



North Dakota Legislative Council

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SALES AND USE TAX EXEMPTIONS

This memorandum summarizes the sales and use tax exemptions in North Dakota Century Code Chapter 57-39.2, grouped by category. Summaries may not contain definitions or conditions required for the exemption. Refer to the Century Code for the complete statutory language.

AGRICULTURE EXEMPTIONS

- Section 57-39.2-04(8) - Exempts gross receipts from sales of adjuvants, agrichemical tank cleaners and foam markers, commercial fertilizers, fungicides, seed treatments, inoculants and fumigants, herbicides, and insecticides to agricultural or commercial vegetable producers and commercial applicators; chemicals used to preserve agricultural crops being stored; and seeds, roots, bulbs, and small plants to commercial users or consumers for planting or transplanting for commercial vegetable gardens or agricultural purposes.
- Section 57-39.2-04(11) - Exempts gross receipts from the sale of poultry and livestock feed, including feed for horses and fur-bearing animals.
- Section 57-39.2-04(45) - Exempts gross receipts from the sale or lease of farm machinery, farm machinery repair parts, irrigation equipment, or irrigation equipment repair parts used exclusively for agricultural purposes.
- Section 57-39.2-04.4 - Exempts sales of materials used to construct an agricultural commodity processing facility operated to produce marketable products from agricultural commodities.
- Section 57-39.2-04.15 - Exempts sales of materials used to construct a fertilizer or chemical processing facility.

BUSINESS EXEMPTIONS

- Section 57-39.2-03.3 - Exempts sales of items costing 15 cents or less sold through a coin-operated vending machine.
- Section 57-39.2-04(2) - Exempts gross receipts from the sales, furnishing, or service of passenger transportation and gross receipts from the sales, furnishing, or service of freight transportation service when provided by a common carrier.
- Section 57-39.2-04(10) - Exempts gross receipts from the sale of motor vehicles, farm machinery, alcoholic beverages, gasoline, insurance premiums, gaming tickets, and any other article or product, except as otherwise provided, upon which the state of North Dakota imposes a special tax.
- Section 57-39.2-04(12) - Exempts gross receipts from a sale made to a person from an adjoining state which does not impose or levy a retail sales tax, under certain conditions. This exemption applies to residents of Montana purchasing taxable goods in North Dakota for immediate removal from the state.
- Section 57-39.2-04(15) - Exempts gross receipts from sales in which a contractor furnishes to the retailer a certificate which includes the contractor's license number assigned to the contractor under Chapter 43-07.

- Section 57-39.2-04(16) - Exempts gross receipts from the sale of newsprint and ink used in the publication of a newspaper.
- Section 57-39.2-04(21) - Exempts gross receipts from the leasing or renting of motion picture film to motion picture exhibitors for exhibition if the sale of tickets or admissions to the exhibition of the film is subject to sales tax.
- Section 57-39.2-04(31) - Exempts gross receipts from the sale of money, including all legal tender coins and currency, and from the sale of precious metal bullion that has been refined to a purity of not less than 999 parts per 1,000 and is in such form or condition that its value depends upon its precious metal content and not its form.
- Section 57-39.2-04(37) - Exempts gross receipts from the sale of any aircraft taxable under Chapter 57-40.5.
- Section 57-39.2-04(38) - Exempts gross receipts from all sales of air carrier transportation property subject to ad valorem property taxation pursuant to Chapters 57-06, 57-07, 57-08, 57-13, and 57-32.
- Section 57-39.2-04(39) - Exempts gross receipts from sales of flight simulators or mechanical or electronic equipment for use in association with a flight simulator.
- Section 57-39.2-04(42) - Exempts gross receipts from electronic gaming devices licensed by the Attorney General under Chapter 53-06.1.
- Section 57-39.2-04(54) - Exempts gross receipts from the sale of items delivered electronically, including specified digital products. Specified digital products include digital books, digital photographs, and movies and music provided through a streaming service. Specified digital products do not include prewritten software.
- Section 57-39.2-04(57) - Exempts gross receipts from coin-operated amusement or entertainment machines.
- Section 57-39.2-04.1 - Exempts gross receipts from sales for human consumption of food and food ingredients. The exemption does not apply to sales of alcoholic beverages, candy or chewing gum, dietary supplements, prepared food, soft drinks containing 50 percent or less of fruit juice, or tobacco products.

