

Sixty-ninth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1115

Introduced by

Finance and Taxation Committee

(At the request of the Tax Commissioner)

A BILL for an Act to amend and reenact subsection 3 of section 57-28-15, sections 57-33.2-16 and 57-33.2-16.1, subsection 2 of section 57-36-09.3, subsection 2 of section 57-36-09.4, subsection 2 of section 57-36-09.6, subsection 5 of section 57-38-60, subsection 2 of section 57-38-60.1, subsection 2 of section 57-38-60.2, subsection 2 of section 57-38-60.3, subsection 2 of section 57-39.2-15.2, subsection 2 of section 57-39.2-15.3, subsection 2 of section 57-39.2-18.1, subsection 2 of section 57-40.2-15.1, subsection 2 of section 57-40.2-15.2, subsection 2 of section 57-40.2-15.3, subsection 1 of section 57-43.1-16, subsection 1 of section 57-43.1-16.1, subsection 2 of section 57-43.1-17.2, subsection 2 of section 57-43.1-17.3, subsection 2 of section 57-43.1-17.5, subsection 1 of section 57-43.2-11, subsection 1 of section 57-43.2-11.1, subsection 2 of section 57-43.2-16.1, subsection 2 of section 57-43.2-16.2, subsection 2 of section 57-43.2-16.4, subsection 1 of section 57-43.3-14, subsection 1 of section 57-43.3-15, subsection 2 of section 57-43.3-20, subsection 2 of section 57-43.3-21, subsection 2 of section 57-43.3-21.1, and subsection 2 of section 57-63-08 of the North Dakota Century Code, relating to forms prescribed by the tax commissioner, filing of forms and reports with the tax commissioner, and maintaining bonds posted with the tax commissioner; to provide for application; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 57-28-15 of the North Dakota Century Code is amended and reenacted as follows:

3. If the purchase price is to be paid in installments, the purchaser shall pay the first installment to the county treasurer and be given a contract for deed setting forth the terms of the sale. The contract for deed must be executed by the purchaser, the chairman of the board of county commissioners, and the county auditor. ~~The contract must be in a form prescribed by the state tax commissioner.~~ The contract must give

1 the county the right to cancel the contract by resolution and due notice upon default by
2 the purchaser.

3 **SECTION 2. AMENDMENT.** Section 57-33.2-16 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **57-33.2-16. Corporate officer and limited liability company governor or manager**
6 **liability.**

7 If a corporation or limited liability company taxable under this chapter fails for any reason to
8 file the required returns or pay the tax due, any of its officers, governors, or managers having
9 control or supervision of, or charged with the responsibility for making, the returns and
10 payments, are personally liable for the failure. The dissolution of a corporation or limited liability
11 company does not discharge an officer's, a governor's, or a manager's liability for a prior failure
12 of the corporation or limited liability company to make a return or remit the tax due. The sum
13 due for such a liability may be assessed and collected under this chapter for the assessment
14 and collection of other liabilities. If the officers, governors, or managers elect not to be
15 personally liable for the failure to file the required returns or to pay the tax due, the corporation
16 or limited liability company must make a cash deposit or post and maintain with the
17 commissioner a bond or undertaking executed by a surety company authorized to do business
18 in this state. The cash deposit, bond, or undertaking must be in an amount equal to the
19 estimated annual tax liability of the corporation or limited liability company.

20 **SECTION 3. AMENDMENT.** Section 57-33.2-16.1 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **57-33.2-16.1. General partner in a limited liability limited partnership liability.**

23 If a limited liability limited partnership taxable under this chapter fails for any reason to file
24 the required returns or to pay the tax due, the general partners, jointly or severally, charged with
25 the responsibility for the preparation of the returns and payment of the tax are personally liable
26 for the partnership's failure. The dissolution of a limited liability limited partnership does not
27 discharge a general partner's liability for a prior failure of the partnership to file a return or remit
28 the tax due. The taxes, penalty, and interest may be assessed and collected pursuant to the
29 provisions of this chapter. If the general partners elect not to be personally liable for the failure
30 to file the required returns or to pay the tax due, the limited liability limited partnership must
31 make a cash deposit or post and maintain with the commissioner a bond or undertaking

1 executed by a surety company authorized to do business in this state. The cash deposit, bond,
2 or undertaking must be in an amount equal to the estimated annual tax liability of the limited
3 liability limited partnership.

