



North Dakota Office of State Tax Commissioner

# 2009 S Corporation Income Tax

Cory Fong, Tax Commissioner

## Form 60

### Includes:

Schedule FACT  
Schedule BG  
Schedule K  
Schedule KS  
Schedule K-1

### Need help?

Go to our web site:  
[www.nd.gov/tax](http://www.nd.gov/tax)

Download forms

Check our FAQs  
(frequently asked  
questions)

E-mail your  
questions:

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

Dear Taxpayer,

For several years now the Tax Department has offered electronic filing for individual income taxpayers and certain other tax returns. I am pleased to announce that beginning this year, e-file is now an available filing option for taxpayers filing Form 60 - S Corporation Income Tax Return.

E-file has proven to be the most accurate method of filing taxes. Taxpayers who have used e-file have found it to be fast, safe, and convenient. I encourage you to check it out this year. To learn more about e-file, simply go to our web site at [www.nd.gov/tax](http://www.nd.gov/tax).

As you get ready to file your 2009 Form 60, please note the following highlights:

- The passthrough withholding income tax rate is reduced from 5.54% to 4.86% for all nonresident individual shareholders whose distributive share of North Dakota income is \$1,000.00 or greater.
- The composite income tax rate for all electing nonresident individual shareholders is reduced from 5.54% to 4.86%.

As you get ready to file your 2009 Form 60, please read the instructions in this booklet. The instructions will help you prepare an accurate and complete 2009 Form 60. I invite you to let us know what you think we can do to improve these forms and instructions so that we can serve you better.

If you have any questions or need additional forms, go to our web site at [www.nd.gov/tax](http://www.nd.gov/tax). Please see the inside front cover of this booklet if you need to contact us by phone, e-mail, or letter.

Thank you,

Cory Fong,  
Tax Commissioner



## Contents

Where to get help and forms.....	This page
What's new for 2009 .....	1
General instructions.....	2
Who must file.....	2
When and where to file.....	2
Extension of time to file.....	2
Penalty and interest .....	2
Estimated tax payment.....	2
Withholding from nonresident individual shareholders.....	2
Composite filing method .....	3
Correcting a previously filed return.....	3
Reporting federal changes.....	3
W-2/1099 reporting requirement .....	3
General instructions for completing Form 60 .....	4
Specific line instructions .....	4
Form 60, Page 1, Items A-H .....	4
Schedule FACT .....	4
Schedule BG .....	5
Schedule K .....	5
Schedule KS.....	8
Form 60, Page 1, Lines 1-11.....	9
Schedule K-1.....	9
Before you file Form 60 .....	11

## Required forms

The following forms are needed to complete Form 60:

<b>Form 60</b>	S corporation return
<b>Schedule FACT</b>	Calculation of North Dakota apportionment factor
<b>Schedule BG</b>	Tax on excess net passive income and built-in gains
<b>Schedule K</b>	Total North Dakota adjustments, credits, and other items distributable to shareholders
<b>Schedule KS</b>	Shareholder information
<b>Schedule K-1</b>	Shareholder's share of North Dakota income (loss), deductions, adjustments, credits, and other items

The following forms may be needed:

<b>Form 60-EXT</b>	S corporation extension payment voucher
<b>Form 101</b>	Application for extension of time to file a North Dakota income tax return
<b>Form PWA</b>	Passthrough entity withholding adjustment

Download these forms from our **web site at [www.nd.gov/tax](http://www.nd.gov/tax)**.



### 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](http://www.nd.gov/tax)**

## Need help?

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

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

### E-mail

Individual income tax—

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

Corporation income tax—

**[corptax@nd.gov](mailto:corptax@nd.gov)**

### Call

Individual income tax—

Questions **701.328.1247**

Forms **701.328.1243**

Corporation income tax—

Questions/forms **701.328.1249**

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)

## Privacy Act Information

In compliance with the Federal Privacy Act of 1974, Public Law 93-579, the disclosure of a social security number or a federal employer identification number on this form is mandatory and is required under Subsections 1 and 7 of N.D.C.C. § 57-38-31. A social security number or federal employer identification number is used as an identification number by the Office of State Tax Commissioner for file control purposes, recordkeeping, and for cross-checking the taxpayer's files with the Internal Revenue Service.

# Form 60 Instructions

# 2009

## North Dakota S Corporation 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 rules.

## What's new for 2009

### E-file option available for filers of Form 60

For tax years beginning in 2009, e-file is now an available option for filers of Form 60. To learn more about e-file, go to our web site at [www.nd.gov/tax](http://www.nd.gov/tax).

### Withholding and composite return income tax rate reduced

The passthrough withholding income tax rate has been reduced, starting with the 2009 tax year. The new rate is 4.86%. A North Dakota distributive share of income for a nonresident individual shareholder that is \$1,000 or greater is subject to the withholding requirement. For details, see page 2 in this booklet.

The composite return income tax rate has been reduced, starting with the 2009 tax year. The new rate is 4.86%. An eligible nonresident individual shareholder may elect to include their North Dakota distributive share of income in a composite return. For details, see page 3 in this booklet.

### 2009 legislative changes to note

The 2009 Legislature passed a number of bills that may affect your S corporation return. On Schedule K of Form 60, changes have been made to a number of statutory adjustments and tax credits, and a number of new tax credits have been added. See the instructions to Schedule K for more information on these changes.

### New credit under ND renaissance zone program

A new income tax credit is available to a property owner who is required to make changes in utility services or building structure solely because of changes directly resulting from another taxpayer's qualifying renovation project in a North Dakota renaissance zone.

The property owner must apply to and be approved for this credit by the local zone authority. The credit is equal to the necessary costs incurred to make the required changes. For more information about this new credit and other changes affecting the North Dakota renaissance zone tax incentives, see the instructions to the 2009 Schedule RZ.

A new line item has been added to Schedule K, Form 60, to report this new credit.

### New credit for employers of active duty employees

A new income tax credit is available to an employer who continues to pay part or all of the compensation of an employee in the National Guard or a reserve component of the U.S. armed forces who is mobilized under Title 10 of the U.S. Code. To qualify, the employee must be a North Dakota resident. The credit is equal to 25% of the lesser of:

1. the compensation the employer continues to pay to the eligible employee while mobilized, or
2. the eligible employee's "reduction in compensation." This is the amount by which the military pay is less than the compensation (including defined contribution plan contributions) the employer would have paid had there been no mobilization.

The credit may not exceed \$1,000 for each eligible employee. For complete details, see the instructions to the 2009 Schedule ME, a new supplemental schedule.

A new line item has been added to Schedule K, Form 60, to report this new credit.

