

PROPOSED AMENDMENTS TO SENATE BILL NO. 2314

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 57-38-30, 57-39.2-02.1, 57-39.2-08.2, 57-40.2-02.1, and 57-40.3-02 of the North Dakota Century Code, relating to corporate income tax rates and sales, use, and motor vehicle excise tax rates; to repeal sections 57-39.2-12.1 and 57-40.2-07.1 of the North Dakota Century Code, relating to a deduction to reimburse retailers for administrative expenses of sales and use tax collection; to provide for a legislative council study; to provide an effective date; and to provide an expiration date.

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

**SECTION 1. AMENDMENT.** Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-30. Imposition and rate of tax on corporations.** A tax is hereby imposed upon the taxable income of every domestic and foreign corporation received from the sources described in sections 57-38-12, 57-38-13, and 57-38-14, which must be levied, collected, and paid annually as in this chapter provided:

1.
  - a. For the first three thousand dollars of taxable income, at the rate of three percent.
  - b. On all taxable income above three thousand dollars and not in excess of eight thousand dollars, at the rate of four and one-half percent.
  - c. On all taxable income above eight thousand dollars and not in excess of twenty thousand dollars, at the rate of six percent.
  - d. On all taxable income above twenty thousand dollars, and not in excess of thirty thousand dollars, at the rate of seven and one-half percent.
  - e. On all taxable income above thirty thousand dollars, and not in excess of fifty thousand dollars, at the rate of nine percent.
  - f. On all taxable income above fifty thousand dollars, at the rate of ten and one-half percent.
2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.
3. Each of the tax rates in subsection 1 is reduced:
  - a. By twenty percent for the first taxable year beginning after December 31, 2003;
  - b. By forty percent for the second taxable year beginning after December 31, 2003;
  - c. By sixty percent for the third taxable year beginning after December 31, 2003;

- d. By eighty percent for the fourth taxable year beginning after December 31, 2003; and
- e. To zero percent for taxable years beginning after December 31, 2007.

**SECTION 2. AMENDMENT.** Section 57-39.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Except as otherwise expressly provided in subsection 2 for sales of mobile homes used for residential or business purposes, and except as otherwise expressly provided in this chapter, there is imposed a tax of five and one-fourth percent upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as provided in this section, within this state of the following to consumers or users:
  - a. Tangible personal property, consisting of goods, wares, or merchandise, except mobile homes used for residential or business purposes and new farm machinery and new irrigation equipment used exclusively for agricultural purposes.
  - b. The furnishing or service of communication services or steam other than steam used for processing agricultural products.
  - c. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity, and including the furnishing of bingo cards and the playing of any machine for amusement or entertainment in response to the use of a coin. The tax imposed by this section applies only to eighty percent of the gross receipts collected from coin-operated amusement devices.
  - d. Magazines and other periodicals.
  - e. The leasing or renting of a hotel or motel room or tourist court accommodations.
  - f. The leasing or renting of tangible personal property the transfer of title to which has not been subjected to a retail sales tax under this chapter or a use tax under chapter 57-40.2.
  - g. Coal mined in this state and used for heating buildings, except for coal used in agricultural processing or sugar beet refining plants.
2. There is imposed a tax of three and one-fourth percent upon the gross receipts of retailers from all sales at retail 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 and new irrigation equipment used exclusively for agricultural purposes, including the leasing or renting of new farm machinery and new irrigation equipment used exclusively for agricultural purposes within this state to consumers or users.
3. In the case of a contract for the construction of highways, roads, streets, bridges, and buildings for which the bid was submitted prior to December 9, 1986, the contractor receiving the award is liable only for the sales or use tax at the rate of tax in effect on the date the bid was submitted.

**SECTION 3. AMENDMENT.** Section 57-39.2-08.2 of 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~~ A retailer shall add the tax imposed under this chapter, or the average equivalent thereof, to the sales price or charge, and when added, ~~such the tax constitutes is a part of such the 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~~ adopted by the commissioner by rule.

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 farm machinery, farm machinery repair parts, and 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 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 subsection 2 for purchases of mobile homes used for residential or business purposes, 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 and one-fourth 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 and one-fourth 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 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 and one-fourth 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 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 and one-fourth percent of the fair market value of mobile homes used for residential or business purposes and of new farm machinery 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 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.
4. 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. AMENDMENT.** Section 57-40.3-02 of the North Dakota Century Code is amended and reenacted as follows:

**57-40.3-02. Tax imposed.** There is hereby imposed an excise tax at the rate of five and one-fourth percent on the purchase price of any motor vehicle purchased or acquired either in or outside of the state of North Dakota for use on the streets and highways of this state and required to be registered under the laws of this state.

**SECTION 6. REPEAL.** Sections 57-39.2-12.1 and 57-40.2-07.1 of the North Dakota Century Code are repealed.

**SECTION 7. LEGISLATIVE COUNCIL STUDY.** The legislative council shall study state income and sales, use, and motor vehicle excise taxes to determine the feasibility and desirability of eliminating state individual and corporate income taxes and providing replacement revenues by expansion of state sales, use, and motor vehicle excise taxes. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-ninth legislative assembly.

**SECTION 8. EFFECTIVE DATE - EXPIRATION DATE.** Section 1 of this Act is effective for taxable years beginning after December 31, 2003. Sections 2 through 5 of this Act are effective for taxable events occurring after December 31, 2004, and before July 1, 2005, and are thereafter ineffective. Section 6 of this Act is effective for taxable events occurring after June 30, 2003."

Renumber accordingly