4 **SECTION 4. AMENDMENT.** Subsection 2 of section 57-36-09.3 of the North Dakota
5 Century Code is amended and reenacted as follows:

- 6 2. If the corporate officers elect not to be personally liable for the failure to file the
7 required returns or to pay the tax due, the corporation must be required to make a
8 cash deposit or post and maintain with the tax commissioner a bond or undertaking
9 executed by a surety company authorized to do business in this state. The cash
10 deposit, bond, or undertaking provided for in this section must be in an amount equal
11 to the estimated annual tobacco products tax liability of the corporation.

12 **SECTION 5. AMENDMENT.** Subsection 2 of section 57-36-09.4 of the North Dakota
13 Century Code is amended and reenacted as follows:

- 14 2. If the governors, managers, or members elect not to be personally liable for the failure
15 to file the required returns or to pay the tax due, the limited liability company must be
16 required to make a cash deposit or post and maintain with the tax commissioner a
17 bond or undertaking executed by a surety company authorized to do business in this
18 state. The cash deposit, bond, or undertaking provided for in this section must be in an
19 amount equal to the estimated annual tobacco products tax liability of the limited
20 liability company.

21 **SECTION 6. AMENDMENT.** Subsection 2 of section 57-36-09.6 of the North Dakota
22 Century Code is amended and reenacted as follows:

- 23 2. If the general partners elect not to be personally liable for the failure to file the required
24 returns or to pay the tax due, the limited liability limited partnership must make a cash
25 deposit or post and maintain with the commissioner a bond or undertaking executed
26 by a surety company authorized to do business in this state. The cash deposit, bond,
27 or undertaking must be in an amount equal to the estimated annual tax liability of the
28 limited liability limited partnership.

29 **SECTION 7. AMENDMENT.** Subsection 5 of section 57-38-60 of the North Dakota Century
30 Code is amended and reenacted as follows:

- 1 5. In case of failure to timely file an information statement as required by subsections 3
2 and 4, and after thirty days' notice to file is given by the tax commissioner, the tax
3 commissioner may assess a penalty of ~~ten~~fifteen dollars for each failure to file, ~~not to~~
4 ~~exceed two thousand dollars.~~

5 **SECTION 8. AMENDMENT.** Subsection 2 of section 57-38-60.1 of the North Dakota
6 Century Code is amended and reenacted as follows:

- 7 2. If the corporate officers elect not to be personally liable for the failure to file the
8 required returns or to pay the tax due, the corporation must be required to make a
9 cash deposit or post and maintain with the tax commissioner a bond or undertaking
10 executed by a surety company authorized to do business in this state. The cash
11 deposit, bond, or undertaking provided for in this section must be in an amount equal
12 to the estimated annual income tax withholding liability of the corporation.

13 **SECTION 9. AMENDMENT.** Subsection 2 of section 57-38-60.2 of the North Dakota
14 Century Code is amended and reenacted as follows:

- 15 2. If the governors, managers, or members elect not to be personally liable for the failure
16 to file the required returns or to pay the tax due, the limited liability company must be
17 required to make a cash deposit or post and maintain with the tax commissioner a
18 bond or undertaking executed by a surety company authorized to do business in this
19 state. The cash deposit, bond, or undertaking provided for in this section must be in an
20 amount equal to the estimated annual income tax withholding liability of the limited
21 liability company.

22 **SECTION 10. AMENDMENT.** Subsection 2 of section 57-38-60.3 of the North Dakota
23 Century Code is amended and reenacted as follows:

- 24 2. If the general partners elect not to be personally liable for the failure to file the required
25 returns or to pay the tax due, the limited liability limited partnership must make a cash
26 deposit or post and maintain with the commissioner a bond or undertaking executed
27 by a surety company authorized to do business in this state. The cash deposit, bond,
28 or undertaking must be in an amount equal to the estimated annual income tax
29 withholding liability of the limited liability limited partnership.

