

January 23, 2019

PROPOSED AMENDMENTS TO SENATE BILL NO. 2089

Page 1, line 4, after the second comma insert "section 57-39.4-04,"

Page 1, line 5, after the first comma insert "section 57-39.4-19,"

Page 1, line 5, after the third comma insert "subdivision d of subsection 12 of section 57-40.2-04,"

Page 1, line 9, after the second comma insert "seller registration,"

Page 1, line 9, after the third comma insert "uniform tax returns,"

Page 7, after line 30, insert:

"SECTION 8. AMENDMENT. Section 57-39.4-04 of the North Dakota Century Code is amended and reenacted as follows:

57-39.4-04. (303) Seller registration.

Each member state shall participate in an online sales and use tax registration system in cooperation with the other member states. Under this system:

1. A seller registering under the agreement ~~shall be registered~~may register in ~~each one or more~~ of the member states utilizing the central registration system provided in article IV of the agreement.
2. A ~~model 2, model 3, or model 4~~ seller may elect to be registered in one or more states as a seller which anticipates making no sales into the state or states if it has not had sales into the state or states for the preceding ~~twelve months. This election does not relieve the seller of its agreement under section 401(B) to collect taxes on all sales into the states or its liability for remitting to the proper states any taxes collected~~certified service provider may require a seller registering under the agreement to register in all of the full-member states as a condition of receiving certified service provider services.
3. The member states agree not to require the payment of any registration fees or other charges for a seller ~~to register~~registering through the central registration system in a state in which the seller has no legal requirement to register.
4. A written signature from the seller is not required.
5. An agent may register a seller under uniform procedures adopted by the member states.
6. A seller may cancel its registration under the system at any time under uniform procedures adopted by the governing board. Cancellation does not relieve the seller of its liability for remitting to the proper states any taxes collected.

7. Nothing in this section shall be construed to relieve a seller of any legal obligation it may have under a state's laws to register in that state or its obligation to collect and remit taxes for at least thirty-six months in a state and meet all other requirements for amnesty set out in section 402 of the agreement in order to be eligible for amnesty in the state.
8. Whenever a state joins the agreement, sellers already registered under the agreement shall be ~~registered in the new~~notified by the governing board and the sellers may elect to also be registered in the new state as follows:
 - a. ~~Model 1 sellers will be automatically registered in such state.~~
 - b. ~~Model 2, model 3, and model 4 sellers will be automatically registered in the new state but may elect to be registered as a seller which anticipates making no sales into the new state.~~
9. ~~Upon registration, the~~The governing board shall ~~provide to the seller~~make information available regarding the requirements and options for filing a simplified electronic return and for filing remittances in any member state. ~~Member states~~A member state may provide information to sellers concerning other tax return filing options in that state.
10. The governing board shall cause the system for registering under the agreement to include a feature that allows sellers registered under the agreement to update relevant registration data in the system and have such updated data provided to all ~~member~~affected states utilizing the system. The governing board shall establish conditions and procedures to allow states which are not members of the agreement to participate in the registration system."

Page 9, after line 8, insert:

"SECTION 10. AMENDMENT. Section 57-39.4-19 of the North Dakota Century Code is amended and reenacted as follows:

57-39.4-19. (318) Uniform tax returns.

Each member state shall:

1. Require that only a single tax return for each taxing period for each seller be filed for the member state to include all the taxing jurisdictions within the member state.
2.
 - a. Require that returns be due no sooner than the twentieth day of the month following the month in which the transaction occurred.
 - b. When the due date for a return falls on a Saturday or Sunday or legal holiday in the subject member state, the return shall be due on the next succeeding business day. If the return is filed in conjunction with a remittance and the remittance cannot be made under subdivision b of subsection 5 of section 57-39.4-20, the return shall be accepted as timely filed on the same day as the remittance under that subsection.
3. Make available to all sellers, whether or not registered under the agreement, except sellers of products qualifying for exclusion from the

provisions of section 57-39.4-09 of this agreement, a simplified return that is filed electronically as follows:

