



North Dakota 2013 Fiduciary Income Tax

Ryan Rauschenberger, Tax Commissioner

Changes for
2013

See page 1

Web site

www.nd.gov/tax

E-Mail

[individualtax@](mailto:individualtax@nd.gov)

nd.gov

Form 38

Includes:

Form 38 (pages 1-3)
Schedule K-1

Dear Taxpayer,

Inside this booklet you will find the paper forms and instructions you need to file your 2013 North Dakota fiduciary income tax.

This year's forms and instructions contain a number of changes resulting from legislation passed by the 2013 North Dakota Legislature. The most notable change is a 19.3 percent across-the-board reduction in the income tax rates. See page 1 of this booklet for more information on the legislative changes affecting the forms and instructions in this booklet.

The instructions in this booklet are intended to help you prepare an accurate and complete return. I invite comments on where improvements may be made to these forms and instructions so that we can provide better service to North Dakota's taxpayers.

If you have any questions or need assistance, visit our web site at www.nd.gov/tax or contact our office. You'll find contact information on the inside front cover of this booklet.

Thank you,

A handwritten signature in cursive script that reads "Ryan Rauschenberger".

Ryan Rauschenberger,
Tax Commissioner



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Required forms

The following forms are needed to complete Form 38:

Form 38	Fiduciary return (3 pages)
Schedule K-1	Beneficiary's share of North Dakota income (loss), deductions, adjustments, credits, and other items

The following forms may be needed:

Form 38-EXT	Fiduciary extension payment voucher
Schedule 38-UT	Calculation of interest on underpayment or late payment of estimated income tax
Form 101	Application for extension of time to file a North Dakota income tax return

Download these forms from our web site at www.nd.gov/tax.

Need help?

You can download forms and find other information on our web site at:

www.nd.gov/tax

E-mail

Individual, estate and trust income tax—

individualtax@nd.gov

Call

Questions **(701) 328-1258**

Forms **(701) 328-1243**

Speech/hearing impaired

TDD **(800) 366-6888**

Write

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

Office

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



Taxpayer Bill of Rights

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

Privacy Act Notification

In compliance with the Privacy Act of 1974, disclosure of a Federal Employer Identification Number (FEIN) or social security number on this form is required under N.D.C.C. §§ 57-01-15 and 57-38-31, and will be used for tax reporting, identification, and administration of North Dakota tax laws. Disclosure is mandatory. Failure to provide the FEIN or social security number may delay or prevent the processing of this form.

Changes affecting estates and trusts

Developments, updates, and items of interest relating to estate and trust income tax

Income tax rate reduction

The income tax rates for estates and trusts were reduced starting with the 2013 tax year. The new tax rates and their corresponding taxable income brackets can be seen on the 2013 Form 38, page 2, Tax Computation Schedule.

Increase in exclusion for long-term capital gain and qualified dividends

The exclusion for a long-term capital gain and qualified dividends allowed to an estate or trust was increased to 40 percent starting with the 2013 tax year. See the instructions to the Tax Computation Schedule, lines 4b and 4c, on page 6 of this booklet.

Reduction in withholding from nonresident individual beneficiaries

Starting with the 2013 tax year, the amount of North Dakota income tax that a fiduciary for a trust must withhold from the distributive share of North Dakota income of its nonresident individual beneficiaries is reduced to 3.22%.

Reduction in composite income tax rate

Starting with the 2013 tax year, the amount of North Dakota income tax that must be paid on a composite income tax return that a fiduciary for a trust files on behalf of its eligible nonresident individual beneficiaries is reduced to 3.22%.

New income tax credit for automation machinery and equipment

For the 2013 through 2015 tax years only, a new income tax credit is allowed for purchasing machinery and equipment for the purpose of automating a manufacturing process. Eligibility is limited to a business that is certified as a primary sector business by the North Dakota Commerce Department's Division of Economic Development and Finance. The credit is equal to 20 percent of the cost of the qualifying machinery and equipment. If the credit exceeds the tax liability in the first tax year, the excess may be carried over and used on subsequent years' returns for up to 5 tax years. The total credits allowed for all qualifying purchases by all taxpayers is limited to \$2 million per calendar year. Taxpayers interested in this credit must complete and file an application with the North Dakota Commerce Department's Division of Economic Development and Finance.

Extension of housing incentive fund income tax credit

The housing incentive fund income tax credit was extended to the 2013 and 2014 tax years. The tax credit is allowed for contributing monies to the Housing Incentive Fund administered by the North Dakota Housing Finance Agency. The credit is equal to the amount contributed to the fund. Upon receipt of a contribution, the North Dakota Housing Finance Agency will issue a credit certificate to the taxpayer showing the amount of the allowable credit. If the entire credit allowed for the tax year cannot be used, the unused portion may be carried over and used on subsequent years' returns for up to ten years. 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.

Noteworthy changes to forms

In addition to the changes mentioned in the previous developments on this page, the following changes have been made to the 2013 Form 38:

- The instructions to the Tax Computation Schedule, lines 2 and 4d, have been revised to reflect the repeal of the financial institution tax and the transition rule for S corporations formerly subject to that tax. The addback adjustment (on line 2) and the subtract adjustment (on line 4d) now only apply in the case of a shareholder of an S corporation that elects to be taxed as a C corporation for the limited purposes of the transition rule. For more information, see the *Income Tax Guideline: Adjustment For Income (Loss) From An S Corporation Taxed Under N.D.C.C. § 57-38-01.35*.
- On Schedule K-1 (Form 38), Part 3, line 4 (renaissance zone income exemption) was split into two lines—lines 4a and 4b—due to a change in the law that limits the amount of the income exemption in the case of projects approved on or after August 1, 2013.
- On Schedule K-1 (Form 38), Part 3, line 16 (angel fund tax credit) is now one line. The line for entering an angel fund tax credit purchased from another taxpayer was removed because the credit purchase provision expired at the end of the 2012 tax year.
- On Schedule K-1 (Form 38), Part 3, a new line (line 21) was added for the new automation income tax credit that is allowed starting with the 2013 tax year.

Form 38 Instructions

2013

North Dakota Fiduciary Income Tax Return

"N.D.C.C." references are to the North Dakota Century Code, which contains North Dakota's statutes.

"N.D. Admin. Code" references are to the North Dakota Administrative Code, which contains North Dakota's administrative rules.

General instructions

Who must file

Resident estate or trust

A fiduciary for a resident estate or trust must file a 2013 Form 38, *Fiduciary Income Tax Return*, if the fiduciary is required to file a 2013 Form 1041, *U.S. Income Tax Return for Estates and Trusts*.

A fiduciary for a resident estate or trust is generally subject to the same law provisions that apply to a resident individual. The entire income (loss) of a resident estate or trust is reportable to North Dakota regardless of its source. An estate or trust is considered a resident if it has a relationship to North Dakota that is sufficient to create nexus for income tax purposes. See N.D. Admin. Code § 81-03-02.1-04 for more information.

Nonresident estate or trust

A fiduciary for a nonresident estate or trust must file a 2013 Form 38, *Fiduciary Income Tax Return*, if both of the following apply:

- The fiduciary is required to file a 2013 Form 1041, *U.S. Income Tax Return for Estates and Trusts*; and
- The estate or trust derived any gross income from North Dakota sources during the 2013 tax year.

A fiduciary for a nonresident estate or trust is generally subject to the same law provisions that apply to a nonresident individual. Only the portion of the nonresident estate's or trust's gross income from North Dakota sources is reportable to North Dakota.

For a nonresident estate or trust, gross income from North Dakota sources includes the following:

- Compensation, including unemployment compensation, received by an estate based on services performed in North Dakota by a decedent.

- Rental income from real and tangible personal property located in North Dakota.
- Royalties, bonus or lease payments, and other income from an interest in oil, gas, coal, or other minerals located in North Dakota.
- Gain from the sale, exchange, or other disposition of real and tangible personal property located in North Dakota.
- Income from a sole proprietorship, partnership, S corporation, or other trade or business carried on in North Dakota. This includes farming and ranching operations.
- Income from gambling activity carried on in North Dakota.
- Income from another estate or trust consisting of the same kinds of income listed above.

For a nonresident estate or trust, gross income from North Dakota sources generally does not include interest, dividends, pensions, annuities, or income and gain from intangible property. However, interest, dividends, gains, and other income from intangible property are included in gross income from North Dakota sources if derived from a trade or business carried on in North Dakota.

Grantor trust

A grantor trust that, in lieu of filing Form 1041, elects to use an alternative filing method prescribed by the federal income tax regulations is deemed to have a requirement to file Form 1041 for purposes of the North Dakota filing requirements.

Tax-exempt trust

A fiduciary for a trust that is tax-exempt under Internal Revenue Code § 501(a) must file a 2013 Form 38 if (1) the fiduciary is required to file a federal income tax return to report the trust's unrelated business taxable income, (2) the federal income tax is calculated using the tax rates applicable to a trust, and (3) the unrelated business taxable income is reportable to North Dakota. The unrelated business taxable income is reportable to North Dakota if the trust is a North Dakota resident trust or, in the case of a nonresident trust, the unrelated business taxable income has a source in North Dakota.

Bankruptcy estate

A fiduciary that is required to file a 2013 Form 38 for a bankruptcy estate must file it in a manner similar to how the 2013 Form 1041 is filed. Use Form 38 only as a transmittal form for Form ND-1. In the top margin of Form ND-1, write "Attachment to Form 38." Attach Form ND-1 to Form 38. Complete Items A through H at the top of Form 38. Enter on Form 38, page 1, line 7, the net tax liability from Form ND-1, page 2, line 27. Then complete lines 8 through 17 on page 1 of Form 38 as required.

When and where to file

The 2013 Form 38 must be filed no later than:

- April 15, 2014, if filing for the 2013 calendar year; or
- The 15th day of the 4th month following the end of the tax year, if filing for a fiscal year beginning in the 2013 calendar year.

Note: Use the 2012 Form 38 if the estate's or trust's fiscal year began in the 2012 calendar year.

Mail Form 38 and all required attachments to:

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

Extension of time to file

An extension of time to file Form 38 may be obtained in one of the following ways:

- Obtain a federal extension.
- Separately apply for a North Dakota extension.

Federal extension. If an extension of time to file Federal Form 1041 is obtained, it is automatically accepted as an extension of time to file Form 38. The length of the extension for North Dakota purposes is the same number of months as the federal extension. A separate North Dakota extension does not have to be applied for, nor does the Office of State Tax Commissioner have to be notified that a federal extension has been obtained prior to filing Form 38.

