

HOUSE BILL NO. 1310

Introduced by

Representatives Dosch, Berg, Clark, Keiser, Onstad

Senator Grindberg

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 for retailers and tax commissioner - Rules.** The taxes imposed under
10 this chapter are due and payable at the same time the taxpayer is required to file a return under
11 chapter 57-39.2 and must be collected and administered by the state tax commissioner in
12 accordance with the relevant provisions of chapter 57-39.2. A taxpayer required to report and
13 pay taxes imposed under this chapter may deduct and retain three percent of the tax due with
14 each return but the amount allowed to be deducted may not exceed one hundred seventy
15 dollars per month. The deduction allowed retailers is to reimburse retailers for expenses
16 incurred in keeping records, preparing and filing returns, remitting taxes, and supplying
17 information to the tax commissioner upon request. The amount the tax commissioner remits
18 monthly to each city as taxes collected for that city's visitors' promotion fund and visitors'
19 promotion capital construction fund must be reduced by three percent as an administrative fee
20 necessary to defray the cost to the tax commissioner of collecting the taxes and the expenses
21 incident to collection. The administrative fee must be deposited in the general fund in the state
22 treasury. The tax commissioner shall adopt rules necessary for the administration of this
23 chapter. The penalties and liabilities provided in sections 57-39.2-18 and 57-39.2-18.1

1 specifically apply to the filing of returns and administration of the taxes imposed under this
2 chapter.

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

5 **57-39.2-12.1. Deduction to reimburse retailer for administrative expenses.**

- 6 1. A retailer required to report and pay monthly under section 57-39.2-12 may deduct
7 and retain ~~one and one-half~~ three percent of the tax due. The aggregate of
8 deductions allowed by this section and section 57-40.2-07.1 may not exceed
9 ~~eighty-five~~ one hundred seventy dollars per month. Retailers that receive
10 compensation under this subsection may not receive additional compensation
11 under subsection 2 or 3 for the same period.
- 12 2. A certified service provider that contracts with retailers to calculate, collect, and
13 remit tax due on behalf of retailers may deduct and retain from the tax remitted to
14 the tax commissioner compensation or a monetary allowance up to the amount
15 approved by the streamlined sales and use tax governing board effective June 1,
16 2006. The compensation provided in this subsection applies only to tax remitted
17 by certified service providers on behalf of retailers that are remote sellers
18 registered to collect sales and use tax in this state under chapter 57-39.4. Certified
19 service providers that receive compensation under this subsection may not receive
20 additional compensation under subsection 1 or 3 for the same period.
- 21 3. A retailer that is a remote seller registered to collect sales and use tax under
22 chapter 57-39.4 and that uses a certified automated system to calculate, report,
23 and remit tax due under chapters 57-39.2, 57-39.4, and 57-40.2 may deduct and
24 retain compensation or a monetary allowance up to the amount approved by the
25 streamlined sales and use tax governing board during its December 2006 meeting.
26 Retailers that receive compensation under this subsection may not receive
27 additional compensation under subsection 1 or 2 for the same period.
- 28 4. For purposes of this section, "remote seller" means a retailer that does not have an
29 adequate physical presence to establish nexus in this state for sales and use tax
30 purposes.

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

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

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

10 **57-40.2-07.1. Deduction to reimburse retailer for administrative expenses.**

11 1. A retailer required to report and pay monthly under section 57-40.2-07 may deduct
12 and retain ~~one and one-half~~ three percent of the tax due. The aggregate of
13 deductions allowed by this section and section 57-39.2-12.1 may not exceed
14 ~~eighty-five~~ one hundred seventy dollars per month. Retailers that receive
15 compensation under this subsection may not receive additional compensation
16 under subsection 2 or 3 for the same period.

17 2. A certified service provider that contracts with retailers to calculate, collect, and
18 remit tax due on behalf of retailers may deduct and retain from the tax remitted to
19 the tax commissioner compensation or a monetary allowance up to the amount
20 approved by the streamlined sales and use tax governing board effective June 1,
21 2006. The compensation provided in this subsection applies only to tax remitted
22 by certified service providers on behalf of retailers that are remote sellers
23 registered to collect sales and use tax in this state under chapter 57-39.4. Certified
24 service providers that receive compensation under this subsection may not receive
25 additional compensation under subsection 1 or 3 for the same period.

26 3. A retailer that is a remote seller registered to collect sales and use tax under
27 chapter 57-39.4 and that uses a certified automated system to calculate, report,
28 and remit tax due under chapters 57-39.2, 57-39.4, and 57-40.2 may deduct and
29 retain compensation or a monetary allowance up to the amount approved by the
30 streamlined sales and use tax governing board during its December 2006 meeting.

- 1 Retailers that receive compensation under this subsection may not receive
2 additional compensation under subsection 1 or 2 for the same period.
- 3 4. For purposes of this section, "remote seller" means a retailer that does not have an
4 adequate physical presence to establish nexus in this state for sales and use tax
5 purposes.
- 6 5. Compensation may not be deducted and retained under this section unless the tax
7 due is paid within the time limitations under section 57-39.2-12 or 57-40.2-07 or
8 chapter 57-39.4.
- 9 6. The deduction allowed retailers or certified service providers by this section is to
10 reimburse retailers directly or indirectly for expenses incurred in keeping records,
11 preparing and filing returns, remitting the tax, and supplying information to the tax
12 commissioner upon request.

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