*North Dakota Office of State Tax Commissioner*

# 2008 Corporate Income Tax Credits

**Cory Fong, Tax Commissioner**

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Dear Taxpayer,

Thank you for your interest in the Corporate Income Tax Credits. Throughout this booklet you will find a description of various tax credits, as well as the eligibility criteria, timelines, and references to specific North Dakota Century Code for the credits.

In addition, we have included instructions, by line number, for calculating the credits to be reported on Schedule TC or the Schedule CR Part III of the Form 40, Corporate Income Tax Return. And, in many instances we have highlighted certain instructions in order to help when you claim that particular credit.

Whether you are looking for information about the expanded Research and Development tax credit or would like details about the new Workforce Recruitment tax credit, you will find that information in this booklet and more.

To learn more about North Dakota's taxes or to access various forms and publications, please visit our web site at ***www.nd.gov/tax.*** I invite you to call us with your questions about North Dakota's taxes and the tax credits. We would appreciate the opportunity to help you in any way we can.

I also welcome your feedback. Please feel free to let us know what you think we are doing well and what we can do to improve our service to you. Our phone, address, and e-mail information is found on the back of this booklet.

Thank you,

Cory Fong

Cory Fong,
Tax Commissioner

**ndTax**

## Lines 1 and 2
## Contributions to nonprofit private colleges and high schools

### North Dakota Century Code (N.D.C.C.) § 57-38-01.7

Tax credits are available for making contributions to qualifying nonprofit private institutions of secondary and higher education located in North Dakota *(including the North Dakota Independent College Fund)*. Contributions do not qualify unless they are made directly to, or are specifically designated for the exclusive use of, a qualifying institution. **A contribution to an account, fund or entity benefiting both qualifying and nonqualifying institutions does not qualify for the credit.** The credits are available if the contribution(s) is made by the due date of the return, including extensions. Following are the qualifying schools in each category of institutions:

**High schools**

St. Mary's Central High School (Bismarck)

Dakota Memorial High School (Minot)

Dickinson Trinity High School (Dickinson)

Shiloh Christian School (Bismarck)

Shanley High School (Fargo)

Dakota Adventist Academy (Bismarck)

Oak Grove Lutheran High School (Fargo)

Johnson Corners Christian Academy (Watford City)

Our Redeemer's Christian School (Minot)

Anne Carlsen School (Jamestown)

Bishop Ryan High School (Minot)

Trinity Christian School (Williston)

Prairie Learning Education Center (Raleigh)

New Testament Baptist Christian School (Larimore)

**Colleges**

University of Mary (Bismarck)

Trinity Bible College (Ellendale)

Jamestown College (Jamestown)

North Dakota Independent College Fund

United Tribes Technical College (Bismarck)

The tax credit for contributions made to all eligible schools in ***each*** category of institution is equal to the lesser of:

- 50% of the contributions but not to exceed 20% of the total North Dakota income tax due for each corporation;
- $2,500.

Enter on line 1 the tax credit computed for contributions to nonprofit private institutions of higher education *(and the North Dakota Independent College Fund)* and enter on line 2 the tax credit computed for contributions to nonprofit private institutions of secondary education.

> For each contribution, attach a copy of a receipt from the nonprofit private institution or a copy of a cancelled check *(front and back)*.

## Line 3
## Geothermal, solar, wind or biomass energy device credits generated by the taxpayer

### N.D.C.C. § 57-38-01.8

A corporation may claim a tax credit for the cost of acquisition and installation of a geothermal, solar, or wind energy device installed after December 31, 2000 and before January 1, 2011, and for a biomass device installed in taxable years beginning after December 31, 2006. The credit is equal to three percent of the installation cost, each year for five years. The device must be installed in North Dakota on property owned or leased by the taxpayer.

- "Biomass energy device" means a system using agricultural crops, wastes, or residues; wood or wood wastes or residues; animal wastes; landfill gas; or other biological sources to produce fuel or electricity.
- "Geothermal energy device" means a system or mechanism or series of mechanisms designed to provide heating or cooling or to produce electrical or mechanical power, or any combination of these, by a method which extracts or converts the energy naturally occurring beneath the earth's surface in rock structures, water, or steam.
- "Solar or wind energy device" means a system or mechanism or series of mechanisms designed to provide heating or cooling or to produce electrical or mechanical power, or any combination of these, or to store any of these, by a method which converts the natural energy of the sun or wind.

If a geothermal, solar, wind or biomass energy device is part of a system which uses other means of energy, only that portion of the total system directly attributable to the cost of the geothermal, solar, wind or biomass energy device may be included in determining the amount of the credit. The costs of installation may not include costs of redesigning, remodeling, or otherwise altering the structure of a building in which a geothermal, solar, wind or biomass energy device is installed.