North Dakota extension. If a federal extension is not obtained, but additional time is needed to complete and file Form 38, a separate North Dakota extension may be applied for by filing Form 101, *Application for Extension of Time to File a North Dakota Tax Return*. This is not an automatic extension—there must be good cause to request a North Dakota extension. Form 101 must be postmarked on or before the due date of Form 38. Notification of whether the extension is accepted or rejected will be provided by the Office of State Tax Commissioner.

Extension interest. If Form 38 is filed on or before the extended due date, and any tax due is paid with the return, no penalty will be charged. Interest on the tax due will be charged at the rate of 12% per year from the original due date of the return to the earlier of the date the return is filed or the extended due date.

Prepayment of tax due. If an extension of time to file Form 38 is obtained and it is expected that there will be a tax due, the expected tax due may be paid on or before the regular due date to avoid any extension interest. To do so, send a check or money order along with a completed 2013 Form 38-EXT, *Fiduciary Extension Payment Voucher*, on or before the regular due date of Form 38.

Alternatively, a payment may be sent with a letter containing the following: (1) Name of estate or trust; (2) FEIN of estate or trust; (3) Fiduciary's name, address and phone number; and, (4) Statement that the payment is a 2013 Form 38-EXT payment.

Penalty and interest

The tax due must be paid by the due date (without extension) of Form 38 to avoid penalty and interest charges. However, if an extension of time to file Form 38 was obtained, the tax due may be paid by the extended due date of the return without penalty, but extension interest will apply—see **Extension interest and Prepayment of tax due** on this page.

If Form 38 is filed on or before its due date (or extended due date), but the tax due is not paid with the return, a penalty equal to 5% of the tax due or \$5.00, whichever is greater, must be paid.

If Form 38 is not filed on or before its due date (or extended due date), a penalty equal to 5% of the tax due or \$5.00, whichever is

greater, for the month the return was due plus 5% of the tax due for each additional month (or fraction of a month) during which the return remains delinquent must be paid. This penalty may not exceed 25% of the tax due.

In addition to any penalty, interest must be paid at the rate of 1% per month (or fraction of a month), except for the month in which the tax was due, on any tax due that remains unpaid after the due date (or extended due date) of the return.

Estimated tax requirement (for 2014)

A fiduciary for an estate or trust must pay estimated North Dakota income tax for the 2014 tax year if all four of the following conditions apply:

1. The fiduciary is required to pay estimated federal income tax for the 2014 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 North Dakota net income tax liability on the fiduciary's taxable income for the 2013 tax year (as shown on the 2013 Form 38, page 1, line 4) was equal to or more than \$1,000. *Note: If the fiduciary was not required to file a North Dakota income tax return for the 2013 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) North Dakota income tax equal to or more than \$1,000 for the 2014 tax year. *Note: Do not include income tax withholding from nonresident individual beneficiaries or composite income tax in this estimation.*
4. The fiduciary expects North Dakota income tax withholding (other than income tax withholding from nonresident individual beneficiaries) for the 2014 tax year to be less than the smaller of:
 - a. 90% of the North Dakota net income tax liability on fiduciary's taxable income for the 2014 tax year. *Note: Substitute 66 2/3% if a qualified farmer. See instructions for 2014 Form 38-ES.*
 - b. 100% of the North Dakota net income tax liability on fiduciary's taxable income for the 2013 tax year (as shown on the 2013 Form 38, page 1,

line 4). *Note: If the estate or trust was not in existence for the entire 2013 tax year, this part does not apply; the 90% threshold in part a must be applied.*

In general, one-fourth (25%) of the total estimated tax required to be paid for the 2014 tax year must be paid by April 15, June 15, and September 15, 2014, and January 15, 2015. If there is a requirement to pay estimated tax for 2014, obtain the 2014 Form 38-ES, *Estimated income tax—estates and trusts*.

Withholding from nonresident individual beneficiaries

A fiduciary for a trust must withhold North Dakota income tax at the rate of 3.22% (.0322) from the distributive share of North Dakota income of its nonresident individual beneficiaries. Only a trust required to file Form 38 is subject to this requirement. This requirement does not apply to actual distributions made by the fiduciary to nonresident individual beneficiaries during the tax year; instead, the withholding amount is calculated on the beneficiaries' year-end distributive share and is reported on the Form 38 filed for the tax year. An amount less than 3.22% of the distributive share may be withheld if the beneficiary meets certain conditions—see Form PWA for details.

Withholding is not required if:

- The year-end distributive share of North Dakota income is less than \$1,000; or
- The nonresident individual beneficiary elects to have his or her year-end distributive share of North Dakota income included in, and the tax on it calculated under, the composite filing method—see "Composite filing method" in the next section for more information.

The amount withheld for a beneficiary is reported on Form 38, Schedule BI, Column 6. The fiduciary must submit a payment with Form 38 for the total withholding reported on Schedule BI. See the instructions to Schedule BI for more information.

Composite filing method

A composite filing method is available to a fiduciary for a trust with one or more eligible beneficiaries. Under this method, the fiduciary files one return, called a "composite return," on behalf of one or more eligible beneficiaries. The composite return and the fiduciary's payment of the income tax

calculated on it satisfies the North Dakota income tax filing and payment obligations of the eligible beneficiaries included in it. Therefore, they do not have to file their own North Dakota income tax return to report or pay tax on their distributive share of North Dakota income from the trust.

The use of the composite filing method by a fiduciary for a trust is optional, and is a choice that it may make on a year-to-year basis. The fiduciary does not have to obtain prior approval to use the composite filing method.

Exception to withholding. A fiduciary for a trust does not have to withhold North Dakota income tax from the distributive share of North Dakota income of an eligible beneficiary who elects to be included in a composite return.

Eligible beneficiary. An eligible beneficiary is an individual who:

- Is a nonresident of North Dakota; and
- Does not have any North Dakota income from other than the trust or another partnership, S corporation, trust, or limited liability company (filing as a partnership or S corporation).

An eligible beneficiary may elect to be included in a composite return regardless of the amount of the beneficiary's distributive share of North Dakota income (or loss). In the case of a loss, the composite tax is zero.

Composite filing method procedure. The distributive share of North Dakota income of an electing beneficiary is multiplied by the highest individual income tax rate (3.22% for the 2013 tax year) to determine the beneficiary's composite income tax. (If the North Dakota distributive share is a loss, the composite tax is zero.) No adjustments, deductions, or tax credits are allowed in calculating the tax due under the composite filing method. The Form 38 serves as the composite return. The composite income tax calculated for a beneficiary is reported on Form 38, Schedule BI, Column 7. The fiduciary must submit a payment with Form 38 for the total composite income tax reported on Schedule BI. See the instructions to Schedule BI for more information.

Election. If an eligible beneficiary agrees to be included in a composite return, the fiduciary's calculation and reporting of a composite income tax for the beneficiary on Schedule BI of Form 38 constitutes the beneficiary's election to be included in the composite return.

Correcting a previously filed return

If a fiduciary needs to correct an error in Form 38 after it is filed, the fiduciary must file an amended return. There is no special form for this purpose. See "How to prepare an amended return" below.

If a fiduciary paid too much tax because of an error on the 2013 Form 38, the fiduciary generally has three years from the later of the due date (excluding extensions) of the return or the date the return was actually filed in which to file an amended return to correct the error and claim a refund of the overpayment.

See N.D.C.C. § 57-38-40 for other time periods that may apply.

How to prepare an amended 2013 return

1. Obtain a blank 2013 Form 38.
2. Enter the name of the estate or trust, and the fiduciary's name, current address, FEIN, etc., in the top portion of page 1 of Form 38.
3. Fill in the "Amended return" circle at the top of page 1 of Form 38.
4. Complete the Tax Computation Schedule and Schedule BI using the corrected information. Also complete Schedule CR, if applicable. Then complete lines 1 through 7 on page 1 of Form 38.
5. Leave line 8 on page 1 blank unless claiming an additional amount not previously claimed.
6. On line 10 of page 1, enter the total taxes due from the previously filed 2013 Form 38, page 1, line 7. If the total taxes due have not been fully paid, only enter the amount paid.
7. Complete lines 11 through 16 of page 1. If there is an overpayment on line 11, enter the full amount on line 13. On an amended return, the amount credited to the next year's estimated tax (line 12) may not be increased or decreased.
8. Attach a statement explaining the reason(s) for filing the amended return. If it is because of changes the fiduciary or the Internal Revenue Service (IRS) made to the 2013 Federal Form 1041, attach a copy of the amended federal return or IRS notice.
9. Complete and provide a corrected North Dakota Schedule K-1 to the beneficiaries, as required.

Reporting federal changes

If the Internal Revenue Service (IRS) changes Federal Form 1041, or if a fiduciary files an amended Federal Form 1041, an amended North Dakota Form 38 must be filed within ninety days after the final determination of the IRS changes or the filing of the amended federal return. Enclose a copy of the IRS audit report or the amended federal return with the amended North Dakota Form 38.

W-2/1099 reporting requirement

Every fiduciary that is required to file Federal Form 1099 or W-2 may also have to file one with the Office of State Tax Commissioner. For more information, obtain the document *Income Tax Guideline: Information Returns*.

Use of information

All of the information on Form 38 and its attachments is confidential by law and cannot be given to others except as provided by state law. Information about the beneficiaries is required under state law so the Office of State Tax Commissioner can determine the beneficiary's correct North Dakota taxable income and verify if the beneficiary has filed a return and paid the tax.

General instructions for completing Form 38

Complete Form 38 as follows:

1. Complete Federal Form 1041 in its entirety.
2. Complete Items A through H at the top of page 1 of Form 38—see page 5 of these instructions.
3. Complete the Tax Computation Schedule on page 2 of Form 38—see page 5 of these instructions.
4. Complete Schedule BI on page 3 of Form 38—see page 7 of these instructions.
5. Complete lines 1 through 17 on page 1 of Form 38—see page 8 of these instructions.
6. Complete Schedule K-1, if required, for the beneficiaries—see page 10 of these instructions.

Rounding of numbers. Numbers may be entered on the return in dollars and cents, or they may be rounded to the nearest whole dollar. If rounding, drop the cents if less than 50 cents and round up to the next whole dollar amount if 50 cents or higher. For example, \$25.36 becomes \$25.00, and \$25.50 becomes \$26.00.

