



NATIVE AMERICAN TAX CONTRIBUTIONS IN NORTH DAKOTA - 2020

North Dakota Tribal College Systems (NDTCS)



ALLEN NYGARD
ANC, LLC

ACKNOWLEDGMENTS

The North Dakota Tribal College Systems (NDTCS) was established in 1994 as a private, non-profit organization for the purpose of:

1. Increasing services to students
2. Improving and systematizing relations with the North Dakota University System (NDUS)
3. Conducting research, development of a joint data base
4. Improving the teaching and learning conditions at each of the five institutions
5. Improving governance
6. Improving strategic planning processes
7. Providing an intertribal education forum....to protect tribal rights and the economic progress of American Indians

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The North Dakota tribal colleges are members of the American Indian Higher Education Consortium (AIHEC) that is the national advocacy organization for the 35 tribal colleges and universities (TCUs) in the United States.

In 2013, via a small grant from the AIHEC this study was initially commissioned by NDATC with an update conducted in 2016 and now again in 2020.

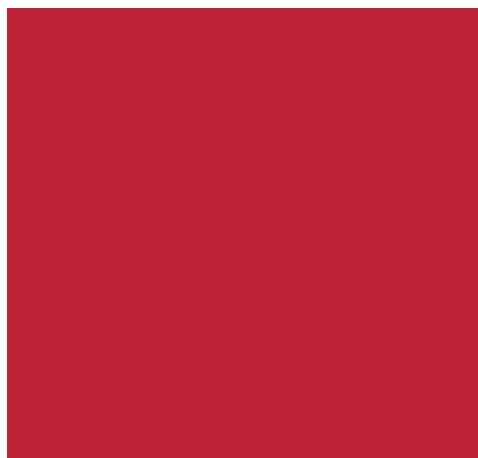
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Credits: The photographs of students and faculty featured on the cover page and throughout the report are provided courtesy of Nueta Hidatsa Sahnish College.

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Native American Tax Contributions in North Dakota

An analysis of Native American tax contributions in North Dakota has never been attempted before our initial assessment in 2013 and again in 2016. Therefore, there is no literature or example of an estimate of any kind. This report estimates the tax contribution of Native Americans to the State of North Dakota's tax base. Personal Tax rates have been reduced as well as corporate tax rates in North Dakota since the 2016 examination.

There has long been a myth that Native Americans do not pay taxes. Further, it is widely surmised that Native Americans do not substantially contribute to the state's taxes in a manner consistent with all non-Native citizens of North Dakota. The general rule of thumb is that Tribes are tax-exempt, individual Native Americans are not. However, there are always exceptions to the rules. Native Americans do not pay taxes on moneys earned from their land allotments, since those lease fees are from the government and were negotiated as part of a treaty. While earning money on the reservation, Native Americans also do not pay state, corporate, or state license fees for income or enterprises on the reservations due to the sovereign status of the reservation. While earning money off the reservation, however, Native Americans are subject to state income, corporate, and licensing taxes like other North Dakota citizens.

Native Americans in North Dakota

Native Americans in North Dakota enjoy tri-citizenship; they are citizens of the United States, they are citizens of their respective Tribal Nation, and they are citizens of the State of North Dakota. They vote in National, Tribal and statewide elections and pay taxes as well.

The **state-wide Native American population** is approximately **54,400 enrolled members** of tribes from all across the Nation. The enrolled membership of the four Native American tribes physically located in North Dakota is approximately **73,630**; including the Trenton Indian Service Area (population 1,800). Not all enrolled members of the four Tribal Nations in North Dakota live in this state. Many reside outside North Dakota and abroad serving in the military services. The enrolled membership that resides on each reservation in North Dakota is approximately **28,845**. There are approximately **25,555 Native Americans** that live off the reservations in North Dakota.

