calling 701-328-1248.

### REMINDER: 2-year extension of 2019 changes to disabled employment credit

In 2019, the North Dakota Legislature expanded the income tax credit for hiring a qualifying developmentally disabled or mentally ill individual.

Eligibility for the credit was extended to all taxpayers (not just C corporations), the credit rate was increased from 5% to 25%, and the wages on which the credit is allowed was changed from the first \$6,000 paid in the first 12 months of employment to the first \$6,000 paid annually. The 2019 changes were effective only for the 2019 and 2020 tax years.

House Bill 1405 passed by the 2021 North Dakota Legislature reinstated the 2019 changes for two additional tax years—2021 and 2022—after which the changes will expire, and the law will revert to how it read prior to 2019.

To qualify for the credit, an employer must apply for and obtain from the North Dakota Department of Human Services, Vocational Rehabilitation Division, a letter certifying that the individual has a severe developmental or mental disability, is eligible for the agency's services, and requires customized or supported employment to become employed. See Form 60, Schedule K, line 19.

### Staying on top of developments

Businesses or other interested persons may sign up to receive email notifications when a newsletter or other important information is issued by the Office of State Tax Commissioner. There is a separate update list for each tax type administered by the Tax Commissioner. To sign up, go to **www.tax.nd.gov** and select "Email Sign-Up" under "News Center".



# Form 60 Instructions

# 2022

## 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 2022 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 2022 Form 1120-S, U.S. Income Tax Return for an S Corporation.
- It carries on business, or derives gross income from sources, in North Dakota during the 2022 tax year.

### Exception for certain

**S corporations.** An S corporation must file a 2022 Form 40, North Dakota Corporation Income Tax Return, for the 2022 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 2021 Form 40 (page 1, line 20) is zero and the corporation is not revoking the election for 2022, which is done by filing Form 60 for the 2022 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 North Dakota Office of State Tax Commissioner.

### Disaster recovery tax exemptions.

Exemptions from state and local tax filing and payment obligations are available to out-of-state businesses and their employees who are in North Dakota on a temporary basis for the sole purpose of repairing or replacing natural gas, electrical, or telecommunication transmission property that is damaged, or under threat of damage, from a state- or presidentially-declared disaster or emergency. For more information, go to **www.tax.nd.gov**.

### Electronic Filing

S-corporations with 10 or more owners are required to file the North Dakota income tax return and pay any tax due on it by electronic means.

### When and Where to file

The 2022 Form 60 must be filed on or before (1) April 15, 2023, if filing for the 2021 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 2022 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 2021 Form 60 if filing for a fiscal year beginning in the 2021 calendar year.**

**If not required to file electronically,** 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 2022 Form 60-EXT.

Alternatively, a check or money order may be sent with a letter containing the following: (1) name of corporation, (2) corporation's FEIN, (3) corporation's address and phone number, and (4) statement that the payment is a 2022 Form 60-EXT payment.

### Penalty and interest

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 by its due date (or extended due date), but the total amount of tax due is not paid by the due date (or extended due date), a penalty equal to 5% of the unpaid tax or \$5.00, whichever is greater, must be paid.

If Form 60 is filed after its due date (or extended due date), and there is an unpaid tax due on it, a penalty equal to 5% of the unpaid tax due or \$5.00, whichever is greater, for the month in which the return was due plus 5% of the unpaid 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 return's due date (or extended due date).

### Estimated tax payment (for 2023)

An S corporation may, but is not required to, make estimated income tax payments. For more information, including payment options, obtain the 2023 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 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 2022 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 2022 return" below.

**Note:** If required to electronically file the original return, the amended return must also be electronically filed.

If a corporation paid too much tax because of an error on its 2022 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 2022 return

1. Obtain a blank 2022 Form 60.
2. Enter the corporation's name, current address, FEIN, etc., in the top portion of page 1 of Form 60.
3. Fill in 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 2022 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 2022 Federal Form 1120-S, 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 and see "Annual Filing Requirements — W-2 and 1099."

## Disclosure notification

Upon written request from the chairman of a North Dakota legislative standing committee or Legislative Management, the law requires the Office of State Tax Commissioner to disclose the amount of any deduction or credit claimed on a tax return. Any other confidential information, such as a taxpayer's name or federal employer identification number, may not be disclosed.

