

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

SENATE BILL NO. 2359
(Senators Cook, Urlacher)
(Representatives Drovdal, Weiler)

AN ACT to amend and reenact subsection 2 of section 57-39.2-11, subsection 1 of section 57-39.2-12.1, and subsection 1 of section 57-40.2-07.1 of the North Dakota Century Code, relating to compensation of a remote seller or certified service provider under streamlined sales tax collection agreements; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 57-39.2-11 of the North Dakota Century Code is amended and reenacted as follows:

2. The commissioner may require the filing of returns and payment of tax on a monthly, quarterly, annual, or other basis when the commissioner deems it necessary to ensure payment of the tax imposed by this chapter. Compensation for administrative expenses under sections 57-39.2-12.1 and 57-40.2-07.1 is ~~not~~ allowed under this section ~~unless~~ if the retailer qualifies for compensation under sections 57-39.2-12 and 57-40.2-07. If the retailer's filing responsibility has been assumed by a certified service provider, the retailer may authorize the certified service provider to claim on behalf of the retailer all or part of the compensation to which the retailer is entitled under sections 57-39.2-12.1 and 57-40.2-07.1.

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

1. A retailer who pays the tax due under section 57-39.2-12 or chapter 57-39.4 within the time limitations prescribed may deduct and retain one and one-half percent of the tax due. A retailer that is a remote seller that, through a certified service provider or by other means, pays the tax due within the time limitations under section 57-39.2-12 or chapter 57-39.4 on taxable sales made before July 1, 2007, may deduct and retain one and one-half percent of the tax due or such lower percentage as agreed in the compensation or monetary allowance agreement as approved by the streamlined sales and use tax governing board. The limitation of subsection 2 does not apply to the amount a retailer who is a remote seller is allowed to deduct and retain under this subsection. For purposes of this subsection, "remote seller" means a retailer that does not have an adequate physical presence to establish nexus in this state for sales tax purposes.

SECTION 3. AMENDMENT. Subsection 1 of section 57-40.2-07.1 of the North Dakota Century Code is amended and reenacted as follows:

1. A retailer who pays the tax due under section 57-40.2-07 or chapter 57-39.4 within the time limitations prescribed may deduct and retain one and one-half percent of the tax due. A retailer that is a remote seller that, through a certified service provider or by other means, pays the tax due within the time limitations under section 57-39.2-12 or chapter 57-39.4 on taxable sales made before July 1, 2007, may deduct and retain one and one-half percent of the tax due or such lower percentage as agreed in the compensation or monetary allowance agreement as approved by the streamlined sales and use tax governing board. The limitation of subsection 2 does not apply to the amount a retailer who is a remote seller is allowed to deduct and retain under this subsection. For purposes

of this subsection, "remote seller" means a retailer that does not have an adequate physical presence to establish nexus in this state for sales tax purposes.

SECTION 4. EFFECTIVE DATE. This Act is effective for taxable events occurring after September 30, 2005.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2359.

Senate Vote: Yeas 45 Nays 2 Absent 0

House Vote: Yeas 77 Nays 14 Absent 3

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at _____ o'clock _____ M.

Secretary of State