54,400

State-wide enrolled Native Americans

73,630

Enrolled members physically located in North Dakota

28,845

Enrolled members living on reservations in North Dakota

25,555

Enrolled members not living on reservations in North Dakota

	2013		2016		2019	
Native Nation Populations	Enrollment	Reservation	Enrollment	Reservation	Enrollment	Reservation
MHA	12,204	6,341	15,217	8,673	16,690	7,260
Spirit Lake	6,748	4,238	7,256	4,500	8,064	4,281
Standing Rock	16,000	6,414	15,568	7,500	16,076	8,045
Turtle Mountain	31,000	8,320	30,722	9,710	31,000	9,259

Source: ND Indian Affairs Commission, SRST Enrollment, TAT Enrollment, SLN Enrollment, TMBCI

Source: U.S. Census Bureau, 2006–2019 American Community Survey

	State Native Population	Reservation Population	Off Reservation
2013	43,000	25,313	17,687
2016	49,000	28,383	20,617
2019	54,400	28,845	25,555

Source: U.S. Census Bureau, 2006–2019 American Community Survey



Native American Consumption in North Dakota

There is no current published data regarding consumption patterns of Native Americans on the reservations. However, the only known attempt was conducted by Dr. Jim Young prior to his passing in 1997. Dr. Young received his Doctorate in Economics from UCLA. Dr. Young passed prior to publishing his study data. This data is dated and is being used as a reference only since there is no other available data.

Personal Consumption	MHA	SLN	SRST	TMBCI	Average
Durable Goods	13%	15%	15%	15%	14.5%
Autos & Parts	5%	5%	5%	5%	5.0%
Furn & HH Equip	5%	4%	5%	5%	4.8%
Misc. Equip & Mach	2%	5%	4%	4%	3.8%
Others	1%	1%	1%	1%	1.0%
Non-Durable Goods	30%	32%	35%	35%	33.0%
Groceries	15%	18%	15%	15%	15.8%
Clothing	5%	5%	5%	5%	5.0%
Gas/Diesel	5%	5%	10%	7%	6.8%
Heating Oil/Propane	2%	4%	3%	4%	3.3%
Other (Hdwre/Mat)	3%	1%	2%	4%	2.5%
Services	57%	53%	50%	50%	52.5%
Housing	14%	16%	15%	15%	15.0%
Household Utilities	6%	7%	6%	6%	6.3%
Medical Care	16%	10%	5%	16%	11.8%
Transportation (Ins)	4%	7%	9%	4%	6.0%
Pers Svcs, Recreation	17%	13%	15%	9%	13.5%

Native American Income in North Dakota

Reservation per capita income lags well behind the rest of North Dakota. In 2013 we estimated that the 43,000 Native Americans generated about \$509,550,000 in income per year statewide; and in 2016, an estimated 49,000 Native Americans generated about \$595,742,000 in income; and in 2020, an estimated 54,400 Native Americans generated about \$762,960,000. Per capita income is estimated to have increased by 2.6% from 2013 to 2016 and 15.3% from 2016 to 2020.

	Per Capita Income	Total	Reservation	Off Reservation
2013	\$11,850	\$509,550,000	\$299,959,050	\$209,590,950
2016	\$12,158	\$595,742,000	\$345,080,514	\$250,661,486
2019	\$14,025	\$762,960,000	\$404,551,125	\$358,408,875

Source: U.S. Census Bureau, 2006-2019 American Community Survey

North Dakota Tax Law application to Native Americans

North Dakota has a number of taxes that citizens pay each year. We have selected five types of tax that are paid by Native Americans to the state of North Dakota: Personal Income Tax, Sales & Use tax, Motor Fuels Tax, Property Tax, and Corporate Tax. We also include Oil Extraction and Production Taxes. The latter is contributed to the state from lands on the Fort Berthold Reservation only. Native Americans also pay Cigarette, Cell phone service and Alcohol taxes but those taxes are very difficult to determine so we have left them out of this analysis.



PERSONAL INCOME TAX (NDCC CHAPTER 57-38)

Every resident of North Dakota who has a federal income tax filing requirement is required to file a North Dakota income tax return. Every nonresident who has a federal income tax filing requirement and derives income from North Dakota is required to file a North Dakota income tax return.

Exception

- There are exceptions for certain Native Americans, interstate transportation employees, Minnesota and Montana residents, and military personnel and their spouses.
- Income of an enrolled member of a federally recognized Indian tribe, who resides within the boundaries of a reservation in this state or in this state and an adjoining state, is exempt if the income is from activities or sources within the boundaries of the reservation.



CORPORATE TAX (NDCC CHAPTER 57-38)

Every corporation engaged in business in North Dakota or having sources of income in North Dakota must file a North Dakota corporation income tax return.