### "Retroactive" property tax credit

A new income tax credit, called the "retroactive property tax credit" is available to the eligible shareholders of an S corporation based on their respective shares of the 2006 and 2007 real estate taxes paid by the S corporation on North Dakota agricultural and commercial property. Eligible shareholders are limited to individuals, estates, and trusts. For more information on how the shareholders calculate and claim the credit, see the 2009 Schedule ND-1RPT for individual shareholders, and the 2009 Schedule RPT (Form 38) for estate and trust shareholders.

The amount of the 2006 and 2007 real estate taxes on North Dakota agricultural and commercial properties, if any, paid by the S corporation must be reported on lines 18 and 19 of Schedule K. For details, see page 7 in this booklet.

If an S corporation enters an amount on Schedule K, line 18 or line 19 (or both), the amount is not reported to the eligible shareholders on their North Dakota Schedule K-1 (Form 60). For how to report the property tax amount to the eligible shareholders, go to the Office of State Tax Commissioner's Web site at [www.nd.gov/tax](http://www.nd.gov/tax), and under **S Corp and Partnership > Forms > 2009 Partnership and S Corp Tax**, locate the document **2009 Notice to Filers of Forms 58 and 60**.

## General instructions

### Who must file

A 2009 Form 60, *S Corporation Income Tax Return*, must be filed by a corporation that meets both of the following:

- It is required to file a 2009 Form 1120S, *U.S. Income Tax Return for an S Corporation*; and
- It carries on business, or derives gross income from sources, in North Dakota during its 2009 tax year.

**Exception for financial institution.** If an S corporation is a bank, trust company, bank holding company, or other financial institution defined under N.D.C.C. § 57-35.3-01(2), it is subject to the North Dakota financial institution tax and must file Form 35, *Financial Institution Tax Return*. Do not complete nor file Form 60 if required to file Form 35.

**Nonfiler penalty.** If an S corporation does not file Form 60 as required, a minimum \$500 penalty may be assessed if the failure continues after receiving a thirty-day notice to file from the Office of State Tax Commissioner.

### When and where to file

The 2009 Form 60 must be filed no later than:

- April 15, 2010, if filing for the 2009 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 2009 calendar year.

*Note: Use the 2008 Form 60 if the corporation's fiscal year began in the 2008 calendar year.*

Mail Form 60 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 60 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 the federal corporation return is obtained, it is automatically accepted as an extension of time to file Form 60. If this applies, 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 60. The "Extension" circle on page 1 of Form 60 must be marked to indicate that an extension has been obtained.

**North Dakota extension.** If a federal extension is not obtained, but additional time is needed to complete and file Form 60, 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 60. Notification of whether the extension is accepted or rejected will be provided by the Office of State Tax Commissioner. The "Extension" circle on page 1 of Form 60 must be marked to indicate that an extension has been obtained.

**Extension interest.** If Form 60 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 60 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 do so, send a check or money order along with a completed 2009 Form 60-EXT, *S Corporation Extension Payment Voucher*, on or before the regular due date of Form 60.

Alternatively, a payment may be sent with a letter containing the following: (1) Name of corporation; (2) Corporation's FEIN; (3) Corporation's address and phone number; and (4) Statement that the payment is a 2009 Form 60-EXT payment.

### Penalty and interest

The tax due must be paid by the due date (without extension) of Form 60 to avoid penalty and interest charges. However, if an extension of time to file the return was obtained, the tax due may be paid by the

extended due date of the return without penalty, but extension interest will apply at the rate of 12% per year—see **Extension interest** and **Prepayment of tax due** on this page.

If Form 60 is filed on or before its due date (or extended due date), but the tax due is not fully paid with the return, a penalty equal to 5% of the unpaid tax or \$5.00, whichever is greater, must be paid.

If Form 60 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 in which 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 payment

An S corporation may, but is not required to, make estimated tax payments of income tax expected to be due on Form 60. To make an estimated payment for the 2010 tax year, send a check or money order along with a completed 2010 Form 60-ES, *S Corporation Estimated Tax Payment Voucher*.

### Withholding from nonresident individual shareholders

An S corporation must withhold North Dakota income tax at the rate of 4.86% (.0486) from the distributive share of North Dakota income of its nonresident individual shareholders. This requirement does not apply to actual distributions made by the corporation to nonresident individual shareholders during the tax year; instead, the withholding amount is calculated on the shareholders' year-end distributive share and is reported on the Form 60 filed for the tax year. An amount less than 4.86% of the distributive share may be withheld if the shareholder meets certain conditions—see Form PWA for details. Withholding is not required if:

- The distributive share of North Dakota income is less than \$1,000; or



- The nonresident individual shareholder elects to have his or her 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 shareholder is reported in Column 7, Schedule KS, Form 60. The corporation must submit a payment with Form 60 for the total withholding reported on Schedule KS. See the instructions to Schedule KS and Schedule K-1 (Form 60) for more information.

### Composite filing method

A composite filing method is available to an S corporation with one or more eligible shareholders. Under this method, an S corporation files one return, called a “composite return,” on behalf of one or more eligible shareholders. The composite return and the S corporation’s payment of the income tax calculated on it satisfies the North Dakota income tax filing and payment obligations of the eligible shareholders included in it. Therefore, they do not have to file their own North Dakota individual income tax return to report or pay tax on their distributive share of North Dakota income.

The use of the composite filing method by an S corporation is optional, and is a choice that it may make on a year-to-year basis. The corporation does not have to obtain prior approval to use the composite filing method, and it may file a composite return regardless of whether it has income or a loss for the tax year.

**Exception to withholding.** An S corporation does not have to withhold North Dakota income tax from the distributive share of North Dakota income of an eligible shareholder who elects to be included in a composite return.

**Eligible shareholder.** An eligible shareholder is an individual who:

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

An eligible shareholder may elect to be included in a composite return regardless of the amount of the shareholder’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 shareholder is multiplied by the highest individual income tax rate (4.86% for the 2009 tax year) to determine the shareholder’s composite income tax. (If the North Dakota distributive share is a loss, the composite tax is zero.) No North Dakota adjustments, deductions, or tax credits are allowed in calculating the tax due under the composite filing method. The Form 60 serves as the composite return. The composite income tax calculated for a shareholder is reported in Column 8, Schedule KS, Form 60. The corporation must submit a payment with Form 60 for the total composite income tax reported on Schedule KS.

**Election.** If an eligible shareholder agrees to be included in a composite return, the corporation’s calculation and reporting of a composite income tax for the shareholder in Column 8 of Schedule KS of Form 60 constitutes the shareholder’s election to be included in the composite return.

### Correcting a previously filed return

If a corporation needs to correct an error in Form 60 after it is filed, the corporation must file an amended return. There is no special form for this purpose. See “How to prepare an amended return” below.