## 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 1120-S in its entirety.
2. Complete Items A through H at the top of page 1 of Form 60—see page 5.
3. Complete Schedule FACT on page 2 of Form 60—see page 6.
4. Complete Schedule BG, if required, on page 2 of Form 60—see page 7.
5. Complete Schedule K on page 3 of Form 60—see page 7.
6. Complete Schedule KS on page 5 of Form 60—see page 10.
7. Complete lines 1 through 13 on page 1 of Form 60—see page 11.
8. Complete Schedule K-1, if required, for the shareholders—see page 12.

**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 2022 Form 60 if the corporation's taxable year began in the 2022 calendar year. **Note:** Use the 2021 Form 60 if the taxable year began in the 2021 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. Fill in the applicable circle. If the corporation uses a fiscal year, enter the beginning and ending dates of the fiscal year. Use the 2022 Form 60 only if the corporation's tax year began in the 2022 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. If filing an amended return, enter the most current address.

### 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 1120-S.

### 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 1120-S.

### Item F - Indicators

Fill in all applicable circles, as follows:

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

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

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

**Composite return.** Fill in this circle **only if** (1) the corporation has one or more nonresident shareholders eligible to be included in a composite filing and (2) **all** of them elected to include their distributive shares of North Dakota source income in a composite filing. See "Composite filing" on page 3 for more information.

**Amended return.** Fill in if this return is being filed to correct a previously filed 2022 Form 60. See "Correcting a previously filed return" on page 3 for more information.

**Extension.** Fill in 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.

### Worksheet for Schedule BG, Line 6 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** \_\_\_\_\_

### 2022 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



# 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 21, 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.

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 81-03-09-21 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.

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. For more complete information on the payroll factor, see N.D. Admin. Code §§ 81-03-09-22 through 81-03-09-25.

### 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 1120-S, 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 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. For more complete information, see N.D. Admin. Code §§ 81-03-09-26 through 81-03-09-31 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 81-03-09-30.

#### **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 **Worksheet for Schedule BG, Line 6** on page 5 to calculate the amount to enter on this line. **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.

**Schedule K-1 from another passthrough entity.** Include on the applicable lines of Schedule K any adjustments, credits, etc., from a North Dakota Schedule K-1, as instructed in the partner or beneficiary instructions to that form.

**Reminder: Be sure to attach to Form 60 any prescribed schedule or other supporting document specified in the instructions.**

#### **Property tax clearance**

North Dakota Century Code § 57-01-15.1 provides that, before certain state tax incentives may be claimed, a taxpayer must obtain a property tax clearance record from each North Dakota county in which the taxpayer holds a 50 percent or more ownership interest in real property. The property tax clearance record(s) must be attached to the North Dakota tax return on which the incentive is claimed. Certain tax incentives on Form 60, Schedule K, are subject to this requirement. The incentives subject to this requirement are identified in the box at the top of Schedule K.

If the corporation is claiming any of the specified incentives, it must complete the property tax clearance section at the top of Schedule K. If the corporation is required to attach a property tax clearance record, obtain one by completing the form **Property Tax Clearance Record**, which is available on the Office of State Tax Commissioner's website.

#### **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 2**

##### **Renaissance zone exemption**

Enter on this line the amount from Schedule RZ, Part 7, line 1c. **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 2022 tax year by 45% and enter the result on this line. See N.D.C.C. Ch. 57-38.5. **Attach a copy of the Qualified Seed Capital Business Investment Reporting form. Or, if claiming a seed capital investment credit from a North Dakota Schedule K-1, attach a statement identifying the qualified business in which the investment was made.**

**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 2022 tax year by 30% and enter the result on this line. The corporation is allowed no more than \$250,000 in total credits for investments made in tax years 2005 and after. See N.D.C.C. Ch. 57-38.6. **Attach a copy of the Ag Commodity Processing Facility Investment Reporting form. Or, if claiming an agricultural commodity processing facility investment credit from a North Dakota Schedule K-1, attach a statement identifying the facility in which the investment was made.**

**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

**Worksheet for Schedule KS, Column 6**

**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

or green diesel fuel from a terminal in North Dakota. Enter the credit on this line. See N.D.C.C. § 57-38-01.22. **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. See N.D.C.C. § 57-38-01.23. **Attach a statement showing the calculation of the credit.**

**Line 9****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 9a.** Enter the allowable credit on this line.

**Line 9b.** Enter the number of eligible interns employed during the 2022 tax year. **Disregard this line if the credit is from a passthrough entity.**

**Line 9c.** Enter on this line the total compensation paid to eligible interns during the 2022 tax year (as shown on their 2022 Form W-2s). **Disregard this line if the credit is from a passthrough entity.**

**Line 10****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 allowable credit on this line. **Attach a statement showing the computation of the base amount and the credit.**

**Line 11****Endowment fund tax credit**

A tax credit is allowed for making a contribution to a qualified endowment fund. For more information, see Schedule QEC (for filers of Forms 38, 40, 58, and 60). **Attach Schedule QEC.**

**Lines 11a and 11b.** Enter on these lines the applicable amounts from Schedule QEC.

**Lines 11c and 11d.** Enter on these lines an endowment fund credit and the related contribution amount shown on a North Dakota Schedule K-1 received from an estate, trust, partnership, or S corporation.