ENERGY EXEMPTIONS

- Section 57-39.2-04(27) - Exempts gross receipts from the sale of electricity.
- Section 57-39.2-04(34) - Exempts gross receipts from the sale of byproducts, arising from the processing of agricultural products, for use in the manufacture or generation of steam or electricity.
- Section 57-39.2-04(41) - Exempts gross receipts from the initial sale of beneficiated coal.
- Section 57-39.2-04(44) - Exempts gross receipts from all sales of coal that is exempt from the coal severance tax.
- Section 57-39.2-04(49) - Exempts gross receipts from sales of carbon dioxide used for enhanced recovery of oil or natural gas or secure geologic storage.
- Section 57-39.2-04(50) - Exempts gross receipts from sales of hydrogen to power an internal combustion engine or fuel cell and equipment used directly and exclusively in production and storage of the hydrogen by a hydrogen generation facility in this state.
- Section 57-39.2-04(51) - Exempts gross receipts from the sale of equipment to a facility, licensed under Section 57-43.2-05, to enable the facility to sell diesel fuel containing at least 2 percent biodiesel or green diesel fuel by volume as defined under Section 57-43.2-01.
- Section 57-39.2-04(53) - Exempts gross receipts from sales of natural gas or fuels used for heating purposes.

- Section 57-39.2-04(58) - Exempts gross receipts from sales of liquefied natural gas used for agricultural, industrial, or railroad purposes as defined in Section 57-43.2-01.
- Section 57-39.2-04.2 - Exempts sales of production or environmental upgrade equipment used exclusively in power plants or repowering existing power plants or in process units of oil refineries or gas processing plants.
- Section 57-39.2-04.5 - Exempts sales of materials used to construct or expand a system used to compress, process, gather, collect, or refine gas recovered from an oil or gas well or used to expand or build a gas processing facility.
- Section 57-39.2-04.6 - Exempts sales of materials used to construct or expand an oil refinery.
- Section 57-39.2-04.8 - Exempts sales of machinery or equipment used to produce coal from a new mine in the state. The exemption for each new mine is limited to the first \$5 million of sales and use tax paid.
- Section 57-39.2-04.10 - Exempts sales of materials used to construct or expand a processing facility in the state to produce liquefied natural gas.
- Section 57-39.2-04.11 - Exempts sales of materials used to construct or expand a facility in the state to extract or process byproducts associated with coal gasification.
- Section 57-39.2-04.14 - Exempts sales of materials used to construct or expand a system used to compress, gather, collect, store, transport, or inject carbon dioxide for secure geologic storage or use in enhanced recovery of oil or natural gas.
- Section 57-39.2-04.16 - Exempts sales of materials used to construct or expand a qualified straddle plant, a qualified fractionator, or qualified associated infrastructure in the state.
- Section 57-39.2-04.20 - Exempts sales of materials used to construct, expand, or complete an environmental upgrade of a renewable feedstock refinery creating gasoline, jet fuel, or other transportation fuels through deoxygenation.
- Section 57-39.2-04.21 - Exempts sales of materials used to construct or expand a coal processing facility in the state using coal as a feedstock to extract critical minerals or rare earth elements from lignite coal or create tangible personal property other than electricity, water, gas, or steam from lignite coal.

EDUCATION EXEMPTIONS

- Section 57-39.2-04(5) - Exempts gross receipts from sales of textbooks to regularly enrolled students of a private or public school and from sales of textbooks, yearbooks, and school supplies purchased by a private nonprofit elementary school, secondary school, or any other nonprofit institution of higher learning conducting courses of study similar to those conducted by public schools in the state.
- Section 57-39.2-04(20) - Exempts gross receipts from the sale of food supplies to any public school, to any parochial or private nonprofit school conducting courses of study similar to those conducted by public schools in the state, or to any nonprofit organization, for use by the public, parochial, or private school or nonprofit organization in sponsoring or conducting a lunch program or programs in and for any such public, parochial, or private nonprofit school.
- Section 57-39.2-04(23) - Exempts food purchased by a student under a boarding contract with a college, university, fraternity, or sorority.

