

2013 SENATE FINANCE AND TAXATION

SB 2217

2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee Lewis and Clark Room, State Capitol

SB 2217
1/23/2013
Job Number 17584

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 40-57.3-04 and 57-39.4-11.1 of the North Dakota Century Code, relating to the payment of city lodging tax, city lodging and restaurant tax, city motor vehicle tax, and the election of origin-based sourcing for retail sales of tangible personal property.

Minutes:

Testimony Attached

Chairman Cook opened the hearing and introduced SB 2217.

Myles Vosberg, Office of State Tax Commissioner - See attached testimony 1.

Vice Chairman Campbell - This new streamline agreement, we have an option but North Dakota chooses, which we can do either way right?

Myles Vosberg - That is correct. We chose to be destination.

Chairman Cook - Was North Dakota ever origin?

Myles Vosberg - Not that I'm aware of.

Senator Dotzenrod - On the bottom of page 4 and the top of page 5 you have deleted these 2 paragraphs that refer to the compliance, but the provisions of this section satisfy a state's eligibility, so currently in law we are telling, through statute, what we think we need to do to comply, and now we are deleting that. Is it your position with the tax department that we really don't need to do that? We don't need to state what it is we need to do to comply and that is why you are taking that out?

Myles Vosberg - These 2 paragraphs that we are striking are the provisions that were in the agreement that said you have to have 5 states that want to use origin sourcing in order for them to be full member states. That is no longer the case with the agreement.

Senator Dotzenrod - Aren't there other things that we need to do to be in compliance with the agreement?

Myles Vosberg - Absolutely. This paragraph that says this is what you need to do to be in agreement or in compliance with the agreement only refers to the sourcing issue.

Chairman Cook - If we didn't, at the beginning, go down the road of putting the agreement in our code we would have never had this language in our code. So its language that is in our code because we have the agreement in our code, but it never had any effect on North Dakota.

Chairman Cook asked for more testimony on SB 2217.

Chairman Cook closed the hearing SB 2217.

Senator Miller - I move a **Do Pass** on SB 227.

Seconded by **Senator Triplett**.

Roll Call Vote 7-0-0

Carried by **Chairman Cook**.

REPORT OF STANDING COMMITTEE

SB 2217: Finance and Taxation Committee (Sen. Cook, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2217 was placed on the Eleventh order on the calendar.

2013 HOUSE FINANCE AND TAXATION

SB 2217

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2217
March 12, 2013
Job #19781

Conference Committee

Committee Clerk Signature

Mary Bruckey

Explanation or reason for introduction of bill/resolution:

A Bill relating to the payment of city lodging tax, city lodging and restaurant tax, city motor vehicle tax, and the election of origin-based sourcing for retail sales of tangible personal property.

Minutes:

Attached testimony #1.

Chairman Belter: Opened hearing on SB 2217.

Representative Drovdal: Introduced bill. The first section states the sales and use tax is to be paid for by the consumer. The second section has to do with sales tax and point of origin. Right now it is the point of destination because we are a receiving state; we get more products shipped in to us than we ship out. We want our taxes to be paid by our consumers to stay in North Dakota. This bill says that within the state we can decide if we want or don't want to be point of destination so it gives us an option.

Myles Vosberg, Director of the Tax Administration Division of the Office of State Tax Commissioner: See attached testimony #1.

Representative Trottier: Does this in any way affect any consumers at all?

Myles Vosberg: It really doesn't. All we've done here is change language that we adopted in the chapter of law where we addressed the streamline sales tax. Because the streamline governing board has made changes to the agreement we are just making those same changes in our law. These two sections really don't change anything we are doing right now.

Chairman Belter: Any other testimony on 2217? If not, we will close the hearing.

Representative Klein: Made a motion for a Do Pass.

Representative Owens: Seconded.

ROLL CALL VOTE: 11 YES 0 NO 3 ABSENT
Representative Drovdal will carry this bill.

Date: 3-12-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2217

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep Klein Seconded By Rep. Owens

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter	✓		Rep. Scot Kelsh	AB	
Vice Chairman Craig Headland	✓		Rep. Steve Zaiser	AB	
Rep. Matthew Klein	✓		Rep. Jessica Haak	✓	
Rep. David Drovdal	✓		Rep. Marie Strinden	AB	
Rep. Glen Froseth	✓				
Rep. Mark Owens	✓				
Rep. Patrick Hatlestad	✓				
Rep. Wayne Trottier	✓				
Rep. Jason Dockter	✓				
Rep. Jim Schmidt	✓				

Total (Yes) 11 No 0

Absent 3

Floor Assignment Rep. Drovdal

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2217: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). SB 2217 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

SB 2217

**TESTIMONY OF THE OFFICE OF STATE TAX COMMISSIONER
BEFORE THE
SENATE FINANCE AND TAXATION COMMITTEE**

SENATE BILL 2217

January 23, 2013

Chairman Cook, members of the Senate Finance and Taxation Committee, I am Myles Vosberg, Director of the Tax Administration Division of the Office of State Tax Commissioner, and I am here today on behalf of the Commissioner to testify in support of Senate Bill 2217.

BACKGROUND

The purpose of Senate Bill 2217 is to maintain North Dakota's compliance with the Streamlined Sales and Use Tax Agreement. North Dakota has participated in the Streamlined Sales Tax project since 2001 and has been a full member of the Streamlined Sales and Use Tax Agreement (SUTA) since 2005. We have requested law changes in every session since 2003 to remain in compliance with the agreement. As you know, the SST project has been a joint effort of state and local governments, the business community, tax practitioners, and many trade associations to simplify the sales tax laws and encourage voluntary collection of sales and use taxes by retailers that have no legal obligation to collect.