For such devices installed after December 31, 2006, if ownership of the device is transferred when installation is complete and the device is fully operational, a purchaser of the device is eligible to claim the credit, rather than the installer of the device. Subsequent purchasers of the device are not eligible for the tax credit.

A corporation that holds an interest in a passthrough entity (partnership, subchapter S Corporation, or limited liability company) that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends.

Corporate taxpayers in a consolidated combined return may apply the credit against the aggregate tax liability on their North Dakota income tax return.

The credit may not exceed the corporation's income tax liability. Any unused credits may be carried forward to each of the five succeeding taxable years.

> Attach a worksheet substantiating date of purchase, actual cost of acquisition and installation, and computation of the tax credit. If the tax credit is from a partnership or other passthrough entity, attach a statement showing the passthrough entity's name and Federal Employer Identification Number, and a copy of the statement received from the passthrough entity.

## Line 4
## Geothermal, solar, wind or biomass energy device credits purchased by the taxpayer

### N.D.C.C. § 57-38-01.8

Unused credits may be sold, assigned, or otherwise transferred by the taxpayer to the purchaser of the power generated by the device as part of the consideration, or to any North Dakota taxpayer that constructs or expands an electricity transmission line in North Dakota after August 1, 2007.

Conditions of selling, assigning, transferring and utilizing the credit are:

- The taxpayer receiving the assignment of the credit is entitled to claim the credit beginning in the tax year in which the purchase agreement is fully executed and the device is installed. A purchaser of the credit is required to claim the credit beginning in the tax year in which the purchase agreement is fully executed and the device is installed.
- If the credit is transferred to a taxpayer who constructs or expands electricity transmission lines in North Dakota, the amount of the credit claimed in any taxable year may not exceed the actual cost of the transmission line construction or expansion in North Dakota in that taxable year.
- The credit allowed may not exceed 60% of the liability of the tax credit purchaser in any tax year.
- The tax credit transferor may sell the credit to only one purchaser each taxable year.
- The purchaser of the tax credit may not resell, assign or otherwise transfer the purchased credits.
- If the taxpayer elects to sell, assign or transfer an excess credit, the tax credit transferor and the tax credit purchaser jointly shall submit the following information to the Tax Commissioner within 30 days after the purchase agreement is executed:
  - a copy of the purchase agreement clearly stating the purchase price of the tax credits,
  - a statement containing the names, addresses, and taxpayer identification numbers of the parties to the transfer,
  - the total installed cost of the qualifying device,
  - the amount of the credit being transferred,
  - the gross proceeds received by the transferor,
  - the taxable year or years for which the credit may be claimed,
  - a confidentiality waiver allowing the Tax Commissioner to disclose information to either the tax credit transferor or the tax credit purchaser for the purpose of verifying the correct amount of the credit transferred.
- If the amount of the available credit is changed as a result of an amended return filed by the credit transferor, or as a result of an audit conducted by the Internal Revenue Service or by the Tax Commissioner, the credit transferor is required to report the information to the credit purchaser within 30 days of the final determination made by the Internal Revenue Service or the Tax Commissioner and the credit purchaser must file amended returns as required by statute.
- Gross proceeds received by the tax credit transferor must be allocated to North Dakota and may not be reduced by the transferor's income apportioned to North Dakota or by any North Dakota net operating loss.
- Net proceeds received by the tax credit transferor should be excluded from North Dakota taxable income on line 13 of the Form 40 Schedule SA.
- The total amount of credits that can be sold by all taxpayers is limited to $3 million per biennium. The limit applies on the basis of the date of installation of the device.
- The Tax Commissioner has four years from the date of the credit transfer to audit the returns of the credit transferor and the credit purchaser.

A corporation that holds an interest in a passthrough entity (partnership, subchapter S Corporation, or limited liability company) that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends.

Corporate taxpayers in a consolidated combined return may apply the credit against the aggregate tax liability on their North Dakota income tax return.

## Line 5
## Credit for employing the developmentally disabled or chronically mentally ill

### N.D.C.C. § 57-38-01.16

A corporation may claim a tax credit for a portion of North Dakota wages paid to a developmentally disabled or chronically mentally ill employee. The tax credit is 5% of up to $6,000 in wages paid to each such employee during the first twelve months of employment. The credit may not exceed 50% of the total tax liability. Only North Dakota wages actually paid during the taxable year may be considered for the tax credit. An employee of a subcontractor is considered an employee of the contractor to the extent of any wages paid under the contract.

Attach an affidavit listing the amount of wages paid, the name, and the social security number of each employee.

## Line 6
## Research and experimental expenditures credit generated by the taxpayer

### N.D.C.C. § 57-38-30.5

A corporation which invests in research and experimental expenditures within North Dakota is entitled to a tax credit.

