

# Project Operator's Application For Income Tax Exemption

N.D.C.C. Chapter 40-57.1

File with the State Tax Commissioner, as Secretary of the State Board of Equalization,  
State Capitol, 600 E. Boulevard Ave., Bismarck, ND 58505-0599.

**This application is a public record.**

## Identification Of Project Operator

1. Name of project operator \_\_\_\_\_
2. Address of project \_\_\_\_\_  
City \_\_\_\_\_ County \_\_\_\_\_
3. Mailing address of project operator \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_
4. Type of ownership of project  
 Partnership                       Subchapter S corporation                       Individual proprietorship  
 Corporation                       Cooperative                       Limited liability company (LLC)  
If a LLC, how will this entity be taxed at the federal level?     Corporation                       Partnership
5. Federal Identification No. or Social Security No. \_\_\_\_\_
6. North Dakota Sales and Use Tax Permit No. \_\_\_\_\_
7. List the North Dakota counties in which the project operator has an interest in real property \_\_\_\_\_  
\_\_\_\_\_
8. If a partnership, subchapter S corporation or limited liability company, indicate the number of partners, shareholders or members \_\_\_\_\_
9. If a corporation, specify the state and date of incorporation \_\_\_\_\_
10. If a partnership, list all general partners; if a corporation or association, list the corporate officers or association directors charged with the responsibility for filing property, income, or sales and use tax returns and making payments. List all the North Dakota counties in which each individual listed has an interest in real property (attach additional sheets if necessary).

| Name and Social Security No. | Address | County(ies) |
|------------------------------|---------|-------------|
| SSN _____                    |         |             |
| SSN _____                    |         |             |
| SSN _____                    |         |             |

11. Name and title of individual to contact \_\_\_\_\_  
Mailing address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_ Phone No. \_\_\_\_\_

**Description of Project Business**

**Note: "project" means a newly established business or the expansion portion of an existing business. Do not include any established part of an existing business.**

12. Describe in detail the enterprise of the project operator, including a description of any products to be manufactured, produced, any value-added service to be rendered, or any tourism destination attraction. Also identify the estimated percentage of retail, wholesale and distributor sales projected revenues (attach additional sheets if necessary).

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13. Indicate the type of machinery and equipment that will be installed \_\_\_\_\_

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14. Approximate date of commencement of this project's operations \_\_\_\_\_

15. Projected annual revenue, expense, and net income of the project for each year of the requested exemption

|                                       |        |       |       |       |       |
|---------------------------------------|--------|-------|-------|-------|-------|
| Year                                  | 20____ | _____ | _____ | _____ | _____ |
| Annual revenue                        | _____  | _____ | _____ | _____ | _____ |
| Annual expense                        | _____  | _____ | _____ | _____ | _____ |
| Net income                            | _____  | _____ | _____ | _____ | _____ |
| Percent of project's sales made in ND | _____  | _____ | _____ | _____ | _____ |

16. Projected annual average number of persons to be employed by the project at the project location for each year of the requested exemption and the estimated annual payroll

|  |           |       |       |       |       |
|--|-----------|-------|-------|-------|-------|
| Year   | 20____    | _____ | _____ | _____ | _____ |
| No. of Employees                                     | (1) _____ | _____ | _____ | _____ | _____ |
|  | (2) _____ | _____ | _____ | _____ | _____ |
| Estimated payroll                                    | (1) _____ | _____ | _____ | _____ | _____ |
|  | (2) _____ | _____ | _____ | _____ | _____ |
| Percent of payroll that will be paid to ND employees | (1) _____ | _____ | _____ | _____ | _____ |
|  | (2) _____ | _____ | _____ | _____ | _____ |

(1) - full time  
(2) - part time

17. Project property: estimated percent of total property owned by the project operator .....  
 estimated percent located in North Dakota .....

*Do not answer question 17 if the project is owned by an individual proprietorship.*

### Project Operator's Application For Exemption

18. Number of years for which an income tax exemption is requested \_\_\_\_\_
19. Indicate the percentage of income from the project for which the exemption is requested.  
The maximum percentage allowable is 100% of the income attributable to the project. \_\_\_\_\_ Percent
20. Which of the following would better describe the project for which this application is being made?  
 New business project                       Expansion of a business project
- Describe the extent of the expansion
- \_\_\_\_\_

### Previous Business Activity

21. Is the project operator succeeding someone else in this or a similar business?                       Yes                       No
- If YES, give details including location and name of former business \_\_\_\_\_
- \_\_\_\_\_
22. Has the project operator conducted this business at this or any other location either in or outside of the state?  
 Yes                       No
- If YES, dates of operation and location \_\_\_\_\_
- \_\_\_\_\_

### Business Competition

23. Is any similar business being conducted by other operators in the state?                       Yes                       No
- If YES, give name and location of competing business or businesses
- \_\_\_\_\_
24. If a property tax exemption was granted to this project by a municipality under N.D.C.C. Chapter 40-57.1, did anyone oppose the granting of the exemption?                       Yes                       No
- If YES, list name of person or business and nature of objection (attach additional sheets if necessary)
- \_\_\_\_\_

**Use Only When Reapplying**

25. The project operator is reapplying for an income tax exemption for the following reason(s):

- To present additional facts or circumstances which were not presented at the time of the original application
- To request continuation of the present income tax exemption because the project has:
  - moved to a new location
  - had a change in project operation

**Employment Statement And Signature**

As project operator, I am aware of the policy with regard to the employment of North Dakota contractors and North Dakota workers adopted by the members of the State Board of Equalization. (See attached.) By presenting this signed application for an income tax exemption, I am aware that, unless I give employment to North Dakota contractors and workers to the maximum extent possible, the exemption may be revoked.

