

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

HOUSE BILL NO. 1309

(Representatives B. Koppelman, Delzer, Dockter, Ertelt, Hatlestad, Headland, Kasper, Kempenich,
Schmidt)

(Senators Clemens, Kannianen)

AN ACT to amend and reenact section 57-40.2-03.3 of the North Dakota Century Code, relating to payment of use tax by contractors; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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~~the property be in the contractor, subcontractor, contractee, subcontractee, or any other person, or whether the titleholder of ~~such~~the property would be subject to pay the sales or use tax, ~~such~~the 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~~the property has been previously subjected to a sales tax or use tax by this state, and the tax due ~~thereon~~ has been paid. This section does not apply to a contractor or subcontractor that does not enter a contract for the purchase of the tangible personal property.
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 50-10.1-04 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;
 - 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;
 - 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;
 - d. Tangible personal property used to construct or expand a qualifying oil refinery as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.6;
 - e. Tangible personal property used to construct or expand a qualifying facility as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.10;

- f. Tangible personal property used to construct or expand a qualifying facility as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.11;
- g. Materials used in compressing, gathering, collecting, storing, transporting, or injecting carbon dioxide for use in enhanced recovery of oil or natural gas as provided in section 57-39.2-04.14; or
- h. Tangible personal property used to construct a qualifying fertilizer or chemical processing facility as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.15.
- i. Tangible personal property used to construct a qualified straddle plant, a qualified fractionator, or qualified associated infrastructure as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.16.

SECTION 2. EFFECTIVE DATE. This Act is effective for contracts entered after June 30, 2021.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1309.

House Vote: Yeas 91 Nays 0 Absent 3

Senate Vote: Yeas 43 Nays 4 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State