Fiscal year filers. The tax year for North Dakota income tax purposes must be the same as the tax year used for federal income tax purposes. Use the 2013 Form 38 if the estate's or trust's taxable year began in the 2013 calendar year. *Note: Use the 2012 Form 38 if the taxable year began in the 2012 calendar year.*

Specific line instructions for page 1 of Form 38, Items A-H

Complete Items A through H at the top of page 1 of Form 38. Then complete the Tax Computation Schedule and Schedule BI before completing lines 1 through 17 on page 1 of Form 38.

Item A Tax year

The same tax year used for federal income tax purposes (as indicated on the federal return) must be used for North Dakota income tax purposes. Fill in the applicable circle. If the estate or trust has a fiscal year, enter the beginning and ending dates of the fiscal year. Use the 2013 Form 38 only if the estate's or trust's tax year began in the 2013 calendar year.

Item B Name and address

Enter the legal name of the estate or trust on the first line of the name and address area. Enter the name and title, if any, of the fiduciary on the second line. Enter the fiduciary's mailing address on the third and fourth lines.

Item C Federal EIN

North Dakota uses the federal employer identification number (FEIN or federal EIN) for identification purposes. Enter the federal employer identification number from page 1 of Federal Form 1041.

Important: Do not enter the fiduciary's own federal employer identification number. A fiduciary for an estate or trust must obtain a separate federal employer identification number for the estate or trust.

Item D Date created

Enter the date the estate or trust was created from page 1 of Federal Form 1041.

Item E Number of beneficiaries

Enter the total number of beneficiaries. Also enter the number of each type of beneficiary.

Item F Residency status

Fill in the applicable circle to indicate the residency status of the estate or trust. See "Resident estate or trust" under "Who must file" on page 2 for more information.

Item G Entity type

If Federal Form 1041 was used, fill in the circle next to the same entity type (Items 1-9) checked on page 1 of Form 1041. Fill in the circle next to "Other" (Item 10) if the fiduciary filed:

- Form 1041-QFT (Write "Qualified funeral trust" on the line.)
- Form 990-T for a tax-exempt trust with unrelated business taxable income (Write "Tax-exempt trust with UBTI" on the line.)

Item H Check off items

Fill in all applicable circles.

Initial return. Fill in this circle if this is the first return filed in North Dakota for this estate or trust.

Final return. Fill in this circle if this is the last return to be filed in North Dakota for this estate or trust.

Composite return. Fill in this circle if the return is filed for a trust, and one or more nonresident individual beneficiaries have elected to include their distributive shares of North Dakota source income in a composite return. See "Composite filing method" on page 4 for more information.

Amended return. Fill in this circle if this return is being filed to correct a previously filed 2013 Form 38. See "Correcting a previously filed return" on page 4 for more information.

Extension. Fill in this circle if a federal or state extension of time to file the return was obtained. See "Extension of time to file" on page 2 for more information.

Instructions for completing Tax Computation Schedule

(Form 38, page 2)

Instructions for Part 1

Line 2 Additions

The following items must be entered on this line if taxable to the fiduciary:

- Taxable portion of a lump-sum distribution from Federal Form 4972, line 6 plus line 10. This adjustment does not apply to a fiduciary for a nonresident estate or trust.
- Loss adjustment reported to the fiduciary by an S corporation that elected taxation under N.D.C.C. § 57-38-01.35. For details, obtain the *Income Tax Guideline: Adjustment For Income (Loss) From An S Corporation Taxed Under N.D.C.C. § 57-38-01.35. Attach a copy of the statement received from the entity.*
- For an electing small business trust (ESBT), the separate S corporation items of income, gain, loss, etc., that would have been included had they not been removed for purposes of the separate tax calculation on Federal Form 1041.
- Amount of contribution on which the fiduciary claims a North Dakota endowment fund tax credit under N.D.C.C. § 57-38-01.21 or a housing incentive fund tax credit under N.D.C.C. § 57-38-01.32, but only to the extent the contribution reduced the fiduciary's federal taxable income. If a fiduciary receives either or both credits from a passthrough entity, include on this line the fiduciary's share of the related contribution from the passthrough entity to the extent it reduced the fiduciary's federal taxable income.

Line 4a

Interest from U.S. obligations

Enter the following on this line if included in the amount on line 1:

- Interest income from U.S. obligations.

- Interest income from other securities that is specifically exempted from state income tax by federal statute.
- The portion of dividend income from a mutual fund attributable to the fund's investment in the same kinds of securities listed above.

Common sources of interest income that may be entered on this line include U.S. savings bonds, Treasury bills and notes, and securities issued by the Banks for Cooperatives, Commodity Credit Corporation, Federal Deposit Insurance Corporation, Federal Farm Credit System, Federal Home Loan Banks, Federal Intermediate Credit Banks, Federal Land Banks, Federal Savings & Loan Insurance Corporations, and Student Loan Marketing Association.

Do not enter on this line interest income from securities of the Federal Home Loan Mortgage Corporation (Freddie Mac), Federal National Mortgage Association (Fannie Mae), and Government National Mortgage Association (Ginnie Mae), nor from a federal income tax refund or repurchase agreement. **Attach a statement specifically identifying the securities and the interest income from them. For a mutual fund, identify the fund, the qualifying securities, and the percentage of income from qualifying securities.**

Line 4b

Net long-term capital gain exclusion

If the amount on line 1 includes a net long-term capital gain, 40 percent of the gain is excludable from North Dakota taxable income. For a nonresident estate or trust, the exclusion is allowed only for a net long-term capital gain based on the capital gains and losses reportable to North Dakota. A net long-term capital gain included in an amount entered on line 4d (Other subtractions) is not eligible for the exclusion. Complete the worksheet on this page to calculate the amount to enter on this line.

Line 4c

Qualified dividend exclusion

Resident estate or trust— A fiduciary for a resident estate or trust may enter on this line 40 percent of the qualified dividends allocated to the estate or trust and reported on Form 1041, line 2b(2). **Do not** include qualified dividends that were allocated to the beneficiaries.

Nonresident estate or trust. A fiduciary for a nonresident estate or trust may enter on this line 40 percent of the portion of the qualified dividends allocated to the estate or trust and reported on Form 1041, line 2b(2), **that are reportable to North Dakota.** Qualified dividends allocated to the estate or trust that are reportable to North Dakota must be included in the fiduciary's share of total income reported on Form 38, Tax Computation Schedule, Part 2, Column B, line 11.

Line 4d

Other subtractions

The following items may be entered on this line, but only to the extent the income is included in the amount on line 1:

- Income earned or received by a Native American while living and working on any Indian reservation in North Dakota.
- Taxable part of a retirement, sick pay, or unemployment payment from the U.S. Railroad Retirement Board. **Attach a copy of Form RRB-1099 or RRB-1099-R (or both, if applicable).**
- Income adjustment reported to the fiduciary by an S corporation that elected taxation under N.D.C.C. § 57-38-01.35. For details, obtain the *Income Tax Guideline: Adjustment For Income (Loss) From An S Corporation Taxed Under N.D.C.C. § 57-38-01.35*. **Attach a copy of the statement received from the entity.**
- Income exempted under N.D.C.C. ch. 40-63 (Renaissance Zone Act). **Attach Schedule RZ.**
- Income exempted under N.D.C.C. ch. 40-57.1 (new or expanding business income exemption). **Attach statement showing calculation of exempt income.**
- Compensation received by a National Guard or U.S. armed forces member activated for federal active duty service under Title 10 of United States Code. Compensation received for annual training, basic military training, or professional military education is not eligible. **Attach a copy of the mobilization orders.**

Worksheet for calculating net long-term capital gain exclusion

(for Form 38, Tax Computation Schedule, Part 1, line 4b)

- Enter amount from 2013 Schedule D (Form 1041), line 18a, column (2).
If zero or less, stop here; no exclusion is allowed **1** _____
- Enter amount from 2013 Schedule D (Form 1041), line 19, column (2).
If zero or less, stop here; no exclusion is allowed **2** _____
- Enter the smaller of line 1 or line 2. This is the fiduciary's federal net long-term capital gain **3** _____
 - If a **resident estate or trust**, enter the amount from line 3 on line 5 and go to line 6.
 - If a **nonresident estate or trust**, go to line 4.
- Complete lines 4a through 4d using only the capital gains and losses reportable to North Dakota by the fiduciary:
 - North Dakota net short-term capital gain (loss) included on 2013 Schedule D (Form 1041), line 17, column (2) **4a** _____
 - North Dakota net long-term capital gain (loss) included on 2013 Schedule D (Form 1041), line 18a, column (2). If zero or less, stop here; no exclusion is allowed **4b** _____
 - Combine lines 4a and 4b. If zero or less, stop here; no exclusion is allowed **4c** _____
 - Enter the smaller of line 4b or line 4c. This is the North Dakota net long-term capital gain **4d** _____
- Enter the smaller of line 3 or line 4d. **5** _____
- Portion of line 5, if any, included in an amount that will be entered on Form 38, Tax Computation Schedule, Part 1, line 4d. ... **6** _____
- Subtract line 6 from line 5. **7** _____
- Multiply line 7 by 40% (.40). Enter this amount on Form 38, Tax Computation Schedule, Part 1, line 4b **8** _____

- Compensation received by a nonresident individual for active duty in the U.S. armed forces.
- Contributions made during the tax year to a College SAVE account administered by the Bank of North Dakota. The maximum deduction allowed is \$5,000.

Instructions for Part 2

All estates and trusts—Enter the amounts from the 2013 Federal Form 1041, page 1, lines 1 through 8, on the corresponding lines in Column A. Then complete lines 9 through 11 in Column A.

Nonresident estate or trust only— Enter in Column B (North Dakota) the portion of the amount in Column A that is reportable to North Dakota. See below for the instructions to lines 1 through 8 of Column B. Then complete lines 9 through 11 in Column B. Complete lines 1 through 11 in Column C by entering the difference between Column A and Column B.

Instructions for Column B only— North Dakota portion

Important: Do not include in Column B the portion of any North Dakota income that was subtracted in Part 1, line 4e.

Line 1, Column B Interest income

Enter the fiduciary's share of interest received from a partnership, S corporation, or limited liability company doing business in North Dakota, to the extent the interest is apportioned or allocated to North Dakota by that entity. Do not include any interest from U.S. obligations.

Line 2, Column B Ordinary dividends

Enter the fiduciary's share of dividend income received from a partnership, S corporation, or limited liability company doing business in North Dakota, to the extent the dividend income is apportioned or allocated to North Dakota by that entity.

Line 3, Column B Business income or (loss)

Enter the net income or loss from a sole proprietorship doing business in North Dakota as reported on Federal Schedule C (Form 1040), to the extent the net income or loss is apportioned and allocated to North Dakota.