30 **SECTION 11. AMENDMENT.** Subsection 2 of section 57-39.2-15.2 of the North Dakota
31 Century Code is amended and reenacted as follows:

2. If the governors, managers, or members elect not to be personally liable for the failure to file the required returns or to pay the tax due, the limited liability company must be required to make a cash deposit or post and maintain with the tax commissioner a bond or undertaking executed by a surety company authorized to do business in this state. The cash deposit, bond, or undertaking provided for in this section must be in an amount equal to the estimated annual sales tax liability of the limited liability company.

SECTION 12. AMENDMENT. Subsection 2 of section 57-39.2-15.3 of the North Dakota Century Code is amended and reenacted as follows:

2. If the general partners elect not to be personally liable for the failure to file the required returns or to pay the tax due, the limited liability limited partnership must make a cash deposit or post and maintain with the commissioner a bond or undertaking executed by a surety company authorized to do business in this state. The cash deposit, bond, or undertaking must be in an amount equal to the estimated annual sales tax liability of the limited liability limited partnership.

SECTION 13. AMENDMENT. Subsection 2 of section 57-39.2-18.1 of the North Dakota Century Code is amended and reenacted as follows:

2. If the corporate officers elect not to be personally liable for the failure to file the required returns or to pay the tax due, the corporation must be required to make a cash deposit or post and maintain with the tax commissioner a bond or undertaking executed by a surety company authorized to do business in this state. The cash deposit, bond, or undertaking provided for in this section must be in an amount equal to the estimated annual sales tax liability of the corporation.

SECTION 14. AMENDMENT. Subsection 2 of section 57-40.2-15.1 of the North Dakota Century Code is amended and reenacted as follows:

2. If the corporate officers, governors, managers, or members of a member-controlled limited liability company elect not to be personally liable for the failure to file the required returns or to pay the tax due, the corporation or limited liability company must be required to make a cash deposit or post and maintain with the tax commissioner a bond or undertaking executed by a surety company authorized to do business in this state. The cash deposit, bond, or undertaking provided for in this section must be in an

1 amount equal to the estimated annual use tax liability of the corporation or limited
2 liability company.

3 **SECTION 15. AMENDMENT.** Subsection 2 of section 57-40.2-15.2 of the North Dakota
4 Century Code is amended and reenacted as follows:

5 2. If the governors, managers, or members of a limited liability company elect not to be
6 personally liable for the failure to file the required returns or to pay the tax due, the
7 limited liability company must make a cash deposit or post and maintain with the
8 commissioner a bond or undertaking executed by a surety company authorized to do
9 business in this state. The cash deposit, bond, or undertaking must be in an amount
10 equal to the estimated annual use tax liability of the limited liability company.

11 **SECTION 16. AMENDMENT.** Subsection 2 of section 57-40.2-15.3 of the North Dakota
12 Century Code is amended and reenacted as follows:

13 2. If the general partners elect not to be personally liable for the failure to file the required
14 returns or to pay the tax due, the limited liability limited partnership must make a cash
15 deposit or post and maintain with the commissioner a bond or undertaking executed
16 by a surety company authorized to do business in this state. The cash deposit, bond,
17 or undertaking must be in an amount equal to the estimated annual use tax liability of
18 the limited liability limited partnership.

19 **SECTION 17. AMENDMENT.** Subsection 1 of section 57-43.1-16 of the North Dakota
20 Century Code is amended and reenacted as follows:

21 1. A refiner, supplier, distributor, importer, or exporter shall file a monthly report with the
22 commissioner no later than the twenty-fifth day of each calendar month covering motor
23 vehicle fuel sold and used during the preceding calendar month. When the twenty-fifth
24 day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is
25 the first working day after the Saturday, Sunday, or legal holiday. When the report is
26 filed by mail, the report is timely if the envelope containing the report is postmarked by
27 the United States postal service or other postal carrier service before midnight of the
28 due date. The tax commissioner may, upon request and for good cause shown, grant
29 an extension of time to file a report not to exceed thirty days.

30 **SECTION 18. AMENDMENT.** Subsection 1 of section 57-43.1-16.1 of the North Dakota
31 Century Code is amended and reenacted as follows:

- 1 1. A terminal operator shall file a monthly report with the commissioner no later than the
2 twenty-fifth day of each calendar month covering motor vehicle fuel received into and
3 removed from the terminal during the preceding calendar month. When the twenty-fifth
4 day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is
5 the first working day after the Saturday, Sunday, or legal holiday. When the report is
6 filed by mail, the report is timely if the envelope containing the report is postmarked by
7 the United States postal service or other postal carrier service before midnight of the
8 due date. The tax commissioner may, upon request and for good cause shown, grant
9 an extension of time to file a report not to exceed thirty days.

