

Who must pay estimated tax?

A fiduciary for an estate or trust must pay estimated North Dakota income tax for the 2012 tax year if all four of the following conditions apply:

1. The fiduciary is required to pay estimated federal income tax for the 2012 tax year. This condition applies whether or not the fiduciary actually makes the required payment(s) of estimated tax to the Internal Revenue Service.
2. The fiduciary's net tax liability for the 2011 tax year was equal to or more than \$500.
Note: If the fiduciary was not required to file a North Dakota income tax return for the 2011 tax year, the fiduciary's net tax liability is zero for purposes of this condition.
3. The fiduciary expects to owe (after subtracting any estimated North Dakota income tax withholding) an amount equal to or more than \$500 for the 2012 tax year.
4. The fiduciary expects North Dakota income tax withholding for the 2012 tax year to be less than the smaller of:
 - a. 90% of the net tax liability for the 2012 tax year.
Note: Substitute 66 2/3% if a qualified farmer. See "Farmer" under "Payment amounts and due dates" later in these instructions.
 - b. 100% of the net tax liability for the 2011 tax year.
Note: If the estate or trust was not in existence for the entire 2011 tax year, part b does not apply; the 90% threshold in part a must be applied.

How to determine the estimated tax

Complete the worksheet on page 2. For line 1 of the worksheet, estimate the federal taxable income using the 2012 Form 1041-ES, the federal estimated tax form for estates and trusts. See the instructions to Schedule 1 of the 2011 Form 38 for information on the adjustments on lines 2 and 4, and the credits on line 7, of the worksheet.

Payment amounts and due dates

In general, one-fourth (25%) of the total estimated tax required to be paid (from line 14 of the worksheet) for the 2012 tax year must be paid by each of the following due dates:

- 1st installment April 15, 2012
- 2nd installment June 15, 2012
- 3rd installment September 15, 2012
- 4th installment January 15, 2013

The above due dates apply if the fiduciary's tax year is a calendar year—January 1 through December 31, 2012. However, if the tax year is a fiscal year, the installments are due on the 15th day of the 4th, 6th, and 9th months of the current tax year, and the 15th day of the 1st month of the following tax year. If any installment due date falls on a Saturday, Sunday, or legal holiday, the installment is not due until the next business day.

Farmer—If the fiduciary qualifies as a farmer for federal estimated income tax purposes for the 2012 tax year, the fiduciary may pay the estimated tax according to the general rules explained above, or the fiduciary may pay the full amount of the estimated tax due by January 15, 2013.

Note: Regardless of the option chosen, the fiduciary has until the regular due date to file the 2012 North Dakota fiduciary income tax return.

Part-year requirement—If a fiduciary for a nonresident estate or trust, or an estate or trust that was created during the tax year, does not receive income from North Dakota sources until after the first installment due date, the fiduciary must pay the required estimated tax in equal payments over the remaining installment due dates following the receipt of income from North Dakota sources.

How and where to pay

For each required installment payment, complete an estimated tax payment voucher and submit it along with a check or money order made payable to the "ND State Tax Commissioner." To ensure proper credit, please write the federal employer identification number (FEIN) and "2012 Form 38-ES" on the check or money order. Mail the payment and voucher to:

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

Underpayment or late payment interest

Interest may be charged if not enough estimated tax is paid, or if the payment is not made on time or in the required amount. This applies even if there is a refund on the North Dakota fiduciary income tax return for the 2012 tax year. Interest is calculated at the rate of 12% per year from the installment due date to the earlier of the date the estimated tax is paid or the regular due date of the return.

Need help?

If you have questions or need forms, see page 3 of this form for how to contact us.

Privacy Act information—In compliance with the Federal Privacy Act of 1974 (Public Law 93-579), the disclosure of the federal employer identification number on this form is mandatory and is required under subsections 1 and 7 of North Dakota Century Code § 57-38-31. A federal employer identification number is used as an identification number by the North Dakota Office of State Tax Commissioner for file control and recordkeeping purposes, and for cross-checking the fiduciary's files with those of the Internal Revenue Service.

