

Sixty-fourth
Legislative Assembly
of North Dakota

REENGROSSED HOUSE BILL NO. 1133

Introduced by

Finance and Taxation Committee

(At the request of the Tax Commissioner)

1 A BILL for an Act to create and enact a new section to chapter 57-01, a new subsection to
2 section 57-01-02.1, a new subsection to section 57-38-30.5, and a new subsection to section
3 57-40.3-04 of the North Dakota Century Code, relating to minimum tax payments and refunds,
4 offsets of overpaid local option taxes from future distributions, the effect of the expiration of the
5 federal research tax credit on the state income tax credit for research and experimental
6 expenditures, and exemptions from motor vehicle excise tax; to amend and reenact sections
7 5-03-05 and 40-57.3-04, subsection 2 of section 57-38-62, section 57-40.2-11, and subsection 1
8 of section 57-43.2-02 of the North Dakota Century Code, relating to authority of the tax
9 commissioner to adopt rules, offsets of restaurant, restaurant and lodging, and city motor
10 vehicle rental taxes from future distributions, estimated income tax requirements for
11 corporations, articles taxed in other states or political subdivisions of other states, and
12 establishing energy per volume equivalent of liquefied natural gas for special fuels tax
13 purposes; and to provide an effective date.

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

15 **SECTION 1. AMENDMENT.** Section 5-03-05 of the North Dakota Century Code is amended
16 and reenacted as follows:

17 **5-03-05. Tax commissioner to adopt rules - Appeal.**

18 The state tax commissioner, pursuant to ~~under~~ chapter 28-32, shall adopt rules governing
19 retailers, ~~wholesalers~~ licensees, direct shippers, and manufacturers necessary to carry out the
20 provisions of this title and to ensure efficient collection of beer and liquor taxes. All decisions of
21 the state tax commissioner are subject to court review.

22 **SECTION 2. AMENDMENT.** Section 40-57.3-04 of the North Dakota Century Code is
23 amended and reenacted as follows:

1 **40-57.3-04. Payment of tax - Collection by tax commissioner - Administrative**
2 **expenses allowed - Rules.**

3 The taxes imposed under this chapter are due and payable at the same time the taxpayer is
4 required to file a return under chapter 57-39.2 and must be collected and administered by the
5 state tax commissioner in accordance with the relevant provisions of chapter 57-39.2. The
6 taxpayer shall add the taxes imposed under this chapter to the sales, lease, or rental price and
7 shall collect the tax from the consumer. A retailer may not advertise or hold out or state to the
8 public, or to any consumer, directly or indirectly, that the taxes or any part of the taxes imposed
9 under this chapter shall be assumed, absorbed, or refunded by the taxpayer. The amount the
10 tax commissioner remits monthly to each city as taxes collected for that city's visitors' promotion
11 fund and visitors' promotion capital construction fund must be reduced by three percent as an
12 administrative fee necessary to defray the cost of collecting the taxes and the expenses incident
13 to collection. The administrative fee must be deposited in the general fund in the state treasury.
14 The tax commissioner shall adopt rules necessary for the administration of this chapter. The
15 penalties and liabilities provided in sections 57-39.2-18 and 57-39.2-18.1 specifically apply to
16 the filing of returns and administration of the taxes imposed under this chapter. The taxes
17 imposed under this chapter are not taxes subject to chapter 57-39.4. The tax commissioner may
18 offset future distributions of a tax imposed and collected under this chapter if there was a
19 previous overpayment of the tax distributed to the city. The tax commissioner, after consulting
20 the appropriate local political subdivision, may determine the offset amount and time period for
21 recovery of the overpayment of the tax distribution.

22 **SECTION 3.** A new section to chapter 57-01 of the North Dakota Century Code is created
23 and enacted as follows:

24 **Minimum refunds and collections.**

- 25 1. Except as otherwise provided in this title, a refund may not be made by the tax
26 commissioner to any taxpayer unless the amount to be refunded, including interest, is
27 at least five dollars. The tax commissioner shall transfer any amount that is not
28 refunded to a taxpayer under this subsection to the state treasurer for deposit in the
29 same manner as other revenue relating to the tax being administered.
- 30 2. A remittance of tax need not be made and any assessment or collection of tax may not
31 be made unless the amount is at least five dollars, including penalties and interest.