A worksheet must be attached showing computation of the credit.

1. The amount of the credit for taxpayers that earned or claimed a credit in taxable years beginning before January 1, 2007 is calculated as follows:

a. For the first taxable year beginning after December 31, 2006, the credit is equal to 25% of the first $100,000 of the qualified research expenses for the taxable year in excess of the base period research expenses plus 7½% percent of all qualified research expenses more than $100,000 dollars in excess of the base period research expenses.

b. For the second taxable year beginning after December 31, 2006, the credit is equal to 25% of the first $100,000 of the qualified research expenses for the taxable year in excess of the base period research expenses plus 11% of all qualified research expenses for the taxable year more than $100,000 in excess of the base period research expenses.

c. For the third taxable year beginning after December 31, 2006, the credit is equal to 25% of the first $100,000 of the qualified research expenses for the taxable year in excess of the base period research expenses plus 14 ½% of all qualified research expenses for the taxable year more than $100,000 in excess of the base period research expenses.

d. For the fourth through the tenth taxable years beginning after December 31, 2006, the credit is equal to 25% of the first $100,000 of the qualified research expenses for the taxable year in excess of the base period research expenses plus 18% of all qualified research expenses for the taxable year more than $100,000 in excess of the base period research expenses.

e. For the eleventh taxable year beginning after December 31, 2006, and for each subsequent taxable year in which the taxpayer conducts qualified research in this state, the credit is equal to 25% of the first $100,000 of the qualified research expenses for the taxable year in excess of the base period research expenses plus 8% of all qualified research expenses for the taxable year more than $100,000 in excess of the base period research expenses.

f. The maximum annual credit a taxpayer may obtain is $2 million dollars. Any credit amount earned in the taxable year in excess of $2 million dollars may not be carried back or forward.

2. For taxpayers that have not earned or claimed a credit in taxable years beginning before January 1, 2007, and who begin conducting qualified research in North Dakota in any of the first four taxable years beginning after December 31, 2006, the amount of the credit is equal to:

   a. 25% of the first $100,000 of the qualified research expenses for the taxable year in excess of the base period research expenses plus 20% of all qualified research expenses more than $100,000 in excess of the base period research expenses. This rate applies through the tenth taxable year beginning after December 31, 2006.

   b. For the eleventh taxable year beginning after December 31, 2006, and for each subsequent taxable year in which the taxpayer conducts qualified research in this state, the credit is equal to 25% of the first $100,000 of the qualified research expenses for the taxable year in excess of the base period research expenses plus 8% of all qualified research expenses for the taxable year more than $100,000 in excess of the base period research expenses.

3. For taxpayers that have not earned or claimed a credit in taxable years beginning before January 1, 2007, and who begin conducting qualified research in North Dakota in any taxable year following the fourth taxable year beginning after December 31, 2006, the amount of the credit is equal to:

   25% of the first $100,000 of the qualified research expenses for the taxable year in excess of the base period research expenses plus 8% of all qualified research expenses for the taxable year more than $100,000 in excess of the base period research expenses.

"Base period research expenses" means base period research expenses as defined in section 41(c) of the Internal Revenue Code [26 U.S.C. 41(c)], except it does not include research conducted outside the state of North Dakota.

"Qualified research" means qualified research as defined in section 41(d) of the Internal Revenue Code [26 U.S.C. 41(d)], except it does not include research conducted outside the state of North Dakota.

Tax credits that exceed the current income tax liability, except as limited in 1(f), may be carried back for three years and then carried forward for up to fifteen years.

Corporate taxpayers in a consolidated combined return may apply the credit against the aggregate tax liability on their North Dakota income tax return. NOTE: This provision does not apply to tax credits received or purchased from other taxpayers (see "Line 7" below).

## Line 7

## Research and experimental expenditures credit purchased by the taxpayer

### N.D.C.C. § 57-38-30.5

A taxpayer that is certified as a qualified research and development company may elect to sell, transfer or assign the unused research and experimental expenditure tax credits earned. A qualified research and development company is defined as a company that:

- is a primary sector business,
- has less than $750,000 in annual gross revenues, and
- has not previously conducted research and development in North Dakota.

For more information on the certification process or to apply for certification, contact the Director of the North Dakota Department of Commerce Division of Economic Development and Finance at 701.328.5300 or access their web site at www.growingnd.com. Certification applications may be accessed on the Commerce Department's web site by selecting 'Incentives' on the left side. Then, scroll to "Tax Credit Certification" at the bottom of the list and select "Application Forms."

