

FIDUCIARY INCOME TAX RETURN
NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER
SFN 28707 (12-2023)



FORM 38
2023

Form sections A through H including Tax Year, Name of Estate or Trust, Federal EIN, Date Created, Residency Status, Entity Type, and beneficiary information.

Table with 2 columns: Description and Amount. Rows 1-17 detailing tax calculations such as Tax on fiduciary's North Dakota taxable income, credits, and total tax due.

Attach copy of 2023 Form 1041 (including Federal Schedule K-1s) and copy of North Dakota Schedule K-1s

Declaration and signature section including 'I declare that this return is correct and complete...' and signature lines for fiduciary and paid preparer.

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



**FIDUCIARY INCOME TAX RETURN**  
**NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER**  
**SFN 28707 (12-2023)**



**FORM 38**  
**2023**

|                                                                                                                                                                                                                                            |       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                       |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| <b>A Tax Year:</b>                                                                                                                                                                                                                         |       | <b>Calendar Year 2023</b> (Jan. 1 - Dec. 31, 2023)                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                       |
|                                                                                                                                                                                                                                            |       | <b>Fiscal Year</b> Beginning _____ and ending _____                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                       |
| <b>B</b> Name Of Estate Or Trust                                                                                                                                                                                                           |       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>C</b> Federal EIN* |
| Name And Title Of Fiduciary                                                                                                                                                                                                                |       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>D</b> Date Created |
| Mailing Address                                                                                                                                                                                                                            |       | Apt. or Suite No.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                       |
| City                                                                                                                                                                                                                                       | State | Zip Code                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                       |
| <b>F</b> Residency Status                                                                                                                                                                                                                  |       | <b>G</b> Entity Type                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                       |
| <input type="checkbox"/> Resident<br><input type="checkbox"/> Nonresident                                                                                                                                                                  |       | <input type="checkbox"/> 1 Decedent's estate<br><input type="checkbox"/> 2 Simple trust<br><input type="checkbox"/> 3 Complex trust<br><input type="checkbox"/> 4 Qualified disability trust<br><input type="checkbox"/> 5 ESBT (S portion only)<br><input type="checkbox"/> 6 Grantor type trust<br><input type="checkbox"/> 7 Bankruptcy estate (Ch. 7)<br><input type="checkbox"/> 8 Bankruptcy estate (Ch. 11)<br><input type="checkbox"/> 9 Pooled income fund<br><input type="checkbox"/> 10 Other: _____ |                       |
| <b>E TOTAL no. of beneficiaries</b> ▶ _____<br>Enter number of-<br>Resident individual beneficiaries ▶ _____<br>Nonresident individual beneficiaries ▶ _____<br>Other types of beneficiaries ▶ _____                                       |       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                       |
| <b>H Check all that apply:</b><br><input type="checkbox"/> Initial return <input type="checkbox"/> Amended return<br><input type="checkbox"/> Final return <input type="checkbox"/> Extension<br><input type="checkbox"/> Composite return |       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                       |

- 1** Tax on fiduciary's North Dakota taxable income (from Tax Computation Schedule, line 8) \_\_\_\_\_ ▶ **1** \_\_\_\_\_
- 2** Credit for income tax paid to another state or local jurisdiction (from Schedule CR, line 7) \_\_\_\_\_ ▶ **2** \_\_\_\_\_
- 3** Other credits (Attach Schedule 38-TC) \_\_\_\_\_ ▶ **3** \_\_\_\_\_
- 4** Net tax liability on fiduciary's taxable income. Line 1 less lines 2 and 3 \_\_\_\_\_ ▶ **4** \_\_\_\_\_
- 5** Income tax withheld from nonresident beneficiaries (from Schedule BI, line 3) \_\_\_\_\_ ▶ **5** \_\_\_\_\_
- 6** Composite income tax for electing nonresident beneficiaries (from Schedule BI, line 4) \_\_\_\_\_ ▶ **6** \_\_\_\_\_
- 7** Total taxes due. Add lines 4, 5, and 6 \_\_\_\_\_ ▶ **7** \_\_\_\_\_

