

**Sixty-first Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2347  
(Senator Cook)  
(Representatives Drovdal, Weiler)

AN ACT to create and enact a new subsection to section 57-39.2-04 and a new subsection to section 57-40.2-04 of the North Dakota Century Code, relating to gross receipts from the sale of items delivered electronically; and to provide an effective date.

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

**SECTION 1.** A new subsection to section 57-39.2-04 of the North Dakota Century Code is created and enacted as follows:

Gross receipts from the sale of items delivered electronically, including specified digital products. For purposes of this subsection:

- a. "Specified digital products" means:
  - (1) "Digital audio-visual works" which means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any;
  - (2) "Digital audio works" which means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones; and
  - (3) "Digital books" which means works that are generally recognized in the ordinary and usual sense as books.
- b. For purposes of the definition of "specified digital products", "transferred electronically" means obtained by the purchaser by means other than tangible storage media.
- c. For purposes of the definition of "digital audio work", "ringtones" means digitized sound files that are downloaded onto a device and which may be used to alert the customer with respect to a communication.
- d. "Specified digital products" may not be construed to include prewritten computer software as that term is defined in subdivision g of subsection 1 of section 57-39.2-02.1.

**SECTION 2.** A new subsection to section 57-40.2-04 of the North Dakota Century Code is created and enacted as follows:

Gross receipts from the sale of items delivered electronically, including specified digital products. For purposes of this subsection:

- a. "Specified digital products" means:
  - (1) "Digital audio-visual works" which means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any;
  - (2) "Digital audio works" which means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones; and

- (3) "Digital books" which means works that are generally recognized in the ordinary and usual sense as books.
- b. For purposes of the definition of "specified digital products", "transferred electronically" means obtained by the purchaser by means other than tangible storage media.
- c. For purposes of the definition of "digital audio works", "ringtones" means digitized sound files that are downloaded onto a device and which may be used to alert the customer with respect to a communication.
- d. "Specified digital products" may not be construed to include prewritten computer software as that term is defined in subdivision g of subsection 1 of section 57-39.2-02.1.

**SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable events occurring after June 30, 2009.

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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 Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2347.

Senate Vote:    Yeas    47        Nays    0        Absent    0

House Vote:    Yeas    83        Nays    3        Absent    8

\_\_\_\_\_  
Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2009.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2009.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2009,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State