

**Sixtieth Legislative Assembly of North Dakota  
In Regular Session Commencing Wednesday, January 3, 2007**

SENATE BILL NO. 2381  
(Senators Cook, Stenehjem, Urlacher)  
(Representatives Berg, Drovdal, Weiler)

AN ACT to amend and reenact sections 57-39.2-12.1 and 57-40.2-07.1 of the North Dakota Century Code, relating to reimbursements to retailers for administrative expenses associated with sales and use tax collection and remittance; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 57-39.2-12.1 of the North Dakota Century Code is amended and reenacted as follows:

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

1. ~~A retailer who pays the tax due required to report and pay monthly under section 57-39.2-12 or chapter 57-39.4 within the time limitations prescribed may deduct and retain one and one-half percent of the tax due. A retailer that is a remote seller that, through a certified service provider or by other means, pays the tax due within the time limitations under section 57-39.2-12 or chapter 57-39.4 on taxable sales made before July 1, 2007, may deduct and retain one and one-half percent of the tax due or such lower percentage as agreed in the compensation or monetary allowance agreement as approved by the streamlined sales and use tax governing board. The limitation of subsection 2 does not apply to the amount a retailer who is a remote seller is allowed to deduct and retain under this subsection. For purposes of this subsection, "remote seller" means a retailer that does not have an adequate physical presence to establish nexus in this state for sales tax purposes. The aggregate of deductions allowed by this section and section 57-40.2-07.1 may not exceed eighty-five dollars per month. Retailers that receive compensation under this subsection may not receive additional compensation under subsection 2 or 3 for the same period.~~
2. ~~The aggregate of deductions allowed by this section and section 57-40.2-07.1 may not exceed eighty-five dollars per month for permit holders filing on a monthly basis for each business location which has been issued a sales or use tax permit by the commissioner. A certified service provider that contracts with retailers to calculate, collect, and remit tax due on behalf of retailers may deduct and retain from the tax remitted to the tax commissioner compensation or a monetary allowance up to the amount approved by the streamlined sales and use tax governing board effective June 1, 2006. The compensation provided in this subsection applies only to tax remitted by certified service providers on behalf of retailers that are remote sellers registered to collect sales and use tax in this state under chapter 57-39.4. Certified service providers that receive compensation under this subsection may not receive additional compensation under subsection 1 or 3 for the same period.~~
3. ~~The deduction allowed retailers by this section is to reimburse retailers for expenses incurred in keeping records, preparing and filing returns, remitting the tax, and supplying information to the commissioner upon request. A retailer that is a remote seller registered to collect sales and use tax under chapter 57-39.4 and that uses a certified automated system to calculate, report, and remit tax due under chapters 57-39.2, 57-39.4, and 57-40.2 may deduct and retain compensation or a monetary allowance up to the amount approved by the streamlined sales and use tax governing board during its December 2006~~

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

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

**SECTION 2. AMENDMENT.** Section 57-40.2-07.1 of the North Dakota Century Code is amended and reenacted as follows:

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

1. A retailer who pays the tax due required to report and pay monthly under section 57-40.2-07 or chapter 57-39.4 within the time limitations prescribed may deduct and retain one and one-half percent of the tax due. A retailer that is a remote seller that, through a certified service provider or by other means, pays the tax due within the time limitations under section 57-39.2-12 or chapter 57-39.4 on taxable sales made before July 1, 2007, may deduct and retain one and one-half percent of the tax due or such lower percentage as agreed in the compensation or monetary allowance agreement as approved by the streamlined sales and use tax governing board. The limitation of subsection 2 does not apply to the amount a retailer who is a remote seller is allowed to deduct and retain under this subsection. For purposes of this subsection, "remote seller" means a retailer that does not have an adequate physical presence to establish nexus in this state for sales tax purposes. The aggregate of deductions allowed by this section and section 57-39.2-12.1 may not exceed eighty-five dollars per month. Retailers that receive compensation under this subsection may not receive additional compensation under subsection 2 or 3 for the same period.
2. The aggregate of deductions allowed by this section and section 57-39.2-12.1 may not exceed eighty-five dollars per month for permitholders filing on a monthly basis for each business location which has been issued a sales or use tax permit by the commissioner. A certified service provider that contracts with retailers to calculate, collect, and remit tax due on behalf of retailers may deduct and retain from the tax remitted to the tax commissioner compensation or a monetary allowance up to the amount approved by the streamlined sales and use tax governing board effective June 1, 2006. The compensation provided in this subsection applies only to tax remitted by certified service providers on behalf of retailers that are remote sellers registered to collect sales and use tax in this state under chapter 57-39.4. Certified service providers that receive compensation under this subsection may not receive additional compensation under subsection 1 or 3 for the same period.
3. The deduction allowed retailers by this section is to reimburse retailers for expenses incurred in keeping records, preparing and filing returns, remitting the tax, and supplying information to the commissioner upon request. A retailer that is a remote seller registered to collect sales and use tax under chapter 57-39.4 and that uses a certified automated system to calculate, report, and remit tax due under chapters 57-39.2, 57-39.4, and 57-40.2 may deduct and retain compensation or a monetary allowance up to the amount approved by the streamlined sales and use tax governing board during its December 2006 meeting. Retailers that receive compensation under this subsection may not receive additional compensation under subsection 1 or 2 for the same period.

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

**SECTION 3. EFFECTIVE DATE.** This Act becomes effective July 1, 2007.

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President of the Senate

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Speaker of the House

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Secretary of the Senate

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Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2381.

Senate Vote:    Yeas    46        Nays    0        Absent    1

House Vote:    Yeas    73        Nays    16       Absent    5

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2007.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2007.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2007,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State