

**HOUSE BILL NO. 1236**

Introduced by

Representatives Headland, Belter, Brandenburg, Silbernagel, Trottier

Senators Campbell, Cook, Klein, Miller, Wanzek

1 A BILL for an Act to create and enact section 57-39.5-06 of the North Dakota Century Code,  
2 relating to payment of farm machinery gross receipts taxes under a lease agreement; to amend  
3 and reenact sections 57-39.5-01, 57-39.5-01.1, and 57-39.5-02 of the North Dakota Century  
4 Code, relating to farm machinery gross receipts tax application in lease or rental agreements  
5 and what qualifies as used farm machinery for farm machinery gross receipts tax purposes; and  
6 to provide an effective date.

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

8 **SECTION 1. AMENDMENT.** Section 57-39.5-01 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **57-39.5-01. Definitions.**

11 Words used in this chapter have the same meaning as provided in chapter 57-39.2. As  
12 used in this chapter:

- 13 1. "Attachment unit" means any part or combination of parts having an independent  
14 function, other than farm machinery repair parts, which when attached or affixed to  
15 farm machinery is used exclusively for agricultural purposes.
- 16 2. "Farm machinery" means all vehicular implements and attachment units, designed and  
17 sold for direct use in planting, cultivating, or harvesting farm products or used in  
18 connection with the production of agricultural produce or products, livestock, or poultry  
19 on farms, which are operated, drawn, or propelled by motor or animal power. "Farm  
20 machinery" does not include vehicular implements operated wholly by hand or a motor  
21 vehicle required to be registered under chapter 57-40.3. "Farm machinery" does not  
22 include machinery that may be used for other than agricultural purposes, including  
23 tires, farm machinery repair parts, tools, shop equipment, grain bins, feed bunks,  
24 fencing materials, and other farm supplies and equipment.

1       3. "Lease" or "leasing" means an agreement with a term of more than eleven months,  
2           between two persons for the possession and use of property and which may or may  
3           not include provision for a transfer of ownership of the property.

4       4. "Rent" or "renting" means an agreement with a term of not more than eleven months,  
5           between two persons for the possession and use of property and which does not  
6           include provision for a transfer of ownership of the property.

7       **SECTION 2. AMENDMENT.** Section 57-39.5-01.1 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9       **57-39.5-01.1. Trade-in deduction.**

10       When tangible personal property is taken in trade or in a series of trades as a credit or  
11 partial payment of a retail sale or lease agreement with the same lessor which is taxable under  
12 this chapter, if the tangible personal property traded in will be subject to gross receipts taxes  
13 imposed by this chapter, sales taxes imposed by chapter 57-39.2, or motor vehicle excise taxes  
14 imposed by chapter 57-40.3, or if the tangible personal property traded in is used farm  
15 machinery or used irrigation equipment, the credit or trade-in value allowed by the retailer is not  
16 gross receipts.

17       **SECTION 3. AMENDMENT.** Section 57-39.5-02 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19       **57-39.5-02. Imposition - Exemptions.**

20       There is imposed a tax of three percent upon the gross receipts of retailers from all sales at  
21 retail, including the leasing or renting, of farm machinery or irrigation equipment used  
22 exclusively for agricultural purposes. Gross receipts from sales at retail of farm machinery or  
23 irrigation equipment are exempted from the tax imposed by this chapter when the sale, lease, or  
24 rental is made to a purchaser or lessor who is entitled to a sales and use tax exemption under  
25 subsection 6 or 12 of section 57-39.2-04 on otherwise taxable sales at retail. There are  
26 specifically exempted from the tax imposed by this chapter the gross receipts from the sale of,  
27 lease, or rental of used farm machinery, farm machinery repair parts, used irrigation equipment,  
28 or irrigation equipment repair parts used exclusively for agricultural purposes. For purposes of  
29 this section, "used" means:

30       1. Tax under this chapter or chapter 57-39.2 or 57-40.2 has been paid on a previous  
31 sale;

- 1        2. Tax under section 57-39.5-06 has been paid under a previous lease:  
2        3. Originally purchased outside this state and previously owned by a farmer; or  
3        ~~3.4.~~ Has been under lease or rental for three years or more.

4        **SECTION 4.** Section 57-39.5-06 of the North Dakota Century Code is created and enacted  
5 as follows:

6        **57-39.5-06. Payment of tax under lease agreement.**

7        At the time of entering a lease agreement for new farm machinery or irrigation equipment  
8 subject to taxes under this chapter, the lessor either shall collect and remit to the tax  
9 commissioner the full amount of tax due under this chapter based on the cumulative value of  
10 not less than three years of lease payments or include that amount in the payments due under  
11 the agreement and remit those amounts to the tax commissioner as they are collected. If a  
12 lease agreement is terminated before its scheduled termination under the agreement, the lessor  
13 shall collect and remit to the tax commissioner any remaining uncollected taxes due under the  
14 agreement.

15        **SECTION 5. EFFECTIVE DATE.** Sections 1 and 2 of this Act are effective for taxable  
16 events occurring after June 30, 2013. Section 3 of this Act is effective for lease agreements  
17 entered after June 30, 2013.