**Tax Paid**

- 8** North Dakota income tax withheld from wages and other payments taxable to estate or trust (Attach Form W-2, Form 1099, and/or North Dakota Schedule K-1) \_\_\_\_\_ ▶ **8** \_\_\_\_\_
- 9** Estimated tax paid on 2023 Forms 38-ES and 38-EXT plus an overpayment, if any, applied from the 2022 return \_\_\_\_\_ ▶ **9** \_\_\_\_\_
- 10** Total payments. Add lines 8 and 9 \_\_\_\_\_ ▶ **10** \_\_\_\_\_

**11 Overpayment.** If line 10 is MORE than line 7, subtract line 7 from line 10 and enter result; otherwise, go to line 14. If result is less than \$5.00, enter 0. \_\_\_\_\_ ▶ **11** \_\_\_\_\_

**12** Amount of line 11 to be applied to 2024 estimated tax \_\_\_\_\_ ▶ **12** \_\_\_\_\_

**13 Refund.** Subtract line 12 from line 11. If result is less than \$5.00, enter 0. **REFUND** ▶ **13** \_\_\_\_\_

**14 Tax due.** If line 10 is LESS than line 7, subtract line 10 from line 7. If result is less than \$5.00, enter 0. \_\_\_\_\_ ▶ **14** \_\_\_\_\_

**15** Penalty ▶ \_\_\_\_\_ Interest ▶ \_\_\_\_\_ Enter total penalty and interest \_\_\_\_\_ ▶ **15** \_\_\_\_\_

**16 Balance due.** Add lines 14, 15, and, if applicable, line 17 \_\_\_\_\_ **BALANCE DUE** ▶ **16** \_\_\_\_\_

**17** Interest on underpaid estimated tax (from 2023 Schedule 38-UT) \_\_\_\_\_ ▶ **17** \_\_\_\_\_

▶ **Attach copy of 2023 Form 1041 (including Federal Schedule K-1s) and copy of North Dakota Schedule K-1s**

|                                                                                            |      |                  |                                                                                                                                                                                 |  |  |
|--------------------------------------------------------------------------------------------|------|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|
| I declare that this return is correct and complete to the best of my knowledge and belief. |      |                  | *Privacy Act - See inside front cover of booklet.                                                                                                                               |  |  |
| Signature Of Fiduciary                                                                     |      | Date             | I authorize the ND Office of State Tax Commissioner to discuss this return with the paid preparer.<br><b>This Space Is For Tax Department Use Only</b> <input type="checkbox"/> |  |  |
| Print Name Of Fiduciary                                                                    |      | Telephone Number |                                                                                                                                                                                 |  |  |
| Paid Preparer Signature                                                                    | PTIN | Date             |                                                                                                                                                                                 |  |  |
| Print Name Of Paid Preparer                                                                |      | Telephone Number |                                                                                                                                                                                 |  |  |

▶ **Mail to: State Tax Commissioner, 600 E Boulevard Ave Dept 127, Bismarck, ND 58505-0599**

**FID**

|                               |                                        |
|-------------------------------|----------------------------------------|
| Enter Name Of Estate Or Trust | Federal Employer Identification Number |
|-------------------------------|----------------------------------------|