The sale, transfer or assignment of the credits is subject to the following:

- the tax credit transferor and the tax credit purchaser jointly shall submit the following information to the Tax Commissioner within 30 days after the purchase agreement is fully executed:
  - a copy of the purchase agreement,
  - a statement containing the names, addresses, and taxpayer identification numbers of the parties to the transfer,

  - the amount of the credit being transferred,
  - the gross proceeds received by the transferor,
  - the taxable year or years for which the credit may be claimed,
  - a confidentiality waiver allowing the Tax Commissioner to disclose information to either the tax credit transferor or the tax credit purchaser for the purpose of verifying the correct amount of the credit transferred.
- A taxpayer's total credit assignment may not exceed $100,000 over any combination of taxable years.
- The purchaser of the tax credit shall claim the credit beginning with the taxable year in which the credit purchase agreement was fully executed by the parties.
- The original purchaser of the tax credit may not sell, assign, or transfer the credit purchased. The purchaser is not allowed to carry back any unused credits.
- If the amount of the credit available is changed as a result of an amended return filed by the transferor, or as the result of an audit conducted by the Internal Revenue Service or the Tax Commissioner, the transferor shall report to the purchaser the adjusted credit amount within thirty days of the amended return or within thirty days of the final determination made by the Internal Revenue Service or the Tax Commissioner. The tax credit purchaser is required to file amended returns reporting the additional tax due or to claim a refund. The Tax Commissioner may audit these returns and assess or issue refunds, even though other time periods prescribed may have expired for the purchaser.
- Gross proceeds received by the tax credit transferor must be assigned to North Dakota. The amount assigned cannot be reduced by the taxpayer's income apportioned to North Dakota or any North Dakota net operating loss of the taxpayer.
- Net proceeds received by the tax credit transferror should be excluded from North Dakota taxable income on line 13 of the Form 40 Schedule SA.
- The Tax Commissioner has four years after the date of the credit assignment to audit the returns of the credit transfer or and the purchaser to verify the correctness of the amount of the transferred credit and if necessary assess the credit purchaser if additional tax is found due.

If a taxpayer acquires or disposes of the major portion of a trade or business or the major portion of a separate unit of a trade or business in a transaction with another taxpayer, the taxpayer's qualified research expenses and base period must be adjusted in the manner provided by section 41(f)(3) of the Internal Revenue Code [26 U.S.C. 41(f)(3)].

A corporation that holds an interest in a passthrough entity (partnership, subchapter S Corporation, or limited liability company) that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends.

## Line 8
## New industry credit
### N.D.C.C. § 57-38-30.1

A corporation which has been incorporated in North Dakota for the first time after January 1, 1969 and which is not the result of a business reorganization or acquisition, or any out-of-state corporation that has received a certificate of authority to transact business in North Dakota for the first time after January 1, 1969 may be entitled to a tax credit. This tax credit is available only for new enterprises engaged in assembling, fabricating, manufacturing, mixing, or processing any agricultural, mineral, or manufactured products or any combination thereof. However, a corporation which is receiving any property tax or income tax exemption allowed by N.D.C.C. ch. 40-57.1 shall not be allowed this credit.

The tax credit is computed as a percentage of the annual gross amount expended by the corporation for salaries and wages within North Dakota. The following percentages apply:

- 1% for each of the first three taxable years a corporation qualifies for the tax credit;
- ½ % for each of the fourth and fifth taxable years a corporation qualifies for the credit.

Attach a worksheet substantiating the date of incorporation or initial authority to transact business in this state, annual gross amount of salaries and wages within this state, and type of business activity.

## Line 9
## Credit for payment to a certified nonprofit development corporation
### N.D.C.C. § 57-38-01.17

A tax credit is available to a corporation for buying membership in, paying dues to, or contributing to, a certified nonprofit development corporation as provided in N.D.C.C. § 10-33-124.

- "Certified nonprofit development corporation" means a corporation which meets the following requirements:
  - Is certified by the secretary of state;
  - Invests a majority of its funds in primary sector businesses; and
  - No part of the income is distributable to its members, directors, or officers.
- "Primary sector business" means an individual, corporation, limited liability company, partnership, or association that, through a process employing knowledge and labor, adds value to a product produced for resale.

The maximum tax credit allowed is 25% of the total investment, not to exceed $2,000. Any unused credit may be carried forward for up to seven years.

Attach a completed copy of the certified nonprofit development corporation investment reporting form (see: http://www.nd.gov/tax/genforms/certified-nonprofit-dev-corp-invest-report-form.pdf.)

## Line 10
## Renaissance zone credits
### N.D.C.C. ch. 40-63

A corporation may qualify for a credit for purchasing, leasing, or making improvements to real property located in a North Dakota renaissance zone. A renaissance zone is a designated area within a city that is approved by the North Dakota Department of Commerce Division of Community Services. For more information, contact the local zone authority, the Department of Commerce Division of Community Services, or the Office of State Tax Commissioner.

