

Sixty-first
Legislative Assembly
of North Dakota

HOUSE BILL NO.

Introduced by

Representative Dosch

1 A BILL for an Act to amend and reenact sections 40-57.3-04, 57-39.2-12.1, and 57-40.2-07.1 of
2 the North Dakota Century Code, relating to a deduction to reimburse retailers for administrative
3 expenses of collecting city lodging, restaurant, and motor vehicle rental taxes and state sales
4 and use taxes; and to provide an effective date.

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

6 **SECTION 1. AMENDMENT.** Section 40-57.3-04 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **40-57.3-04. Payment of tax - Collection by tax commissioner - Administrative**
9 **expenses allowed - Rules.** The taxes imposed under this chapter are due and payable at the
10 same time the taxpayer is required to file a return under chapter 57-39.2 and must be collected
11 and administered by the state tax commissioner in accordance with the relevant provisions of
12 chapter 57-39.2. The amount the tax commissioner remits monthly to each city as taxes
13 collected for that city's visitors' promotion fund and visitors' promotion capital construction fund
14 must be reduced by three percent as an administrative fee necessary to defray the cost of
15 collecting the taxes and the expenses incident to collection. The administrative fee must be
16 deposited in the general fund in the state treasury. The tax commissioner shall adopt rules
17 necessary for the administration of this chapter. The penalties and liabilities provided in
18 sections 57-39.2-18 and 57-39.2-18.1 specifically apply to the filing of returns and
19 administration of the taxes imposed under this chapter.

20 **SECTION 2. AMENDMENT.** Section 57-39.2-12.1 of the North Dakota Century Code
21 is amended and reenacted as follows:

22 **57-39.2-12.1. Deduction to reimburse retailer for administrative expenses.**

23 1. A retailer required to report and pay monthly under section 57-39.2-12 may deduct
24 and retain one and one-half percent of the tax due. The aggregate of deductions

1 allowed by this section and section 57-40.2-07.1 may not exceed eighty-five dollars
2 per month. Retailers that receive compensation under this subsection may not
3 receive additional compensation under subsection 2 or 3 for the same period.

4 2. A certified service provider that contracts with retailers to calculate, collect, and
5 remit tax due on behalf of retailers may deduct and retain from the tax remitted to
6 the tax commissioner compensation or a monetary allowance up to the amount
7 approved by the streamlined sales and use tax governing board effective June 1,
8 2006. The compensation provided in this subsection applies only to tax remitted
9 by certified service providers on behalf of retailers that are remote sellers
10 registered to collect sales and use tax in this state under chapter 57-39.4. Certified
11 service providers that receive compensation under this subsection may not receive
12 additional compensation under subsection 1 or 3 for the same period.

13 3. A retailer that is a remote seller registered to collect sales and use tax under
14 chapter 57-39.4 and that uses a certified automated system to calculate, report,
15 and remit tax due under chapters 57-39.2, 57-39.4, and 57-40.2 may deduct and
16 retain compensation or a monetary allowance up to the amount approved by the
17 streamlined sales and use tax governing board during its December 2006 meeting.
18 Retailers that receive compensation under this subsection may not receive
19 additional compensation under subsection 1 or 2 for the same period.

20 4. For purposes of this section, "remote seller" means a retailer that does not have an
21 adequate physical presence to establish nexus in this state for sales and use tax
22 purposes.

23 5. Compensation may not be deducted and retained under this section unless the tax
24 due is paid within the time limitations under section 57-39.2-12 or 57-40.2-07 or
25 chapter 57-39.4.

26 6. The deduction allowed retailers or certified service providers by this section is to
27 reimburse retailers directly or indirectly for expenses incurred in keeping records,
28 preparing and filing returns, remitting the tax, and supplying information to the tax
29 commissioner upon request.

30 **SECTION 3. AMENDMENT.** Section 57-40.2-07.1 of the North Dakota Century Code
31 is amended and reenacted as follows:

57-40.2-07.1. Deduction to reimburse retailer for administrative expenses.

1. A retailer required to report and pay monthly under section 57-40.2-07 may deduct and retain one and one-half percent of the tax due. The aggregate of deductions allowed by this section and section 57-39.2-12.1 may not exceed eighty-five dollars per month. Retailers that receive compensation under this subsection may not receive additional compensation under subsection 2 or 3 for the same period.
2. A certified service provider that contracts with retailers to calculate, collect, and remit tax due on behalf of retailers may deduct and retain from the tax remitted to the tax commissioner compensation or a monetary allowance up to the amount approved by the streamlined sales and use tax governing board effective June 1, 2006. The compensation provided in this subsection applies only to tax remitted by certified service providers on behalf of retailers that are remote sellers registered to collect sales and use tax in this state under chapter 57-39.4. Certified service providers that receive compensation under this subsection may not receive additional compensation under subsection 1 or 3 for the same period.
3. A retailer that is a remote seller registered to collect sales and use tax under chapter 57-39.4 and that uses a certified automated system to calculate, report, and remit tax due under chapters 57-39.2, 57-39.4, and 57-40.2 may deduct and retain compensation or a monetary allowance up to the amount approved by the streamlined sales and use tax governing board during its December 2006 meeting. Retailers that receive compensation under this subsection may not receive additional compensation under subsection 1 or 2 for the same period.
4. For purposes of this section, "remote seller" means a retailer that does not have an adequate physical presence to establish nexus in this state for sales and use tax purposes.
5. Compensation may not be deducted and retained under this section unless the tax due is paid within the time limitations under section 57-39.2-12 or 57-40.2-07 or chapter 57-39.4.
6. The deduction allowed retailers or certified service providers by this section is to reimburse retailers directly or indirectly for expenses incurred in keeping records,

1 preparing and filing returns, remitting the tax, and supplying information to the tax
2 commissioner upon request.

3 **SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
4 June 30, 2009.