- a. The simplified electronic return hereinafter SER shall be in a form approved by the governing board and shall contain only those fields approved by the governing board. The SER shall contain two parts. Part 1 shall contain information relating to remittances and allocations and part 2 shall contain information relating to exempt sales.
- b. Each member state must notify the governing board if it requires the submission of the part 2 information provided no state may require the submission of part 2 information from a model 4 seller which has no legal requirement to register in the state.
- c. Returns shall be required as follows:
 - (1) Certified service providers must file an SER in all member states in which the model 1 seller is registered under the agreement, on behalf of model 1 sellers. Certified service providers, on behalf of these sellers, shall file the audit reports provided for in article V of the rules and procedures of the agreement for the states, and in addition, shall be required to file part 1 of the SER each month for each member state in which the model 1 seller is registered under the agreement. A state shall allow a model 1 seller to file both part 1 and part 2 of the SER. A model 1 seller which chooses to file both part 1 and part 2 of the SER shall still be required to file the audit reports provided for in article V of the rules and procedures of the agreement.
 - (2) Model 2 and model 3 sellers must file an SER in all member states ~~other than states for which they have indicated that they anticipate making no sales in which they are registered under the agreement~~. These sellers shall file part 1 of the SER every month for all states in which they ~~anticipate making sales are registered under the agreement~~. These sellers ~~need not file part 2 information until January 1, 2012. After this date, they shall have the following options for meeting their obligation to furnish part 2 information:~~
 - (a) File part 2 of the SER together with part 1 of the SER every month; or
 - (b) File part 2 of the SER at the same time part 1 of the SER for the month of December is due. Part 2 information filed under this option shall cover the month of December and all previous months of the same calendar year and shall only require annual and not monthly totals. The sellers shall only be required to file part 2 of the SER for any state which has notified the governing board that it will require the submission of the part 2 information under subdivision b.
 - (3) Every member state shall allow model 4 sellers to file an SER. The sellers shall file part 1 of the SER every month unless a state allows less frequent filing. Model 4 sellers which have a

legal requirement to register in the state shall have the following options for meeting their obligation to furnish part 2 information:

- (a) File part 2 of the SER together with part 1 of the SER; or
- (b) File part 2 of the SER at the same time part 1 of the SER for the month of December is due. Part 2 information filed under this option shall cover the month of December and all previous months of the same calendar year and shall only require annual and not monthly totals.

These sellers shall only be required to file part 2 of the SER for any state which has notified the governing board that it will require the submission of the part 2 information under subdivision b.

Model 4 sellers which elect not to file an SER shall file returns in the form under schedules afforded to sellers not registered under the agreement according to the requirements of each member state.

- (4) ~~No later than January 1, 2013, every~~Every member state shall allow sellers not registered under the agreement that are registered in the state to file an SER. These sellers shall file part 1 of the SER every month unless a state allows less frequent filing and shall have the following options for meeting their obligation to furnish part 2 information:

- (a) File part 2 of the SER together with part 1 of the SER; or
- (b) File part 2 of the SER at the same time part 1 of the SER for the month of December is due. Part 2 information filed under this option shall cover the month of December and all previous months of the same calendar year and shall only require annual and not monthly totals.

These sellers shall only be required to file part 2 of the SER for any state which has notified the governing board that it will require the submission of the part 2 information under subdivision b.

- d. A state which requires the submission of part 2 information under paragraph 2 may provide an exemption from this requirement to a seller under terms and conditions set out by the state.
 - e. A state may require a seller which elects to file an SER to give at least three months' notice of the seller's intent to discontinue filing an SER.
4. ~~Not require the filing of a return from a seller registered under the agreement which has indicated at the time of registration that it anticipates making no sales which would be sourced to the state under the agreement. A seller shall lose this exemption upon making any taxable sales into the state and shall file a return in the month following the sale. A state may, but is not required to, allow a seller to regain such filing exemption upon such terms and conditions as the state may impose.~~

5. Adopt web services as the standardized transmission process 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.
- 6.5. Give notice to a seller registered under this agreement which has no legal requirement to register in the state, of a failure to file a required return and a minimum of thirty days to file thereafter prior to establishing a liability amount for taxes based solely on the seller's failure to timely file a return provided a member state may establish a liability amount for taxes based solely on the seller's failure to timely file a return if such seller has a history of nonfiling or late filing.
- 7.6. Nothing in this section shall prohibit a state from allowing additional return options or the filing of returns less frequently."

Page 11, after line 5, insert:

"SECTION 14. AMENDMENT. Subdivision d of subsection 12 of section 57-40.2-04 of the North Dakota Century Code is amended and reenacted as follows:

- d. "Supplies for ostomy care or bladder dysfunction" includes:
 - (1) Supplies designed or intended for ostomy care and management, including collection devices, colostomy irrigation equipment and supplies, skin barriers or skin protectors, and other supplies especially designed for use of ostomates.
 - (2) Supplies to be used exclusively by a person with bladder dysfunction, including catheters, collection devices, incontinence pads and pants, adult diapers, and other items used for the care and management of bladder dysfunction. For the purposes of this paragraph:
 - (a) "Adult diapers" means diapers other than children's diapers.
 - (b) "Children's diapers" means diapers marketed to be worn by children.
 - (c) "Diaper" means an absorbent garment worn by humans who are incapable of, or have difficulty, controlling their bladder or bowel movements."

Page 11, line 27, replace "12" with "15"

Renumber accordingly