

August 2010

Introduced by

1 A BILL for an Act to amend and reenact sections 57-38-01.29 and 57-38-01.30 of the North
2 Dakota Century Code, relating to a homestead income tax credit and a commercial property
3 income tax credit; to provide an appropriation; to provide for a transfer; to provide an effective
4 date; and to provide an expiration date.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 57-38-01.29 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **57-38-01.29. Homestead income tax credit - Rules.**

- 9 1. In addition to any other credit or deduction allowed by law for a homeowner, an
10 individual is entitled to a credit against the tax imposed under section 57-38-30.3
11 for taxable years ~~2007~~ 2011 and ~~2008~~ 2012 in the amount of ~~ten~~ twenty percent of
12 property taxes or mobile home taxes that became due during the income tax
13 taxable year and are paid which were levied against the individual's homestead in
14 this state. For purposes of this section, "property taxes" does not include any
15 special assessments.
- 16 2. For purposes of this section, "homestead" means the dwelling occupied by the
17 individual as the individual's primary residence and, if that residence is in this state,
18 any residential or agricultural property owned by that individual in this state.
- 19 3. a. The amount of the credit under this section may not exceed ~~one~~ five thousand
20 dollars for married persons filing a joint return or two thousand five hundred
21 dollars for a single individual or married individuals filing separate returns.
- 22 b. The amount of the credit under this section may not exceed the taxpayer's tax
23 liability under this chapter.

- 1 4. The amount of the credit under subsection 3 in excess of the taxpayer's tax liability
2 may be carried forward for up to five years or the taxpayer may request that the tax
3 commissioner issue the taxpayer a certificate in the amount of the excess which
4 may be used by the taxpayer against property or mobile home tax liability of the
5 taxpayer during the ensuing taxable year by delivering the certificate to the county
6 treasurer in which the taxable property or mobile home is subject to taxes. The
7 county treasurer shall forward certificates redeemed in payment of a tax obligation
8 under this section to the tax commissioner, who shall issue payment to the county
9 in the amount of the certificates.
- 10 5. A passthrough entity, trust, or estate or a corporation allowed to engage in farming
11 or ranching under section 10-06.1-12 is entitled to a credit against the tax imposed
12 under section 57-38-29 or 57-39-30.3 in the amount of twenty percent of property
13 taxes on agricultural property owned by the corporation, passthrough entity, trust,
14 or estate which became due during the income tax taxable year and are paid.
- 15 a. The amount of the credit under this subsection may not exceed five thousand
16 dollars for each taxable year. The amount of the credit under this subsection
17 may not exceed the taxpayer's tax liability and any unused credit may be
18 carried forward for up to four taxable years.
- 19 b. A corporation, passthrough entity, trust, or estate may not request a certificate
20 for the credit allowed under this subsection.
- 21 c. A passthrough entity that owned and paid property tax on agricultural property
22 described in this subsection must be considered the taxpayer for purposes of
23 any credit limitation and the amount of the credit must be determined at the
24 passthrough entity level. The amount of the credit determined at the
25 passthrough entity level must be passed through to the partners,
26 shareholders, or members in proportion to their respective interests in the
27 passthrough entity.
- 28 6. Persons owning property together are entitled to only one credit for a parcel of
29 property between or among them under this section. Persons owning property
30 together are each entitled to a percentage of the credit for a single individual under
31 this section equal to their ownership interests in the property.

- 1 ~~6-~~ 7. This section is not subject to subsection 1 or 2 of section 57-38-45.
- 2 ~~7-~~ 8. The tax commissioner shall adopt rules to provide for filing and verification of
3 claims of credits under this section and for issuance and redemption of tax
4 certificates under subsection 4.
- 5 ~~8-~~ 9. a. If, on November 15, ~~2008~~ 2012, the total amount of tax credits claimed under
6 this section exceeds ~~forty-seven~~ one hundred twenty-one million dollars, the
7 tax commissioner shall reduce the rate of the credit under subsection 1. The
8 adjusted credit rate must be calculated by the tax commissioner as follows:
- 9 (1) The tax commissioner shall determine the percentage by which the
10 credits claimed under this section exceeds ~~forty-seven~~ one hundred
11 twenty-one million dollars.
- 12 (2) The difference between the number one and the amount calculated
13 under paragraph 1 multiplied by ten percent is the adjusted credit rate
14 for the ~~2008~~ 2012 taxable year.
- 15 b. The tax commissioner shall report any adjustment under this subsection to the
16 budget section of the legislative management for review.