If a corporation paid too much tax because of an error in its 2009 Form 60, the corporation 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 2009 return

1. Obtain a blank 2009 Form 60.
2. Enter the corporation’s name, current address, FEIN, etc., in the top portion of page 1 of Form 60.
3. Mark the “Amended return” circle at the top of page 1 of Form 60.

4. Complete Schedules FACT, BG, K, and KS using the corrected information. Then complete lines 1 through 4 on page 1 of Form 60.
5. Complete line 5 on page 1 of Form 60 by entering the total taxes due from the previously filed 2009 Form 60, page 1, line 4.
6. Complete line 6 (overpayment) or line 9 (tax due), whichever applies. If there is an overpayment on line 6, enter the full amount on line 8 (refund). On an amended return, the amount credited to the next year’s estimated tax (line 7) may not be increased or decreased.
7. Attach a statement explaining the reason(s) for filing the amended return. If it is because of changes the corporation or the IRS made to the corporation’s 2009 Federal Form 1120S, attach a copy of the amended federal return or IRS notice.
8. Complete and provide a corrected North Dakota Schedule K-1 (Form 60) to the shareholders, as required.

### Reporting federal changes

If the Internal Revenue Service (IRS) changes or audits the federal corporation return, or if a corporation files an amended federal corporation return, an amended North Dakota Form 60 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 corporation return with the amended North Dakota Form 60.

### W-2/1099 reporting requirement

Every corporation doing business in North Dakota that is required to file Federal Form 1099 or W-2 must also 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 60 and its attachments is confidential by law and cannot be given to others except as provided by state law. Information about the shareholders is required under state law so the Office of State Tax Commissioner can determine the shareholder’s correct North Dakota taxable income and verify if the shareholder has filed a return and paid the tax.

## General instructions for completing Form 60

### Complete Form 60 as follows:

1. Complete Federal Form 1120S in its entirety.
2. Complete Items A through H at the top of page 1 of Form 60—see page 4.
3. Complete Schedule FACT on page 2 of Form 60—see page 4.
4. Complete Schedule BG, if required, on page 2 of Form 60—see page 5.
5. Complete Schedule K on page 3 of Form 60—see page 5.
6. Complete Schedule KS on page 5 of Form 60—see page 8.
7. Complete lines 1 through 11 on page 1 of Form 60—see page 9.
8. Complete Schedule K-1, if required, for the shareholders—see page 9.

**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 2009 Form 60 if the corporation's taxable year began in the 2009 calendar year. *Note: Use the 2008 Form 60 if the taxable year began in the 2008 calendar year.*

## Specific line instructions for page 1 of Form 60, Items A-H

**Complete Items A through H at the top of page 1 of Form 60. Then complete Schedule FACT, Schedule BG, Schedule K, and Schedule KS before completing lines 1 through 11 on page 1 of Form 60.**

### Item A Tax year

The same tax year used for federal income tax purposes (as indicated on the federal corporation return) must be used for North Dakota income tax purposes. Mark the applicable circle. If the corporation uses a fiscal year, enter the beginning and ending dates of the fiscal year. Use the 2009 Form 60 only if the corporation's tax year began in the 2009 calendar year.

### Item B Name and address

Enter the legal name of the corporation on the first line of the name and address area. If the corporation publicly operates under a fictitious or assumed name (which, in most states, must be recorded or registered with the state), enter that name on the second line of the name and address area.

### Item C Federal EIN

North Dakota uses the federal employer identification number (FEIN) for identification purposes. Enter the federal employer identification number from page 1 of Federal Form 1120S.

### Item D Business code number

Enter the business code from the NAICS code list found on the Office of State Tax Commissioner's web site at [www.nd.gov/tax](http://www.nd.gov/tax). Enter the code that most closely describes the industry from which the corporation derives the majority of its income.

### Item E Date incorporated

Enter the date the business incorporated from page 1 of Federal Form 1120S.

### Item F Indicators

Mark all applicable circles, as follows:

**Initial return.** Mark this circle if this is the first return filed in North Dakota by the corporation.

**Final return.** Mark this circle if this is the last return to be filed in North Dakota by the S corporation.

**Farming/ranching corporation.** Mark this circle if the corporation is registered as a farming or ranching corporation with the North Dakota Secretary of State.

**Composite return.** Mark this circle if one or more nonresident individual shareholders has elected to be included in a composite return. See "Composite filing method" on page 3 for more information.

**Amended return.** Mark this circle if this return is being filed to correct a previously filed 2009 Form 60. See "Correcting a previously filed return" on page 3 for more information.

**Extension.** Mark 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.

### Item G Number of shareholders

Enter the total number of shareholders. Also enter the number of each type of shareholder. For "Trust/estate shareholders," include trusts that are not tax-exempt organizations for federal income tax purposes.

### Item H Qualified subchapter S subsidiary

If the corporation is a parent of one or more qualified subchapter S subsidiaries (QSub or QSSS), mark the "Yes" circle. Otherwise, mark "No."

## Instructions for Schedule FACT (Form 60, page 2)

All corporations must complete the applicable portions of Schedule FACT as follows:

- **100% North Dakota corporation**  
If the corporation conducted all of its trade or business within North Dakota during the tax year, skip lines 1 through 13 and enter 1.000000 on line 14 of Schedule FACT.
- **Multistate corporation**  
If the corporation conducted its trade or business both within and without North Dakota during the tax year, it must complete lines 1 through 14 of Schedule FACT. However, if all of its shareholders consist of only North Dakota resident individuals, estates, and trusts, skip lines 1 through 13, enter 1.000000 on line 14, and mark the circle at the top of Schedule FACT.

*Note: For guidance on completing Schedule FACT, see N.D.C.C. Chapter 57-38.1 and N.D. Admin. Code Chapter 81-03-09.*

## Instructions for Schedule BG (Form 60, page 2)

An S corporation that is subject to the federal income tax on excess net passive income or built-in gains is subject to North Dakota income tax on the same income and must complete Schedule BG.

### Line 4 Apportionment factor

Enter the amount from Schedule FACT, Line 14.

*Note: If all shareholders are residents of North Dakota in a multistate corporation and the corporation is required to complete Schedule BG, complete Schedule FACT and enter the amount from Schedule FACT, Line 14.*

### Line 6 North Dakota NOL deduction

If the corporation has always been an S corporation, enter zero on this line. However, if a corporation changed from a C corporation to an S corporation under an election first made on or after January 1, 1987, it may carry forward an unused North Dakota net operating loss incurred while a C corporation and deduct it from the apportioned built-in gain subject to North Dakota tax. Complete the **Line 6 Worksheet** on this page to calculate the amount to enter on Schedule BG, line 6. *Attach a copy of the worksheet to Form 60.*

## Instructions for Schedule K (Form 60, page 3)

All corporations must complete Schedule K. The purpose of this schedule is to show the total amount of North Dakota adjustments, credits, and other items distributable to its shareholders. These items may be applicable to the preparation of the shareholders' North Dakota income tax returns.