Line 4, Column B Capital gain (loss)

Enter net capital gains and losses from the sale or exchange of real and tangible personal property located in North Dakota. Also enter the fiduciary's share of net capital gains and losses from a partnership, S corporation, or limited liability company doing business in North Dakota, to the extent they are apportioned or allocated to North Dakota by that entity.

Line 5, Column B Rents, royalties, partnerships, other estates and trusts, etc.

Enter the net income or loss from real and tangible personal property located in North Dakota. This includes net income or loss from leasing the property, and royalties and other income from interests in oil, coal, or other mineral property located in North Dakota.

Enter the fiduciary's share of income or loss from a partnership, S corporation, or limited liability company doing business in North Dakota (that is not reported on the other lines of Part 2), to the extent the income is apportioned and allocated to North Dakota by that entity.

Enter the fiduciary's share of North Dakota source income and losses from another estate or trust.

Line 6, Column B Farm income or (loss)

Enter the net income or loss from a farm or ranch operation doing business in North Dakota as reported on Federal Schedule F (Form 1040), to the extent the net income or loss is apportioned and allocated to North Dakota.

Line 7, Column B Ordinary gain or (loss)

Enter the ordinary gain or loss from the sale or exchange of real and tangible personal property located in North Dakota.

Line 8, Column B Other income

Enter the amount of any other income having its source in North Dakota that is not included on lines 1 through 7 of Part 2.

Instructions for completing Schedule BI (Form 38, page 3)

Schedule BI must be completed to provide information about each beneficiary. In the case of a nonresident individual beneficiary only, the schedule must show the beneficiary's distributive share of North Dakota income (loss) and the amount, if any, of income tax withheld or composite income tax paid on the beneficiary's distributive share of North Dakota income. If the estate or trust has more than four beneficiaries, complete and attach as many Schedules BI needed to list all beneficiaries. If more than one Schedule BI is needed, complete lines 1 through 4 on only one of them, and include the combined amount for all of the schedules on that one schedule.

All Beneficiaries (Columns 1 through 4)

Columns 1 and 2

Enter the full name, address, and federal identification number as shown on the beneficiary's Federal Schedule K-1. In Column 1, enter the name on the first line and the complete mailing address on the second line.

Column 3

Identify the entity type of the beneficiary by entering the applicable code letter as follows:

Entity type	Code letter
Individual	I
Estate.....	E
Trust	T
Other	O

Note: The "Trust" entity type only applies to a trust that files Federal Form 1041.

If the beneficiary is a single-member limited liability company (LLC) that is a disregarded entity for federal income tax purposes, enter the code letter for the type of entity of the owner.

Column 4

Enter the sum of the following items from the beneficiary's Federal Schedule K-1 (Form 1041), Part III:

- Box 1** Interest income
- Box 2a** Ordinary dividends
- Box 3** Net short-term capital gain
- Box 4a** Net long-term capital gain
- Box 5** Other portfolio and nonbusiness income
- Box 6** Ordinary business income
- Box 7** Net rental real estate income
- Box 8** Other rental income
- Box 9** Directly apportioned deductions
- Box 11** Final year deductions (*Only include deductions that are allowed as a deduction from gross income in calculating adjusted gross income for federal income tax purposes.*)
- Box 14** Other information (*Only include income and deduction items includable in the calculation of federal adjusted gross income.*)

Nonresident Individual Beneficiaries Only (Columns 5 through 7)

Column 5

Nonresident individual only

Complete Column 5 for each nonresident individual beneficiary. Include in this column the portion of each item of income, loss, and deduction included in the amount in Column 4 that is derived from sources in North Dakota. For this purpose, this includes the same kinds of items that would be reportable to North Dakota had they been directly received by the nonresident individual. These items include:

- Compensation for services performed in North Dakota.
- Net income (loss) from the rental or lease of real and tangible personal property located in North Dakota.
- Net income (loss) attributable to royalties and other income from oil, coal, or other mineral interests located in North Dakota.
- Gain or loss from the sale, exchange, or other disposition of real and tangible personal property located in North Dakota.
- Net income (loss) from a sole proprietorship doing business in North Dakota.
- Net income (loss) from a partnership, S corporation, or other trade or business carried on in North Dakota, to the extent it is apportioned and allocated to North Dakota.
- Income from gambling activity carried on in North Dakota.
- Income, gain, or loss from sources in North Dakota received from another estate or trust.

For a nonresident individual beneficiary, income from North Dakota sources generally does not include interest, dividends, pensions, annuities, or income and gain from intangible property. However, if any of these income items were derived from a partnership, S corporation, or limited liability company doing business in North Dakota, they must be included in Column 5 to the extent they are apportioned or allocated to North Dakota by that entity.

Column 6

Nonresident individual only

If the beneficiary is a nonresident individual, and the amount in Column 5 is \$1,000 or more, multiply the amount in Column 5 by 3.22% (.0322) and enter the result in Column 6. However, the following exceptions apply:

- If the nonresident individual beneficiary provides you with a completed Form PWA, enter the amount from line 6 of the Form PWA in Column 6 and fill in the circle under "Form PWA."
- If the nonresident individual beneficiary elects to be included in a composite return, leave Column 6 blank and see the instructions to Column 7.

See "Withholding from nonresident individual beneficiaries" on page 3 for more information.

Column 7

Nonresident individual only

Complete Column 7 for each nonresident individual beneficiary who elects to be included in a composite return. Multiply the nonresident individual beneficiary's amount in Column 5 by 3.22% (.0322) and enter the result in Column 7. If the amount in Column 5 is zero or less, enter zero in Column 7. See "Composite filing method" on page 4 for more information.

Instructions for completing Schedule CR (Form 38, page 3)

The fiduciary for an estate or trust may be eligible for a credit for income tax paid to another state if both of the following apply:

- It is a resident estate or trust.
- The fiduciary is required to pay income tax for the tax year to North Dakota and to another state on the *same income*.

Definition of state—For purposes of this credit, "state" means any of the other 49 U.S. states, the District of Columbia, or a territory of the United States. This credit is not available for income tax paid to a local government (such as a city, county, or school district), nor is it available for income tax paid to another country or any of its political subdivisions.

Other state's return—The credit is allowed only if the fiduciary files an income tax return with the other state. The credit is not allowed based on the amount of any income tax withheld for, or the amount of estimated income tax paid to, another state. ***A copy of the other state's income tax return must be attached to Form 38.***

Payment of income tax to more than one other state—If the fiduciary pays income tax to more than one other state for the tax year, a separate Schedule CR must be completed for each state. Fill in the total of the separately calculated credit amounts on Form 38, page 1, line 2.

Line 2

Enter only those items of income, gain, loss, and adjustments to income (included in the fiduciary's share of total income on line 1) that have their source in the other state. Generally they have their source in the other state if they are taxable or deductible under the other state's tax laws. Disregard any adjustment to the fiduciary's total federal income allowed or required by the other state's tax laws.

Line 6

Enter the amount of the income tax less any income tax credits (except withholding and estimated tax) shown on the other state's income tax return.

Specific line instructions for page 1 of Form 38, lines 1-17

Complete the Tax Computation Schedule and Schedule BI before completing lines 1 through 17 on page 1 of Form 38.

Line 2
Credit for income tax paid to another state

A fiduciary for a resident estate or trust may be eligible for a credit if the fiduciary pays income tax to another state, the District of Columbia, or a territory of the United States on income that is also taxed to the fiduciary in North Dakota. Complete Schedule CR on page 3 of Form 38 to determine if a credit is allowed. See the instructions to Schedule CR on page 8. **Attach a copy of the other state's income tax return.**

Line 3
Other credits

Following is a list of other tax credits available to an estate or trust. Include on this line an allowable credit reported on a North Dakota Schedule K-1 received by the estate or trust. Also include the portion of an allowable unused credit carried over from a prior tax year. For more information on a credit, see the schedule, form, or income tax law noted in the instruction. **Except where an official form or other document is required to be attached, attach a statement supporting a credit claimed on this line.**

- Credit for preserving or renovating historical property in a North Dakota renaissance zone. **Attach Schedule RZ.**
- Credit for investing in a renaissance fund organization. **Attach Schedule RZ.**
- Credit for utility costs incurred as a nonparticipating property owner in a North Dakota renaissance zone. **Attach Schedule RZ.**
- Credit for investing in a certified North Dakota agricultural commodity processing facility. For more information, see the investment reporting form received from the certified facility.
- Credit for installing a geothermal energy device on property owned or leased in North Dakota. See N.D.C.C. §§ 57-38-01.8 and 57-38-30.3(7)(o).
- Credit for investing in a certified North Dakota seed capital business. For more information, see the investment reporting form received from the certified business.
- Credit for blending B5 biodiesel or green diesel fuel. See N.D.C.C. § 57-38-01.22.

- Credit for adapting or adding equipment to sell B2 biodiesel or green diesel fuel. See N.D.C.C. § 57-38-01.23.
- Credit for hiring eligible college student under a North Dakota internship program. See N.D.C.C. § 57-38-01.24.
- Credit for conducting qualifying research in North Dakota. See N.D.C.C. § 57-38-30.5.
- Credit for investing in an angel fund in North Dakota. For more information, see the investment reporting form received from the certified fund.
- Credit for the cost of new investment and new employment incurred by a business certified as a microbusiness. See N.D.C.C. § 57-38-01.27.
- Credit for making a charitable contribution to a qualified endowment fund in North Dakota. See N.D.C.C. § 57-38-01.21.
- Credit for hiring an employee to fill a hard-to-fill position (workforce recruitment credit). See N.D.C.C. § 57-38-01.25.
- Credit for wages paid to an employee mobilized for federal active duty. **Attach Schedule ME.**
- Housing incentive fund credit. See N.D.C.C. § 57-38-01.32.
- Credit for purchasing machinery and equipment to automate a manufacturing process. See N.D.C.C. § 57-38-01.33.

Line 8
Withholding

Enter the amount of any North Dakota income tax withheld by: (1) An employer on wages of a decedent received by an estate; (2) A payer of gambling winnings; or (3) A payer of a distribution from a pension, annuity, IRA, etc., received by an estate or trust. Be sure the state identified on the Form W-2, W-2G, or Form 1099 is North Dakota (ND). **Attach a copy of the Form W-2, Form W-2G, or Form 1099.**

Line 12
Application of overpayment to 2014

If there is an overpayment on line 11, part or all of it may be applied as an estimated payment toward the 2014 tax liability. To do so, enter the portion of line 11 to be applied on line 12. The amount applied may not be changed after the return is filed. If this is an amended return, do not make an entry on this line.

