

Sixty-first
Legislative Assembly
of North Dakota

Introduced by

Finance and Taxation Committee

(At the request of the Office of State Tax Commissioner)

1 A BILL for an Act to amend and reenact section 57-39.2-15 of the North Dakota Century Code,
2 relating to the tax commissioner's authority regarding sales tax audit methods.

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

4 **SECTION 1. AMENDMENT.** Section 57-39.2-15 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **57-39.2-15. Failure to file return - Incorrect return.** If a return required by this
7 chapter is not filed, or if a return when filed is incorrect or insufficient, the tax commissioner
8 shall determine the amount of tax due from any information as the tax commissioner may be
9 able to obtain, and, if necessary, may estimate the tax on the basis of external indices, such as
10 number of employees of the person concerned, rentals paid by the person, the person's stock
11 on hand, and other factors. The tax department may, when auditing or examining returns or
12 records and making assessments or refunds, use statistical sampling techniques or other
13 sampling techniques. The tax commissioner shall give notice of the determination to the person
14 liable for the tax. If the determination of tax due relates to an incorrect or insufficient return filed
15 by a taxpayer, notice of the determination must be given not later than three years after the last
16 day on which the return was due or three years after the return was filed, whichever period
17 expires later; if it is determined upon audit that the tax due was twenty-five percent or more
18 above the amount reported on a return, notice of determination of tax due must be given not
19 later than six years after the last day on which the return was due or six years after the return
20 was filed, whichever is later. Notice of determination of tax due for any reporting period for
21 which a taxpayer failed to file a return must be given not later than six years after the due date
22 of the return but if fraudulent information is given in a return or the failure to file a return is due
23 to the fraudulent intent or willful attempt of the taxpayer in any manner to evade the tax, the
24 time limitation herein provided for giving notice of the determination of tax due does not apply.

- 1 The determination of tax due fixes the tax finally and irrevocably unless the person against
- 2 whom it is assessed, within thirty days after the giving of notice of the determination, protests
- 3 the determination under rules adopted by the tax commissioner and under chapter 28-32.