If the corporation is a partner in a North Dakota partnership, include on the applicable lines of Schedule K similar adjustments, credits, etc., received from the partnership as shown on the North Dakota Schedule K-1 (Form 58) received from the partnership.

### Line 1 Interest from U.S. obligations

Enter on this line interest income from U.S. obligations and from securities the interest of which is specifically exempted from state income tax by federal statute. Include the portion of dividend income from a mutual fund attributable to the fund's investment in the same kinds of securities.

**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), or Government National Mortgage Association (Ginnie Mae), nor from a federal income tax refund or repurchase agreement. **Attach a statement identifying the specific securities from which the interest was derived.**

### Line 2 Renaissance zone exemption

Enter on this line the amount from Schedule RZ, Part 1, line 16. **Attach Schedule RZ.**

### Line 3 New or expanding business income exemption

If the corporation qualified for the new or expanding business income exemption under N.D.C.C. ch. 40-57.1, enter the exempt portion of the corporation's trade or business income. See N.D. Admin. Code § 81-03-01.1-06 for guidance on calculating the amount of the exempt income. **Attach a statement showing the calculation of the exempt income.**

### Line 4a Renaissance zone historic property preservation tax credit

Enter on this line the amount from Schedule RZ, Part 4, line 10. **Attach Schedule RZ.**

### Line 4b Renaissance fund organization investment tax credit

Enter on this line the amount from Schedule RZ, Part 5, line 7. **Attach Schedule RZ.**

### Line 4c Renaissance zone nonparticipating property owner credit

Enter on this line the amount from Schedule RZ, Part 6, line 8.

### Line 6 Worksheet (for Schedule BG) North Dakota net operating loss deduction

1. Net recognized built-in gain from Form 60, Schedule BG, line 2 ..... **1** \_\_\_\_\_
2. Apportionment factor from Schedule BG, line 4 ..... **2** \_\_\_\_\_
3. North Dakota apportioned built-in gain. Multiply line 1 by line 2 ..... **3** \_\_\_\_\_
4. Accumulated North Dakota net operating loss as of the end of the last tax year as a C corporation. **Enter as a positive number** ..... **4** \_\_\_\_\_
5. Portion of line 4 that was previously deducted for North Dakota income tax purposes by the corporation. **Enter as a positive number** ..... **5** \_\_\_\_\_
6. Remaining North Dakota net operating loss. Subtract line 5 from line 4. If less than zero, enter -0- ..... **6** \_\_\_\_\_
7. North Dakota net operating loss deduction. Enter smaller of line 3 or line 6. Enter result on Schedule BG, line 6 ..... **7** \_\_\_\_\_

### 2009 Corporation Tax Rate Schedule

**If the amount on Schedule BG, line 7 is:**                      **The tax is equal to:**

Over \$ 0	But not over \$ 25,000	.....	2.10%	of the amount on line 7
25,000	50,000	.....	\$ 525.00 + 5.25%	of the amount over \$ 25,000
50,000		.....	1,837.50 + 6.40%	of the amount over 50,000

**Line 5****Seed capital investment credit**

If the corporation invested in a qualified business for purposes of the seed capital investment tax credit, multiply the total amount invested during the 2009 tax year by 45% and enter the result on this line.

**Line 6****Ag commodity investment credit**

If the corporation invested in a qualified business for purposes of the agricultural commodity processing facility investment tax credit, multiply the total amount invested during the 2009 tax year by 30% and enter the result on this line.

**Line 7****Biodiesel fuel supplier credit**

If the corporation is a licensed supplier of biodiesel fuel, it is allowed a credit equal to five cents per gallon for blending biodiesel fuel having at least a 5% blend ("B5") that meets ASTM specifications. For this purpose, a "supplier" means a person who distributes the biodiesel fuel from a terminal in North Dakota. Enter the credit on this line. **Attach a statement showing the calculation of the credit.**

**Line 8****Biodiesel fuel seller credit**

If the corporation is a licensed seller of biodiesel fuel, it is allowed a credit equal to 10% of the costs to adapt or add equipment to its facility to enable it to sell diesel fuel having at least a 2% biodiesel blend ("B2") that meets ASTM specifications. For this purpose, a "seller" means a person who acquires the fuel from a wholesale supplier or distributor for resale to a consumer at a retail location. Except for costs incurred before January 1, 2005, include eligible costs incurred before the tax year in which sales of the eligible biodiesel fuel begin. The credit is allowed in each of five tax years, starting with the tax year in which sales of the eligible biodiesel fuel begin. **Attach a statement showing the calculation of the credit.**

**Line 9****Geothermal energy device tax credit**

If the corporation installed a qualifying geothermal energy device *after December 31, 2008* on property it owns or leases in North Dakota, it is allowed a credit equal to 3% of the costs of acquisition and installation. The credit is allowed in each of five tax years, starting with the tax year in which the installation is completed. For more information, see N.D.C.C. § 57-38-01.8.

**Attach a statement describing the device, a detailed list of the costs of acquisition and installation, and the date the device was completely installed.**

**Line 9****Geothermal device tax credit - installed after December 31, 2008**

Enter the amount of credit for a geothermal device installed *after December 31, 2008*.

**Line 10****Employer internship program credit**

If the corporation hired an eligible college student under a qualifying internship program set up in North Dakota, it is allowed a credit equal to 10% of the compensation paid to the intern. For details, see N.D.C.C. § 57-38-01.24. The corporation is allowed no more than \$3,000 of credits for all tax years.

**Line 10a.** Enter the allowable credit on this line.

**Line 10b.** Enter the number of eligible interns hired during the 2009 tax year. *Disregard this line if the credit is from a passthrough entity.*

**Line 10c.** Enter on this line the total compensation paid to eligible interns during the 2009 tax year (as shown on their 2009 Form W-2s). *Disregard this line if the credit is from a passthrough entity.*

**Line 11****Microbusiness credit**

If the corporation is certified as a microbusiness by the North Dakota Commerce Department, it is allowed a tax credit equal to 20% of the eligible cost of new investment in property and new employment. For details, see N.D.C.C. § 57-38-01.27. The corporation is allowed no more than \$10,000 of tax credits for all tax years.

**Line 11a.** Enter the allowable credit on this line.

**Line 11b.** Enter on this line the amount of qualifying new investment made during the 2009 tax year on which the credit was based. *Disregard this line if the credit is from a passthrough entity.*

**Line 11c.** Enter on this line the amount of compensation paid for qualifying new employment during the 2009 tax year on which the credit was based. *Disregard this line if the credit is from a passthrough entity.*

**Line 12****Research expense credit**

If the corporation conducted qualified research in North Dakota, it is allowed a tax credit on qualified research expenses in excess of base period research expenses. The credit is equal to 25% of the first \$100,000 of excess qualified expenses plus an additional credit on excess qualified expenses over \$100,000 at a credit rate that is dependent on the tax year in which it first conducted qualified research in North Dakota. For details, see N.D.C.C. § 57-38-30.5.

