

Introduced by

1 A BILL for an Act to amend and reenact section 57-40.2-03.3 of the North Dakota Century
2 Code, relating to a use tax exemption for items purchased by an exempt entity and installed by
3 a contractor; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 57-40.2-03.3 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-40.2-03.3. (Effective through June 30, 2017) Use tax on contractors.**

- 8 1. When a contractor or subcontractor uses tangible personal property in the
9 performance of that person's contract, or to fulfill contract or subcontract obligations,
10 whether the title to such property be in the contractor, subcontractor, contractee,
11 subcontractee, or any other person, or whether the titleholder of such property would
12 be subject to pay the sales or use tax, such contractor or subcontractor shall pay a
13 use tax at the rate prescribed by section 57-40.2-02.1 measured by the purchase price
14 or fair market value of such property, whichever is greater, unless such property has
15 been previously subjected to a sales tax or use tax by this state, and the tax due
16 thereon has been paid.
- 17 2. The provisions of this chapter pertaining to the administration of the tax imposed by
18 section 57-40.2-02.1, not in conflict with the provisions of this section, govern the
19 administration of the tax levied by this section.
- 20 3. The tax imposed by this section does not apply to medical equipment purchased as
21 tangible personal property by a hospital or by a long-term care facility as defined in
22 section 50-10.1-01 and subsequently installed by a contractor into such hospital or
23 facility.
- 24 4. The tax imposed by this section does not apply to:

- 1 a. Production equipment or tangible personal property as authorized or approved
2 for exemption by the tax commissioner under section 57-39.2-04.2;
- 3 b. Machinery, equipment, or other tangible personal property used to construct an
4 agricultural commodity processing facility as authorized or approved for
5 exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4;
- 6 c. Tangible personal property used to construct or expand a system used to
7 compress, process, gather, or refine gas recovered from an oil or gas well in this
8 state or used to expand or build a gas-processing facility in this state as
9 authorized or approved for exemption by the tax commissioner under section
10 57-39.2-04.5;
- 11 d. Tangible personal property used to construct or expand a qualifying oil refinery as
12 authorized or approved for exemption by the tax commissioner under section
13 57-39.2-04.6;
- 14 e. Tangible personal property used to construct or expand a qualifying facility as
15 authorized or approved for exemption by the tax commissioner under section
16 57-39.2-04.10;
- 17 f. Tangible personal property used to construct or expand a qualifying facility as
18 authorized or approved for exemption by the tax commissioner under section
19 57-39.2-04.11;
- 20 g. Telecommunications infrastructure that is capable of providing
21 telecommunications service as authorized or approved for exemption by the
22 commissioner under chapter 57-39.2;
- 23 h. Materials used in compressing, gathering, collecting, storing, transporting, or
24 injecting carbon dioxide for use in enhanced recovery of oil or natural gas as
25 provided in section 57-39.2-04.14; or
- 26 i. Tangible personal property used to construct a qualifying fertilizer or chemical
27 processing facility as authorized or approved for exemption by the tax
28 commissioner under section 57-39.2-04.15.

29 **(Effective after June 30, 2017) Use tax on contractors.**

- 30 1. When a contractor or subcontractor uses tangible personal property in the
31 performance of that person's contract, or to fulfill contract or subcontract obligations,

1 whether the title to such property be in the contractor, subcontractor, contractee,
2 subcontractee, or any other person, or whether the titleholder of such property would
3 be subject to pay the sales or use tax, such contractor or subcontractor shall pay a
4 use tax at the rate prescribed by section 57-40.2-02.1 measured by the purchase price
5 or fair market value of such property, whichever is greater, unless such property has
6 been previously subjected to a sales tax or use tax by this state, and the tax due
7 thereon has been paid.

8 2. The provisions of this chapter pertaining to the administration of the tax imposed by
9 section 57-40.2-02.1, not in conflict with the provisions of this section, govern the
10 administration of the tax levied by this section.

11 3. ~~The tax imposed by this section does not apply to medical equipment purchased as~~
12 ~~tangible personal property by a hospital or by a long-term care facility as defined in~~
13 ~~section 50-10.1-01 and subsequently installed by a contractor into such hospital or~~
14 ~~facility.~~

15 4. The tax imposed by this section does not apply to:

- 16 a. Production equipment or tangible personal property as authorized or approved
17 for exemption by the tax commissioner under section 57-39.2-04.2;
- 18 b. Machinery, equipment, or other tangible personal property used to construct an
19 agricultural commodity processing facility as authorized or approved for
20 exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4;
- 21 c. Tangible personal property used to construct or expand a system used to
22 compress, process, gather, or refine gas recovered from an oil or gas well in this
23 state or used to expand or build a gas-processing facility in this state as
24 authorized or approved for exemption by the tax commissioner under section
25 57-39.2-04.5;
- 26 d. Tangible personal property used to construct or expand a qualifying oil refinery as
27 authorized or approved for exemption by the tax commissioner under section
28 57-39.2-04.6;
- 29 e. Tangible personal property used to construct or expand a qualifying facility as
30 authorized or approved for exemption by the tax commissioner under section
31 57-39.2-04.10;

- 1 f. Tangible personal property used to construct or expand a qualifying facility as
2 authorized or approved for exemption by the tax commissioner under section
3 57-39.2-04.11;
- 4 g. Materials used in compressing, gathering, collecting, storing, transporting, or
5 injecting carbon dioxide for use in enhanced recovery of oil or natural gas as
6 provided in section 57-39.2-04.14; ~~or~~
- 7 h. Tangible personal property used to construct a qualifying fertilizer or chemical
8 processing facility as authorized or approved for exemption by the tax
9 commissioner under section 57-39.2-04.15; or
- 10 i. Tangible personal property purchased by an exempt entity and subsequently
11 installed by a contractor licensed under chapter 43-07. The exemption under this
12 subdivision applies only to the extent the tangible personal property becomes
13 part of the improvement to real property in the performance of the contract with
14 the exempt entity and the exempt entity owns the real property and property
15 improvements. For purposes of this subdivision, "exempt entity" means an entity
16 that has been issued a sales and use tax exemption certificate from the
17 commissioner for purchases made on its own behalf. An "exempt entity" does not
18 include a new or expanding business that qualifies for an exemption on a specific
19 expansion project.

20 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
21 June 30, 2017.