If a corporation is claiming a tax credit as a result of the Renaissance Zone Act, enter the total amount of credits from the summary part of Schedule RZ and attach the Schedule RZ to the Form 40 when filed. Contact the Office of State Tax Commissioner for Schedule RZ or access the schedule on our website at http://www.nd.gov/tax/genforms/.

A corporation that holds an interest in a passthrough entity (partnership, subchapter S Corporation, or limited liability company) that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends. A copy of the statement received from the passthrough entity must be attached to the Form 40 along with the Schedule RZ.

A corporation may also be eligible to claim exempt income as a result of the Renaissance Zone Act. See Schedule RZ for more information on this exemption.

## Line 11
## Income tax credit for biodiesel fuel production
### N.D.C.C. § 57-38-30.6

For tax years beginning after December 31, 2002, a corporation is allowed an income tax credit equal to 10 percent per year for five years of the direct costs incurred after December 31, 2002, to add equipment to retrofit an existing facility or to adapt a new facility in North Dakota to produce or blend diesel fuel containing at least 2 percent biodiesel fuel by volume. "Biodiesel" means fuel meeting the specifications adopted by the American Society for Testing and Materials.

The first taxable year in which the credit may be claimed is the taxable year in which the facility begins producing or blending biodiesel fuel. Eligible costs incurred before the taxable year in which production or blending begins are taken into account in calculating the credit.

The credit may not exceed the corporation's tax liability in any year, but any unused portion of a taxable year's credit may be carried forward for up to five taxable years. The cumulative credit allowed to a taxpayer for all taxable years is $250,000.

Attach a worksheet showing the calculation of the credit.

## Line 12
## Seed capital business investment tax credit
### N.D.C.C. ch. 57-38.5

For taxable years beginning after December 31, 2006, a tax credit is available to a corporation, a limited liability company treated like a corporation or an angel fund for its investment in a qualified business certified to participate in the seed capital investment program. The amount of the allowable credit is equal to 45 percent of the amount invested by the taxpayer in qualified businesses during the taxable year. The maximum annual credit a taxpayer may claim is $112,500. The maximum aggregate amount a qualified business may receive for all tax years is $500,000.

For an investment to qualify it must be made on or after the date the business was certified for the program and must be claimed first in the taxable year in which the investment is received by the qualified business. The investment must be at risk and must remain in the business for at least three years. Investment monies placed in escrow are not at risk until paid out of escrow to the qualified business for its use.

A corporation that holds an interest in a passthrough entity (partnership, subchapter S Corporation, or limited liability company) that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends.

An angel fund which is subject to North Dakota income tax is not eligible itself for the seed capital investment tax credit. Rather, the tax credit calculated on an angel fund's investment must be passed through to the fund's investors, based on their respective interests in the fund.

The amount of the allowable credit not used in the taxable year the investment was made may be carried over to the following four taxable years.

The amount of tax credits allowed for all investments made in all qualified businesses is limited to $3.5 million per calendar year.

A copy of the completed qualified seed capital business investment reporting form (see: http://www.nd.gov/tax/genforms/seed-capital-invest-report-form-enabled.pdf) must be attached to the Form 40 for each year the credit is claimed, or if the credit is from a passthrough entity, a copy of the statement received from the passthrough entity must be attached.

## Line 13
## Credit for blending biodiesel fuel
### N.D.C.C. § 57-38-01.22

For taxable years beginning after December 31, 2004, a fuel supplier (wholesaler) licensed under North Dakota law that blends biodiesel fuel is entitled to an income tax credit equal to five cents for each gallon blended during the taxable year. To qualify, the biodiesel fuel must have at least a five percent blend ("B5"). "Biodiesel" means fuel meeting the specifications adopted by the American Society for Testing and Materials.

If the credit exceeds the tax liability, the unused portion of the credit may be carried forward for five taxable years.

A corporation that holds an interest in a passthrough entity (partnership, subchapter S Corporation, or limited liability company) that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends.

Attach a worksheet showing the calculation of the credit, or if the credit is from a partnership or other passthrough entity, attach a statement showing the passthrough entity's name and Federal Employer Identification Number and the corporation's share of the credit.

## Line 14

## Credit for biodiesel fuel sales equipment costs

### N.D.C.C. § 57-38-01.23

A fuel seller (retailer) that incurs costs after December 31, 2004 to adapt or add equipment to a facility licensed under North Dakota law to enable the facility to sell diesel fuel containing at least two percent biodiesel fuel by volume is entitled to an income tax credit. "Biodiesel" means fuel meeting the specifications adopted by the American Society for Testing and Materials. The credit is equal to ten percent of the seller's direct costs incurred to adapt or add the equipment. The credit is allowed in each of five taxable years, beginning with the taxable year in which the seller begins selling the eligible biodiesel fuel. The portion of the credit not used in each year may be carried forward for five taxable years. A seller may claim no more than $50,000 in credits for all taxable years. Eligible costs incurred before the taxable year in which sales begin may be included in the calculation of the credit.

