

Sixty-fourth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1243

Introduced by

Representatives B. Koppelman, Klein, Louser, Owens, Silbernagel, Streyle, Trottier

Senators Cook, Laffen, Larsen, Miller, Schaible

1 A BILL for an Act to create and enact a new section to chapter 57-39.2 and a new section to  
2 chapter 57-39.5 of the North Dakota Century Code, relating to refunds of sales tax and farm  
3 machinery gross receipts tax paid by a resident of an adjoining state; to amend and reenact  
4 sections 57-39.2-28 and 57-39.6-02, and subdivision d of subsection 1 of section 57-40.6-14 of  
5 the North Dakota Century Code, relating to refunds of sales tax paid by Canadian residents, the  
6 alcoholic beverages gross receipts tax, and prepaid 911 fees paid by a resident of an adjoining  
7 state; to repeal subsection 12 of section 57-39.2-04 of the North Dakota Century Code, relating  
8 to refunds of sales tax paid by a resident of an adjoining state; and to provide an effective date.

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

10 **SECTION 1. AMENDMENT.** Section 57-39.2-28 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **57-39.2-28. Refunds for Canadian residents.**

13 The tax imposed under this chapter on gross receipts from sales made to a person who is a  
14 resident of Canada may be refunded under the following conditions:

- 15 1. The Canadian resident was in North Dakota for the express purpose of making a  
16 purchase, and not as a tourist.
- 17 2. The goods will be removed from North Dakota within thirty days of purchase and will  
18 be used permanently outside North Dakota.
- 19 3. The Canadian resident applies ~~in writing to~~ in the manner prescribed by the  
20 ~~commissioner on a form as the commissioner may prescribe~~ reciting sufficient facts  
21 establishing the exempt status of the sale.
- 22 4. The qualifying sale is one in which the total gross receipts from each individual  
23 transaction, which may involve one or more items, equals ~~twenty-five~~ one hundred  
24 dollars or more of taxable products.

1       5. The refund is ~~fifteensixty~~sixty dollars or more. Qualifying sales may be accumulated for  
2           periods not in excess of one calendar year in order to reach the ~~fifteensixty~~sixty dollar limit.

3       6. A claim for refund must be submitted to the commissioner on or before March thirty-first  
4           following the calendar year of purchase.

5       7. Notwithstanding section 57-39.2-23, the commissioner may provide names and  
6           addresses of Canadian residents claiming a North Dakota sales tax refund to the  
7           director of the department of commerce division of tourism.

8       **SECTION 2.** A new section to chapter 57-39.2 of the North Dakota Century Code is created  
9       and enacted as follows:

10       **Refunds for residents of an adjoining state.**

11       The tax imposed under this chapter on gross receipts from sales made to a person of an  
12       adjoining state that does not impose or levy a retail sales tax may be refunded under the  
13       following conditions:

14       1. The person was in North Dakota for the express purpose of making a purchase.

15       2. The goods will be removed from North Dakota within thirty days of purchase and will  
16           be used permanently outside North Dakota.

17       3. The purchaser applies in the manner prescribed by the tax commissioner reciting  
18           sufficient facts establishing the exempt status of the sale.

19       4. The qualifying sale is one in which the total gross receipts from each individual  
20           transaction, which may involve one or more items, equals one hundred dollars or more  
21           of taxable products.

22       5. The refund is sixty dollars or more. Qualifying sales may be accumulated for periods  
23           not in excess of one calendar year in order to reach the sixty-dollar limit.

24       6. The refund application and supporting documentation are submitted to the tax  
25           commissioner on or before March thirty-first following the calendar year of purchase.

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

28       **57-39.5-02. Imposition - Exemptions.**

29       There is imposed a tax of three percent upon the gross receipts of retailers from all sales at  
30       retail, including the leasing or renting, of farm machinery or irrigation equipment used  
31       exclusively for agricultural purposes. Gross receipts from sales at retail of farm machinery or

1 irrigation equipment are exempted from the tax imposed by this chapter when the sale, lease, or  
2 rental is made to a purchaser or lessor who is entitled to a sales and use tax exemption under  
3 subsection 6 ~~or 12~~ of section 57-39.2-04 on otherwise taxable sales at retail. There are  
4 specifically exempted from the tax imposed by this chapter the gross receipts from the sale,  
5 lease, or rental of used farm machinery, farm machinery repair parts, used irrigation equipment,  
6 or irrigation equipment repair parts used exclusively for agricultural purposes. For purposes of  
7 this section, "used" means:

- 8 1. Tax under this chapter or chapter 57-39.2 or 57-40.2 has been paid on a previous  
9 sale;
- 10 2. Tax under section 57-39.5-06 has been paid under a previous lease;
- 11 3. Originally purchased outside this state and previously owned by a farmer; or
- 12 4. Has been under rental for three years or more.