Line 14
Tax due

A tax due must be paid in full with the return when it is filed. See the instructions to line 16 for payment options. A late payment of tax may be subject to penalty and interest charges—see **Penalty and interest** on page 3.

Line 15
Penalty and interest

Our office will notify the fiduciary of any penalty and interest owed for late filing or late payment, or interest owed on tax due during an extension period. However, if desired, the fiduciary may calculate these amounts and enter them on this line, and submit payment for them with the return. See **Penalty and interest** on page 3 for how to calculate these amounts.

Line 16
Balance due

If paying by paper check or money order, make it payable to “ND State Tax Commissioner.” Instead of a paper check or money order, the balance due may be paid electronically through an Automated Clearing House (ACH) credit transaction or online through Link2Gov Corporation, a national electronic payment service.

To pay by means of an ACH transaction, go to www.nd.gov/tax and click on “Fiduciary” on the left-hand side of the page. Then click on “Electronic Payment.”

To pay online through Link2Gov Corporation, go to www.ndtaxpayment.com. Link2Gov charges a fee for its service, none of which goes to the State of North Dakota. The amount of the fee will be provided during the transaction with an option to continue or cancel the transaction.

Line 17
Interest on underpaid estimated tax

If the fiduciary for an estate or trust was required to pay estimated North Dakota income tax for 2013, but the fiduciary did not pay enough or paid it late, interest is charged on the underpayment or late payment. To determine if interest is owed, obtain and complete the **2013 Schedule 38-UT**.

Instructions for completing Schedule K-1

North Dakota Schedule K-1 (Form 38) must be used by a fiduciary to provide information that beneficiaries will need to complete a North Dakota income tax return. The information to be included in the schedule will depend on the type of beneficiary.

North Dakota Schedule K-1 (Form 38) must be completed and given to:

- Each nonresident individual, estate, or trust beneficiary.
- Each partnership or corporation beneficiary to which the fiduciary distributes a North Dakota adjustment or tax credit.
- Each North Dakota resident individual, estate, or trust beneficiary to whom the fiduciary distributes a North Dakota adjustment or tax credit.

A North Dakota Schedule K-1 does not have to be completed nor given to a partnership, corporation, or North Dakota resident individual, estate, or trust beneficiary if there are no North Dakota adjustments or tax credits distributable to the beneficiary. All income of a North Dakota resident individual, estate, or trust is subject to North Dakota income tax, regardless of its source.

In addition to the North Dakota Schedule K-1, the fiduciary must provide the beneficiary with a copy of the *Beneficiary's Instructions to North Dakota Schedule K-1 (Form 38)*.

A copy of all North Dakota Schedule K-1 forms must be enclosed with Form 38 along with any required supplemental statements.

Amended schedule. If a fiduciary files an amended Federal Form 1041, or if the IRS makes any changes to the federal fiduciary return, the fiduciary must file an amended Form 38 for the same tax year, and must issue amended North Dakota Schedules K-1 to its beneficiaries. Fill in the "Amended" circle at the top of the North Dakota Schedule K-1.

Final schedule. Fill in the "Final" circle at the top of the North Dakota Schedule K-1 if it is the last one to be issued by the fiduciary to the beneficiary.

Part 1 Estate or trust information

Items A, B, and C

For Items A, B, and C, enter the identifying information for the estate or trust as shown on the beneficiary's Federal Schedule K-1 (Form 1041).

Important: Do not enter the fiduciary's own federal employer identification number. A fiduciary for an estate or trust must obtain a separate federal employer identification number for the estate or trust.

Part 2 Beneficiary information

Items D and E

For Items D and E, enter the identifying information for the beneficiary as shown on the Federal Schedule K-1 (Form 1041).

Item F

Enter the same code letter shown in Column 3 of Schedule BI of Form 38 for the beneficiary.

Item G

If the beneficiary is an individual, estate, or trust, fill in the applicable circle to indicate the legal residency status of the beneficiary for North Dakota income tax purposes. If an individual beneficiary changed his or her legal residency to or from North Dakota during the tax year, check the part-year resident status. In the case of an estate or trust beneficiary, only the full-year resident or full-year nonresident status will apply.

Item H

For a nonresident individual beneficiary only, fill in the applicable circle to indicate whether the beneficiary is included in a composite return filed by the fiduciary.

Part 3 All beneficiaries— North Dakota adjustments and tax credits

Complete this part for a beneficiary only if the income, deduction, or tax credit is allocated to the beneficiary.

Line 1 Federally-exempt income from non- North Dakota bonds and securities

If the beneficiary is an individual, estate, or trust, do not make an entry on this line.

For all other beneficiaries, enter the beneficiary's share of interest and dividend income from bonds and securities that is exempt from federal income tax. Do not include income from bonds and securities of North Dakota and any of its political subdivisions.

Line 2 State and local income taxes

If the beneficiary is an individual, estate, or trust, do not make an entry on this line.

For all other beneficiaries, enter the portion of any state or local income taxes deducted in calculating ordinary income (loss) that was allocated to the beneficiary.

Line 3 Interest from U.S. obligations

Enter the portion of any interest from U.S. obligations allocated to the beneficiary. Include interest income from other securities if the interest is specifically exempted from state income tax by federal statute. Also include the portion of dividend income from a mutual fund attributable to the fund's investment in the same kinds of securities.

Line 4 Renaissance zone income exemption

If the estate or trust qualified for the renaissance zone business or investment income exemption (see instructions to the Tax Computation Schedule, Part 1, line 4d), enter on the appropriate line the portion of the exemption amount allocated to the beneficiary. This applies only if the income qualifying for the exemption is allocated to the beneficiary.

Line 4a. Enter the income exemption amount on this line only if it relates to a zone project *approved before August 1, 2013*.

Line 4b. Enter the income exemption amount on this line only if it relates to a zone project *approved after July 31, 2013*.

Line 5 New or expanding business income exemption

If the estate or trust qualified for the new or expanding business income exemption (see instructions to the Tax Computation Schedule, Part 1, line 4d), enter on this line the portion of the exemption amount allocated to the beneficiary. This applies only if the income qualifying for the exemption is allocated to the beneficiary.

Line 6**College SAVE deduction**

Enter the portion of a College SAVE deduction allocated to the beneficiary.

Lines 7 through 21**Tax Credits**

If the estate or trust qualified for one or more North Dakota income tax credits (see instructions to Form 38, page 1, line 3), enter the portion of the credit allocated to the beneficiary on the corresponding line.

Part 4**Nonresident individual, estate, or trust beneficiary only—
North Dakota income (loss)**

Complete Part 4 only for a nonresident individual, estate, or trust beneficiary. Enter on the corresponding line of Part 4, lines 22 through 32, each item of North Dakota income, gain, loss, deduction, etc., included in the amount reported on Form 38, Schedule BI, Column 5.

Part 5**Nonresident individual beneficiary only**

Complete Part 5 only for a nonresident individual beneficiary.

Line 33**ND distributive share of income (loss)**

Enter the beneficiary's North Dakota distributive share of income (loss) from Form 38, Schedule BI, Column 5.

Line 34**ND income tax withheld**

Enter the amount of North Dakota income tax withheld from the beneficiary's North Dakota distributive share of income from Form 38, Schedule BI, Column 6.

Line 35**ND composite income tax**

Enter the amount of North Dakota composite income tax on the beneficiary's North Dakota distributive share of income from Form 38, Schedule BI, Column 7.

Before you file Form 38

Signatures

The return must be signed and dated by the fiduciary, or an authorized representative of the fiduciary.

If the fiduciary pays someone (other than an employee) to prepare the return, the paid preparer also must sign and date the return.

Preparer authorization check-off

The fiduciary may authorize the North Dakota Office of State Tax Commissioner (Tax Department) to discuss matters pertaining to its 2013 Form 38 with the preparer who signed by filling in the circle to the right of the signature area.

This allows the Tax Department to contact the preparer if any questions arise during the processing of the return. It also allows the preparer to respond to the questions and to provide any information missing from the return, to contact the Tax Department to inquire about the status of the return's processing and related refund or payment, and to respond to Tax Department notices that the fiduciary shares with the preparer pertaining to math errors or return preparation. (*Tax Department notices will not be sent directly to the preparer.*)

This authorization applies only to the individual whose signature and printed name appears in the paid preparer section of the signature area. It does not apply to the firm, if any, shown in that section. It only applies to the 2013 return and automatically expires on the due date (excluding extensions) for filing the 2014 return.

This authorization does not authorize the preparer to receive a refund check, to bind the fiduciary in any way (including any additional tax liability), or to represent the fiduciary before the Tax Department for any other purpose.

38 Fiduciary income tax return



2013

A This return is **Calendar year 2013** (Jan. 1 - Dec. 31, 2013) filed for: **Fiscal year:** Beginning _____, 2013, and ending _____, 20_____

B Name of estate or trust			C Federal EIN *	
Name and title of fiduciary			D Date created:	
Mailing address		Apt. or suite		
City	State	Zip Code		
F Residency status: <input type="radio"/> Resident <input type="radio"/> Nonresident			E TOTAL no. of beneficiaries --- ▶ _____ Enter number of --- Resident individual beneficiaries ▶ _____ Nonresident individual beneficiaries ▶ _____ Other types of beneficiaries ▶ _____	

G **Entity type:**
 1 Decedent's estate **4** Qualified disability trust **7** Bankruptcy estate (Ch. 7) **10** Other (*Identify below*):
 2 Simple trust **5** ESBT (S portion only) **8** Bankruptcy estate (Ch. 11)
 3 Complex trust **6** Grantor type trust **9** Pooled income fund

H **Fill in all that apply:** Initial return Final return Composite return Amended return Extension

Before completing lines 1 through 17 on this page, complete the Tax Computation Schedule on page 2.

