

General Information

Schedule ND-1S must be used by individuals in a same-sex marriage recognized by another state who file their federal income tax return using the married filing jointly filing status.

North Dakota law does not recognize a same-sex marriage, even if it is recognized by another state. Individuals in a same-sex marriage recognized by another state cannot file a North Dakota income tax return using the filing status of married filing jointly or married filing separately. Instead, each individual must file a separate North Dakota income tax return using the filing status of single or, if qualified, head of household. If they file a federal income tax return using the married filing jointly filing status, they must complete Schedule ND-1S to determine each individual's share of the adjusted gross income and taxable income reported on their joint federal return. They will then use their separate shares of these amounts to complete their separate North Dakota returns.

This schedule applies to:

- Original returns for tax years 2012 and earlier that are filed on or after September 16, 2013.
- Returns filed for tax years 2013 and after.

For more information, see the *Income Tax Guideline: Filing By Individuals In A Same-Sex Marriage*.

Specific Instructions

No filing requirement check-off

Fill in the circle next to "No filing requirement" if (1) the taxpayer would not be required to file a federal income tax return had the taxpayer filed as a single person or (2) the taxpayer is a nonresident of North Dakota who has no income from North Dakota sources. If either of these apply, the taxpayer does not have to file a North Dakota income tax return.

Lines 1 through 16 Income

In Column A, enter the amounts from the joint federal income tax return on the corresponding lines of Schedule ND-1S.

In Columns B and C, enter the portion of the amount in Column A belonging to each taxpayer. If the income, gain, or loss amount is from property or an account that is jointly owned by the taxpayers, enter one-half of the amount in each column. If both taxpayers received social security benefits, determine each taxpayer's share of the joint taxable amount on the federal return by multiplying the joint taxable amount by a ratio equal to the taxpayer's own gross benefits divided by the combined gross benefits received by both taxpayers. ***The amounts in Column B and C must add up to the amount in Column A.***

Lines 17 through 31 Adjustments to income

In Column A, enter the amounts from the joint federal income tax return on the corresponding lines of Schedule ND-1S. Enter on line 30 any adjustment included in the total adjustments on the federal return for which a separate line is not provided on the federal return.

In Columns B and C, enter the portion of the amount in Column A belonging to each taxpayer. ***The amounts in Column B and C must add up to the amount in Column A.***

Line 32 Federal adjusted gross income

The amount in Column A, line 32, must equal the federal adjusted gross income reported on the joint federal income tax return.

Enter each taxpayer's share of the joint federal adjusted gross income from line 32, Column B or C, on the taxpayer's separate Form ND-1, line D.

Line 33 Standard deduction or itemized deductions

In Column A, enter the amount of the standard deduction or itemized deductions from the joint federal income tax return.

Standard deduction allocation. If the standard deduction was claimed on the joint federal return, enter in Columns B and C each taxpayer's share as follows:

- Enter one-half of the basic standard deduction included in Column A in each taxpayer's column.
- If the amount in Column A includes the additional standard deduction amount for blindness or being age 65 or older, enter that amount in the column for the taxpayer to which it applies.

Itemized deductions allocation. If itemized deductions were claimed on the joint federal return, enter in Columns B and C the portion of the amount in Column A that would have been allowed to the taxpayer had the taxpayer filed a federal return as a single person. As an alternative, multiply the amount in Column A by a ratio equal to the taxpayer's separate federal adjusted gross income divided by the joint federal adjusted gross income.

The amounts in Columns B and C must add up to the amount in Column A.

Line 34 Personal and dependency exemptions

In Column A, enter the total amount for personal and dependency exemptions from the joint federal income tax return.

In Columns B and C, enter each taxpayer's share as follows:

- In each column, include the taxpayer's own personal exemption amount.
- In each column, include the dependency exemption amount that would have been allowed to the taxpayer had the taxpayer filed a federal income tax return as a single person.

The amounts in Columns B and C must add up to the amount in Column A.

Line 35 Federal taxable income

The amount in Column A, line 35, must equal the federal taxable income reported on the joint federal income tax return.

Enter each taxpayer's share of the federal taxable income from line 35, Column B or C, on the taxpayer's separate Form ND-1, line I.