I, \_\_\_\_\_, do hereby certify that the answers to the above questions and all of the information contained in this application, including attachments hereto, are true and correct to the best of my knowledge and belief and that no relevant fact pertaining to the ownership or operation of the project has been omitted.

\_\_\_\_\_ Date

\_\_\_\_\_ Signature

\_\_\_\_\_ Title

In compliance with the Federal Privacy Act of 1974, Public Law 93-579, the disclosure of the individual's social security number on this form is mandatory pursuant to North Dakota Century Code §§ 40-57.1-04 and 40-57.1-07. An individual's social security number is used as an identification number by the Office of State Tax Commissioner for file control purposes and record keeping.

**For Use By The Department Of Commerce Division Of Economic Development And Finance**

The Department of Commerce Division of Economic Development and Finance, after examination and review of this application, finds that the project in this application \_\_\_\_\_ met the qualifications of \_\_\_\_\_ has or/has not being either a primary sector business or tourism-related destination attraction for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Signature

\_\_\_\_\_ Title

\_\_\_\_\_ Date

# North Dakota Income Tax Exemption for New or Expanding Businesses

## General Instructions

### Who Qualifies

Any project operator who is engaged in a new or expanded primary sector business or tourism business may qualify for the income tax exemption.

### Definitions

*Project operator* means the individual, corporation, partnership, limited liability company (LLC), or association, that owns or operates the project.

*Project* means a primary sector business or a tourism-related business. The term is limited to include only a newly established business or the expansion portion of an existing business. It does not include any part of an existing business.

*Primary sector* means a business which adds value to a product, process, or service that results in the creation of new wealth.

*New wealth* is defined as revenues to a North Dakota business which are generated by sales of products or services to customers outside of the State of North Dakota. New wealth additionally includes revenues to a North Dakota business whose customers previously were unable to acquire the product or service from a North Dakota provider. The inability to acquire the product or service may be due to total unavailability or limited availability of the product or service.

*Tourism* means any tourism-related business that is a destination attraction.

*Commencement of project operations* means the date the plant actually goes into its planned operations, which begins when management or employees undertake the tasks that are intrinsic to the conduct of business.

### Limitations

A project is not eligible for an income tax exemption if any of the following conditions exist:

1. The project received a property tax exemption under tax increment financing provided in N.D.C.C. § 40-58-20(11).
2. The project operator has any unsatisfied tax liens of record for any delinquent property, income, sales, or use taxes owed to the state or any political subdivision.

If the project operator is a partnership, corporation or an association, the tax lien provisions apply to each general partner and to the corporate officers or association directors charged with the responsibility for filing returns or paying the tax.

### Allowable Exemption

A complete or partial income tax exemption may be granted for up to five years following commencement of project operations for income from a qualifying primary sector or tourism business.

The exemption is limited to the tax on that portion of income earned from the qualifying project. The amount of exempt income is computed pursuant to N.D. Administrative Code § 81-03-01.1-06.

The project operator is required to file a state income tax return even though an income tax exemption is granted. If the project operator is an individual, the exemption applies only if the long form (Form 37) is used.

### Application Procedures

The project operator applies to the State Board of Equalization in care of Office of State Tax Commissioner, State Capitol, 600 East Boulevard Ave., Bismarck, ND 58505-0599.

The application must be filed with the State Board within the first year following the commencement of project operations.

The State Board forwards the filed application to the Department of Commerce Division of Economic Development and Finance for its review and recommendation as to the eligibility of the project.

The project operator must provide notice to competitors as prescribed by the State Board.

The State Tax Commissioner certifies to the State Board whether the project operator has any tax liens of record for any delinquent property, income, sales, or use taxes owed to the state or a political subdivision.

The State Board holds a public hearing, considers the impact and effect the exemption would have on existing business, and then grants or denies the application for exemption.

The State Board provides written notification of the Board's decision to the applicant and the Tax Commissioner.

## ***Policy For The Full Employment Of North Dakota Workers For New and Expanding Businesses Seeking Tax Exemptions***

The State Board of Equalization, in recognition of the intent of the Legislature to add "to the volume of employment" and to alleviate "unemployment among the people of the state," hereby adopts the following policy to be followed regarding all new and expanding businesses seeking tax exemptions under North Dakota Century Code ch. 40-57.1.

1. State or local governing bodies negotiating with new or expanding businesses for tax exemptions under N.D.C.C. ch. 40-57.1 are required as part of such negotiation to request maximum employment of North Dakota contractors and workers in both the construction and the operation phases of a new or expanding business.
2. Any application for tax exemption must contain a statement thereon that both the governing body and the new industry or expanding business concerned have discussed the employment of North Dakota contractors and workers to the maximum extent possible, and the applicant acknowledges that tax exemptions are based in part on such policy.
3. The local governing body and the State Board of Equalization shall take into consideration in granting an exemption to a new or expanding business the employment of North Dakota contractors and workers, to the extent they are available and fully qualified, in both the construction and operation phases of the new or expanding business.
4. Any new or expanding business granted a tax exemption under N.D.C.C. ch. 40-57.1 that does not fulfill the commitment it has made regarding the employment of North Dakota contractors and workers in both the construction and operation phases of the new or expanding business will be subject to revocation of the balance of its income tax exemption from the date of the breach of its agreement.
5. Complaints about the implementation of a commitment of a new or expanding business to employ North Dakota contractors or workers shall be handled by a mediation committee composed of three persons appointed by the State Board of Equalization. One member shall represent the new or expanding business, one member shall represent the governing body concerned, and a third member shall represent the interests of North Dakota contractors or workers. The mediation committee will report its findings to the State Board of Equalization.

Adopted by the State Board of Equalization  
August 3, 1993.