

SENATE BILL NO. 2381

Introduced by

Senators Cook, Stenehjem, Urlacher

Representatives Berg, Drovdal, Weiler

1 A BILL for an Act to amend and reenact sections 57-39.2-12.1 and 57-40.2-07.1 of the North
2 Dakota Century Code, relating to reimbursements to retailers for administrative expenses
3 associated with sales and use tax collection and remittance; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 57-39.2-12.1 of the North Dakota Century Code
6 is amended and reenacted as follows:

7 **57-39.2-12.1. Deduction to reimburse retailer for administrative expenses.**

8 1. A retailer ~~who pays the tax due~~ required to report and pay monthly under section
9 57-39.2-12 ~~or chapter 57-39.4~~ within the time limitations prescribed may deduct
10 and retain one and one-half percent of the tax due. ~~A retailer that is a remote~~
11 ~~seller that, through a certified service provider or by other means, pays the tax due~~
12 ~~within the time limitations under section 57-39.2-12 or chapter 57-39.4 on taxable~~
13 ~~sales made before July 1, 2007, may deduct and retain one and one-half percent~~
14 ~~of the tax due or such lower percentage as agreed in the compensation or~~
15 ~~monetary allowance agreement as approved by the streamlined sales and use tax~~
16 ~~governing board. The limitation of subsection 2 does not apply to the amount a~~
17 ~~retailer who is a remote seller is allowed to deduct and retain under this~~
18 ~~subsection. For purposes of this subsection, "remote seller" means a retailer that~~
19 ~~does not have an adequate physical presence to establish nexus in this state for~~
20 ~~sales tax purposes. The aggregate of deductions allowed by this section and~~
21 ~~section 57-40.2-07.1 may not exceed eighty-five dollars per month. Retailers that~~
22 ~~receive compensation under this subsection may not receive additional~~
23 ~~compensation under subsection 2 or 3 for the same period.~~

- 1 2. ~~The aggregate of deductions allowed by this section and section 57-40.2-07.1 may~~
2 ~~not exceed eighty five dollars per month for permitholders filing on a monthly basis~~
3 ~~for each business location which has been issued a sales or use tax permit by the~~
4 ~~commissioner. A certified service provider that contracts with retailers to calculate,~~
5 ~~collect, and remit tax due on behalf of retailers may deduct and retain from the tax~~
6 ~~remitted to the tax commissioner compensation or a monetary allowance up to the~~
7 ~~amount approved by the streamlined sales and use tax governing board effective~~
8 ~~June 1, 2006. The compensation provided in this subsection applies only to tax~~
9 ~~remitted 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. ~~The deduction allowed retailers by this section is to reimburse retailers for~~
14 ~~expenses incurred in keeping records, preparing and filing returns, remitting the~~
15 ~~tax, and supplying information to the commissioner upon request. A retailer that is~~
16 ~~a remote seller registered to collect sales and use tax under chapter 57-39.4 and~~
17 ~~that uses a certified automated system to calculate, report, and remit tax due under~~
18 ~~chapters 57-39.2, 57-39.4, and 57-40.2 may deduct and retain compensation or a~~
19 ~~monetary allowance up to the amount approved by the streamlined sales and use~~
20 ~~tax governing board during its December 2006 meeting. Retailers that receive~~
21 ~~compensation under this subsection may not receive additional compensation~~
22 ~~under subsection 1 or 2 for the same period.~~
- 23 4. For purposes of this section, "remote seller" means a retailer that does not have an
24 adequate physical presence to establish nexus in this state for sales and use tax
25 purposes.
- 26 5. Compensation may not be deducted and retained under this section unless the tax
27 due is paid within the time limitations under section 57-39.2-12 or 57-40.2-07 or
28 chapter 57-39.4.
- 29 6. The deduction allowed retailers or certified service providers by this section is to
30 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 2. AMENDMENT.** Section 57-40.2-07.1 of the North Dakota Century Code
4 is amended and reenacted as follows:

5 **57-40.2-07.1. Deduction to reimburse retailer for administrative expenses.**

- 6 1. A retailer ~~who pays the tax due~~ required to report and pay monthly under section
7 57-40.2-07 ~~or chapter 57-39.4 within the time limitations prescribed~~ may deduct
8 and retain one and one-half percent of the tax due. ~~A retailer that is a remote~~
9 ~~seller that, through a certified service provider or by other means, pays the tax due~~
10 ~~within the time limitations under section 57-39.2-12 or chapter 57-39.4 on taxable~~
11 ~~sales made before July 1, 2007, may deduct and retain one and one-half percent~~
12 ~~of the tax due or such lower percentage as agreed in the compensation or~~
13 ~~monetary allowance agreement as approved by the streamlined sales and use tax~~
14 ~~governing board. The limitation of subsection 2 does not apply to the amount a~~
15 ~~retailer who is a remote seller is allowed to deduct and retain under this~~
16 ~~subsection. For purposes of this subsection, "remote seller" means a retailer that~~
17 ~~does not have an adequate physical presence to establish nexus in this state for~~
18 ~~sales tax purposes. The aggregate of deductions allowed by this section and~~
19 ~~section 57-39.2-12.1 may not exceed eighty-five dollars per month. Retailers that~~
20 ~~receive compensation under this subsection may not receive additional~~
21 ~~compensation under subsection 2 or 3 for the same period.~~
22 2. ~~The aggregate of deductions allowed by this section and section 57-39.2-12.1 may~~
23 ~~not exceed eighty five dollars per month for permit holders filing on a monthly basis~~
24 ~~for each business location which has been issued a sales or use tax permit by the~~
25 ~~commissioner. A certified service provider that contracts with retailers to calculate,~~
26 ~~collect, and remit tax due on behalf of retailers may deduct and retain from the tax~~
27 ~~remitted to the tax commissioner compensation or a monetary allowance up to the~~
28 ~~amount approved by the streamlined sales and use tax governing board effective~~
29 ~~June 1, 2006. The compensation provided in this subsection applies only to tax~~
30 ~~remitted by certified service providers on behalf of retailers that are remote sellers~~
31 ~~registered to collect sales and use tax in this state under chapter 57-39.4. Certified~~

1 service providers that receive compensation under this subsection may not receive
2 additional compensation under subsection 1 or 3 for the same period.

3 3. ~~The deduction allowed retailers by this section is to reimburse retailers for~~
4 ~~expenses incurred in keeping records, preparing and filing returns, remitting the~~
5 ~~tax, and supplying information to the commissioner upon request. A retailer that is~~
6 a remote seller registered to collect sales and use tax under chapter 57-39.4 and
7 that uses a certified automated system to calculate, report, and remit tax due under
8 chapters 57-39.2, 57-39.4, and 57-40.2 may deduct and retain compensation or a
9 monetary allowance up to the amount approved by the streamlined sales and use
10 tax governing board during its December 2006 meeting. Retailers that receive
11 compensation under this subsection may not receive additional compensation
12 under subsection 1 or 2 for the same period.

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

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

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

23 **SECTION 3. EFFECTIVE DATE.** This Act becomes effective July 1, 2007.