13 **SECTION 4.** A new section to chapter 57-39.5 of the North Dakota Century Code is created  
14 and enacted as follows:

15 **Sales to residents of an adjoining state.**

16 The gross receipts from sales, which are otherwise taxable under this chapter or chapter  
17 57-39.2 or 57-40.6, made to a person who is a resident of an adjoining state that does not  
18 impose or levy a farm machinery gross receipts tax, are exempt if:

- 19 1. The retailer's gross receipts from sales of farm machinery and irrigation equipment  
20 during the preceding calendar year are seventy-five percent or more of the retailer's  
21 total receipts.
- 22 2. The retailer makes an election to not collect the farm machinery gross receipts tax on  
23 sales of farm machinery and irrigation equipment as provided in this section.
  - 24 a. The election must be made on a form prescribed by the tax commissioner, and  
25 must be filed with the tax commissioner on or before January first of the year the  
26 election will apply. An election is binding for subsequent calendar years unless  
27 the retailer's gross receipts for the preceding calendar year fail to meet the  
28 threshold in subsection 1 or the retailer notifies the tax commissioner that it is  
29 opting out of the election effective for the following calendar year. The tax  
30 commissioner may revoke the election for failure to comply with the requirements  
31 of this section.

1           b. A retailer that does not have a valid election in effect shall collect the tax as  
2           provided in chapter 57-39.2 and this chapter, and any purchaser of farm  
3           machinery and irrigation equipment may apply for a refund of the tax paid under  
4           the following conditions:

5           (1) The person was in North Dakota for the express purpose of making a  
6           purchase.

7           (2) The goods will be removed from North Dakota within thirty days of purchase  
8           and will be used permanently outside North Dakota.

9           (3) The purchaser applies in the manner prescribed by the tax commissioner  
10          reciting sufficient facts establishing the exempt status of the sale.

11          (4) The qualifying sale is one in which the total gross receipts from each  
12          individual transaction, which may involve one or more items, equals one  
13          hundred dollars or more of taxable products.

14          (5) The refund is sixty dollars or more. Qualifying sales may be accumulated for  
15          periods not in excess of one calendar year in order to reach the sixty dollar  
16          limit.

17          (6) The refund application and supporting documentation are submitted to the  
18          tax commissioner on or before March thirty first following the calendar year  
19          of purchase.

20          c. The election must be applied to all purchasers who are persons residing in an  
21             adjoining state that does not impose or levy a farm machinery gross receipts tax.

22          3. The adjoining state does not impose or levy a farm machinery gross receipts tax.

23          4. The person was in North Dakota for the express purpose of making a purchase.

24          5. The goods will be removed from North Dakota within thirty days of purchase and will  
25          be used permanently outside North Dakota.

26          6. The qualifying sale is one in which the total gross receipts from each individual  
27          transaction, which may involve one or more items, equals one hundred dollars or more  
28          of taxable products.

29          7. The person furnishes to the retailer a signed affidavit, prescribed by the tax  
30          commissioner, reciting sufficient facts establishing the exempt status of the sale. By

1           March thirty-first, the retailer shall file a report of the previous calendar year's exempt  
2           farm machinery sales, in a form and manner approved by the tax commissioner.

3           **SECTION 5. AMENDMENT.** Section 57-39.6-02 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **57-39.6-02. Gross receipts tax on alcoholic beverages - Exemption.**

6           There is imposed a tax of seven percent on the gross receipts of retailers from all sales at  
7 retail of alcoholic beverages. Gross receipts from sales at retail of alcoholic beverages are  
8 exempted from the tax imposed by this chapter when the sale is made to a purchaser who is  
9 entitled to a sales and use tax exemption under subsection 6 ~~or 12~~ of section 57-39.2-04 on  
10 otherwise taxable sales. Purchasers may claim a refund of the tax imposed under this chapter if  
11 the purchaser meets the refund requirements and complies with the procedures under section  
12 57-39.2-28 or section 2 of this Act.

13           **SECTION 6. AMENDMENT.** Subdivision d of subsection 1 of section 57-40.6-14 of the  
14 North Dakota Century Code is amended and reenacted as follows:

15           d. Gross receipts from sales at retail of prepaid wireless services are exempt from  
16 the prepaid wireless emergency 911 fee imposed by this section when the sale is  
17 made to a person entitled to a sales and use tax exemption under subsection 6  
18 ~~or 12~~ of section 57-39.2-04 or section 4 of this Act. Purchasers may claim a  
19 refund of the tax imposed under this chapter if a retailer does not make an  
20 election under section 4 of this Act, or if the purchaser meets the refund  
21 requirements and complies with the procedures under section 2 of this Act.

22           **SECTION 7. REPEAL.** Subsection 12 of section 57-39.2-04 of the North Dakota Century  
23 Code is repealed.

24           **SECTION 8. EFFECTIVE DATE.** This Act is effective for taxable purchases made after  
25 December 31, 2015.