**Line 12a.** Enter the allowable credit on this line. *Do not include on this line any research credit obtained from another taxpayer through a sale, assignment, or transfer—report this amount on Line 12b.*

**Line 12b.** Enter on this line a research credit obtained from another taxpayer through a sale, assignment, or transfer. For details, see N.D.C.C. § 57-38-30.5.

**Line 13****Endowment fund tax credit**

If the corporation made a charitable contribution to a qualified endowment fund in North Dakota, it is allowed a tax credit equal to 40% of the contribution, up to a maximum credit of \$10,000. For details, see N.D.C.C. § 57-38-01.21. Enter the credit on this line.

**Line 14****Workforce recruitment tax credit**

If the corporation employs extraordinary recruitment methods to hire an employee to fill a hard-to-fill position in North Dakota, it is allowed a tax credit equal to 5% of the compensation paid during the first 12 months to the employee hired to fill that position. The credit may be claimed in the first taxable year beginning after the employee completes the first 12 consecutive months of employment. For details, see N.D.C.C. § 57-38-01.25.

**Line 14a.** Enter the allowable credit on this line.

**Line 14b.** Enter the number of eligible employees whose first 12 months of employment ended in 2008.

**Line 14c.** Enter the total compensation paid during the eligible employees' first 12 consecutive months of employment ending in 2008.



**Line 15**  
**Credit for wages paid to a mobilized employee**

Enter on this line the amount from Schedule ME, line 10. **Attach Schedule ME.**

**Line 16**  
**Allocable (nonbusiness) income**

Lines 16a and 16b apply only if the corporation:

- Is a multistate corporation, i.e., it carries on its business both within and without North Dakota;
- Has one or more nonresident individual, estate, or trust shareholders; and
- Has nonbusiness income as defined under N.D. Admin. Code § 81-03-09-03.

Nonbusiness income is not apportioned using the apportionment factor but is allocated within or without North Dakota as provided under N.D.C.C. §§ 57-38.1-04 through 57-38.1-08 and N.D. Admin. Code § 81-03-09-09. Expenses must be attributed to the nonbusiness income in a manner that fairly distributes all of the corporation's expenses to its business and nonbusiness income.

If the corporation has an item of nonbusiness income subject to allocation, the corporation must take this into account when calculating the North Dakota distributive share of income or loss reportable on Schedule KS and Schedule K-1 (Form 60) for a nonresident individual, estate, or trust shareholder. See the instructions to Schedule KS, Column 6, for more information. In addition to completing lines 16a and 16b, the corporation must attach the following to Form 60:

- A statement on which each item of nonbusiness income is shown along with its related expenses.
- A statement explaining the basis for treating the item of income as nonbusiness income subject to allocation.
- If an item of nonbusiness income is allocated to a state other than North Dakota, a copy of that other state's income tax return must be attached. If the corporation is not required to file an income tax return with the other state, the corporation must indicate this in the attached statement.

**Line 16a.** Enter the total allocable income (less related expenses) from all sources within and without North Dakota.

**Line 16b.** Enter the portion of the amount on line 16a that is allocable to North Dakota.

**Line 17**  
**Disposition of I.R.C. Section 179 property**

Lines 17a through 17d apply only if the corporation sold, exchanged, or disposed of property for which an I.R.C. Section 179 deduction was passed through to the shareholders. *Note: The corporation is required to report this same information on a separate statement attached to Federal Form 1120S, Schedule K, line 17d.*

For lines 17a through 17d, multiply the corresponding combined amount for all shareholders as reported on Federal Form 1120S, Schedule K, line 17d, by the North Dakota apportionment factor from Schedule FACT, line 14, and enter the result. However, if the property disposed of is treated as a nonbusiness asset the gain or loss from which is subject to allocation under N.D.C.C. §§ 57-38.1-04 through 57-38.1-08, subtract the amounts for that asset before multiplying by the apportionment factor. Include the nonbusiness gain or loss from the disposition on Schedule K, line 16.

**Lines 18-19**  
**Real estate tax information**

The 2009 North Dakota Legislature, in House Bill 1448, created a one-time retroactive income tax credit. The credit is based on the 2006 and 2007 real estate taxes on agricultural and commercial property that was ineligible for the property tax relief credit allowed on the shareholders' 2007 and 2008 income tax returns. In the case of an S corporation, the S corporation does not calculate nor claim this credit on the 2009 Form 60.

Only the individual, estate, or trust shareholders of an S corporation may be entitled to the retroactive income tax credit based on the eligible property taxes paid by the S corporation on North Dakota agricultural and commercial property.

Agricultural property means North Dakota real estate that is classified by the county as agricultural for property tax purposes. Commercial property means North Dakota real estate or a mobile home that is classified by the county as commercial for property tax purposes.

The information requested on lines 18 and 19 is used to verify the amount of credit claimed by eligible shareholders on their own North Dakota income tax returns. In the case of commercial property, the information only applies to an estate or trust shareholder. For more information on the credit and how to report the eligible agricultural and commercial property taxes to the shareholders, go to the Office of State Tax Commissioner's Web site at [www.nd.gov/tax](http://www.nd.gov/tax), and under **S Corp and Partnership > Forms > 2009 Partnership and S Corp Tax**, locate the document **2009 Notice to Filers of Forms 58 and 60**.

Complete lines 18 and 19 if either or both of the following conditions apply:

- The S corporation directly owned North Dakota agricultural or commercial property on which it was liable for the 2006 or 2007 real estate tax due in the 2007 or 2008 calendar year, respectively.
- The S corporation held an interest in a passthrough entity that owned North Dakota agricultural or commercial property on which it was liable for the 2006 or 2007 real estate tax due in the 2007 or 2008 calendar year, respectively.

**Important: For purpose of lines 18 and 19, enter the amount of the "consolidated tax" shown on the annual real estate tax statement(s). Do not include special assessments and do not subtract any discount, regardless of whether or not the discount was taken.**

**Line 18a.** Enter the total 2006 real estate taxes the S corporation paid on all agricultural property located in North Dakota. Include the S corporation's share of agricultural property taxes paid by any passthrough entity in which the S corporation held an interest.

**Line 18b.** Enter the total 2006 real estate taxes the S corporation paid on all commercial property located in North Dakota. Include the S corporation's share of commercial property taxes paid by any passthrough entity in which the S corporation held an interest.

**Line 19a.** Enter the total 2007 real estate taxes the S corporation paid on all agricultural property located in North Dakota. Include the S corporation's share of agricultural property taxes paid by any passthrough entity in which the S corporation held an interest.

