

**Sixty-fifth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2017**

SENATE BILL NO. 2112
(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

AN ACT to amend and reenact subsection 5 of section 57-39.4-19 and sections 57-39.4-29 and 57-39.4-33.4 of the North Dakota Century Code, relating to uniform tax returns, the taxability matrix, and tax administration practices under the sales and use tax agreement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 57-39.4-19 of the North Dakota Century Code is amended and reenacted as follows:

5. Adopt ~~a web services as the~~ standardized transmission process ~~to allow that~~ allows for receipt of uniform tax returns and other formatted information as approved by the governing board. The process must provide for the filing of separate returns for multiple legal entities in a single transmission for each state and will not include any requirement for manual entry or input by the seller of any of the aforementioned information. This process will allow a certified service provider, tax preparer, or any other authorized person to file returns for more than one seller in a single electronic transmission. However, sellers filing returns for multiple legal entities may only do so for affiliated legal entities.

SECTION 2. AMENDMENT. Section 57-39.4-29 of the North Dakota Century Code is amended and reenacted as follows:

57-39.4-29. (328) Taxability matrix.

1. a. To ensure uniform application of terms defined in part II and part III(B) of the library ~~of definitions~~ as adopted by the governing board under section 57-39.4-28, each member state shall complete, to the best of its ability, the section 4 of the taxability matrix titled "library of definitions".
b. To inform the general public of its practices regarding certain ~~products, procedures, services, or transactions~~ adopted tax administration practices as selected by the governing board under section 57-39.4-33.4, each member state shall complete, to the best of its ability, the section 2 of the taxability matrix titled "tax administration practices".
2. The member state's entries in the taxability matrix shall be provided and maintained in a database that is in a downloadable format approved by the governing board. A member state shall provide notice of changes in the taxability of the products or services listed in the taxability matrix as required by the governing board.
3. A member state shall relieve sellers and certified service providers from liability to the member state and its local jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the seller or certified service provider relying on erroneous data provided by the member state in the library section of the taxability matrix. If a member state amends an existing provision of the library section of its taxability matrix, the member state shall, to the extent possible, relieve sellers and certified service providers from liability to the member state and its local jurisdictions until the first day of the calendar month that is at least thirty days after notice of change to a member state's library section of the taxability matrix is submitted to the governing board, provided the seller or certified service provider relied on the prior version of the taxability matrix.

4. To the extent possible, the member state shall relieve sellers and certified service providers from liability to the member state and its local jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the seller or certified service provider relying on erroneous data provided by the member state in the tax administration practices section of the taxability matrix. If a member state amends an existing provision of the tax administration practices section of its taxability matrix, the member state shall, to the extent possible, relieve sellers and certified service providers from liability to the member state and its local jurisdictions until the first day of the calendar month which is at least thirty days after notice of a change to a member state's tax administration practices section of the taxability matrix is submitted to the governing board, provided the seller or certified service provider relied on the prior version of the taxability matrix.
5. If a state levies sales and use tax on a specified digital product and provides an exemption for an item within the definition of such specified digital product under subsection 8 of section 57-39.4-33.1, such exemption must be noted in the library section of the taxability matrix.
- 5.6. Each state that provides for a sales tax holiday under section 57-39.4-23 shall, in a format approved by the governing board, give notice in the library section of the taxability matrix of the products for which a tax exemption is provided.

SECTION 3. AMENDMENT. Section 57-39.4-33.4 of the North Dakota Century Code is amended and reenacted as follows:

57-39.4-33.4. Best(335) Tax administration practices.

1. ~~For purposes of this section, "best practices" means those practices adopted by the governing board as the best practices in administration of the sales and use taxes in the member states regarding certain identified products, procedures, services, or transactions.~~ tax administration practices consist of the following:
 - a. "Disclosed practice", which means a tax practice that the governing board selects and requires each member state to disclose under subsection 2; and
 - b. "Best practice", which means is a disclosed practice selected by the governing board as a best practice under subsection 3.
2. ~~A majority vote of the entire governing board is required to approve a motion to adopt a best practices standard.~~ The governing board shall select a disclosed practice using the following procedures:
 - a. The state and local advisory council shall develop a practice for disclosure under the guidelines set forth in governing board rule 335.
 - b. The governing board shall provide public notice and opportunity for comment prior to voting on a motion to adopt approve selection of a besttax practice for disclosure.
 - c. If a disclosed practice and a best practice are under concurrent development under rule 335, the governing board first shall vote on whether the practice is a disclosed practice before proceeding on a vote on whether the practice should be selected as a best practice.
 - d. A majority vote of the entire governing board is required to approve a motion to select a tax practice for disclosure.
3. The governing board shall select a best practice using the following procedures:
 - a. The state and local advisory council shall develop a best practice under the guidelines set forth in governing board rule 335 only from among the disclosed practices or from tax practices in concurrent development under subsection 2.

- b. The governing board shall provide notice and opportunity for public comment before voting on a motion to approve selection of a best practice.
 - c. A three-fourths vote of the entire governing board is required to approve a motion to select a best practice.
4. BestTax administration practices adopted by the governing board must be maintained in an appendix to the agreement.
 - 4.5. Conformance by a member state to best practices adopted by the governing board is voluntary and aA state may not be found to be out of compliance with the agreement because the effect of the state's laws, rules, regulations, and policies do not follow each of the best practices adopted by the governing boarda tax administration practice. Following a tax administration practice is voluntary. All member states are encouraged to follow each best practice.
 - 5.6. AEach state shall complete the best practice matrix by the first day of the calendar month that is at least thirty days after the date the governing board approves a best practice and submits itssubmit to the executive director for posting on the governing board's website. For subsequent best practices approved by the governing board, a state shall update its best practice matrix the tax administration practices section of the taxability matrix by the first day of the calendar month thatwhich is at least thirtysixty days after the date the governing board approves a newmotion to select a disclosed or best practice and submits it to the executive director for posting on, or both, or the date specified by the governing board's websiteboard, whichever is later.
 7. Using the procedure for updating the taxability matrix, the executive director shall make the necessary updates to the taxability matrix template no later than thirty days after the date the governing board approves a motion to select a disclosed or best practice.
 8. All best practices existing on May 11, 2015, are disclosed practices. The executive director shall implement this provision without changing any of the member states' responses.
 9. A disclosed practice may subsequently be modified or become a best practice by following the provisions set forth in this section.

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-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2112.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 57 Nays 33 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2017.

Approved at _____ M. on _____, 2017.

Governor

Filed in this office this _____ day of _____, 2017,

at _____ o'clock _____ M.

Secretary of State