GOVERNMENT EXEMPTIONS

- Section 57-39.2-04(6) - Exempts gross receipts from sales made to the United States, an Indian tribe, or to any state, including the State of North Dakota, or any of the subdivisions, departments, agencies, or institutions of any state.

- Section 57-39.2-04(47) - Exempts gross receipts from the sale of lottery tickets under Chapter 53-12.1.
- Section 57-39.2-04(48) - Exempts gross receipts from all sales of tangible personal property purchased by a commerce authority and made a part of the infrastructure of a commerce authority, if the personal property is placed within the geographic boundaries of the political subdivisions that created the commerce authority and is necessary and directly services infrastructure needs of the commerce authority.
- Section 57-39.2-04(62) - Exempts gross receipts from sales when made to a fire department or fire district for the purpose of providing fire protection services, if the entity has filed an approved certificate of existence under Section 18-04-02.

HEALTH CARE EXEMPTIONS

- Section 57-39.2-04(7) - Exempts gross receipts from the sale of drugs sold under a doctor's prescription.
- Section 57-39.2-04(9) - Exempts gross receipts from sales of oxygen sold to any person who purchases it upon the written order of a doctor for the person's own use for medical purposes.
- Section 57-39.2-04(17) - Exempts gross receipts from the sale of all services furnished by any hospital, infirmary, sanatorium, nursing home, basic care facility, or similar institution to any patient or occupant.
- Section 57-39.2-04(24) - Exempts gross receipts from all sales when made to an eligible facility or emergency medical services provider for the use or benefit of its patient or occupant. Eligible facilities include a hospital, a skilled nursing facility, an intermediate care facility, a residential end-of-life facility, a basic care facility, or an assisted living facility licensed by the Department of Health and Human Services.
- Section 57-39.2-04(26) - Exempts gross receipts from sales of prosthetic devices, durable medical equipment, mobility-enhancing equipment, and supplies for ostomy care or bladder dysfunction.
- Section 57-39.2-04(36) - Exempts gross receipts from all sales of insulin in all its forms dispensed pursuant to the direction of a licensed physician, all sales of glucose usable for treatment of insulin reactions, all sales of urine and blood testing kits and materials, and all sales of insulin measuring and injecting devices, including insulin syringes and hypodermic needles.
- Section 57-39.2-04(61) - Exempts gross receipts from sales of children's diapers.

INDUSTRIAL EXEMPTIONS

- Section 57-39.2-04(56) - Exempts gross receipts from the sale of any potash or byproducts taxable under Chapter 57-65.
- Section 57-39.2-04.3 - Exempts sales of manufacturing or recycling machinery and equipment used in a new manufacturing plant or a physical or economic expansion of an existing manufacturing plant and primary sector business computer and telecommunications equipment. Replacement equipment does not qualify for the exemption.
- Section 57-39.2-04.17 - Exempts sales of enterprise information technology equipment and computer software used in a qualified data center. Enterprise technology equipment includes computer hardware, cooling systems, temperature control systems, power infrastructure for the maintenance and operation of the data center, business-owned substations and backup power systems, other related infrastructure, and racking systems. The exemption applies to replacement equipment.
- Section 57-39.2-04.19 - Exempts sales of raw materials, single-use product contact systems, and reagents used for biologic manufacturing. The exemption expires June 30, 2029.

NONPROFIT EXEMPTIONS

- Section 57-39.2-04(4) - Exempts the following gross receipts:

From sales of tickets or admissions to state, county, district, and local fairs.

From educational, religious, or charitable activities when the entire amount of net receipts is expended for educational, religious, or charitable purposes.

