

HB 1309

Mr. Chairman and members of the Finance and Taxation Committee, my name is Rep. Ben Koppelman of District 16, and I thank you for the opportunity to introduce this bill in front of your committee.

HB 1309 is a bill that would exempt contractors for being required to pay *Use Tax* on items that they did not sell or buy. Since they were not a party to the sale, it would make sense to me that they should not be responsible for collecting or paying sales or use tax just because they happened to touch an item.

For example, lets say that a national restaurant franchise owner that was based out of Texas, was planning to build a location in North Dakota. Upon the building being built, he purchases \$250,000 of kitchen equipment from a company out of California and has it shipped to the location in North Dakota. He then hires a North Dakota small business for \$6,000 to receive and unload the truck containing the kitchen equipment and to set up and install the equipment in the kitchen of the new restaurant. Upon the completion of the install, the franchise owner takes possession of the restaurant and all of its contents. A year and a half later, the Tax Department audits the restaurant and sees that the California based equipment supplier never charged or remitted sales tax on the purchase, and neither the equipment supplier nor franchise owner will respond to requests by the Tax Department to pay the tax that is due. During the audit, the Tax Department also had seen that the ND small business was paid to receive and install the equipment. The Tax Department then informs the small business that since neither sales nor use tax was collected from retailer or the franchisee, that they will have to remit \$12,500. The small business appeals claiming that they were not party to any sale of kitchen equipment, and that they have no documentation that would indicate the terms of the sale, but they are informed that they owe the tax anyway. Thus, a small business that charged \$6,000 to install kitchen equipment, now has to pay over double that amount to the government just because they touched it and installed it.

This example, although maybe more extreme than some other examples, demonstrates the inequity of our law. Why should someone not party to a sale be responsible for the sales/ use tax on that sale. Surely we wouldn't expect an accountant who prepares an income tax return for a client to pay that client's income tax out of his pocket just because the client refused to pay the state, would we?

I thank you for your time, and request that you give HB 1309 a Do-Pass recommendation.