#### **Line 12**

##### **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 12a.** Enter the allowable credit on this line.

**Line 12b.** Enter the number of eligible employees whose first 12 months of employment ended during the corporation's 2021 tax year.

**Line 12c.** Enter the total compensation paid to the eligible employees during their first 12 consecutive months of employment ending in the corporation's 2021 tax year.

#### **Line 13**

##### **Credit for wages paid to a mobilized employee**

Enter on this line the amount from Schedule ME, line 13. See N.D.C.C. § 57-38-01.31. **Attach Schedule ME.**

#### **Lines 14 through 16**

##### **Nonprofit private school tax credits**

Tax credits are allowed for making charitable contributions to qualifying nonprofit private primary schools, high schools, and colleges located in North Dakota. A separate credit is allowed for each of the three categories of school—primary school, high school, and college. 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.) **For a list of the eligible schools within each of the three categories of schools, see the table on page 13 of this booklet.**

**Election.** A corporation may elect, on a contribution by contribution basis, to treat a contribution as having been made during the 2022 tax year if it is made on or before the due date, including extensions, for filing the 2022 Form 60. Make the election by attaching to the return a document containing the following:

1. A statement that the election is being made.
2. Name of qualifying school.
3. Date of contribution.
4. Amount of contribution.

To qualify, a contribution must be made directly to, or specifically designated for the exclusive use of, a qualifying school.

##### **School network or organization.**

If a contribution is made payable to the account or fund of a school network or organization that governs or benefits multiple schools, the contribution will qualify only if the corporation specifically designates it for the use of a qualifying school, and the network or organization separately accounts for the funds on behalf of that school. The corporation must obtain a statement from the network or organization that identifies the qualifying school and the amount contributed to it. If the qualifying school falls into both the primary and high school categories, also see the next paragraph.

##### **Schools in both primary and high school categories.**

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 high school category (9th through 12th grades), a separate credit is allowed for the portion of the contribution designated for use within each school category. The corporation must obtain a statement from the qualifying school or the school network or organization that identifies the qualifying school and shows the amount contributed within each category of school. If the corporation does not obtain a statement, one-half of the total contribution will be deemed to have been made to each category of school.

**Line 14.** Enter on this line the allowable credit for contributions to qualified nonprofit private primary schools.

**Line 15.** Enter on this line the allowable credit for contributions to qualified nonprofit private high schools.

**Line 16.** Enter on this line the allowable credit for contributions to qualified nonprofit private colleges.

#### **Line 17**

##### **Angel investor investment credit**

**Important! This line is only for credits attributable to investments made in qualified businesses by angel funds organized and certified on or after July 1, 2017.**

If an S corporation is a member of a North Dakota angel fund that is organized and certified on or after July 1, 2017, a credit is allowed to the corporation if it participates in a qualified investment made by the angel fund in a qualified business. The angel fund is required to provide a **Participating Angel Investor Statement** to the S corporation, which evidences the corporation's investment. For qualified investments made after June 30, 2017, that fall into the S corporation's 2022 tax year, multiply the investment amount by the applicable credit rate shown on the statement. If an S corporation participates in more than one qualified investment during the tax year, calculate the credit separately for each **Participating Angel Investor Statement received** and add the separately calculated amounts.

Enter the credit amount on this line. **Do not enter on this line an angel investor credit from a North Dakota Schedule K-1.** See N.D.C.C. § 57-38-01.26 (effective for investments made after June 30, 2017).

**Attach a copy of the Participating Angel Investor Investment Statement.**



## Line 18 Automation tax credit

**Important! This line only applies to the automation income tax credit program in effect for the 2019 through 2022 tax years.**

If the corporation qualified for the automation tax credit under N.D.C.C. § 57-38-01.36, enter on this line the amount of the credit shown on the credit approval letter issued to the corporation by the North Dakota Office of State Tax Commissioner.