Derived by an institution of higher education located in the state from tickets or admissions to athletic, musical, dramatic, or scholastic events held, sponsored, hosted, or controlled by the institution of higher education, in which the primary performers or participants consist of students of an institution of higher education.

Derived by any public school district if the receipts are expended in accordance with Section 15.1-07-10 or 15.1-07-11 (school activities or incidental expenses funds).

Of a nonprofit music or dramatic arts organization that is exempt from federal income taxation and is organized and operated for the presentation of live public performances of musical or theatrical works on a regular basis.

- Section 57-39.2-04(25) - Exempts gross receipts from the sale of Bibles, hymnals, textbooks, and prayerbooks sold to nonprofit religious organizations.
- Section 57-39.2-04(29) - Exempts gross receipts from all sales made to any nonprofit organization for meals, including the containers, packages, and materials used for wrapping food items, for delivery to persons who are confined to their homes by illness or incapacity, including senior citizens and disabled persons, for consumption by such shut-ins in their homes.
- Section 57-39.2-04(32) - Exempts gross receipts from sales to nonprofit voluntary health associations which are exempt from federal income tax under section 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. 501(c)(3)].
- Section 57-39.2-04(40) - Exempts gross receipts from sales of tickets or admissions to, or sales made at, an annual church supper or bazaar held in a publicly owned facility.
- Section 57-39.2-04(43) - Exempts gross receipts from all sales made to a nonprofit medical research institute.
- Section 57-39.2-04(46) - Exempts gross receipts from sales of tangible personal property purchased by a charitable organization to be awarded as a prize in a raffle conducted in accordance with law if the winner of the tangible personal property will be subject to sales or use taxes upon receiving the property.
- Section 57-39.2-04(55) - Exempts gross receipts from memberships, admissions, and entrance fees to activities and events organized and operated by nonprofit social and recreation clubs organized under section 501(c)(7) of the Internal Revenue Code [26 U.S.C. 501(c)(7)] and operated solely by nonsalaried officers and staff.
- Section 57-39.2-04(60) - Exempts gross receipts from sales to a senior citizen organization that provides informational, health, welfare, counseling, and referral services for senior citizens in the state, if certain qualifications are met.

PERSONAL PROPERTY EXEMPTIONS

- Section 57-39.2-04(1) - Exempts gross receipts from sales of tangible personal property that the state is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of North Dakota.
- Section 57-39.2-04(13) - Exempts gross receipts from the sale of any motor vehicle taxable under the motor vehicle excise tax laws of the state.

- Section 57-39.2-04(22) - Exempts gross receipts from:

The leasing or renting of manufactured homes, modular living units, or sectional homes for residential housing for periods of 30 or more consecutive days.

The leasing or renting of a hotel or motel room or other accommodations occupied by the same person or persons for residential housing for periods of 30 or more consecutive days.

- Section 57-39.2-04(28) - Exempts gross receipts from the leasing or renting of any tangible personal property upon which a North Dakota sales tax or use tax has been paid or is payable and the retailer has separately indicated on an invoice, contract, lease agreement, or other supporting sale document that the retailer paid sales or use tax on the retailer's purchase of the tangible personal property.
- Section 57-39.2-04(30) - Exempts gross receipts from all sales of recreational travel trailers not exceeding 8 feet [2.44 meters] in width or 32 feet [9.75 meters] in length which are designed to be principally used as temporary vacation dwellings when made to persons who are residents of other states which impose excise taxes upon registration of the recreational travel trailers.
- Section 57-39.2-04(35) - Exempts gross receipts from the sale of a manufactured home that has been sold, bargained, exchanged, given away, or transferred by the person who first acquired it from a retailer in a sale at retail and upon which the North Dakota sales tax has previously been imposed.
- Section 57-39.2-04(59) - Exempts gross receipts from all sales of commemorative memorial coins under Section 37-18-15.

ENROLLED TRIBAL MEMBER EXEMPTION

- Section 57-39.2-04(52) - Exempts gross receipts from sales within the boundaries of any reservation in the state to an individual who resides within the boundaries of any reservation in the state and who is an enrolled member of a federally recognized Indian tribe.