2012 estimated income tax worksheet—estate or trust

1. Estimated federal taxable income for the 2012 tax year (*from worksheet in 2012 Federal Form 1041-ES*) 1 _____
2. Addition adjustments—see the instructions to the 2011 Form 38, Tax Computation Schedule, line 2, for required adjustments 2 _____
3. Balance (*Add lines 1 and 2*) 3 _____
4. Subtraction adjustments—see the instructions to the 2011 Form 38, Tax Computation Schedule, line 4, for allowable adjustments 4 _____
5. North Dakota taxable income (*Subtract line 4 from line 3*) 5 _____
6. North Dakota income tax—calculate the tax for the amount on line 5 as follows 6 _____
 - If a resident estate or trust, calculate the tax using the 2012 Tax Rate Schedule below.
 - If a nonresident estate or trust, complete lines 15 through 19 below.
7. Credits—see the instructions to the 2011 Form 38, page 1, line 3, for allowable credits 7 _____
8. Net tax liability (*Subtract line 7 from line 6*) 8 _____
9. Estimated North Dakota income tax withholding for the 2012 tax year 9 _____
10. Balance due (*Subtract line 9 from line 8*) If the amount on this line is less than \$500, stop here; no estimated tax is due 10 _____
11. Multiply line 8 by 90% (.90) [or 66 2/3% (.6667) if a qualified farmer] 11 _____
12. Net tax liability from 2011 Form 38, page 1, line 4. If no return was required for 2011, enter 0. If the amount on this line is less than \$500, stop here; no estimated tax is due 12 _____
13. Enter the smaller of line 11 or line 12. However, if the estate or trust was not in existence for the entire 2011 tax year, enter the amount from line 11. If line 9 is equal to or greater than the amount on this line, stop here; no estimated tax is due 13 _____
14. Minimum annual payment. (*Subtract line 9 from line 13*) Divide this amount by four to determine the amount to pay on each installment due date. See **Payment amounts and due dates** in the instructions on page 1 for the due dates and for exceptions to paying in four installments 14 _____

Nonresident estate or trust tax calculation only (lines 15 through 19)

15. Calculate the tax for the amount on line 5 using the 2012 Tax Rate Schedule below 15 _____
16. Income from North Dakota sources. Enter the portion of the fiduciary's income that is reportable to North Dakota (except U.S. obligation interest) 16 _____
17. Estimated total income of fiduciary (reduced by U.S. obligation interest) 17 _____
18. North Dakota income ratio (*Divide line 16 by line 17. Round to nearest two decimal places.*) 18 _____
19. Multiply line 15 by line 18. Enter this amount on line 6 above 19 _____

2012 Tax Rate Schedule**Estate or Trust****If North Dakota taxable income is:****Your tax is equal to:**

Over But not over

\$ 0	\$ 2,400	1.51% of North Dakota taxable income	
2,400	5,600	36.24 + 2.82% of amount over	\$ 2,400
5,600	8,500	126.48 + 3.13% of amount over	5,600
8,500	11,650	217.25 + 3.63% of amount over	8,500
11,650		331.60 + 3.99% of amount over	11,650

Call

Questions: (701) 328-1247

Forms: (701) 328-1243

If speech or hearing impaired, call us through
Relay North Dakota at 1-800-366-6888.

E-mail

Request forms, ask questions, or send messages to
us via e-mail at—

individualtax@nd.gov**Web site**

Our Web site address is—

www.nd.gov/tax**Write**

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

Walk-in assistance

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

Individual Income Tax Section
State Capitol, 16th Floor
Monday through Friday (except holidays)
8:00 a.m. to 5:00 p.m.

Record of estimated tax payments for 2012 tax year

<i>Installment number</i>	<i>Payment due date ¹</i>	<i>Date paid</i>	<i>Check or money order number</i>	<i>Amount paid</i>	<i>Amount, if any, applied from 2011 return ²</i>	<i>Total amount paid</i>
1	April 15, 2012					
2	June 15, 2012					
3	Sept. 15, 2012					
4	Jan. 15, 2013					
Total estimated tax paid for 2012						

¹ In the case of (1) a fiscal year filer, (2) a farmer, or (3) a fiduciary whose estimated tax requirement does not begin until after April 15, 2012, see instructions for applicable due dates.

² If a statement was attached to the 2011 North Dakota return electing to apply part or all of the 2011 overpayment to a quarter other than the first quarter of 2012, enter the overpayment on the applicable quarter's line.

38-ES

Form North Dakota Office of State Tax Commissioner
38-ES Estimated tax payment voucher — estate or trust



☐ **Calendar year 2012** (Jan. 1 - Dec. 31, 2012)

☐ **Fiscal year:** Begins _____, 2012, and ends _____, _____

Name of estate or trust _____

Name and title of fiduciary _____

Mailing address of fiduciary _____

City, State and Zip Code _____

FEIN _____

Amount of Payment \$ _____

For Tax
Department
use only

- Make check or money order payable to "ND State Tax Commissioner."
- Write FEIN and "2012 Form 38-ES" on check or money order.
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Bismarck, ND 58505-0599

FID

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