## Line 19 Credit for hiring an individual with a developmental disability or mental illness

A tax credit is available for employing an individual with a developmental disability or mental illness. To qualify, an employer 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 or supported 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 year. The credit is allowed for each eligible individual hired. **Attach a copy of the certification letter from Human Services.**

## Line 20 Allocable nonbusiness income

Lines 20a and 20b 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 20a and 20b, 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 20a.** Enter the total allocable income (less related expenses) from all sources within and without North Dakota.

**Line 20b.** Enter the portion of the amount on line 20a that is allocable to North Dakota.

## Line 21 Disposition of I.R.C. Section 179 property

Lines 21a through 21d 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 1120-S, Schedule K, line 17d.

For lines 21a through 21d, multiply the corresponding combined amount for all shareholders as reported on Federal Form 1120-S, 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 20.

## 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 1120-S), 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 **Worksheet for Schedule KS, Column 6** 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 20, 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 5 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 2022 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 2021 North Dakota Schedule K-1 if the entity that issued it has a fiscal tax year ending in the corporation's 2022 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 2022 Forms 60-EXT and 60-ES plus any overpayment applied from the 2021 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 2023**

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 2023 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 by 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 filed after its due date (or extended due date), and there is an unpaid tax due on it, a penalty equal to 5% of the unpaid tax due (with a \$5.00 minimum) applies for the month the return was due, plus 5% of the unpaid tax due (with a \$5.00 minimum) for each month or fraction of a

month the return remains unfiled, not to exceed the greater of 25% of the unpaid tax due or \$25.00.

**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 may be made electronically in one of the following ways.

- **Online**—A payment may be made online with an electronic check or a debit or credit card. The electronic option is free. North Dakota contracts with a national payment service to provide the debit or credit card option. There is a fee for the debit or credit card option, none of which goes to the State of North Dakota. To pay online, go to **[www.tax.nd.gov/payment](http://www.tax.nd.gov/payment)**.
- **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, go to our website at **[www.tax.nd.gov](http://www.tax.nd.gov)**.

If paying with a paper check or money order, complete a 2022 Form 60-PV payment voucher and enclose it with the payment. Make the check or money order payable to "ND State Tax Commissioner," and write the last four digits of the corporation's FEIN and "2022 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. In the case of certain credits reported on Schedule K-1 (Form 60), additional supporting information must be provided with Schedule K-1—see the instructions to Part 3.

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 19, 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 19, 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 Form 60, the corporation 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 an eligible 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 19, complete this part for all shareholders.

### Qualified nonprofit private schools

The following lists identify the qualifying schools in each school category. (Note: These lists are subject to change.)

#### Primary Schools (Grades K through 8)

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

#### High Schools (Grades 9 through 12)

Anne Carlsen Center (Jamestown)	Our Redeemer's Christian School (Minot)
Bishop Ryan Catholic School (Minot)	Prairie Learning Education Center (Raleigh)
Dakota Adventist Academy (Bismarck)	School of the Holy Family (Mandan)
Dakota Memorial School (Minot)	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)
New Testament Baptist Christian School (Larimore)	Trinity Jr/High School (Dickinson)
Oak Grove Lutheran Middle/High School (Fargo)	Williston Trinity Christian School (Williston)

#### Colleges (Education above 12th grade)

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

**Lines 1 through 19**

Enter on the corresponding lines the shareholder's share of each amount shown on Form 60, Schedule K, lines 1 through 19. Also, for the following lines, additional supporting information must be provided with Schedule K-1:

**Lines 5 and 6.** Provide a statement identifying the qualified business or qualified agricultural commodity processing facility in which the qualifying investment was made.

**Line 11.** Provide a statement identifying the qualified nonprofit organization and the qualified endowment fund to which the qualifying contribution was made.

**Line 17.** Provide a statement identifying the angel fund that made the qualified investment in the qualified business.

## **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 20 Corporation's apportionment factor**

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

### **Lines 21 through 33 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 21 through 33.

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 21 through 33 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 24.

## **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 34 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 35 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.

### **Line 36 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 2022 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 2023 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.
3. Schedule K.
4. Schedule KS.
5. Schedule QEC.
6. All other required North Dakota schedules and forms (other than North Dakota Schedule K-1 forms).
7. North Dakota Schedule K-1 forms.
8. Required supporting statements.
9. Complete copy of Form 1120-S including Federal Schedule K-1 forms.

A balance due may be paid electronically (see page 11 of these instructions). If paying with a paper check, enclose the check and a 2022 Form 60-PV payment voucher with the return.