A corporation that holds an interest in a passthrough entity (partnership, subchapter S Corporation, or limited liability company) that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends.

Attach a worksheet showing the calculation of the credit, or if the credit is from a partnership or other passthrough entity, attach a statement showing the passthrough entity's name and Federal Employer Identification Number and the corporation's share of the credit.

## Line 15

## Agricultural commodity processing facility investment tax credit

### N.D.C.C. ch. 57-38.6

Effective for taxable years beginning after December 31, 2006, a tax credit is available to a corporation or a limited liability company treated like a corporation for its investment in a qualified business certified or recertified to participate in the agricultural commodity processing facility investment tax credit program.

An agricultural commodity processing facility means "a facility that through processing involving the employment of knowledge and labor adds value to an agricultural commodity capable of being raised in this state" and includes a livestock feeding, handling, milking, or holding operation that uses as part of its operation a by-product produced at a biofuels production facility. A biofuels production facility is a North Dakota business that produces diesel fuel containing at least 5% biodiesel, produces corn-based or cellulose-based ethanol, or crushes soybeans or canola.

The allowable credit is equal to 30 percent of the total amount invested in all qualified agricultural commodity processing businesses during the taxable year. The maximum allowable credit that may be used in any taxable year is $50,000 and the investment must be made on or after the effective date in which the business became certified. The investment must be at risk and must remain in the business for at least three years. Investment monies placed in escrow are not at risk until paid out of escrow to the qualified business for its use.

Effective for taxable years beginning after December 31, 2006, a qualified investment may include a transfer of a fee simple interest in real property. In that case, the following conditions apply:

- Personal property that becomes a fixture to the real property after the transfer of the real property to the qualified business is not a qualified investment.
- The value of the contribution may not exceed the appraised value as established by a licensed or certified appraiser.
- The value of the contribution must be approved by the governing body of the qualified business, subject to the standards for valuing consideration for shares under North Dakota corporation law.
- The qualified business is required to provide to the Tax Commissioner a copy of the appraised valuation, a copy of the governing body's resolution approving the value of the contribution, and a copy of the statement of full consideration within thirty days after the instrument transferring title to the real property is recorded with the register of deeds.
- The tax credit is allowed in the tax year in which the instrument transferring title to the real property is recorded with the register of deeds.

The tax credit must be claimed first in the taxable year in which the investment is received by the qualified business. The credit can not exceed the taxpayer's tax liability and any tax credit not used in the taxable year the investment was made may be carried over to the following 10 taxable years. A taxpayer is allowed no more than $250,000 in credits for all tax years under this program.

A corporation that holds an interest in a passthrough entity (partnership, subchapter S Corporation, or limited liability company) that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends.

A copy of the completed ag commodity processing facility investment reporting form (see http://www.nd.gov/tax/genforms/ag-commodity-reporting-form-enabled.pdf) must be attached to the Form 40 for each year the tax credit is claimed, or if the credit is from a passthrough entity, a copy of the statement received from the passthrough entity must be attached.

## Line 16

## Credit for contributions to an endowment fund

### N.D.C.C. § 57-38-01.21

For taxable years beginning after December 31, 2006, a tax credit is available for a corporation that makes a charitable contribution to a qualified endowment fund.

A "qualified endowment" is defined as a permanent, irrevocable fund held by a North Dakota incorporated or established organization that is:

- A qualified nonprofit organization; or
- A bank or trust company holding the fund on behalf of a qualified nonprofit organization.

The credit is equal to 40 percent of the contribution and the maximum allowable credit for a tax year is $10,000.

North Dakota taxable income must be increased by the amount of the contribution upon which the credit is computed to the extent the contribution reduced federal taxable income. If claiming the credit, enter the amount of the contribution related to the credit claimed on line 6 of the Form 40 Schedule SA.

A corporation that holds an interest in a passthrough entity (partnership, subchapter S Corporation, or limited liability company) that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends.

The credit may not exceed the taxpayer's income tax liability. Any unused credit may be carried forward for three taxable years.

If the contribution is recovered, the tax credit must be added to tax due in the year recovery occurs. Contact the tax department for instructions on how to report the recovery of the contribution.

Attach a copy of the front and back of the cancelled check, or a receipt from the qualified nonprofit organization acknowledging its I.R.C. § 501(c)(1) status and the date and amount of the eligible contribution. If the credit is received through a passthrough entity, attach a copy of the statement received from the passthrough entity.