1 **SECTION 4.** A new subsection to section 57-01-02.1 of the North Dakota Century Code is
2 created and enacted as follows:

3 The tax commissioner may offset future distributions of a city's or county's tax imposed
4 and collected under chapters 40-05.1 or 11-09.1 if there was a previous overpayment
5 of the tax distributed to that city or county. The tax commissioner, after consulting the
6 appropriate local political subdivision, may determine the offset amount and time
7 period for recovery of the overpayment of the tax distribution.

8 **SECTION 5.** A new subsection to section 57-38-30.5 of the North Dakota Century Code is
9 created and enacted as follows:

10 For any taxable year in which the federal research tax credit provisions of section 41
11 of the Internal Revenue Code are ineffective, the provisions of section 41 of the
12 Internal Revenue Code [26 U.S.C. 41] referenced in this section have the same
13 meaning and application as provided in section 41 of the Internal Revenue Code, as
14 amended through the most recent taxable year in which the provisions were in effect.

15 **SECTION 6. AMENDMENT.** Subsection 2 of section 57-38-62 of the North Dakota Century
16 Code is amended and reenacted as follows:

17 2. A corporation shall, at the time prescribed in this chapter, pay estimated tax for the
18 current taxable year if the corporation's estimated tax can reasonably be expected to
19 exceed five thousand dollars and if the corporation's net tax liability for the
20 immediately preceding taxable year exceeded five thousand dollars. If payment of
21 estimated tax is required, the corporation shall, at the time prescribed in this chapter,
22 pay the lesser of the following:

- 23 a. ~~Ninety~~An amount which, when added to the corporation's withholding, equals
24 ninety percent of the corporation's current taxable year's net tax liability.
- 25 b. ~~One~~An amount which, when added to the corporation's withholding, equals one
26 hundred percent of the corporation's net tax liability for the immediately preceding
27 taxable year.

28 **SECTION 7. AMENDMENT.** Section 57-40.2-11 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **57-40.2-11. ~~Articles taxed~~ Tax paid on articles in other states or political subdivisions**
2 **of other states.**

3 If tax has been paid on any article or tangible personal property ~~has been subjected already~~
4 ~~to a tax by~~ in any other state or political subdivision thereof in respect to its sale or use in an
5 amount less than the tax imposed by this chapter, the provisions of this chapter apply, but ~~at a~~
6 ~~rate measured by~~ in an amount equal to the difference only between the ~~rate fixed in~~ tax imposed
7 by this chapter and the rate by which the previous tax upon the sale or use was computed tax
8 paid in the other state or political subdivision thereof. If the tax ~~imposed~~ paid in such the other
9 state or political subdivision thereof is the same or more, then no tax is due on such article. The
10 provisions of this section apply only if such other state or political subdivision thereof allows a
11 tax credit with respect to the retail sales and use taxes imposed by this state which is
12 substantially similar in effect to the credit allowed by this section. The tax commissioner may
13 require the taxpayer to provide written proof from the other state or political subdivision that the
14 tax was legally due and paid.

15 **SECTION 8.** A new subsection to section 57-40.3-04 of the North Dakota Century Code is
16 created and enacted as follows:

17 Any damaged motor vehicle transferred to an insurance company in the settlement of
18 an insurance claim.

19 **SECTION 9. AMENDMENT.** Subsection 1 of section 57-43.2-02 of the North Dakota
20 Century Code is amended and reenacted as follows:

21 1. Except as otherwise provided in this chapter, an excise tax of twenty-three cents per
22 gallon [3.79 liters] is imposed on the sale or delivery of all special fuel sold or used in
23 this state. For the purpose of determining the tax upon compressed natural gas and
24 liquefied natural gas under this section, one hundred twenty cubic feet [3.40 cubic
25 meters] of compressed natural gas, and one and seven-tenths gallons [6.44 liters] of
26 liquefied natural gas is equal to one gallon [3.79 liters] of other special fuel.

27 **SECTION 10. EFFECTIVE DATE.** Sections 5 and 6 of this Act are effective for taxable
28 years beginning after December 31, 2014. Sections 7 and 8 of this Act are effective for taxable
29 periods beginning after June 30, 2015. Sections 1, 2, 3, 4, and 9 of this Act are effective on July
30 1, 2015.