10 **SECTION 19. AMENDMENT.** Subsection 2 of section 57-43.1-17.2 of the North Dakota
11 Century Code is amended and reenacted as follows:

- 12 2. If the corporate officers elect not to be personally liable for the failure to file the
13 required returns or to pay the tax due, the corporation must be required to make a
14 cash deposit or post and maintain with the tax commissioner a bond or undertaking
15 executed by a surety company authorized to do business in this state. The cash
16 deposit, bond, or undertaking provided for in this section must be in an amount equal
17 to the estimated annual motor vehicle fuel tax liability of the corporation.

18 **SECTION 20. AMENDMENT.** Subsection 2 of section 57-43.1-17.3 of the North Dakota
19 Century Code is amended and reenacted as follows:

- 20 2. If the governors, managers, or members elect not to be personally liable for the failure
21 to file the required returns or to pay the tax due, the limited liability company must be
22 required to make a cash deposit or post and maintain with the tax commissioner a
23 bond or undertaking executed by a surety company authorized to do business in this
24 state. The cash deposit, bond, or undertaking provided for in this section must be in an
25 amount equal to the estimated annual motor vehicle fuel tax liability of the limited
26 liability company.

27 **SECTION 21. AMENDMENT.** Subsection 2 of section 57-43.1-17.5 of the North Dakota
28 Century Code is amended and reenacted as follows:

- 29 2. If the general partners elect not to be personally liable for the failure to file the required
30 returns or to pay the tax due, the limited liability limited partnership must make a cash
31 deposit or post and maintain with the commissioner a bond or undertaking executed

by a surety company authorized to do business in this state. The cash deposit, bond, or undertaking must be in an amount equal to the estimated motor fuel tax liability of the limited liability limited partnership.

SECTION 22. AMENDMENT. Subsection 1 of section 57-43.2-11 of the North Dakota Century Code is amended and reenacted as follows:

1. A refiner, supplier, distributor, retailer, importer, or exporter shall file a monthly report with the commissioner no later than the twenty-fifth day of each calendar month covering special fuel sold and used during the preceding calendar month. When the twenty-fifth day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after the Saturday, Sunday, or legal holiday. When the report is filed by mail, the report is timely if the envelope containing the report is postmarked by the United States postal service or other postal carrier service before midnight of the due date. The commissioner may require separate reports to be filed covering liquefied petroleum gases. The tax commissioner may, upon request and for good cause shown, grant an extension of time to file a report not to exceed thirty days.

SECTION 23. AMENDMENT. Subsection 1 of section 57-43.2-11.1 of the North Dakota Century Code is amended and reenacted as follows:

1. A terminal operator shall file a monthly report with the commissioner no later than the twenty-fifth day of each calendar month covering special fuel received into and removed from the terminal during the preceding calendar month. When the twenty-fifth day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after the Saturday, Sunday, or legal holiday. When the report is filed by mail, the report is timely if the envelope containing the report is postmarked by the United States postal service or other postal carrier service before midnight of the due date. The tax commissioner may, upon request and for good cause shown, grant an extension of time to file a report not to exceed thirty days.

SECTION 24. AMENDMENT. Subsection 2 of section 57-43.2-16.1 of the North Dakota Century Code is amended and reenacted as follows:

2. If the corporate officers elect not to be personally liable for the failure to file the required returns or to pay the tax due, the corporation must be required to make a cash deposit or post and maintain with the tax commissioner a bond or undertaking

executed by a surety company authorized to do business in this state. The cash deposit, bond, or undertaking provided for in this section must be in an amount equal to the estimated annual special fuel tax liability of the corporation.

SECTION 25. AMENDMENT. Subsection 2 of section 57-43.2-16.2 of the North Dakota Century Code is amended and reenacted as follows:

2. If the governors, managers, or members elect not to be personally liable for the failure to file the required returns or to pay the tax due, the limited liability company must be required to make a cash deposit or post and maintain with the tax commissioner a bond or undertaking executed by a surety company authorized to do business in this state. The cash deposit, bond, or undertaking provided for in this section must be in an amount equal to the estimated annual special fuel tax liability of the limited liability company.

