

Fifty-sixth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2217

Introduced by

Senators Christmann, Lyson, Wanzek

Representatives Boehm, Brusegaard, Nelson

1 A BILL for an Act to create and enact a new subsection to section 57-39.2-04 of the North
2 Dakota Century Code, relating to a sales and use tax exemption for used farm machinery, farm
3 machinery repair parts, and used irrigation equipment used exclusively for agricultural
4 purposes; to amend and reenact sections 57-39.2-02.1, 57-39.2-08.2, and 57-40.2-02.1 of the
5 North Dakota Century Code, relating to the rate of sales and use tax for new farm machinery
6 and new irrigation equipment used exclusively for agricultural purposes; and to provide an
7 effective date.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1. AMENDMENT.** Section 57-39.2-02.1 of the 1997 Supplement to the
10 North Dakota Century Code is amended and reenacted as follows:

11 **57-39.2-02.1. Sales tax imposed.**

- 12 1. Except as otherwise expressly provided in ~~subsections 2 and 3 for sales of mobile~~
13 ~~homes used for residential or business purposes; for sales of farm machinery, farm~~
14 ~~machinery repair parts, and irrigation equipment used exclusively for agricultural~~
15 ~~purposes; and for sales of coal, and except as otherwise expressly provided in this~~
16 chapter, there is imposed a tax of five percent upon the gross receipts of retailers
17 from all sales at retail including the leasing or renting of tangible personal property
18 as provided in this section, within this state of the following to consumers or users:
- 19 a. Tangible personal property, consisting of goods, wares, or merchandise;
20 ~~except mobile homes used for residential or business purposes and farm~~
21 ~~machinery, farm machinery repair parts, and irrigation equipment used~~
22 ~~exclusively for agricultural purposes.~~
- 23 b. The furnishing or service of communication services or steam other than
24 steam used for processing agricultural products.

- 1 c. Tickets or admissions to places of amusement or entertainment or athletic
2 events, including amounts charged for participation in an amusement,
3 entertainment, or athletic activity, and including the furnishing of bingo cards
4 and the playing of any machine for amusement or entertainment in response
5 to the use of a coin. The tax imposed by this section applies only to eighty
6 percent of the gross receipts collected from coin-operated amusement
7 devices.
- 8 d. Magazines and other periodicals.
- 9 e. The leasing or renting of a hotel or motel room or tourist court
10 accommodations.
- 11 f. The leasing or renting of tangible personal property the transfer of title to
12 which has not been subjected to a retail sales tax under this chapter or a use
13 tax under chapter 57-40.2.
- 14 g. Coal used for heating buildings in this state and coal used in agricultural
15 processing or sugar beet refining plants located within this state or adjacent
16 states.
- 17 2. There is imposed a tax of three percent upon the gross receipts of retailers from all
18 sales at retail of mobile homes used for residential or business purposes, except
19 as provided in subsection 35 of section 57-39.2-04, and of new farm machinery;
20 ~~farm machinery repair parts~~, and new irrigation equipment used exclusively for
21 agricultural purposes, including the leasing or renting of new farm machinery and
22 new irrigation equipment used exclusively for agricultural purposes within this state
23 to consumers or users.
- 24 3. There is imposed a tax of six cents per million British thermal units on all sales at
25 retail of coal, except for coal used for heating buildings in this state and coal used
26 in agricultural processing or sugar beet refining plants located within this state or
27 adjacent states.
- 28 4. In the case of a contract for the construction of highways, roads, streets, bridges,
29 and buildings for which the bid was submitted prior to December 9, 1986, the
30 contractor receiving the award is liable only for the sales or use tax at the rate of
31 tax in effect on the date the bid was submitted.

SECTION 2. A new subsection to section 57-39.2-04 of the 1997 Supplement to the North Dakota Century Code is created and enacted as follows:

Gross receipts from the sale of used farm machinery, farm machinery repair parts, and used irrigation equipment used exclusively for agricultural purposes. For purposes of this subsection, "used" means:

- a. Tax under this chapter has been paid on a previous sale;
- b. Originally purchased outside this state and previously owned by a farmer; or
- c. Has been under lease or rental for three years or more.

SECTION 3. AMENDMENT. Section 57-39.2-08.2 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-39.2-08.2. Sales tax to be added to purchase price and be a debt.