1 Tax on fiduciary's North Dakota taxable income (<i>from Tax Computation Schedule, line 8</i>) ----- ▶	1 _____
2 Credit for income tax paid to another state (<i>from Schedule CR, line 7</i>) ----- ▶	2 _____
3 Other credits (<i>Attach schedule</i>) ----- ▶	3 _____
4 Net income tax liability on fiduciary's taxable income. Line 1 less lines 2 and 3 ----- ▶	4 _____
5 Income tax withheld from nonresident individual beneficiaries (<i>from Schedule BI, line 3</i>) ----- ▶	5 _____
6 Composite income tax for electing nonresident individual beneficiaries (<i>from Schedule BI, line 4</i>) ----- ▶	6 _____
7 Total taxes due. Add lines 4, 5, and 6 ----- ▶	7 _____
8 North Dakota income tax withholding (<i>Attach Forms W-2, W-2G, and 1099</i>) ----- ▶	8 _____
9 Estimated tax paid on 2013 Forms 38-ES and 38-EXT ----- ▶	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 2014 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 (<i>from 2013 Schedule 38-UT</i>) ----- ▶	17 _____

- Attach a complete copy of the 2013 Form 1041 (including Federal Schedule K-1s)
- Attach a copy of all North Dakota Schedule K-1s (Form 38)

<i>I declare that this return is correct and complete to the best of my knowledge and belief.</i>			*Privacy Act Notice - See inside front cover of booklet		
Signature of fiduciary		Date	<input type="radio"/> I authorize the ND Office of State Tax Commissioner to discuss this return with the paid preparer. For Tax Department Use Only <div style="font-size: 2em; font-weight: bold; text-align: center;">FID</div>		
Print name of fiduciary		Phone			
Paid preparer signature		Date			
Print name of paid preparer	PTIN	Phone			

Mail to: Office of State Tax Commissioner, 600 E. Blvd. Ave., Dept. 127, Bismarck, ND 58505-0599



Enter name of estate or trust

FEIN

Tax Computation Schedule: Tax on fiduciary's taxable income

Part 1 - Calculation of tax

- 1 **Federal taxable income** from Form 1041, page 1, line 22, or Form 1041-QFT, line 12 ----- ▶ **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 2013 Tax Rate Schedule below** ----- ▶ **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** ----- ▶ **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** _____

**2013
 Tax Rate
 Schedule**

If the amount on line 5 is:		
Over	But not over	The tax is:
\$ 0	\$ 2,450	1.22% of amount on line 5
2,450	5,700	\$ 29.89 plus 2.27% of the amount over \$ 2,450
5,700	8,750	103.67 plus 2.52% of the amount over 5,700
8,750	11,950	180.53 plus 2.93% of the amount over 8,750
11,950		274.29 plus 3.22% of the amount over 11,950

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



Enter name of estate or trust	FEIN
-------------------------------	------

Schedule BI Beneficiary information

All estates and trusts must complete this schedule

- Complete Columns 1 through 4 for EVERY beneficiary
- Complete Column 5 only if beneficiary is a nonresident individual
- If applicable, complete Column 6 or Column 7 for nonresident individual beneficiary only

All Beneficiaries					
Beneficiary	Column 1			Column 2	Column 3
	Name and address of beneficiary <i>If additional lines are needed, attach additional pages</i>			Social Security Number/FEIN	Type of entity <i>(See instructions)</i>
A	Name _____ Address _____ State _____ Zip Code _____				
B	Name _____ Address _____ State _____ Zip Code _____				
C	Name _____ Address _____ State _____ Zip Code _____				
D	Name _____ Address _____ State _____ Zip Code _____				

Beneficiary	All Beneficiaries <i>Complete this column for ALL beneficiaries</i>	Nonresident Individual Beneficiaries Only <i>Important: Columns 5 through 7 are for nonresident individual beneficiaries only.</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 (3.22%)	Form PWA	North Dakota composite income tax (3.22%)
A				<input type="radio"/>	
B				<input type="radio"/>	
C				<input type="radio"/>	
D				<input type="radio"/>	
1 Total for Column 4 1					
2 Total for Column 5 2					
3 Total for Column 6 . Enter this amount on Form 38, page 1, line 5 3					
4 Total for Column 7 . Enter this amount on Form 38, page 1, line 6 4					

Schedule CR Credit for income tax paid to another state (resident estate or trust only)

- 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 *(See instructions)* ----- ▶ **6** _____
- 7 Credit for income tax paid to another state. 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

38 Fiduciary income tax return



2013

A This return is **Calendar year 2013** (Jan. 1 - Dec. 31, 2013) filed for: **Fiscal year:** Beginning _____, 2013, and ending _____, 20_____

B Name of estate or trust			C Federal EIN *	
Name and title of fiduciary			D Date created:	
Mailing address		Apt. or suite		
City	State	Zip Code		
F Residency status: <input type="radio"/> Resident <input type="radio"/> Nonresident			E TOTAL no. of beneficiaries --- ▶ _____	
			Enter number of —	
			Resident individual beneficiaries ▶ _____	
			Nonresident individual beneficiaries ▶ _____	
			Other types of beneficiaries ▶ _____	

G Entity type:

1 Decedent's estate 4 Qualified disability trust 7 Bankruptcy estate (Ch. 7) 10 Other (Identify below): _____

2 Simple trust 5 ESBT (S portion only) 8 Bankruptcy estate (Ch. 11) _____

3 Complex trust 6 Grantor type trust 9 Pooled income fund _____

H Fill in all that apply: Initial return Final return Composite return Amended return Extension

Before completing lines 1 through 17 on this page, complete the Tax Computation Schedule on page 2.

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 (from Schedule CR, line 7) ----- ▶	2 _____
3 Other credits (Attach schedule) ----- ▶	3 _____
4 Net income tax liability on fiduciary's taxable income. Line 1 less lines 2 and 3 ----- ▶	4 _____
5 Income tax withheld from nonresident individual beneficiaries (from Schedule BI, line 3) ----- ▶	5 _____
6 Composite income tax for electing nonresident individual beneficiaries (from Schedule BI, line 4) ----- ▶	6 _____
7 Total taxes due. Add lines 4, 5, and 6 ----- ▶	7 _____
8 North Dakota income tax withholding (Attach Forms W-2, W-2G, and 1099) ----- ▶	8 _____
9 Estimated tax paid on 2013 Forms 38-ES and 38-EXT ----- ▶	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 2014 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 2013 Schedule 38-UT) ----- ▶	17 _____

- Attach a complete copy of the 2013 Form 1041 (including Federal Schedule K-1s)
- Attach a copy of all North Dakota Schedule K-1s (Form 38)

I declare that this return is correct and complete to the best of my knowledge and belief.			*Privacy Act Notice - See inside front cover of booklet		
Signature of fiduciary		Date	<input type="radio"/> I authorize the ND Office of State Tax Commissioner to discuss this return with the paid preparer.		
Print name of fiduciary		Phone			
Paid preparer signature		Date			
Print name of paid preparer	PTIN	Phone			

FID

Mail to: Office of State Tax Commissioner, 600 E. Blvd. Ave., Dept. 127, Bismarck, ND 58505-0599



Enter name of estate or trust _____

FEIN _____

Tax Computation Schedule: Tax on fiduciary's taxable income

Part 1 - Calculation of tax

- 1 **Federal taxable income** from Form 1041, page 1, line 22, or Form 1041-QFT, line 12 ----- ▶ 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 2013 Tax Rate Schedule below** ----- ▶ 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 ----- ▶ **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 _____

**2013
Tax Rate
Schedule**

If the amount on line 5 is:		
Over	But not over	The tax is:
\$ 0	\$ 2,450	1.22% of amount on line 5
2,450	5,700	\$ 29.89 plus 2.27% of the amount over \$ 2,450
5,700	8,750	103.67 plus 2.52% of the amount over 5,700
8,750	11,950	180.53 plus 2.93% of the amount over 8,750
11,950		274.29 plus 3.22% of the amount over 11,950

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.

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



Enter name of estate or trust	FEIN
-------------------------------	------

Schedule BI Beneficiary information

All estates and trusts must complete this schedule

- Complete Columns 1 through 4 for EVERY beneficiary
- Complete Column 5 only if beneficiary is a nonresident individual
- If applicable, complete Column 6 or Column 7 for nonresident individual beneficiary only

All Beneficiaries					
Beneficiary	Column 1			Column 2	Column 3
	Name and address of beneficiary <i>If additional lines are needed, attach additional pages</i>			Social Security Number/FEIN	Type of entity <i>(See instructions)</i>
A	Name _____ Address _____ State _____ Zip Code _____				
B	Name _____ Address _____ State _____ Zip Code _____				
C	Name _____ Address _____ State _____ Zip Code _____				
D	Name _____ Address _____ State _____ Zip Code _____				

Beneficiary	All Beneficiaries <i>Complete this column for ALL beneficiaries</i>	Nonresident Individual Beneficiaries Only <i>Important: Columns 5 through 7 are for nonresident individual beneficiaries only.</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 (3.22%)	Form PWA	North Dakota composite income tax (3.22%)
A				<input type="radio"/>	
B				<input type="radio"/>	
C				<input type="radio"/>	
D				<input type="radio"/>	
1 Total for Column 4 1					
2 Total for Column 5 2					
3 Total for Column 6 . Enter this amount on Form 38, page 1, line 5 3					
4 Total for Column 7 . Enter this amount on Form 38, page 1, line 6 4					

Schedule CR Credit for income tax paid to another state (resident estate or trust only)

- 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 *(See instructions)* ----- ► **6** _____
- 7 Credit for income tax paid to another state. 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



North Dakota Schedule K-1 (Form 38)

2013

Final Amended

Estate's or trust's tax year: Calendar year 2013 (Jan. 1 - Dec. 31, 2013) Fiscal year: Beginning, 2013 Ending, 20

Beneficiary's Share of North Dakota Income (Loss), Deductions, Adjustments, Credits, and Other Items

See separate instructions

Part 1 Estate or trust information

A Estate's or trust's federal EIN B Name of estate or trust C Fiduciary's name, address, city, state, and ZIP code

Part 2 Beneficiary information

D Beneficiary's SSN or FEIN (from Federal Schedule K-1) E Beneficiary's name, address, city, state, and ZIP code (from Federal Schedule K-1)

F What type of entity is this beneficiary? G If beneficiary is an individual, estate, or trust, beneficiary is a: Full-year resident of North Dakota Part-year resident of North Dakota Full-year nonresident of North Dakota H If beneficiary is a full-year nonresident individual, is beneficiary included in a composite return? Yes No

Part 3 All beneficiaries - North Dakota adjustments and tax credits

1 Federally-exempt income from non-ND state and local bonds and foreign securities 2 State and local income taxes deducted in calculating ordinary income (loss) 3 Interest from U.S. obligations 4 Renaissance zone income exemption a For projects approved before August 1, 2013 b For projects approved after July 31, 2013 5 New or expanding business exemption 6 College SAVE contribution deduction 7 a Renaissance zone: Historic property preservation/renovation tax credit b Renaissance zone: Renaissance fund organization investment tax credit c Renaissance zone: Nonparticipating property owner tax credit 8 Seed capital investment tax credit

Part 3 continued . . .