## Line 17

## Credit for new investment in a microbusiness

### N.D.C.C. § 57-38-01.27

Effective for taxable years beginning after December 31, 2006, a corporation is entitled to a tax credit for new investment and new employment in a certified microbusiness in North Dakota.

A "microbusiness" means a business that employs no more than 5 employees in a community with a population of at least 100 but fewer than 2,000 people and has one or more of the following:

- An active community economic development organization;
- An ongoing relationship with a regional or urban economic development organization; or
- An existing city sales tax, all or part of the revenue from which is dedicated to economic development.

To be certified as a microbusiness, the taxpayer must:

- be actively engaged in the daily operation of the microbusiness;
- purchase eligible property or hire eligible employees, resulting in the creation of new income or jobs;
- not directly compete with any established business located within 15 miles of the taxpayer's business;
- be located at least 15 miles from a city with a population of 2,000 or more people; and
- not close or reduce its operations in one area of North Dakota and relocate substantially the same business operation to another area in North Dakota.

The credit is equal to 20% in new investment and new employment of the microbusiness during the tax year.

- "New employment" means the amount by which the total compensation paid during the taxable year to North Dakota resident employees exceeds the total compensation paid to North Dakota resident employees in the taxable year before the application. For the purposes of calculating the increase in new employment, the employer may not include merit-based or equity-based salary increases, cost of living adjustments, or any other increase in compensation not directly related to the hiring of new employees during the taxable year.
- "New investment" means the increase in the applicant's purchases of microbusiness buildings and depreciable personal property located in this state, not including vehicles required to be registered for operation on the roads and highways of this state, during the taxable year as compared with the previous taxable year. If the buildings or depreciable personal property is leased, the amount of new investment is the increase in average net annual rents multiplied by the number of years of the lease for which the taxpayer is bound, not exceeding ten years. For the purposes of calculating the increase in new investment, the employer may not include any increases in rents for property leased before the current taxable year. Only rents for leases completed in the current taxable year may be included.

Enter on line 17a of the Form 40 Schedule TC, or Schedule CR Part III if filing a consolidated return, the total amount of the increase in qualified purchases or rents of eligible property located in North Dakota.

Enter on line 17b of the Form 40 Schedule TC, or Schedule CR Part III if filing a consolidated return, the total amount of the increase in qualified compensation paid to North Dakota resident employees.

Lines 17a and 17b are required to be reported in order to claim this credit.

No more than $10,000 of tax credits are allowed for all tax years. The credit may not exceed the taxpayer's liability and any unused credits may be carried forward for five taxable years.

A corporation that holds an interest in a passthrough entity (partnership, subchapter S Corporation, or limited liability company) that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends.

A copy of the certification of the microbusiness issued by the North Dakota Department of Commerce must be submitted for each year the credit is claimed. If the credit is received through a passthrough entity, attach a copy of the statement received from the passthrough entity.

Attach a supporting schedule showing the calculation of the credit.

For more information on the certification process or to apply for certification, contact the Director of the North Dakota Department of Commerce Division of Economic Development and Finance at 701.328.5300 or access their web site at www.growingnd.com. Certification applications may be accessed on the Commerce Department's web site by selecting 'Incentives' on the left side. Then, scroll to "Tax Credit Certification" at the bottom of the list and select "Application Forms."

## Line 18
## Internship employment credit
## N.D.C.C. § 57-38-01.24

Effective for taxable years beginning after December 31, 2006, a corporation who is an employer in this state may take a tax credit for qualified compensation paid to an intern employed by the taxpayer in this state.

For the internship to qualify for the credit:

- The intern must be an enrolled student in an institution of higher education or vocational technical education program, seeking a degree or certification in a major field of study closely related to the internship work experience;
- The internship must be taken for academic credit or count toward the completion of the vocational technical education program;
- The intern must be supervised and evaluated by the taxpayer; and
- The internship must be located in North Dakota.

The credit is 10% of the stipend or salary paid to the intern employed by the taxpayer and the credit cannot be claimed for more than five interns employed at the same time. A taxpayer may not claim more than $3,000 in credits for all tax years combined.

A corporation that holds an interest in a passthrough entity (partnership, subchapter S Corporation, or limited liability company) that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends.

Attach a schedule listing the names of the employees, their social security number and wages paid. If the credit is received through a passthrough entity, attach a copy of the statement received from the passthrough entity.

## Line 19
## Credit for investment in an angel fund
## N.D.C.C. § 57-38-01.26

Effective for taxable years beginning after December 31, 2006, a corporation is entitled to a tax credit for an investment made to a qualified angel fund which is incorporated in North Dakota and is in compliance with North Dakota's securities laws.

The credit is equal to 45% of the investment and must be claimed in the year in which the investment was received by the angel fund. To be eligible for the credit, the investment must be at risk in the fund (not in escrow) for at least three years.

