

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2104

Introduced by

Finance and Taxation Committee

(At the request of the Tax Commissioner)

1 A BILL for an Act to amend and reenact subsection 1 of section 57-39.2-12, subsection 1 of
2 section 57-39.2-12.1, subsection 7 of section 57-40.2-07, and subsection 1 of section
3 57-40.2-07.1 of the North Dakota Century Code, relating to the monthly filing of sales and use
4 tax returns in the event of a business reorganization and reimbursement of administrative
5 expenses for monthly filing of sales and use tax returns.

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

7 **SECTION 1. AMENDMENT.** Subsection 1 of section 57-39.2-12 of the North Dakota
8 Century Code is amended and reenacted as follows:

9 1. The tax levied under this chapter is due and payable in quarterly installments on or
10 before the last day of the month next succeeding each calendar quarterly period,
11 except that if total sales subject to sales and use taxes for the preceding calendar
12 year for any business which has been issued a sales tax permit equal or exceed
13 three hundred thirty-three thousand dollars, the tax levied under this chapter is
14 payable monthly on or before the last day of the next succeeding month, except
15 tax collected during May in each odd-numbered year is payable on or before the
16 twenty-second day of June of that year. The retailer shall pay the total tax due in
17 the manner prescribed by the commissioner. Penalties and interest for failure to
18 file a return, for filing an incorrect return, or for failure to pay the tax due are those
19 prescribed in section 57-39.2-18. If the total of sales subject to the tax decreases
20 below three hundred thirty-three thousand dollars for any succeeding year, the
21 retailer ~~shall~~ may return to quarterly filing and payments. When there is a sale of
22 any business by any retailer or when any business is discontinued by a retailer, the
23 tax becomes due immediately prior to the sale or discontinuance of the business
24 and if not paid within fifteen days thereafter it becomes delinquent and subject to

1 the penalties provided in section 57-39.2-18. In the event of a business
2 reorganization in which the ownership of the business organization remains in the
3 same person or persons as prior to the reorganization, the total sales subject to
4 sales and use taxes for the preceding calendar year for the business that was
5 reorganized must be used to determine whether the tax is payable monthly under
6 this subsection.

7 **SECTION 2. AMENDMENT.** Subsection 1 of section 57-39.2-12.1 of the North Dakota
8 Century Code is amended and reenacted as follows:

9 1. A retailer who pays the ~~estimated~~ tax due under section 57-39.2-12 within the time
10 limitations prescribed may deduct and retain one and one-half percent of the tax
11 due.

12 **SECTION 3. AMENDMENT.** Subsection 7 of section 57-40.2-07 of the North Dakota
13 Century Code is amended and reenacted as follows:

14 7. If total sales and purchases subject to sales and use taxes for the preceding
15 calendar year equal or exceed three hundred thirty-three thousand dollars, the tax
16 levied by this chapter is payable monthly on or before the last day of the next
17 succeeding month, except for taxes collected during May of each odd-numbered
18 year, which are payable on or before the twenty-second day of June of that year.
19 The amount of monthly tax payable, manner of payment, filing of the return,
20 penalty, and waiver of penalty must be that prescribed in subsection 1 of section
21 57-39.2-12. Penalty and interest for failure to file a return or corrected return or to
22 pay the tax imposed must be that prescribed in section 57-40.2-15. If a person is
23 required to file more than one return pursuant to this section, the monthly payment
24 requirement applies separately to each return. If total sales and purchases subject
25 to sales and use taxes for any succeeding calendar year decrease below three
26 hundred thirty-three thousand dollars, a person may return to quarterly
27 installments. In the event of a business reorganization in which the ownership of
28 the business organization remains in the same person or persons as prior to the
29 reorganization, the total sales subject to sales and use taxes for the preceding
30 calendar year for the business that was reorganized must be used to determine
31 whether the tax is payable monthly under this section.

- 1 **SECTION 4. AMENDMENT.** Subsection 1 of section 57-40.2-07.1 of the North Dakota
2 Century Code is amended and reenacted as follows:
- 3 1. A retailer who pays the ~~estimated~~ tax due under section 57-40.2-07 within the time
4 limitations prescribed may deduct and retain one and one-half percent of the tax
5 due.