**Line 19b.** Enter the total 2007 real estate taxes the S corporation paid on all commercial property located in North Dakota. Include the S corporation's share of commercial property taxes paid by any passthrough entity in which the S corporation held an interest.

**Important: Do not enter the information from lines 18 or 19 on Schedule K-1 (Form 60). Regardless of whether the S corporation files on a calendar year or fiscal year basis, the real estate taxes paid on North Dakota agricultural or commercial property must be claimed by eligible shareholders on their 2009 North Dakota income tax return.**

## Instructions for Schedule KS (Form 60, page 5)

Schedule KS must be completed to provide information about each shareholder. In the case of a nonresident individual shareholder only, the schedule must show the shareholder's distributive share of North Dakota income (loss) and the amount of North Dakota income tax withheld or the amount of composite income tax paid on the shareholder's distributive share of North Dakota income. If the corporation has more than seven shareholders, complete and attach additional schedules as needed to list all shareholders. If more than one Schedule KS 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 Shareholders (Columns 1 through 5)

#### Columns 1 and 2

Enter the full name, address, and federal identification number as shown on the shareholder's Federal Schedule K-1. In Column 1, enter the name on the first line, and the complete mailing address on the second line. If the shareholder is a single member limited liability company (LLC) and is treated as a disregarded entity for federal income tax purposes, enter the owner's name, address, and identifying number.

#### Column 3

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

### Column 6 Worksheet

**For nonresident individual shareholders only— see instructions to Schedule KS, Column 6.**

1. Shareholder's amount from Column 5 .....	<b>1</b>
2. Allocable income (less related expenses) included in the amount on line 1 .....	<b>2</b>
3. Interest from U.S. obligations included in the amount on line 1	<b>3</b>
4. Add lines 2 and 3 .....	<b>4</b>
5. Apportionable income (loss). Subtract line 4 from line 1 .....	<b>5</b>
6. Apportionment factor from Schedule FACT, line 14 .....	<b>6</b>
7. Multiply line 5 by line 6 .....	<b>7</b>
8. Income (less related expenses) <b>reportable to North Dakota</b>	<b>8</b>
9. Add lines 7 and 8. Enter result in Column 6.....	<b>9</b>

Entity type	Code letter
Individual .....	<b>I</b>
Trust .....	<b>T</b>
Decedent's estate.....	<b>D</b>
Bankruptcy estate.....	<b>B</b>
Exempt organization .....	<b>O</b>

If the shareholder is a limited liability company (LLC) that is disregarded as a separate entity for federal income tax purposes, enter the code letter for the type of entity of the LLC's owner.

*Note: The "Trust" entity type only applies to a trust that files Federal Form 1041, or, in lieu of filing Federal Form 1041, elects an alternative reporting method under the federal income tax regulations.*

#### Column 4

Enter the shareholder's stock ownership percentage as shown on the shareholder's Federal Schedule K-1.

#### Column 5

Enter the sum of the following items from the shareholder's Federal Schedule K-1 (Form 1120S), Part III:

- Box 1** Ordinary business income (loss)
- Box 2** Net rental real estate income (loss)
- Box 3** Other net rental income (loss)
- Box 4** Interest income
- Box 5a** Ordinary dividends
- Box 6** Royalties
- Box 7** Net short-term capital gain (loss)
- Box 8a** Net long-term capital gain (loss)
- Box 9** Net section 1231 gain (loss)
- Box 10** Other income (loss)
- Box 11** Section 179 deduction

**Box 12** Other deductions (*Only include the deductions allowed as a deduction from gross income in calculating adjusted gross income for federal income tax purposes.*)

**Box 17** Include the gain (loss) from I.R.C. Section 179 property disposition (*For purposes of calculating the gain or loss, include all of the Section 179 deduction passed through to the shareholder, regardless of whether or not the shareholder actually deducted all of it.*)

### Nonresident Individual Shareholders Only (Columns 6 through 8)

#### Column 6

##### Nonresident individual only

Complete Column 6 for each nonresident individual shareholder. Multiply the shareholder's amount in Column 5 by the apportionment factor from Schedule FACT, line 14, and enter the result in Column 6. However, complete the **Column 6 Worksheet** on this page to calculate the amount to enter in Column 6 if either or both of the following apply:

- The corporation has an item of nonbusiness income subject to allocation. See the instructions to North Dakota Schedule K, line 16, on page 7 for more information.
- The amount in Column 5 includes interest from U.S. obligations.

### Column 7 Nonresident individual only

If the shareholder is a nonresident individual, and if the amount in Column 6 is \$1,000 or more, multiply the amount in Column 6 by 4.86% (.0486) and enter the result in Column 7. However, the following exceptions apply:

- If the nonresident individual shareholder completed a Form PWA, enter the amount from line 6 of Form PWA in Column 7, and mark the circle under “Form PWA.”
- If the nonresident individual shareholder elected to be included in a composite return, leave Column 7 blank and see the instructions to Column 8.

See “Withholding from nonresident individual shareholders” on page 2 for more information.

### Column 8 Nonresident individual only

Complete Column 8 for each nonresident individual shareholder who elected to be included in a composite return filed by the corporation. Multiply the nonresident individual shareholder’s amount in Column 6 by 4.86% (.0486) and enter the result in Column 8. If the amount in Column 6 is zero or less, enter zero in Column 8. See “Composite filing method” on page 3 for more information.

## Specific line instructions for page 1 of Form 60, lines 1-11

### Complete Schedule FACT, Schedule BG, Schedule K, and Schedule KS before completing lines 1 through 11 on page 1 of Form 60.

### Line 5 Estimated tax payments

Enter the amount paid with the 2009 Form 60-EXT and 2009 Form 60-ES plus any overpayment to apply from the 2008 return. However, if this is an amended return, do not enter the amount paid with the 2009 Form 60-EXT, 2009 Form 60-ES, or overpayment applied from the 2008 return; instead, enter the amount of the total taxes due from line 4 of the previously filed original or amended 2009 Form 60.

### Line 7 Application of overpayment to 2010

If there is an overpayment on line 6, the corporation may elect to apply part or all of it as an estimated payment toward its 2010 tax liability. To make the election, enter the portion of line 6 to be applied on line 7. If this election is made, the election and 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 9 Tax due

The tax due must be paid in full with the return. A check or money order made payable to the “ND State Tax Commissioner” must be submitted with the return.

### Line 10 Penalty and interest

The Office of State Tax Commissioner will notify the corporation of any penalty and interest payable on a tax due shown on Form 60. However, the corporation may calculate the penalty and interest amounts and include them in the balance due on Form 60.

