

**Sixty-second Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 4, 2011**

SENATE BILL NO. 2202  
(Senators Klein, Hogue, Sorvaag)  
(Representatives Hatlestad, Heller, Streyle)

AN ACT to amend and reenact sections 57-39.2-04.5, 57-39.2-04.6, and 57-40.2-03.3 of the North Dakota Century Code, relating to the sales and use tax exemption for materials used in compressing, processing, gathering, or refining gas, the sales and use tax exemption for materials used in construction or expansion of an oil refinery, and the use tax on contractors; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 57-39.2-04.5 of the North Dakota Century Code is amended and reenacted as follows:

**57-39.2-04.5. Sales and use tax exemption for materials used in compressing, processing, gathering, or refining of gas.**

1. Gross receipts from sales of tangible personal property used to construct or expand a system used to compress, process, gather, or refine gas recovered from an oil or gas well in this state or used to expand or build a gas-processing facility in this state are exempt from taxes under this chapter. To be exempt, the tangible personal property must be incorporated into a system used to compress, process, gather, or refine gas. Tangible personal property used to replace an existing system to compress, process, gather, or refine gas does not qualify for exemption under this section unless the replacement creates an expansion of the system.
2. To receive the exemption under this section at the time of purchase, the owner of the gas compressing, processing, gathering, or refining system must receive from the tax commissioner a certificate that the tangible personal property used to construct or expand a system used to compress, process, gather, or refine gas recovered from an oil or gas well in this state or used to expand or build a gas-processing facility in this state which the owner intends to purchase qualifies for exemption. If a certificate is not received before the purchase, the owner shall pay the applicable tax imposed by this chapter and apply to the tax commissioner for a refund.
3. If the tangible personal property is purchased ~~and~~ installed by a contractor subject to the tax imposed by this chapter, the owner of the gas compressing, processing, gathering, or refining system ~~must~~ may apply to the tax commissioner for a refund of ~~sales and use taxes paid by any contractor, subcontractor, or builder for which the sales or use is claimed as exempt under the difference between the amount remitted by the contractor and the exemption imposed or allowed by~~ this section. Application for a refund must be made at the times and in the manner directed by the tax commissioner and must include sufficient information to permit the tax commissioner to verify the sales and use taxes paid and the exempt status of the sale or use.

**SECTION 2. AMENDMENT.** Section 57-39.2-04.6 of the North Dakota Century Code is amended and reenacted as follows:

**57-39.2-04.6. Sales and use tax exemption for materials used in construction or expansion of an oil refinery.**

1. Gross receipts from sales of tangible personal property used in expanding or constructing an oil refinery that has a nameplate capacity of processing at least five thousand barrels of oil per day in this state are exempt from taxes under this chapter.

2. ~~TheTo receive the exemption at the time of purchase, the owner of the tangible personal propertyoil refinery must apply toreceive from the tax commissioner for a refund of sales and use taxes paid by any contractor, subcontractor, or builder for which the sales or use is claimed as exempt under this sectiona certificate that the tangible personal property used to construct or expand an oil refinery qualifying under this section which the owner intends to purchase qualifies for the exemption. If a certificate is not received before the purchase, the owner shall pay the applicable tax imposed by this chapter and apply to the tax commissioner for a refund.~~
3. If the tangible personal property is purchased or installed by a contractor subject to the tax imposed by this chapter, the owner of the oil refinery may apply for a refund of the difference between the amount remitted by the contractor and the exemption imposed or allowed under this section. Application for a refund must be made at the times and in the manner directed by the tax commissioner and must include sufficient information to permit the tax commissioner to verify the sales and use taxes paid and the exempt status of the sale or use.
- 3.4. This chapter and chapter 57-40.2 apply to the exemption under this section.

**SECTION 3. AMENDMENT.** Section 57-40.2-03.3 of the North Dakota Century Code is amended and reenacted as follows:

**57-40.2-03.3. Use tax on contractors.**

1. When a contractor or subcontractor uses tangible personal property in the performance of that person's contract, or to fulfill contract or subcontract obligations, whether the title to such property be in the contractor, subcontractor, contractee, subcontractee, or any other person, or whether the titleholder of such property would be subject to pay the sales or use tax, such contractor or subcontractor shall pay a use tax at the rate prescribed by section 57-40.2-02.1 measured by the purchase price or fair market value of such property, whichever is greater, unless such property has been previously subjected to a sales tax or use tax by this state, and the tax due thereon has been paid.
2. The provisions of this chapter pertaining to the administration of the tax imposed by section 57-40.2-02.1, not in conflict with the provisions of this section, govern the administration of the tax levied by this section.
3. The tax imposed by this section does not apply to medical equipment purchased as tangible personal property by a hospital or by a long-term care facility as defined in section 50-10.1-01 and subsequently installed by a contractor into such hospital or facility.
4. The tax imposed by this section does not apply to:
  - a. Production equipment or tangible personal property as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.2; or
  - b. Machinery, equipment, or other tangible personal property used to construct an agricultural commodity processing facility as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4; or
  - c. Tangible personal property used to construct or expand a system used to compress, process, gather, or refine gas recovered from an oil or gas well in this state or used to expand or build a gas-processing facility in this state as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.5; or
  - d. Tangible personal property used to construct to expand a qualifying oil refinery as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.6.

**SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable events occurring after June 30, 2011.

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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 Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2202.

Senate Vote:    Yeas 45            Nays 0            Absent 2

House Vote:    Yeas 77            Nays 2            Absent 15

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2011.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2011.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2011,

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

\_\_\_\_\_  
Secretary of State