

January 17, 2009

PROPOSED AMENDMENTS TO SENATE BILL NO. 2186

Page 1, line 3, after "entity" insert "; to amend and reenact section 57-40.2-03.3 of the North Dakota Century Code, relating to a use tax exemption for untaxed materials used by a contractor under contract with an exempt entity"

Page 2, after line 3, insert:

**"SECTION 2. AMENDMENT.** Section 57-40.2-03.3 of the North Dakota Century Code is amended and reenacted as follows:

**57-40.2-03.3. Use tax on contractors.**

1. When a contractor or subcontractor uses tangible personal property in the performance of that person's contract, or to fulfill contract or subcontract obligations, whether the title to such property be in the contractor, subcontractor, contractee, subcontractee, or any other person, or whether the titleholder of such property would be subject to pay the sales or use tax, such contractor or subcontractor shall pay a use tax at the rate prescribed by section 57-40.2-02.1 measured by the purchase price or fair market value of such property, whichever is greater, unless such property has been previously subjected to a sales tax or use tax by this state, and the tax due thereon has been paid.
2. The provisions of this chapter pertaining to the administration of the tax imposed by section 57-40.2-02.1, not in conflict with the provisions of this section, govern the administration of the tax levied by this section.
3. The tax imposed by this section does not apply to ~~medical equipment purchased as tangible personal property by a hospital or by a long-term care facility as defined in section 50-10.1-01 and subsequently installed by a contractor into such hospital or facility~~ property owned or under the control of an exempt entity under a contract between the contractor and that exempt entity. For purposes of this subsection, "exempt entity" means an entity that, if it acquired or used the tangible personal property on its own behalf, would be entitled to a sales or use tax exemption for that acquisition or use.
4. The tax imposed by this section does not apply to:
  - a. Production equipment or tangible personal property as authorized or approved for exemption by the commissioner under section 57-39.2-04.2; or
  - b. Machinery, equipment, or other tangible personal property used to construct an agricultural commodity processing facility as authorized or approved for exemption by the commissioner under section 57-39.2-04.3 or 57-39.2-04.4."

Renumber accordingly