Exception

- An exemption applies if the corporation is chartered as an Indian corporation and has not chartered with the Secretary of State.



SALES & USE TAX (NDCC CHAPTERS 57-39.2 AND 57-40.2)

1. A 5% tax is imposed upon the gross receipts of retailers from all sales at retail, including the leasing or renting of tangible personal property.
2. The sales tax is paid by the purchaser and collected by the retailer.

Exception

- Gross receipts from all sales made to an Indian tribe are exempt from the 5% tax.
- Gross receipts from sales within the boundaries of any reservation in this state to an individual who resides within the boundaries of any reservation in this state and who is an enrolled member of a federally recognized Indian tribe" are exempt from the 5% tax.

Use Tax

1. The purchase price of tangible personal property purchased outside of the state for storage, use or consumption within the state is subject to a use tax at the rate of 5% of the purchase price of the property.
2. In addition, tangible personal property not originally purchased for use in North Dakota is subject to a use tax at the rate of 5% of the fair market value of the property at the time it was brought into the state.
 - a. Credits are allowed for sales and use taxes paid to other states.
 - b. Use tax rates are the same as the sales tax rates.
 - c. Use tax is collected by any retailer that has sufficient presence in North Dakota.
 - d. When the retailer has not collected sales or use tax, the purchaser is required to report and remit the tax due.

Exception

- Use tax does not apply to items sold on an Indian reservation to an enrolled member of a federally recognized tribe.
- Use tax does not apply to untaxed property brought onto an Indian reservation by an enrolled member of a federally recognized tribe for storage, use, or consumption on the reservation by the enrolled member.



MOTOR FUELS TAX (NDCC CHAPTERS 57-43.1 AND 57-43.2)

A motor vehicle fuel tax of 23 cents per gallon is imposed on motor vehicle fuel, such as gas and gasohol, sold to retailers and consumers. A special fuels tax of 23 cents per gallon on fuels including diesel, biodiesel, kerosene, compressed natural gas, and propane is imposed on fuel sold for use in licensed vehicles. An excise tax of 2% of the value of the sale is applied to sales of propane. An excise tax of 4 cents per gallon is imposed on dyed diesel fuel which is used primarily in vehicles and equipment operating off of the roadways.

Exception

- Native American Tribal agencies are exempt from North Dakota motor vehicle and special fuel taxes. If the tax is paid, the Tribal agency may apply for a full refund.
- A Native American may also apply for a refund of motor vehicle or special fuel taxes paid if the fuel was purchased from a retail fuel dealer located on the Indian reservation where the Native American is an enrolled member and a Fuel Tax Agreement is not in place.
- A Native American, living on the reservation where enrolled, is exempt from tribal tax on purchases of dyed diesel.
- A Native American, living on the reservation where enrolled, is exempt from tribal tax on purchases of propane if the propane is used for purposes such as heating or agriculture. The exemption will not apply if the propane is purchased for use in a vehicle.



PROPERTY TAX (NDCC CHAPTER 57-02)

All real property, unless specifically exempted, is subject to a property tax. In general, personal property is not taxed.

1. The majority of real property is locally assessed.
2. Other properties, such as railroads, public utilities, and air transportation companies, are centrally assessed by the State Board of Equalization.

A mobile home used as a residence or business is subject to the tax if it is 27 or more feet long or is attached to utility services.

The property tax is determined by multiplying the mill rate times the taxable value of real property.

1. Local mill rates are established to meet the revenue needs of the taxing district. To determine the mill rate, the county auditor divides the total property taxes to be collected for each taxing district by the district's total taxable value.
2. The determination of taxable value begins with the true and full value or market value of the property. The true and full value of residential property is usually established by the local assessor. The assessed value is 50% of the true and full value and the taxable value is 9% of the assessed value.

The county determines and collects the tax and distributes the revenue to the county, cities, townships, school districts, and other taxing districts. The tax is due January 1 of each year following the year of assessment and is payable without penalty until March 1.

Exception

- Property of Native Americans, where the title cannot be transferred without the consent of the U.S. Secretary of the Interior, is exempt.
- A mobile home located within the boundaries of a reservation and owned by a Native American who resides on that reservation is not subject to taxation.
- Note that a mobile home located within the boundaries of a reservation, and owned by a Native American, will be subject to tax if the owner does not reside on the reservation.