9 Agricultural commodity processing facility investment tax credit 10 Supplier biodiesel/green diesel fuel tax credit 11 Seller biodiesel/green diesel fuel tax credit 12 Geothermal energy device tax credit 13 Employer internship program tax credit 14 Microbusiness tax credit 15 a Research expense tax credit b Research tax credit purchased from another taxpayer 16 Angel fund investment tax credit 17 Endowment fund contribution tax credit 18 Workforce recruitment tax credit 19 Tax credit for wages paid to mobilized employee 20 Housing incentive fund credit 21 Automation tax credit

Part 4 Nonresident individual, estate or trust beneficiary only - North Dakota income (loss)

22 Interest income 23 Ordinary dividends 24 Net short-term capital gain 25 Net long-term capital gain 26 Other portfolio and nonbusiness income 27 Ordinary business income 28 Net rental real estate income 29 Other rental income 30 Directly apportioned deductions 31 Final year deductions 32 Other

Part 5 Nonresident individual beneficiary only

33 North Dakota distributive share of income (loss) 34 North Dakota income tax withheld 35 North Dakota composite income tax



North Dakota Schedule K-1 (Form 38)

2013

Final Amended

Estate's or trust's tax year: Calendar year 2013 (Jan. 1 - Dec. 31, 2013) Fiscal year: Beginning, 2013 Ending, 20

Beneficiary's Share of North Dakota Income (Loss), Deductions, Adjustments, Credits, and Other Items

See separate instructions

Part 1 Estate or trust information

A Estate's or trust's federal EIN

B Name of estate or trust

C Fiduciary's name, address, city, state, and ZIP code

Part 2 Beneficiary information

D Beneficiary's SSN or FEIN (from Federal Schedule K-1)

E Beneficiary's name, address, city, state, and ZIP code (from Federal Schedule K-1)

F What type of entity is this beneficiary?

G If beneficiary is an individual, estate, or trust, beneficiary is a:

Full-year resident of North Dakota Part-year resident of North Dakota Full-year nonresident of North Dakota

H If beneficiary is a full-year nonresident individual, is beneficiary included in a composite return? Yes No

Part 3 All beneficiaries - North Dakota adjustments and tax credits

- 1 Federally-exempt income from non-ND state and local bonds and foreign securities
2 State and local income taxes deducted in calculating ordinary income (loss)
3 Interest from U.S. obligations
4 Renaissance zone income exemption
5 New or expanding business exemption
6 College SAVE contribution deduction
7 a Renaissance zone: Historic property preservation/renovation tax credit
b Renaissance zone: Renaissance fund organization investment tax credit
c Renaissance zone: Nonparticipating property owner tax credit
8 Seed capital investment tax credit

Part 3 continued . . .

- 9 Agricultural commodity processing facility investment tax credit
10 Supplier biodiesel/green diesel fuel tax credit
11 Seller biodiesel/green diesel fuel tax credit
12 Geothermal energy device tax credit
13 Employer internship program tax credit
14 Microbusiness tax credit
15 a Research expense tax credit
b Research tax credit purchased from another taxpayer
16 Angel fund investment tax credit
17 Endowment fund contribution tax credit
18 Workforce recruitment tax credit
19 Tax credit for wages paid to mobilized employee
20 Housing incentive fund credit
21 Automation tax credit

Part 4 Nonresident individual, estate or trust beneficiary only - North Dakota income (loss)

- 22 Interest income
23 Ordinary dividends
24 Net short-term capital gain
25 Net long-term capital gain
26 Other portfolio and nonbusiness income
27 Ordinary business income
28 Net rental real estate income
29 Other rental income
30 Directly apportioned deductions
31 Final year deductions
32 Other

Part 5 Nonresident individual beneficiary only

- 33 North Dakota distributive share of income (loss)
34 North Dakota income tax withheld
35 North Dakota composite income tax

2013

Beneficiary's Instructions for North Dakota Schedule K-1 (Form 38)

Purpose of schedule

North Dakota Schedule K-1 (Form 38) is provided to you by the fiduciary for the estate or trust to show your share of the income, gains, losses, deductions, and other items from the estate or trust that you need to complete your North Dakota income tax return. These instructions will assist you in transferring the amounts from the schedule to your North Dakota income tax return.

Partnership or corporation beneficiary.

If you are a partnership, corporation, or a limited liability company treated like a partnership or corporation, you have received North Dakota Schedule K-1 only to show your share of the estate's or trust's North Dakota statutory adjustments or tax credits that may affect the preparation of your North Dakota income tax return.

Resident individual, estate, or trust beneficiary.

If you are a North Dakota resident individual, estate, or trust, you must report to North Dakota your entire share of the estate's or trust's income, gains, losses, and deductions included in your federal taxable income. You have received North Dakota Schedule K-1 only to show your share of the estate's or trust's North Dakota statutory adjustments or tax credits that may affect the preparation of your North Dakota income tax return.

Nonresident individual, estate, or trust beneficiary.

If you are a nonresident individual, estate, or trust, you must report to North Dakota your share of the estate's or trust's income, gains, losses, and deductions having their source in North Dakota. These items are shown in Part 4 of North Dakota Schedule K-1. Unless you are a nonresident individual who elected to include your share of these items in a composite return filed on your behalf by the fiduciary for the estate or trust, you must file a North Dakota individual income tax return to report and pay the required income tax on them.

Composite return election. If you are a nonresident individual who elected to include your share of the estate's or trust's North Dakota income, gains, losses, and deductions in a composite return filed by the fiduciary for the estate or trust, you are not required to file a North Dakota individual income tax return. If this applies to you, you received North Dakota Schedule K-1 only to show your share of these items and the composite income tax paid on them. If you later choose to file

your own North Dakota individual income tax return, follow the instructions to Parts 3, 4, and 5 to transfer the amounts from North Dakota Schedule K-1 to your return.

Amended Schedule K-1 (Form 38). If you receive an amended North Dakota Schedule K-1 (Form 38) from the fiduciary for the estate or trust, and you already filed your North Dakota income tax return, you must file an amended North Dakota income tax return to report the corrected amounts on the amended North Dakota Schedule K-1. You also must attach a copy of the amended North Dakota Schedule K-1 (Form 38) to your amended North Dakota income tax return.

Any reference to another North Dakota form and line number contained in these instructions is a reference to the form to be used for the 2013 tax year. Therefore, report the amount from the 2013 North Dakota Schedule K-1 on your 2013 North Dakota return. However, if you and the estate or trust do not have the same tax year, enter the amounts on the North Dakota return that you file for the tax year in which the estate's or trust's tax year ends, which is shown on the North Dakota Schedule K-1. **Example: If you file on a calendar year basis, and the estate or trust tax year ends in February 2014, report the amounts on your 2014 return.**

Part 3 All beneficiaries—North Dakota adjustments and tax credits

Note: Wherever you see "Not applicable" in the right-hand column of the following lists, it means that the item does not apply to the return being completed; do not enter the item on the return.

Lines 1–21

Form ND-1 filer:

Include the amount from this schedule:

Lines 1–2	On:	Not applicable
Line 3		Form ND-1, line 7
Line 4a		Sch. RZ, Part 1, line 19a
Line 4b		Sch. RZ, Part 1, line 19b
Line 5		Sch. ND-1SA, line 2
Line 6		Form ND-1, line 14
Line 7a		Sch. RZ, Part 4, line 7
Line 7b		Sch. RZ, Part 5, line 4
Line 7c		Sch. RZ, Part 6, line 6

Line 8	Sch. ND-1TC, line 4
Line 9	Sch. ND-1TC, line 3
Line 10	Sch. ND-1TC, line 6
Line 11	Sch. ND-1TC, line 7
Line 12	Sch. ND-1TC, line 14b
Line 13	Sch. ND-1TC, line 8a
Line 14	Sch. ND-1TC, line 9a
Line 15a	Sch. ND-1TC, line 10a
Line 15b	Sch. ND-1TC, line 10b
Line 16	Sch. ND-1TC, line 11a
Line 17	Sch. ND-1TC, line 12
Line 18	Sch. ND-1TC, line 13a
Line 19	Sch. ND-1TC, line 15
Line 20	Sch. ND-1TC, line 19
Line 21	Sch. ND-1TC, line 20

Form 38 filer:

Include the amount from this schedule:

Lines 1–2	On:	Not applicable
Line 3		Form 38, page 2, Part 1, line 4a
Line 4a		Sch. RZ, Part 1, line 19a
Line 4b		Sch. RZ, Part 1, line 19b
Lines 5–6		Form 38, page 2, Part 1, line 4d
Line 7a		Sch. RZ, Part 4, line 7
Line 7b		Sch. RZ, Part 5, line 4
Line 7c		Sch. RZ, Part 6, line 6
Lines 8–21		Form 38, page 1, line 3

Form 40 filer:

Include the amount from this schedule:

Line 1	On:	Sch. SA, line 4
Line 2		Sch. SA, line 3
Line 3		Sch. SA, line 11
Line 4a		Sch. RZ, Part 1, line 19a
Line 4b		Sch. RZ, Part 1, line 19b
Line 5		Page 1, line 9
Line 6		Not applicable
Line 7a		Sch. RZ, Part 4, line 7
Line 7b		Sch. RZ, Part 5, line 4
Line 7c		Sch. RZ, Part 6, line 6
Line 8		Sch. TC, line 12
Line 9		Sch. TC, line 15
Line 10		Sch. TC, line 13
Line 11		Sch. TC, line 14
Line 12		Sch. TC, line 3
Line 13		Sch. TC, line 18
Line 14		Sch. TC, line 17
Line 15a		Sch. TC, line 5
Line 15b		Sch. TC, line 6
Line 16		Sch. TC, line 19
Line 17		Sch. TC, line 16
Line 18		Sch. TC, line 21
Line 19		Sch. TC, line 22
Line 20		Sch. TC, line 23
Line 21		Sch. TC, line 24

Forms 58 and 60: Include the amounts from lines 1–21 of this schedule on the applicable lines of Schedule K of Form 58 or Form 60.

**Part 4
Nonresident individual, estate,
or trust beneficiaries only—
North Dakota income (loss)**

If you are a nonresident individual, estate, or trust, lines 22 through 32 of Part 4 show your share of the estate’s or trust’s North Dakota income, gains, losses, and deductions that you must report on your North Dakota income tax return. Transfer these amounts to your North Dakota income tax return as instructed below based on the type of return you are filing.

If the full amount of any item is not included in your adjusted gross income on your federal income tax return because of limitations on the deductibility of a passive activity loss, capital loss, section 179 deduction, or for any other reason, enter on your North Dakota return only that portion of the item included in your federal adjusted gross income.