17 **SECTION 2. AMENDMENT.** Section 57-38-01.30 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **57-38-01.30. Commercial property income tax credit - Rules.**

- 20 1. In addition to any other credit or deduction allowed by law for a property owner, an
21 individual, trust, estate, passthrough entity, or corporation is entitled to a credit
22 against the tax imposed under section 57-38-30 or 57-38-30.3 for taxable years
23 ~~2007~~ 2011 and ~~2008~~ 2012 in the amount of ~~ten~~ twenty percent of property taxes or
24 mobile home taxes that became due during the income tax taxable year and are
25 paid which were levied against commercial property in this state. For purposes of
26 this section, "property taxes" does not include any special assessments.
- 27 a. The amount of the credit under this section may not exceed ~~one~~ five thousand
28 dollars for any ~~taxpayer~~ individual, trust, estate, passthrough entity, or
29 corporation.
- 30 b. The amount of the credit under this section may not exceed the taxpayer's tax
31 liability under this chapter.

- 1 c. The amount of the credit under this section may not exceed ~~one~~ five thousand
2 dollars for married persons filing a joint return or two thousand five hundred
3 dollars for a single individual or married individual filing separate returns.
- 4 2. The amount of the credit under subdivisions a and c of subsection 1 in excess of
5 the taxpayer's tax liability may be carried forward for up to five years.
- 6 3. ~~Persons~~ Individuals, trusts, and estates owning property together and a
7 corporation or passthrough entity or entities owning property individually or
8 together are entitled to only one credit for property between or among them under
9 this section. ~~Persons~~ Individuals, trusts, estates, corporations, or passthrough
10 entities owning property together are each entitled to a percentage of the credit
11 equal to their ownership interests in the property. Married individuals owning
12 property together are each entitled to a percentage of the credit for a single
13 individual under this section equal to their ownership interests in the property.
- 14 4. This section is not subject to subsection 1 or 2 of section 57-38-45.
- 15 5. A passthrough entity entitled to the credit under this section must be considered to
16 be the taxpayer for purposes of the credit limitation and shall allocate the amount
17 of the credit allowed with respect to the entity's property at the passthrough entity
18 level. The amount of the total credit determined at the entity level must be passed
19 through to the partners, shareholders, or members in proportion to their respective
20 interests in the passthrough entity.
- 21 6. The tax commissioner shall adopt rules to provide for filing and verification of
22 claims under this section.
- 23 7. a. If, on November 15, ~~2008~~ 2012, the total amount of credits claimed under this
24 section exceeds ~~seven~~ thirteen million dollars, the tax commissioner shall
25 reduce the cap that applies to the credit under subsection 1. The adjusted
26 credit cap must be calculated by the tax commissioner as follows:
- 27 (1) The tax commissioner shall determine the percentage by which the
28 credits claimed under this section exceeds ~~seven~~ thirteen million
29 dollars.

1 (2) The difference between the number one and the amount calculated
2 under paragraph 1 multiplied by the amount of the cap is the adjusted
3 credit cap for the ~~2008~~ 2012 taxable year.

4 b. The tax commissioner shall report any proposed adjustment under this
5 subsection to the budget section of the legislative management for approval.

6 **SECTION 3. APPROPRIATION - TAX DEPARTMENT.** There is appropriated from
7 special funds the sum of \$1,100,000, or so much of the sum as may be necessary, to the tax
8 commissioner for the purpose of implementing this Act, for the biennium beginning July 1, 2011,
9 and ending June 30, 2013.

10 **SECTION 4. TRANSFER.** During the biennium beginning July 1, 2011, and ending
11 June 30, 2013, the director of the office of management and budget shall transfer \$300,000,000
12 from the permanent oil tax trust fund to the general fund.

13 **SECTION 5. EFFECTIVE DATE - EXPIRATION DATE.** Sections 1 and 2 of this Act
14 are effective for the first two taxable years beginning after December 31, 2010, and are
15 thereafter ineffective.