Native Tax Contributions



PERSONAL INCOME TAX

Personal income tax is typically paid by Native Americans residing off the reservations. North Dakota law requires that every resident of North Dakota who has a federal income tax filing requirement is required to file a North Dakota income tax return. There was an estimated 17,686 Native Americans that lived off reservations in North Dakota in 2013; 20,617 in 2016, and 25,555 in 2020. Those citizens of North Dakota generated approximately \$209,590,950 in wages and salaries in 2013; and \$250,661,486 in 2016; and \$358,408,875 in 2020. The current lowest tax rate in North Dakota is 1.1%, which is reduced from 1.51% since the last study done in 2016. Since most of the Native American population in North Dakota is well below the poverty line, we have opted to use that figure as the most likely. Accordingly, the personal income tax contribution for Native Americans in North Dakota is estimated to be \$3,143,864 or \$178 per person annually in 2013 and \$3,759,922 or \$182 per person annually in 2016, and \$3,942,498 or \$154 per person annually in 2020.

Single

If taxable income is:

Over	But not over	The tax is:	
\$ 0	\$ 38,700	1.10%	of North Dakota Taxable Income
38,700	93,700	2.04%	of North Dakota Taxable Income
93,700	195,450	2.27%	of North Dakota Taxable Income
195,450	424,950	2.64%	of North Dakota Taxable Income
424,950		2.90%	of North Dakota Taxable Income

Married Filing Jointly and Qualifying Widow(er)

If taxable income is:

Over	But not over	The tax is:	
\$ 0	\$ 64,650	1.10%	of North Dakota Taxable Income
64,650	156,150	2.04%	of North Dakota Taxable Income
156,150	237,950	2.27%	of North Dakota Taxable Income
237,950	424,950	2.64%	of North Dakota Taxable Income
424,950		2.90%	of North Dakota Taxable Income

Head of Household

If taxable income is:

Over	But not over	The tax is:	
\$ 0	\$ 51,850	1.10%	of North Dakota Taxable Income
51,850	133,850	2.04%	of North Dakota Taxable Income
133,850	216,700	2.27%	of North Dakota Taxable Income
216,700	424,950	2.64%	of North Dakota Taxable Income
424,950		2.90%	of North Dakota Taxable Income

Married Filing Separately

If taxable income is:

Over	But not over	The tax is:	
\$ 0	\$ 32,325	1.10%	of North Dakota Taxable Income
32,325	78,075	2.04%	of North Dakota Taxable Income
78,075	118,925	2.27%	of North Dakota Taxable Income
118,925	212,475	2.64%	of North Dakota Taxable Income
212,475		2.90%	of North Dakota Taxable Income



SALES AND USE TAX

Sales and use tax touches nearly every Native American in the state regardless of whether they live on the reservation or off the reservation. Native Americans generated \$509,550,000 in wages and salary income annually in 2013; and in 2016 that estimate was \$595,742.000; in 2020 that rose to \$762,960,000. Approximately 85.5% of that income is consumed by non-durable and services purchases of Native Americans. Since reservation economies are not very robust, nearly all those purchases occur off the reservations where Native Americans are subject to sales and use tax. It is safe to estimate that 80% of the wage and salary income of Native Americans is consumed by purchases made off the reservations and generated approximately \$20,382,000 in sales and use tax in 2013 and \$23,829,680 in 2016; and \$30,518,400 in 2020. Furthermore, most of those purchases occur in the major cities of the state; Bismarck, Minot, Grand Forks, Devils Lake. Those local jurisdictions levy local taxes above the 5% state sales and use tax. Those cities benefit greatly by purchases made by Native Americans as well.



MOTOR FUELS TAX

Motor fuels taxes are collected at the pump as consumers by gasoline and diesel fuel. However, that tax is collected up front from the petroleum retailers as they purchase gasoline and diesel fuel from wholesalers. Every Native American citizen of North Dakota is subject to this tax. We estimate that 10% of consumption is related directly to Motor fuels taxes and generated \$11,719.650 in motor fuels taxes annually to North Dakota from Native American citizens in 2013; in 2016, we estimated the contribution from Native Americans to be \$13,702,066; and estimate \$13,133,000 in 2020 using the same criteria.



