



# Notice

## To Filers of North Dakota Forms 58 and 60

Cory Fong  
Tax Commissioner

January 1, 2010

### 2009 Legislation Affecting Owners of Partnerships and S corporations

As a result of legislation passed by the 2009 North Dakota Legislature, your partners or shareholders (owners) may contact you for information about the amount of property taxes that the partnership or S corporation paid on its agricultural and commercial property located in North Dakota. This notice explains why they are contacting you and describes what information to provide to them. If you hire a tax professional to prepare your North Dakota income tax return, we suggest that you print this notice and give it to your preparer.

#### Why your owners may contact you

The 2009 North Dakota Legislature passed legislation creating a one-time income tax credit called the “retroactive property tax credit.” This new credit is available to eligible individuals, estates, and trusts having an ownership interest in a partnership or S corporation that paid real estate taxes on North Dakota agricultural and commercial property for either or both of the 2006 and 2007 property tax years.

The new tax credit must be claimed by the eligible owners on their 2009 North Dakota income tax returns. They calculate the tax credit based on their share of the partnership’s or S corporation’s eligible real estate taxes. If they haven’t already done so, your owners may contact you in the next few months to obtain the applicable real estate tax information they will need to calculate the credit on their returns.

#### What property tax information to provide to your owners

If contacted by your owners, they will need the following information to calculate the credit on their 2009 North Dakota income tax returns:

1. **2006 real estate taxes**—If applicable, separately provide the total 2006 real estate taxes that you paid on:
  - a. North Dakota agricultural property.
  - b. North Dakota commercial property.

*Note: The total 2006 real estate taxes equals the sum of the following: (1) Consolidated tax from your 2006 real estate tax statements for directly-owned property; and, (2) Your share of the 2006 consolidated tax on property held by other partnerships or S corporations in which you held an interest. (You may have to contact the other partnerships or S corporations to obtain this information.)*

2. **2007 real estate taxes**—If applicable, separately provide the total 2007 real estate taxes that you paid on:
  - a. North Dakota agricultural property.
  - b. North Dakota commercial property.

*Note: The total 2007 real estate taxes equals the sum of the following: (1) Consolidated tax from your 2007 real estate tax statements for directly-owned property; and, (2) Your share of the 2007 consolidated tax on property held by other partnerships or S corporations in which you held an interest. (You may have to contact the other partnerships or S corporations to obtain this information.)*

<sup>1</sup> This also applies to a limited liability company that files a North Dakota partnership return (Form 58) or a North Dakota S corporation return (Form 60), and the term “owners” used in this notice includes the members of a limited liability company.

<sup>2</sup> House Bill 1448; S.L. 2009, ch. 548.

3. **Owner’s distributive share percentage for each applicable year’s real estate taxes**—This is the percentage that, when applied to the partnership’s or S corporation’s total applicable real estate taxes, yields the owner’s share of them. Provide the percentage as of the due date of the applicable real estate taxes.
- a. To be eligible, an owner must have held an interest on the due date of the applicable real estate taxes. For the 2006 real estate taxes, this is January 1, 2007, and for the 2007 real estate taxes, this is January 1, 2008.
  - b. In the case of a partnership, if the partnership agreement does not provide for this, the owner’s distributive share percentage is 100 percent divided by the number of partners who held an interest on the due date of the applicable real estate taxes. In the case of an S corporation, the owner’s distributive share percentage is based on stock ownership.

**Please note the following:**

- Provide the 2006 and 2007 real estate tax amounts separately for each class of property. Depending on whether the owner is an individual, estate, or trust, the owner will need to know the amounts for each class of property with respect to each property tax year.
- The “consolidated tax” is the amount of property taxes determined by multiplying the taxable value by the mill levy shown on the applicable real estate tax statement. Do not include special assessments and do not subtract any discount separately shown on the real estate tax statement.
- If an owner is a regular (“C”) corporation or is an entity subject to North Dakota’s financial institution tax (on North Dakota Form 35), the owner is not eligible for the credit.
- The tax year of the partnership or S corporation—whether it is a calendar year or a fiscal year—is not relevant for purposes of this notice. The eligible owners must use their share of the applicable real estate taxes to calculate the credit on their 2009 North Dakota income tax return.

**Providing information to your owners**

At your discretion, you may want to provide the applicable real estate tax information to your owners. Accompanying this notice is a special form that you may use for this purpose. Alternatively, you may provide the information in a manner of your own choosing, but we suggest that you include the same information shown on the accompanying notice.

**Assistance**

If you have any questions about this notice, please contact our office as follows:

Phone: Bismarck - Mandan (local) .....701.328.1247  
 Toll free .....877.328.7088

E-mail: [individualltax@nd.gov](mailto:individualltax@nd.gov)

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

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

# Notice to Owner of a Passthrough Entity

## Purpose

This notice contains information that may be important to the preparation of your 2009 North Dakota income tax return. The information in this notice only applies if you file one of the following North Dakota income tax forms: ND-1, 38, 58, or 60.

The 2009 North Dakota Legislature, in Senate Bill 1448, created a new income tax credit called the “retroactive property tax credit.” In general, it is intended for individuals, estates, and trusts that were ineligible for the property tax relief income tax credit allowed on the 2007 and 2008 North Dakota income tax returns. This includes individuals, estates, and trusts who held an ownership interest in a partnership or S corporation that paid real estate taxes on North Dakota agricultural and commercial property for either or both of the 2006 and 2007 property tax years.

To find out if you are eligible for the retroactive property tax credit—

<b>Obtain the:</b>	<b>If you are a(n):</b>
2009 Schedule ND-1RPT	Individual who files North Dakota Form ND-1
2009 Schedule RPT (Form 38)	Estate or trust that files North Dakota Form 38

If you are a partnership, S corporation, or limited liability company that files North Dakota Form 58 (partnership return) or North Dakota Form 60 (S corporation return), see the instructions to Schedule K of the 2009 return.

## Real estate tax information

Following is the real estate tax information that may be needed to claim the credit on your 2009 North Dakota income tax return.

- Name of passthrough entity: \_\_\_\_\_
- Passthrough entity’s FEIN: \_\_\_\_\_
- Total 2006 real estate taxes of passthrough entity on—
  - ▶ ND agricultural property: \$ \_\_\_\_\_
  - ▶ ND commercial property:\* \$ \_\_\_\_\_
  - ▶ Your distributive share percentage (as of 1/1/2007): \_\_\_\_\_ %
- Total 2007 real estate taxes of passthrough entity on—
  - ▶ ND agricultural property: \$ \_\_\_\_\_
  - ▶ ND commercial property:\* \$ \_\_\_\_\_
  - ▶ Your distributive share percentage (as of 1/1/2008): \_\_\_\_\_ %

\* *Important: The ND commercial property real estate tax amount, if any, does not apply to an individual and must not be entered on the Schedule ND-1RPT. This amount is only pertinent to an estate or trust (on Form 38) and to a partnership, S corporation, or limited liability company (on Forms 58 or 60).*

## Assistance

If you have any questions about this notice, contact the North Dakota Office of State Tax Commissioner as follows:

Phone: Bismarck-Mandan (local) .....701.328.1247  
Toll free .....877.328.7088

E-mail: [individualltax@nd.gov](mailto:individualltax@nd.gov)

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

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