

**FIRST ENGROSSMENT  
with Conference Committee Amendments  
ENGROSSED HOUSE BILL NO. 1424**

Introduced by

Representatives Pollert, Weisz, Mueller

Senators Klein, Miller, Wanzek

1 A BILL for an Act to amend and reenact subsection 8 of section 57-39.2-04, sections  
2 57-39.2-12.1, 57-39.5-04, and 57-39.6-04, subsection 9 of section 57-40.2-04, and section  
3 57-40.2-07.1 of the North Dakota Century Code, relating to compensation allowable to retailers  
4 for expenses associated with the collection, reporting, and remittance of state sales, use, and  
5 gross receipts taxes and the sales and use tax exemption for chemicals used for agricultural  
6 purposes; to provide an effective date; and to declare an emergency.

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

8 **SECTION 1. AMENDMENT.** Subsection 8 of section 57-39.2-04 of the North Dakota  
9 Century Code is amended and reenacted as follows:

10 8. Gross receipts from sales of adjuvants ~~required by the chemical label for application of~~  
11 ~~a product warranty, agricultural tank cleaners and foam markers~~, commercial  
12 fertilizers, fungicides, seed treatments, inoculants and fumigants, herbicides, and  
13 insecticides to agricultural or commercial vegetable producers and commercial  
14 applicators; chemicals used to preserve agricultural crops being stored; and seeds,  
15 roots, bulbs, and small plants to commercial users or consumers for planting or  
16 transplanting for commercial vegetable gardens or agricultural purposes.

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

19 **57-39.2-12.1. Deduction to reimburse retailer for administrative expenses.**

20 1. A retailer ~~required~~registered to report and ~~pay monthly~~remit sales, use, or gross  
21 receipts tax imposed under ~~section 57-39.2-12~~chapter 57-39.2, 57-39.5, 57-39.6, or  
22 57-40.2 may deduct and retain one and one-half percent of the tax due. The  
23 aggregate of deductions allowed by this section and section 57-40.2-07.1 may not  
24 exceed ~~eighty-five~~ninety-three dollars and ~~seventy-five~~cents per ~~month~~return.

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

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

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

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

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

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

29          **SECTION 3. AMENDMENT.** Section 57-39.5-04 of the North Dakota Century Code is  
30          amended and reenacted as follows:

1       **57-39.5-04. Administration.**

2       The provisions of chapter 57-39.2 pertaining to administration of the retail sales tax,  
3 including provisions for refund, credits, retailer compensation, or adoption of rules, not in  
4 ~~compliance~~conflict with this chapter or federal law, govern the administration of the gross  
5 receipts tax imposed in this chapter.

6       **SECTION 4. AMENDMENT.** Section 57-39.6-04 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8       **57-39.6-04. Administration.**

9       The provisions of chapter 57-39.2, pertaining to administration of the retail sales tax,  
10 including provisions for refund, credits, retailer compensation, or adoption of rules, not in conflict  
11 with this chapter or federal law, govern the administration of the gross receipts tax imposed in  
12 this chapter.

13       **SECTION 5. AMENDMENT.** Subsection 9 of section 57-40.2-04 of the North Dakota  
14 Century Code is amended and reenacted as follows:

15       9.   ~~Adjuvants required by the chemical label for application of a product warranty,~~  
16       agricultural tank cleaners and foam markers, commercial fertilizers, fungicides, seed  
17       treatments, inoculants and fumigants, herbicides and insecticides used by agricultural  
18       or commercial vegetable producers and commercial applicators; chemicals used to  
19       preserve agricultural crops being stored; and seeds, roots, bulbs, and small plants  
20       used by commercial users or consumers for planting or transplanting for commercial  
21       vegetable gardens or agricultural purposes.

22       **SECTION 6. AMENDMENT.** Section 57-40.2-07.1 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24       **57-40.2-07.1. Deduction to reimburse retailer for administrative expenses.**

25       1.   A retailer ~~required~~registered to report and ~~pay monthly~~remit sales, use, or gross  
26       receipts tax imposed under ~~section 57-40.2-07~~chapter 57-39.2, 57-39.5, 57-39.6, or  
27       57-40.2 may deduct and retain one and one-half percent of the tax due. The  
28       aggregate of deductions allowed by this section and section 57-39.2-12.1 may not  
29       exceed ~~eighty-five~~ninety-three dollars ~~and seventy-five cents~~per monthreturn.  
30       Retailers that receive compensation under this subsection may not receive additional  
31       compensation under subsection 2 or 3 for the same period.

- 1           2. A certified service provider that contracts with retailers to calculate, collect, and remit  
2 tax due on behalf of retailers may deduct and retain from the tax remitted to the tax  
3 commissioner compensation or a monetary allowance up to the amount approved by  
4 the streamlined sales and use tax governing board effective June 1, 2006. The  
5 compensation provided in this subsection applies only to tax remitted by certified  
6 service providers on behalf of retailers that are remote sellers registered to collect  
7 sales and use tax in this state under chapter 57-39.4. Certified service providers that  
8 receive compensation under this subsection may not receive additional compensation  
9 under subsection 1 or 3 for the same period.
- 10          3. A retailer that is a remote seller registered to collect sales and use tax under  
11 chapter 57-39.4 and that uses a certified automated system to calculate, report, and  
12 remit tax due under chapters 57-39.2, 57-39.4, and 57-40.2 may deduct and retain  
13 compensation or a monetary allowance up to the amount approved by the streamlined  
14 sales and use tax governing board during its December 2006 meeting. Retailers that  
15 receive compensation under this subsection may not receive additional compensation  
16 under subsection 1 or 2 for the same period.
- 17          4. For purposes of this section, "remote seller" means a retailer that does not have an  
18 adequate physical presence to establish nexus in this state for sales and use tax  
19 purposes.
- 20          5. Compensation may not be deducted and retained under this section unless the tax  
21 due is paid within the time limitations under section 57-39.2-12 or 57-40.2-07 or  
22 chapter 57-39.4.
- 23          6. The deduction allowed retailers or certified service providers by this section is to  
24 reimburse retailers directly or indirectly for expenses incurred in keeping records,  
25 preparing and filing returns, remitting the tax, and supplying information to the tax  
26 commissioner upon request.

27       **SECTION 7. EFFECTIVE DATE.** Sections 2, 3, 4, and 6 of this Act are effective for taxable  
28 events occurring after December 31, 2011.

29       **SECTION 8. EMERGENCY.** This Act is declared to be an emergency measure.