Attach a statement to your North Dakota income tax return explaining any difference between the amount shown on North Dakota Schedule K-1 (Form 38) and the amount reported on your North Dakota income tax return.

Form ND-1 filer (nonresident only):

Include the amount On Schedule ND-1NR,
from this schedule: Column B:
Lines 22-23 Line 2
Lines 24-25 Line 4
Lines 26–30 Line 6
Line 31 Line 4 (if capital
loss) or line 8 (if net
operating loss)
Line 32 Line 8

Form 38 filer (nonresident only):

Include the amount On Page 2, Part 2,
from this schedule: Column B:
Line 22 Line 1
Line 23 Line 2
Lines 24–25 Line 4
Lines 26–30 Line 5
Line 31 Line 4 (if capital
loss) or line 8 (if net
operating loss)
Line 32 Line 8

**Part 5
Nonresident individual
beneficiary only**

Lines 33 through 35 only apply to a nonresident individual beneficiary.

Line 33

This is the net amount of your North Dakota distributive share of income (loss) from the estate or trust. Do not enter the amount from this line anywhere on your return. ***It is for your information only.***

Line 34

The amount shown on this line is the amount of North Dakota income tax withheld by the fiduciary for the estate or trust from your North Dakota distributive share of income. Include this amount on Form ND-1, line 28. **Attach a copy of North Dakota Schedule K-1 (Form 38) to your return.**

Line 35

If you elected to include your North Dakota distributive share of income (loss) in a composite return, the amount shown on this line is the amount of North Dakota composite income tax paid on your behalf by the fiduciary for the estate or trust. If you made this election, you are not required to file your own North Dakota individual income tax return. ***This is for your information only.***

Note: *If you later choose to file your own North Dakota individual income tax return, you may claim this amount as a tax payment on your return. Attach a copy of the North Dakota Schedule K-1 (Form 38) to your return to support the amount claimed.*

2013

Beneficiary's Instructions for North Dakota Schedule K-1 (Form 38)

Purpose of schedule

North Dakota Schedule K-1 (Form 38) is provided to you by the fiduciary for the estate or trust to show your share of the income, gains, losses, deductions, and other items from the estate or trust that you need to complete your North Dakota income tax return. These instructions will assist you in transferring the amounts from the schedule to your North Dakota income tax return.

Partnership or corporation beneficiary.

If you are a partnership, corporation, or a limited liability company treated like a partnership or corporation, you have received North Dakota Schedule K-1 only to show your share of the estate's or trust's North Dakota statutory adjustments or tax credits that may affect the preparation of your North Dakota income tax return.

Resident individual, estate, or trust beneficiary.

If you are a North Dakota resident individual, estate, or trust, you must report to North Dakota your entire share of the estate's or trust's income, gains, losses, and deductions included in your federal taxable income. You have received North Dakota Schedule K-1 only to show your share of the estate's or trust's North Dakota statutory adjustments or tax credits that may affect the preparation of your North Dakota income tax return.

Nonresident individual, estate, or trust beneficiary.

If you are a nonresident individual, estate, or trust, you must report to North Dakota your share of the estate's or trust's income, gains, losses, and deductions having their source in North Dakota. These items are shown in Part 4 of North Dakota Schedule K-1. Unless you are a nonresident individual who elected to include your share of these items in a composite return filed on your behalf by the fiduciary for the estate or trust, you must file a North Dakota individual income tax return to report and pay the required income tax on them.

Composite return election. If you are a nonresident individual who elected to include your share of the estate's or trust's North Dakota income, gains, losses, and deductions in a composite return filed by the fiduciary for the estate or trust, you are not required to file a North Dakota individual income tax return. If this applies to you, you received North Dakota Schedule K-1 only to show your share of these items and the composite income tax paid on them. If you later choose to file

your own North Dakota individual income tax return, follow the instructions to Parts 3, 4, and 5 to transfer the amounts from North Dakota Schedule K-1 to your return.

Amended Schedule K-1 (Form 38). If you receive an amended North Dakota Schedule K-1 (Form 38) from the fiduciary for the estate or trust, and you already filed your North Dakota income tax return, you must file an amended North Dakota income tax return to report the corrected amounts on the amended North Dakota Schedule K-1. You also must attach a copy of the amended North Dakota Schedule K-1 (Form 38) to your amended North Dakota income tax return.

Any reference to another North Dakota form and line number contained in these instructions is a reference to the form to be used for the 2013 tax year. Therefore, report the amount from the 2013 North Dakota Schedule K-1 on your 2013 North Dakota return. However, if you and the estate or trust do not have the same tax year, enter the amounts on the North Dakota return that you file for the tax year in which the estate's or trust's tax year ends, which is shown on the North Dakota Schedule K-1. **Example: If you file on a calendar year basis, and the estate or trust tax year ends in February 2014, report the amounts on your 2014 return.**

Part 3 All beneficiaries—North Dakota adjustments and tax credits

Note: Wherever you see "Not applicable" in the right-hand column of the following lists, it means that the item does not apply to the return being completed; do not enter the item on the return.

Lines 1–21

Form ND-1 filer:

Include the amount from this schedule:

Lines 1–2	On:	Not applicable
Line 3		Form ND-1, line 7
Line 4a		Sch. RZ, Part 1, line 19a
Line 4b		Sch. RZ, Part 1, line 19b
Line 5		Sch. ND-1SA, line 2
Line 6		Form ND-1, line 14
Line 7a		Sch. RZ, Part 4, line 7
Line 7b		Sch. RZ, Part 5, line 4
Line 7c		Sch. RZ, Part 6, line 6

Line 8	Sch. ND-1TC, line 4
Line 9	Sch. ND-1TC, line 3
Line 10	Sch. ND-1TC, line 6
Line 11	Sch. ND-1TC, line 7
Line 12	Sch. ND-1TC, line 14b
Line 13	Sch. ND-1TC, line 8a
Line 14	Sch. ND-1TC, line 9a
Line 15a	Sch. ND-1TC, line 10a
Line 15b	Sch. ND-1TC, line 10b
Line 16	Sch. ND-1TC, line 11a
Line 17	Sch. ND-1TC, line 12
Line 18	Sch. ND-1TC, line 13a
Line 19	Sch. ND-1TC, line 15
Line 20	Sch. ND-1TC, line 19
Line 21	Sch. ND-1TC, line 20

Form 38 filer:

Include the amount from this schedule:

Lines 1–2	On:	Not applicable
Line 3		Form 38, page 2, Part 1, line 4a
Line 4a		Sch. RZ, Part 1, line 19a
Line 4b		Sch. RZ, Part 1, line 19b
Lines 5–6		Form 38, page 2, Part 1, line 4d
Line 7a		Sch. RZ, Part 4, line 7
Line 7b		Sch. RZ, Part 5, line 4
Line 7c		Sch. RZ, Part 6, line 6
Lines 8–21		Form 38, page 1, line 3

Form 40 filer:

Include the amount from this schedule:

Line 1	On:	Sch. SA, line 4
Line 2		Sch. SA, line 3
Line 3		Sch. SA, line 11
Line 4a		Sch. RZ, Part 1, line 19a
Line 4b		Sch. RZ, Part 1, line 19b
Line 5		Page 1, line 9
Line 6		Not applicable
Line 7a		Sch. RZ, Part 4, line 7
Line 7b		Sch. RZ, Part 5, line 4
Line 7c		Sch. RZ, Part 6, line 6
Line 8		Sch. TC, line 12
Line 9		Sch. TC, line 15
Line 10		Sch. TC, line 13
Line 11		Sch. TC, line 14
Line 12		Sch. TC, line 3
Line 13		Sch. TC, line 18
Line 14		Sch. TC, line 17
Line 15a		Sch. TC, line 5
Line 15b		Sch. TC, line 6
Line 16		Sch. TC, line 19
Line 17		Sch. TC, line 16
Line 18		Sch. TC, line 21
Line 19		Sch. TC, line 22
Line 20		Sch. TC, line 23
Line 21		Sch. TC, line 24

Forms 58 and 60: Include the amounts from lines 1–21 of this schedule on the applicable lines of Schedule K of Form 58 or Form 60.

Part 4 Nonresident individual, estate, or trust beneficiaries only— North Dakota income (loss)

If you are a nonresident individual, estate, or trust, lines 22 through 32 of Part 4 show your share of the estate’s or trust’s North Dakota income, gains, losses, and deductions that you must report on your North Dakota income tax return. Transfer these amounts to your North Dakota income tax return as instructed below based on the type of return you are filing.

If the full amount of any item is not included in your adjusted gross income on your federal income tax return because of limitations on the deductibility of a passive activity loss, capital loss, section 179 deduction, or for any other reason, enter on your North Dakota return only that portion of the item included in your federal adjusted gross income.

Attach a statement to your North Dakota income tax return explaining any difference between the amount shown on North Dakota Schedule K-1 (Form 38) and the amount reported on your North Dakota income tax return.

Form ND-1 filer (nonresident only):

Include the amount from this schedule:	On Schedule ND-1NR, Column B:
Lines 22-23	Line 2
Lines 24-25	Line 4
Lines 26–30	Line 6
Line 31	Line 4 (if capital loss) or line 8 (if net operating loss)
Line 32	Line 8

Form 38 filer (nonresident only):

Include the amount from this schedule:	On Page 2, Part 2, Column B:
Line 22	Line 1
Line 23	Line 2
Lines 24–25	Line 4
Lines 26–30	Line 5
Line 31	Line 4 (if capital loss) or line 8 (if net operating loss)
Line 32	Line 8

Part 5 Nonresident individual beneficiary only

Lines 33 through 35 only apply to a nonresident individual beneficiary.

Line 33

This is the net amount of your North Dakota distributive share of income (loss) from the estate or trust. Do not enter the amount from this line anywhere on your return. ***It is for your information only.***

Line 34

The amount shown on this line is the amount of North Dakota income tax withheld by the fiduciary for the estate or trust from your North Dakota distributive share of income. Include this amount on Form ND-1, line 28. **Attach a copy of North Dakota Schedule K-1 (Form 38) to your return.**

Line 35

If you elected to include your North Dakota distributive share of income (loss) in a composite return, the amount shown on this line is the amount of North Dakota composite income tax paid on your behalf by the fiduciary for the estate or trust. If you made this election, you are not required to file your own North Dakota individual income tax return. ***This is for your information only.***

Note: *If you later choose to file your own North Dakota individual income tax return, you may claim this amount as a tax payment on your return. Attach a copy of the North Dakota Schedule K-1 (Form 38) to your return to support the amount claimed.*