1. Except as otherwise provided in subsection 2, retailers shall add the tax imposed under this chapter, or the average equivalent thereof, to the sales price or charge, and when added, such tax constitutes a part of such price or charge, is a debt from the consumer or user to the retailer until paid, and is recoverable at law in the same manner as other debts. In adding such tax to the price or charge, retailers shall adopt the following bracket system for the application of the tax:

\$0.01 through \$0.15	no tax
\$0.16 through \$0.20	1¢ tax
\$0.21 through \$0.40	2¢ tax
\$0.41 through \$0.60	3¢ tax
\$0.61 through \$0.80	4¢ tax
\$0.81 through \$1.00	5¢ tax

Each additional \$1.00 - 5¢ additional tax, or each additional 20¢ or fraction thereof over \$1.00 - 1¢ additional tax.

2. On retail sales of mobile homes used for residential or business purposes, except as provided in subsection 35 of section 57-39.2-04, and of new farm machinery; ~~farm machinery repair parts~~, and new irrigation equipment used exclusively for agricultural purposes, retailers shall add the tax imposed under this chapter, or the average equivalent thereof, to the sales price or charge, and when added, such tax constitutes a part of such price or charge, is a debt from the consumer or user to

the retailer until paid, and is recoverable at law in the same manner as other debts.
In adding such tax to the price or charge, retailers shall add to it three percent of
such price or charge.

SECTION 4. AMENDMENT. Section 57-40.2-02.1 of the 1997 Supplement to the
North Dakota Century Code is amended and reenacted as follows:

57-40.2-02.1. Use tax imposed.

1. Except as otherwise expressly provided in ~~subsections 2 and 3 for purchases of mobile homes used for residential or business purposes, for purchases of farm machinery, farm machinery repair parts, and irrigation equipment used exclusively for agricultural purposes, and for purchases of coal used for heating buildings in this state and used in agricultural processing or sugar beet refining plants located within this state or adjacent states~~ this chapter, an excise tax is imposed on the storage, use, or consumption in this state of tangible personal property purchased at retail for storage, use, or consumption in this state, at the rate of five percent of the purchase price of the property. Except as limited by section 57-40.2-11, an excise tax is imposed on the storage, use, or consumption in this state of tangible personal property not originally purchased for storage, use, or consumption in this state at the rate of five percent of the fair market value of the property at the time it was brought into this state.
2. An excise tax is imposed on the storage, use, or consumption in this state of mobile homes used for residential or business purposes, except as provided in subsection 19 of section 57-40.2-04, and of new farm machinery, ~~farm machinery repair parts~~, and new irrigation equipment used exclusively for agricultural purposes purchased at retail for storage, use, or consumption in this state at the rate of three percent of the purchase price thereof. Except as limited by section 57-40.2-11, and except as provided in subsection 35 of section 57-39.2-04, an excise tax is imposed on the storage, use, or consumption in this state of mobile homes used for residential or business purposes and of new farm machinery, ~~farm machinery repair parts~~, and new irrigation equipment used exclusively for agricultural purposes not originally purchased for storage, use, or consumption in this state at the rate of three percent of the fair market value of mobile homes used

for residential or business purposes and of new farm machinery, ~~farm machinery~~
~~repair parts~~, and new irrigation equipment used exclusively for agricultural
purposes at the time it was brought into this state.

3. An excise tax is imposed on the storage, use, or consumption in this state of coal
at the rate of six cents per million British thermal units, except for coal used for
heating buildings in this state and coal used in agricultural processing or sugar
beet refining plants located within this state or adjacent states.

4. An excise tax is imposed on the storage, use, or consumption in this state of
natural gas consumed by a final user at the rate of four percent from January 1,
1993, through December 31, 1993; three percent from January 1, 1994, through
December 31, 1994; and two percent after December 31, 1994, if sales tax has not
been applied as provided by section 57-39.2-03.6.

5. In the case of a contract awarded for the construction of highways, roads, streets,
bridges, and buildings prior to December 1, 1986, the contractor receiving the
award shall be liable only for the sales or use tax at the rate of tax in effect on the
date of contract.

SECTION 5. EFFECTIVE DATE. This Act is effective for taxable events occurring after
June 30, 1999.