The aggregate annual credit which a taxpayer may claim cannot exceed $45,000. Any unused credit may be carried forward to each of the four succeeding taxable years.

A taxpayer claiming this credit may not claim any credit available to the taxpayer as a result of an investment made by the angel fund in a business qualifying for the seed capital investment credit or the agricultural commodity processing facility investment credit.

For each contribution, attach a copy of the receipt from the fund showing the name of the fund, the amount and the date of the contribution or a copy of the cancelled check *(front and back)*.

## Line 20
## Workforce recruitment credit
## N.D.C.C. § 57-38-01.25

A corporation that is an employer in North Dakota is entitled to a credit for costs incurred during the tax year to recruit and hire employees for hard-to-fill employment positions for which the annual salary for the position meets or exceeds the state average wage.

- "Hard-to-fill employment position" means a job that requires the employer to use extraordinary recruitment methods and for which the employer's recruitment efforts for the specific position have been unsuccessful for six consecutive calendar months.
- "State average wage" means one hundred twenty-five percent of the state average wage published annually by Job Service North Dakota and which is in effect at the time the employee is hired.
- "Extraordinary recruitment methods" means using all of the following:
  - A person with the exclusive business purpose of recruiting employees and for which a fee is charged by the recruiter.
  - An advertisement in a professional trade journal, magazine, or other publication, the main emphasis of which is providing information to a particular trade or profession.
  - A web site, the sole purpose of which is to recruit employees and for which a fee is charged by the web site.
  - Payment of a signing bonus, moving expenses, or nontypical fringe benefits.

A credit may be claimed for 5% of the salary paid to an employee in a qualified hard-to-fill position for the first 12 consecutive months of that employee's employment in that position. The credit may be claimed in the first tax year beginning after the employee filling the hard-to-fill position has completed their first 12 consecutive months of employment in the hard-to-fill position.

Enter on line 20a of the Form 40 Schedule TC, or Schedule CR III if filing a consolidated return, the number of qualified employees hired to claim the credit. Line 20a is required to be reported in order to claim this credit. Any unused credit may be carried forward for four succeeding taxable years.

A corporation that holds an interest in a passthrough entity (partnership, subchapter S Corporation, or limited liability company) that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends.

Attach a schedule listing the names of the employees, their social security numbers, wages paid and employment start date.

## Line 22
## 2008 Property tax credit
## N.D.C.C. § 57-38-01.30

A corporation may take a credit for property taxes or mobile home taxes paid on property classified as commercial property and owned by it in North Dakota. The credit is based on the 2007 property tax that became due in the 2008 calendar year or in the case of mobile home tax, the 2008 tax that became due on January 1, 2008. To qualify for this credit, you are required to file a North Dakota income tax return.

The credit is equal to 10% of the tax *(before any discount and not including special assessments)* levied on the property. The maximum credit allowed per year is $1,000.

A corporation calculating their tax due on a CR schedule for two or more companies with activity in North Dakota may claim the maximum credit for each company on Schedule CR Part III. Submit Schedule PT only for companies claiming a property tax credit. Any unused credit may be carried forward for five income tax years.

A corporation that holds an interest in a passthrough entity (partnership, subchapter S Corporation, or limited liability company) that qualifies for this credit may claim its share of the tax credit in proportion to its interest in the entity. The credit must be claimed in the same taxable year in which the taxable year of the passthrough entity ends.

Instructions for filing Form 40-PT can be found on the back of the form.

To claim the credit, Form 40-PT must be completed and attached to Form 40.

You may also find additional information on our web site under Frequently Asked Questions.

# Taxpayer Bill of Rights

You may obtain a copy of the North Dakota Taxpayer Bill of Rights by contacting the Office of State Tax Commissioner or visiting our web site at **www.nd.gov/tax**

## Need forms or assistance?

If you need a North Dakota form or schedule, or if you have a question about preparing your North Dakota return . . .

### Call

Questions or Forms: 701.328.1249

If speech or hearing impaired,
call us through Relay North Dakota: 1.800.366.6888

### Visit our web site

On our web site, you will find the following resources:

- Tax forms
- Electronic payment information
- Income tax statutes and regulations
- Calendar of due dates, public meetings, and workshops
- Press releases
- On-line message service

Our web site address is:

**www.nd.gov/tax**

### Come in to see us

Stop in to see us in person at our office in Bismarck. You will find us in the—

Corporate Income Tax Section
State Capitol, 16th Floor
Monday through Friday
8:00 a.m. to 5:00 p.m.

### Write

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

### E-mail us

Request forms, ask us a question, or send a message to us via e-mail at:
**corptax@nd.gov**
Or go to our web site at:
**www.nd.gov/tax** (click on **contact us)**

### Fax

You may fax your request or question to 701.328.1942