North Dakota's approach to adopt the provisions of the SUTA into our law has been to adopt the entire agreement by reference in Section 1 of North Dakota Century Code Chapter 57-39.4 except for Articles III and V of the Agreement. The detailed language of each section of Articles III and V has been adopted in the remaining sections of Chapter 57-39.4. The two amendments in this bill will maintain North Dakota's compliance with the Streamlined Sales and Use Tax Agreement; however, neither of the two amendments has a fiscal impact or changes the current administration of the sales and use tax laws.

EXPLANATION OF THE BILL

Section 1 of the bill clarifies that local lodging taxes, restaurant and lodging taxes, and city motor vehicle rental taxes must be collected from the consumer by the retailer. Under the SUTA, other local taxes that are imposed directly on the consumer may not be included in the taxable sales price for state sales tax purposes. In other words, local taxes collected from the consumer may not be subject to North Dakota sales tax. Local lodging, restaurant, and motor vehicle rental taxes have never been subject to state or local sales taxes in North Dakota, but this additional language in Chapter 40-57.3, which authorizes these locally imposed taxes, makes this policy clear to retailers required to collect both sales tax and other locally imposed transaction taxes.

Section 2 addresses the sourcing of intrastate sales transactions. Sourcing identifies the point of taxation. All sales in interstate commerce must be sourced at the point of final destination, however, under the SUTA, states may elect to source intrastate sales at the final destination or at the point where the retailer takes the sale order, which is usually a retail store or office location. This type of sourcing is referred to as origin sourcing.

North Dakota has always sourced both intrastate and interstate sales at the final destination and will continue to do so. However, the provisions regarding origin sourcing in the Streamlined Sales and Use Tax Agreement have been amended and because North Dakota has adopted the optional origin sourcing provisions from the agreement in Chapter 57-39.4, Section 2 of the bill amends those provisions to conform to the updated agreement. Prior to the change in origin sourcing, the agreement required at least five states to elect to use origin sourcing before those states could be full-member states. The five-state requirement no longer applies.

CONCLUSION

Although the two amendments addressed in SB2217 have no substantive impacts on the administration of North Dakota sales and use taxes, approval of the bill will maintain North Dakota's compliance with Streamline Sales and Use Tax Agreement. The Tax Commissioner's Office respectfully requests favorable consideration on Senate Bill 2217. Thank you.

—

**TESTIMONY OF THE OFFICE OF STATE TAX COMMISSIONER
BEFORE THE
HOUSE FINANCE AND TAXATION COMMITTEE**

SENATE BILL 2217

March 12, 2013

Chairman Belter, members of the House Finance and Taxation Committee, I am Myles Vosberg, Director of the Tax Administration Division of the Office of State Tax Commissioner, and I am here today on behalf of the Commissioner to testify in support of Senate Bill 2217.

BACKGROUND

The purpose of Senate Bill 2217 is to maintain North Dakota's compliance with the Streamlined Sales and Use Tax Agreement. North Dakota has participated in the Streamlined Sales Tax project since 2001 and has been a full member of the Streamlined Sales and Use Tax Agreement (SUTA) since 2005. We have requested law changes in every session since 2003 to remain in compliance with the agreement. As you know, the SST project has been a joint effort of state and local governments, the business community, tax practitioners, and many trade associations to simplify the sales tax laws and encourage voluntary collection of sales and use taxes by retailers that have no legal obligation to collect.

North Dakota's approach to adopt the provisions of the SUTA into our law has been to adopt the entire agreement by reference in Section 1 of North Dakota Century Code Chapter 57-39.4 except for Articles III and V of the Agreement. The detailed language of each section of Articles III and V has been adopted in the remaining sections of Chapter 57-39.4. The two amendments in this bill will maintain North Dakota's compliance with the Streamlined Sales and Use Tax Agreement; however, neither of the two amendments has a fiscal impact or changes the current administration of the sales and use tax laws.

1
2

EXPLANATION OF THE BILL

Section 1 of the bill clarifies that local lodging taxes, restaurant and lodging taxes, and city motor vehicle rental taxes must be collected from the consumer by the retailer. Under the SUTA, other local taxes that are imposed directly on the consumer may not be included in the taxable sales price for state sales tax purposes. In other words, local taxes collected from the consumer may not be subject to North Dakota sales tax. Local lodging, restaurant, and motor vehicle rental taxes have never been subject to state or local sales taxes in North Dakota, but this additional language in Chapter 40-57.3, which authorizes these locally imposed taxes, makes this policy clear to retailers required to collect both sales tax and other locally imposed transaction taxes.

Section 2 addresses the sourcing of intrastate sales transactions. Sourcing identifies the point of taxation. All sales in interstate commerce must be sourced at the point of final destination, however, under the SUTA, states may elect to source intrastate sales at the final destination or at the point where the retailer takes the sale order, which is usually a retail store or office location. This type of sourcing is referred to as origin sourcing.

North Dakota has always sourced both intrastate and interstate sales at the final destination and will continue to do so. However, the provisions regarding origin sourcing in the Streamlined Sales and Use Tax Agreement have been amended and because North Dakota has adopted the optional origin sourcing provisions from the agreement in Chapter 57-39.4, Section 2 of the bill amends those provisions to conform to the updated agreement. Prior to the change in origin sourcing, the agreement required at least five states to elect to use origin sourcing before those states could be full-member states. The five-state requirement no longer applies.

CONCLUSION

Although the two amendments addressed in SB2217 have no substantive impacts on the administration of North Dakota sales and use taxes, approval of the bill will maintain North Dakota's compliance with Streamline Sales and Use Tax Agreement. The Tax Commissioner's Office respectfully requests favorable consideration on Senate Bill 2217. Thank you.