SECTION 26. AMENDMENT. Subsection 2 of section 57-43.2-16.4 of the North Dakota Century Code is amended and reenacted as follows:

2. If the general partners elect not to be personally liable for the failure to file the required returns or to pay the tax due, the limited liability limited partnership must make a cash deposit or post and maintain with the commissioner a bond or undertaking executed by a surety company authorized to do business in this state. The cash deposit, bond, or undertaking must be in an amount equal to the estimated annual special fuels tax liability of the limited liability limited partnership.

SECTION 27. AMENDMENT. Subsection 1 of section 57-43.3-14 of the North Dakota Century Code is amended and reenacted as follows:

1. A refiner, supplier, distributor, importer, or exporter shall file a monthly report with the commissioner no later than the twenty-fifth day of each calendar month covering aviation fuel sold and used during the preceding calendar month. When the twenty-fifth day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after the Saturday, Sunday, or legal holiday. When the report is filed by mail, the report is timely if the envelope containing the report is postmarked by the United States postal service or other postal carrier service before midnight of the due date. The tax commissioner may, upon request and for good cause shown, grant an extension of time to file a report not to exceed thirty days.

1 **SECTION 28. AMENDMENT.** Subsection 1 of section 57-43.3-15 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 1. A terminal operator shall file a monthly report with the commissioner no later than the
4 twenty-fifth day of each calendar month covering aviation fuel received into and
5 removed from the terminal during the preceding calendar month. When the twenty-fifth
6 day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is
7 the first working day after the Saturday, Sunday, or legal holiday. When the report is
8 filed by mail, the report is timely if the envelope containing the report is postmarked by
9 the United States postal service or other postal carrier service before midnight of the
10 due date. The tax commissioner may, upon request and for good cause shown, grant
11 an extension of time to file a report not to exceed thirty days.

12 **SECTION 29. AMENDMENT.** Subsection 2 of section 57-43.3-20 of the North Dakota
13 Century Code is amended and reenacted as follows:

14 2. If the corporate officers elect not to be personally liable for the failure to file the
15 required returns or to pay the tax due, the corporation must make a cash deposit or
16 post and maintain with the commissioner a bond or undertaking executed by a surety
17 company authorized to do business in this state. The cash deposit, bond, or
18 undertaking must be in an amount equal to the estimated annual aviation fuel tax
19 liability of the corporation.

20 **SECTION 30. AMENDMENT.** Subsection 2 of section 57-43.3-21 of the North Dakota
21 Century Code is amended and reenacted as follows:

22 2. If the governors, managers, or members of a limited liability company elect not to be
23 personally liable for the failure to file the required returns or to pay the tax due, the
24 limited liability company must make a cash deposit or post and maintain with the
25 commissioner a bond or undertaking executed by a surety company authorized to do
26 business in this state. The cash deposit, bond, or undertaking must be in an amount
27 equal to the estimated annual aviation fuel tax liability of the limited liability company.

28 **SECTION 31. AMENDMENT.** Subsection 2 of section 57-43.3-21.1 of the North Dakota
29 Century Code is amended and reenacted as follows:

30 2. If the general partners elect not to be personally liable for the failure to file the required
31 returns or to pay the tax due, the limited liability limited partnership must make a cash

1 deposit or post and maintain with the commissioner a bond or undertaking executed
2 by a surety company authorized to do business in this state. The cash deposit, bond,
3 or undertaking must be in an amount equal to the estimated annual aviation fuel tax
4 liability of the limited liability limited partnership.

5 **SECTION 32. AMENDMENT.** Subsection 2 of section 57-63-08 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 2. If any of the officers or managers elect not to be personally liable for the failure to file
8 the required return or to pay the assessment due, the facility shall make a cash
9 deposit or post and maintain with the commissioner a bond or undertaking executed
10 by a surety company authorized to do business in this state. The cash deposit, bond,
11 or undertaking must be in an amount equal to the estimated annual assessment
12 liability of the facility.

13 **SECTION 33. APPLICATION.** Section 7 of this Act applies to information statements due
14 after December 31, 2025.

15 **SECTION 34. EFFECTIVE DATE.** Section 7 of this Act becomes effective after
16 December 31, 2025.