**Tax Computation Schedule: Tax on fiduciary's taxable income**

**Part 1 - Calculation of tax**

1. **Federal taxable income** from Form 1041, page 1, line 23, or Form 1041-QFT, line 11 ----- ▶ **1** \_\_\_\_\_
2. Additions (See instructions) (Attach statement) ----- ▶ **2** \_\_\_\_\_
3. Add lines 1 and 2 ----- ▶ **3** \_\_\_\_\_
4. **a.** Interest from U.S. obligations ----- ▶ **4a** \_\_\_\_\_
- b.** Net long-term capital gain exclusion (from worksheet in instructions) ----- ▶ **4b** \_\_\_\_\_
- c.** Qualified dividend exclusion ----- ▶ **4c** \_\_\_\_\_
- d.** Other subtractions (See instructions) (Attach statement) ----- ▶ **4d** \_\_\_\_\_
- e.** Total subtractions. Add lines 4a through 4d ----- ▶ **4e** \_\_\_\_\_
5. North Dakota taxable income of fiduciary. Subtract line 4e from line 3 ----- ▶ **5** \_\_\_\_\_
6. Tax on amount on line 5 using the 2023 Tax Rate Schedule ----- ▶ **6** \_\_\_\_\_
  - If resident estate or trust, enter amount from line 6 on line 8. Do not complete lines 7a, 7b, and 7c.
  - If nonresident estate or trust, complete lines 7a, 7b, and 7c.
7. **a.** Fiduciary's income from Part 2, line 11, Column A, less the amount from Part 1, line 4a ----- ▶ **7a** \_\_\_\_\_
- b.** Income (loss) reportable to North Dakota from Part 2, line 11, Column B ----- ▶ **7b** \_\_\_\_\_
- c.** Divide line 7b by line 7a. Round to the nearest four decimal places. If line 7b is more than line 7a, enter 1 ----- ▶ **7c** \_\_\_\_\_
8. Tax on fiduciary's North Dakota taxable income: If resident estate or trust, enter amount from line 6. If nonresident estate or trust, multiply line 6 by line 7c. Enter this amount on page 1, line 1 ----- ▶ **8** \_\_\_\_\_

**2023  
Tax Rate  
Schedule**

| Estates and Trusts                 |              |                                         |  |
|------------------------------------|--------------|-----------------------------------------|--|
| If North Dakota Taxable Income is: |              | The tax is:                             |  |
| Over                               | But not over |                                         |  |
| \$ 0                               | \$ 3,000     | 0.00% of ND Taxable Income              |  |
| 3,000                              | 10,750       | \$ 0.00 + 1.95% of amount over \$ 3,000 |  |
| 10,750                             |              | 151.13 + 2.50% of amount over 10,750    |  |

**Part 2 - Calculation of fiduciary's income**

This part must be completed by all estates and trusts

- **Resident estate or trust:** Complete Column A only.
- **Nonresident estate or trust:** Complete Columns A, B, and C. See instructions for how to complete Columns B and C.

|                                                                         | Column A<br>Federal return | Nonresident estates or trusts only |                          |
|-------------------------------------------------------------------------|----------------------------|------------------------------------|--------------------------|
|                                                                         |                            | Column B<br>North Dakota           | Column C<br>Other States |
| 1. Interest income -----                                                | <b>1</b> _____             | _____                              | _____                    |
| 2. Ordinary dividends -----                                             | <b>2</b> _____             | _____                              | _____                    |
| 3. Business income or (loss) -----                                      | <b>3</b> _____             | _____                              | _____                    |
| 4. Capital gain or (loss) -----                                         | <b>4</b> _____             | _____                              | _____                    |
| 5. Rents, royalties, partnerships, other estates and trusts, etc. ----- | <b>5</b> _____             | _____                              | _____                    |
| 6. Farm income or (loss) -----                                          | <b>6</b> _____             | _____                              | _____                    |
| 7. Ordinary gain or (loss) -----                                        | <b>7</b> _____             | _____                              | _____                    |
| 8. Other income -----                                                   | <b>8</b> _____             | _____                              | _____                    |
| 9. Total income. Add lines 1 through 8 -----                            | <b>9</b> _____             | _____                              | _____                    |
| 10. Portion of amount on line 9 distributed to beneficiaries -----      | <b>10</b> _____            | _____                              | _____                    |
| 11. Fiduciary's income. Subtract line 10 from line 9 -----              | <b>11</b> _____            | _____                              | _____                    |

|                               |                                        |
|-------------------------------|----------------------------------------|
| Enter Name Of Estate Or Trust | Federal Employer Identification Number |
|-------------------------------|----------------------------------------|

**Schedule BI Beneficiary information**

**All estates and trusts must complete this schedule.** Complete Columns 1 through 4 for all beneficiaries. Complete Column 5 for a nonresident beneficiary. If applicable, complete Column 6 or Column 7 for a nonresident beneficiary. See instructions for the definition of a "nonresident beneficiary," which includes entities other than individuals.