CORPORATE INCOME TAX

The North Dakota Department of Commerce reports that there are 85 Native American owned corporations off the reservation that average \$340,361 in net income each year that is subject to corporate income tax. We choose to estimate a middle range of tax liability of 4.23% that generates \$1,223,768 in corporate income tax each year. We estimate a contraction of Native owned corporations to an estimate of 80 corporations with an average net income of \$319.619 in 2016 due to the energy sector down turn. We estimate there are approximately 100 Native owned Corporations in North Dakota in 2020 with an average net income subject to corporate income tax of \$329,000. The North Dakota Corporate Income Tax was reduced in 2019.

If taxable income is:

Over	But not over	The tax is:	
\$ 0	\$ 25,000	1.41%	of North Dakota Taxable Income
25,000	50,000	3.55%	of North Dakota Taxable Income
50,000		4.31%	of North Dakota Taxable Income



PROPERTY TAX

Native Americans and Tribes do pay property taxes. Tribes do own fee simple land on and adjacent to reservations that are subject to property taxes. Many Native Americans residing off the reservation are home-owners and they also pay property taxes in the same manner as everyone else in North Dakota. This category is difficult to estimate. However, the Standing Rock Sioux Tribe pays \$42,000 annually in property taxes for fee simple land it owns and the MHA Nation pays well in excess of \$600,000 annually. That is about the middle ground. Some tribes own more land than that and pay more and some Tribes own less land than that and pay less. So, we estimate that that is a conservative number for estimating purposes. This figure does not include personal property tax contributions of individual Native Americans off the reservation. Property tax contribution was estimated to be \$168,000 annually in 2013 and \$497,000 in 2016, and \$642,000 in 2020.



OIL EXTRACTION AND PRODUCTION TAX (NDCC CHAPTERS 57-51 AND 57-51.1)

Oil Extraction and Production Taxes are contributed to the state from lands on the Fort Berthold Reservation only. This tax is a revenue sharing agreement between the MHA Nation and the State of North Dakota. The 2012 contribution of Oil Extraction and Production Taxes to the state was \$21,060,888. As Oil Extraction and Production increased on the reservation, and in 2013 a new tax sharing agreement was negotiated, this amount increased to \$99,560,453 in 2016. In 2019 a new tax sharing agreement was again negotiated along with increased production, this amount increased to \$251,890,120 in 2020.

Annual Tax Contributions by Native American Citizens in North Dakota

The estimated annual tax contribution of Native American citizens of North Dakota in 2013 was \$36,637,282. In 2016, the estimate was \$42,839,803 for an increase of 16.9%; in **2020 the estimate increased to \$49,403,848 for an increase of 15.3%**. This equates to \$852 for every Native man, woman, and child in North Dakota in 2013 and \$874 in 2016; and \$908 in 2020. **If the Oil Extraction and Production Taxes from the MHA Nation are factored in**, that annual contribution of \$57,698,170 in 2013 increases to \$142,400,256 in 2016; and to **\$301,293,968 in 2020**. This equates to \$1,342 in 2013 and \$2,906 in 2016; and \$5,538 in 2020 for every Native man, woman, and child in North Dakota.

	2013		2016		2020	
Source	Base	Contribution	Base	Contribution	Base	Contribution
Personal Income Tax	\$209,590,950	\$3,143,864	\$250,661,486	\$3,759,922	\$358,408,875	\$3,942,498
Sales & Use	\$407,640,000	\$20,382,000	\$476,593,600	\$23,829,680	\$610,368,000	\$30,518,400
Motor Fuels	\$50,955,000	\$11,719,650	\$59,574,200	\$13,702,066	\$57,100,000	\$13,133,000
Corporate	\$28,930,685	\$1,223,768	\$24,849,520	\$1,051,135	\$32,900,000	\$1,162,950
Property*		\$168,000		\$497,000		\$642,000
Total		\$36,637,282		\$42,839,803		\$49,403,848
Oil Production		\$21,060,888		\$99,560,453		\$251,890,120
Grand Total		\$57,698,170		\$142,400,256		\$301,293,968

*Attributable only to the Standing Rock Sioux Tribe and MHA Nation