**Penalty.** Calculate the penalty amount as follows:

- If Form 60 is filed on or before the due date (or extended due date), but the full amount of the tax due is not paid with the return, the penalty is equal to 5% of the unpaid tax or \$5.00, whichever is greater.
- If Form 60 is not filed on or before the due date (or extended due date), the penalty is equal to 5% of the tax due or \$5.00, whichever is greater, for the month in which 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, not to exceed 25% of the tax due.

**Interest.** Calculate the interest amount as follows:

- If an extension of time to file Form 60 was obtained, extension interest is calculated at the rate of 12% per year on any tax due from the due date of the return to the earlier of the extended due date or the date the return was filed.
- If any tax due is not paid by the due date (or extended due date) of the return, interest is calculated at the rate of 1% per month (or fraction of a month) on the unpaid tax, except for the month in which the return was due.

## Instructions for Schedule K-1

With the exception of the taxes on excess net passive income and built-in gains, an S corporation is not subject to North Dakota income tax. Instead, the shareholders are responsible for reporting and paying any applicable North Dakota income tax on their shares of the corporation’s income reportable to North Dakota.

North Dakota Schedule K-1 (Form 60) must be used by an S corporation to provide information that shareholders will need to complete a North Dakota income tax return. The information to be included in the schedule will depend on the type of shareholder.

North Dakota Schedule K-1 (Form 60) must be completed and given to:

- Each nonresident individual, estate, or trust shareholder.
- Each qualified subchapter S trust (QSST) and electing small business trust (ESBT) with a nonresident individual or estate beneficiary.
- Each North Dakota resident individual, estate, or trust shareholder having a North Dakota adjustment or tax credit as reported on Form 60, Schedule K, lines 1 through 15.

A North Dakota Schedule K-1 (Form 60) does not have to be completed nor given to a North Dakota resident individual, estate, or trust if there are no North Dakota adjustments or tax credits on Schedule K. 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 (Form 60), the corporation must provide the shareholder with a copy of the *Shareholder’s Instructions to North Dakota Schedule K-1 (Form 60)*.

A copy of all required North Dakota Schedule K-1s must be enclosed with Form 60 along with any required supplemental statements.

**Amended schedule.** If a corporation files an amended Federal Form 1120S, or if the IRS makes any changes to the Federal Form 1120S, the corporation must file an amended Form 60 for the same tax year,

and must issue amended North Dakota Schedule K-1s to its shareholders. Mark the “Amended” circle at the top of the North Dakota Schedule K-1 (Form 60).

**Final schedule.** Mark the “Final” circle at the top of the North Dakota Schedule K-1 if it is the last one to be issued by the corporation to the shareholder.

## Part 1 Corporation information

### Items A and B

Enter the name, address, and federal employer identification number (FEIN) of the corporation as shown on the shareholder’s Federal Schedule K-1.

## Part 2 Shareholder information

### Item C

Enter the social security number or federal employer identification number (FEIN) of the shareholder as shown on the shareholder’s Federal Schedule K-1. If the shareholder is a single member limited liability company (LLC) and is treated as a disregarded entity for federal income tax purposes, enter the owner’s identifying number.

### Item D

Enter the name and address of the shareholder as shown on the shareholder’s Federal Schedule K-1. If the shareholder is a single member limited liability company (LLC) and is treated as a disregarded entity for federal income tax purposes, enter the owner’s name and address.

### Item E

Enter the same code letter shown in Column 3 of Schedule KS of Form 60.

### Item F

If the shareholder is an individual, estate, or trust, mark the applicable circle to indicate the legal residency status of the shareholder for North Dakota income tax purposes. If an individual shareholder 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 shareholder, only the full-year resident or full-year nonresident status will apply.

### Item G

For only a nonresident individual shareholder, indicate whether the shareholder is included in a composite return filed by the corporation by marking the applicable circle.

### Item H

Enter the shareholder’s stock ownership percentage as shown on the shareholder’s Federal Schedule K-1.

## Part 3 All shareholders— North Dakota adjustments and tax credits

If there are any North Dakota adjustments or tax credits on Form 60, Schedule K, lines 1 through 15, complete this part for all shareholders.

### Lines 1 through 15

Enter the shareholder’s share of each amount shown on Form 60, Schedule K, lines 1 through 15, on the corresponding lines of Part 3, lines 1 through 15.

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

Complete Part 4 for only a nonresident individual, estate, or trust shareholder.

### Line 16

**Corporation’s apportionment factor**  
Enter the corporation’s apportionment factor from Schedule FACT, line 14.

### Lines 17 through 29 Income and loss items

Except as explained under **Exception 1** and **Exception 2**, multiply the corresponding amount from the shareholder’s Federal Schedule K-1, Part III, boxes 1 through 12, and any I.R.C. § 179 property disposition gain (loss) included in box 17 by the corporation’s apportionment factor from Schedule FACT, line 14, and enter the result on the corresponding line of Part 4, lines 17 through 29.

For “Other deductions” from box 12 of Federal Schedule K-1, only include deductions that are allowed as a deduction from gross income in calculating adjusted gross income for federal income tax purposes.

For purposes of calculating the gain or loss for I.R.C. § 179 property dispositions included in box 17 of the Federal Schedule K-1, include all of the Section 179 deduction passed through to the shareholder, regardless of whether or not the shareholder actually deducted all of it.

### Exception 1: Allocable (nonbusiness)

**income.** If the corporation treated any distributable item of income from the shareholder’s Federal Schedule K-1 as nonbusiness income subject to allocation, calculate the amount to enter on the corresponding line of this part in the following steps:

1. Subtract the net nonbusiness income (gross amount less related expenses) from the applicable distributable amount shown on the Federal Schedule K-1.
2. Multiply the remaining distributive amount, if any, (from step 1) by the corporation’s apportionment factor from Schedule FACT, line 14.
3. Add the result (from step 2) to the portion, if any, of the net nonbusiness income *allocable to North Dakota*, and enter the result on the corresponding line of Part 4.

*Note:* If any portion of the net nonbusiness income removed from the distributable amount (in step 1 above) is *allocable outside North Dakota*, do not enter it anywhere on North Dakota Schedule K-1 (Form 60).

**Exception 2: Interest from U.S. obligations.** Do not include interest from U.S. obligations in determining the amount to enter on Part 4, line 20.

**If the calculation of any amount on lines 17 through 29 of Part 4 was affected by the removal or inclusion of net nonbusiness income, attach a statement to the shareholder’s North Dakota Schedule K-1 (Form 60) identifying the net nonbusiness income and showing the calculation of the amount entered on the applicable line(s) of Part 4.**

## Part 5 Nonresident individual shareholder only

Complete Part 5 for a nonresident individual shareholder only.

**Line 30**  
**ND distributive share of income (loss)**

Enter the shareholder's North Dakota distributive share of income (loss) from Form 60, Schedule KS, Column 6.