| All Beneficiaries |                                                        |  |  |                             |                                             |
|-------------------|--------------------------------------------------------|--|--|-----------------------------|---------------------------------------------|
| Beneficiary       | Column 1                                               |  |  | Column 2                    | Column 3                                    |
|                   | Name and address of beneficiary                        |  |  | Social Security Number/FEIN | Type of entity<br><i>(See instructions)</i> |
| <b>A</b>          | Name _____<br>Address _____ State _____ Zip Code _____ |  |  |                             |                                             |
| <b>B</b>          | Name _____<br>Address _____ State _____ Zip Code _____ |  |  |                             |                                             |
| <b>C</b>          | Name _____<br>Address _____ State _____ Zip Code _____ |  |  |                             |                                             |
| <b>D</b>          | Name _____<br>Address _____ State _____ Zip Code _____ |  |  |                             |                                             |

| Beneficiary                                                                             | All Beneficiaries<br><i>Complete Column 4 for ALL beneficiaries</i> | Nonresident Beneficiaries Only<br><i>Important: Columns 5 through 7 are for a NONRESIDENT BENEFICIARY only. See instructions for which beneficiaries to include in Columns 5, 6, and 7.</i> |                                          |                                              |                                           |
|-----------------------------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|----------------------------------------------|-------------------------------------------|
|                                                                                         | Column 4                                                            | Column 5                                                                                                                                                                                    | Column 6                                 |                                              | Column 7                                  |
|                                                                                         | Federal distributive share of income (loss)                         | North Dakota distributive share of income (loss)                                                                                                                                            | North Dakota income tax withheld (2.50%) | Form PWA or Form PWE<br><i>(Attach copy)</i> | North Dakota composite income tax (2.50%) |
| <b>A</b>                                                                                |                                                                     |                                                                                                                                                                                             |                                          | <input type="radio"/>                        |                                           |
| <b>B</b>                                                                                |                                                                     |                                                                                                                                                                                             |                                          | <input type="radio"/>                        |                                           |
| <b>C</b>                                                                                |                                                                     |                                                                                                                                                                                             |                                          | <input type="radio"/>                        |                                           |
| <b>D</b>                                                                                |                                                                     |                                                                                                                                                                                             |                                          | <input type="radio"/>                        |                                           |
| <b>1. Total for Column 4</b> ... <b>1</b>                                               |                                                                     | <b>NA</b>                                                                                                                                                                                   | <b>NA</b>                                | <b>NA</b>                                    | <b>NA</b>                                 |
| <b>2. Total for Column 5</b> ... <b>2</b>                                               |                                                                     |                                                                                                                                                                                             |                                          |                                              |                                           |
| <b>3. Total for Column 6.</b> Enter this amount on Form 38, page 1, line 5 ... <b>3</b> |                                                                     |                                                                                                                                                                                             |                                          |                                              |                                           |
| <b>4. Total for Column 7.</b> Enter this amount on Form 38, page 1, line 6 ... <b>4</b> |                                                                     |                                                                                                                                                                                             |                                          |                                              |                                           |

**Schedule CR Credit for income tax paid to another state or local jurisdiction**

- ▶ Enter the name of the other state in which income tax was paid to the state and/or local jurisdiction ... ▶ \_\_\_\_\_
- 1.** Fiduciary's share of total income from page 2, Tax Computation Schedule, Part 2, line 11, Column A ▶ **1** \_\_\_\_\_
- 2.** Portion of amount on line 1 that has its source in the other state *(See instructions)* ... ▶ **2** \_\_\_\_\_
- 3.** Credit ratio. Divide line 2 by line 1 and round to the nearest four decimal places ... **3** \_\_\_\_\_
- 4.** Tax on fiduciary's North Dakota taxable income from page 1, line 1 ... **4** \_\_\_\_\_
- 5.** Multiply line 3 by line 4 ... ▶ **5** \_\_\_\_\_
- 6.** Amount of income tax paid to the other state and its local jurisdictions *(See instructions)* ... ▶ **6** \_\_\_\_\_
- 7.** Credit for income tax paid to another state and/or local jurisdiction. Enter lesser of line 5 or line 6. Enter this amount on page 1, line 2 ... **7** \_\_\_\_\_

**Important: Attach a copy of the income tax return filed with the other state and/or local jurisdiction**