**Line 31**  
**ND income tax withheld**

Enter the amount of North Dakota income tax withheld from the shareholder's North Dakota distributive share of income from Form 60, Schedule KS, Column 7.

**Line 32**  
**ND composite income tax**

Enter the amount of North Dakota composite income tax on the shareholder's North Dakota distributive share of income from Form 60, Schedule KS, Column 8.

## Before you file Form 60

**Signatures**

The return must be signed and dated by a corporate officer or an authorized representative of the corporation.

If the corporation pays someone other than one of its employees to prepare the return, the paid preparer also must sign and date the return.

**Preparer authorization check-off**

The corporation may authorize the North Dakota Office of State Tax Commissioner (Tax Department) to discuss matters pertaining to its 2009 Form 60 with the preparer who signed it. To do so, mark the circle in the lower right-hand corner of page 1 of Form 60 next to the signature area. 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.

By marking the circle, the corporation authorizes the Tax Department to contact the preparer to answer any questions that may arise during the processing of the corporation's return. It also authorizes 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 corporation shares with the preparer pertaining to math errors or return preparation. *(Tax Department notices will not be sent directly to the preparer.)*

This authorization automatically expires on the due date (excluding extensions) for filing the **2010 Form 60**.

This authorization *does not* authorize the preparer to receive a refund check, to bind the corporation in any way (including any additional tax liability), or to represent the corporation before the Tax Department for any other purpose. To expand the preparer's authorization, the corporation must complete and file North Dakota Form 500, *Authorization to Disclose Tax Information and Designation of Representative*, with the Tax Department.

**Assembling a paper return**

Please assemble Form 60 and its required attachments in the following order:

1. Form 60.
2. Schedule FACT / Schedule BG.
2. Schedule K.
3. Schedule KS.
4. North Dakota Schedule K-1s
5. Supporting statements required in instructions.
6. Complete copy of Form 1120S including Federal Schedule K-1s.

Staple all documents (except check or money order) together at the **top center** of Form 60. Enclose a check or money order made payable to: ND State Tax Commissioner. **Do not send cash.**



**2009****Shareholder's Instructions for North Dakota Schedule K-1 (Form 60)****Purpose of schedule**

North Dakota Schedule K-1 (Form 60) is provided to you by the corporation to show your share of the income, gains, losses, deductions, and other items from the corporation 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.

**Resident individual, estate, or trust shareholder.**

If you are a North Dakota resident individual, estate, or trust, you must report to North Dakota your entire share of the corporation'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 corporation's North Dakota statutory adjustments or tax credits that may affect the preparation of your North Dakota income tax return. See the instructions to Part 3.

**Nonresident individual, estate, or trust shareholder.**

If you are a nonresident individual, estate, or trust, you must report to North Dakota your share of the corporation's income, gains, losses, and deductions that are apportioned and allocated to North Dakota based on the corporation's activity 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 corporation, you must file a North Dakota 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 corporation's North Dakota income, gains, losses, and deductions in a composite return filed by the corporation, 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 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 below to transfer the amounts from North Dakota Schedule K-1 to your return.

**Amended Schedule K-1 (Form 60).** If you received an amended North Dakota Schedule K-1 (Form 60) from the corporation, and you previously filed a North Dakota income tax return to report your share of income, etc., from the corporation, you must file an amended North Dakota income tax return to report the changes in income, gains, losses, and deductions. You also must attach a copy of the amended North Dakota Schedule K-1 (Form 60) to your amended North Dakota income tax return.

*Note: 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 2009 tax year. Therefore, report the amounts from the 2009 North Dakota Schedule K-1 on your 2009 North Dakota return. However, if you and the S corporation 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 S corporation's tax year ends. For example, if you file on a calendar year basis, and the S corporation's year ends in February 2010, report the amounts on your 2010 return.*

**Part 3  
All shareholders—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 1–15**

*Form ND-1 filer:*

Include the amount from this schedule:	On:
Line 1	Form ND-1, line 7
Line 2	Sch. RZ, Part 1, line 14
Line 3	Form ND-1SA, line 2
Line 4a	Sch. RZ, Part 4, line 7
Line 4b	Sch. RZ, Part 5, line 4
Line 4c	Sch. RZ, Part 6, line 6
Line 5	Sch. ND-ITC, line 4
Line 6	Sch. ND-ITC, line 3
Line 7	Sch. ND-ITC, line 6
Line 8	Sch. ND-ITC, line 7
Line 9	Sch. ND-ITC, line 14b
Line 10	Sch. ND-ITC, line 8a
Line 11	Sch. ND-ITC, line 9a
Line 12	Sch. ND-ITC, line 10a
Line 13	Sch. ND-ITC, line 12
Line 14	Sch. ND-ITC, line 13a
Line 15	Sch. ND-ITC, line 15

*Form 38 filer:*

Include the amount from this schedule:	On Tax Computation Schedule:
Line 1	Part 1, line 4a
Line 2	Sch. RZ, Part 1, line 14
Line 3	Part 1, line 4d
Line 4a	Sch. RZ, Part 4, line 7
Line 4b	Sch. RZ, Part 5, line 4
Line 4c	Sch. RZ, Part 6, line 6
Lines 5-8	Form 38, page 1, line 3
Line 9	Not applicable
Lines 10-15	Form 38, page 1, line 3

**Part 4  
Nonresident individual, estate, or trust shareholders only—North Dakota income (loss)****Line 16**

Enter the corporation's apportionment factor from Schedule FACT, line 14.

**Lines 17-29**

If you are a nonresident individual, estate, or trust, lines 17 through 29 of Part 4 show your share of the corporation'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 an amount shown on North Dakota Schedule K-1 (Form 60) 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 17-19	Line 6
Lines 20-21	Line 2
Line 22	Line 6
Lines 23-25	Line 4
Line 26	Line 8
Lines 27-28	Line 6
Line 29	Line 4

Form 38 filer (nonresident only):

Include the amount from this schedule:	On Tax Computation Schedule, Part 2, Column B:
Lines 17-19	Line 5
Line 20	Line 1
Line 21	Line 2
Line 22	Line 5
Lines 23-24	Line 4
Line 25	Line 4 or 7
Line 26	Line 8
Lines 27-28	Line 5
Line 29	Line 4 or 7

**Part 5  
Nonresident individual  
shareholders only**

Lines 30 through 32 apply to a nonresident individual shareholder only.

**Line 30**

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

If you have a North Dakota distributive share of income of \$1,000 or more, the corporation was required to withhold North Dakota income tax from it at the rate of 4.86% unless you elected to include it in a composite return filed by the corporation.

**Line 31**

The amount shown on this line is the amount of North Dakota income tax withheld by the corporation 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 60) to your return.**

**Line 32**

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 corporation. 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 60) to your return to support the amount claimed.*