

**HOUSE BILL NO. 1310**

Introduced by

Representatives Dosch, Berg, Clark, Keiser, Onstad

Senator Grindberg

1 A BILL for an Act to amend and reenact sections 40-57.3-04, 57-39.2-12.1, and 57-40.2-07.1 of  
2 the North Dakota Century Code, relating to a deduction to reimburse retailers for administrative  
3 expenses of collecting city lodging, restaurant, and motor vehicle rental taxes and state sales  
4 and use taxes; and to provide an effective date.

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

6 **SECTION 1. AMENDMENT.** Section 40-57.3-04 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **40-57.3-04. Payment of tax - Collection by tax commissioner - Administrative**  
9 **expenses allowed for retailers and tax commissioner - Rules.** The taxes imposed under  
10 this chapter are due and payable at the same time the taxpayer is required to file a return under  
11 chapter 57-39.2 and must be collected and administered by the state tax commissioner in  
12 accordance with the relevant provisions of chapter 57-39.2. A taxpayer required to report and  
13 pay taxes imposed under this chapter may deduct and retain three percent of the tax due with  
14 each return but the amount allowed to be deducted may not exceed one hundred seventy  
15 dollars per month. The deduction allowed retailers is to reimburse retailers for expenses  
16 incurred in keeping records, preparing and filing returns, remitting taxes, and supplying  
17 information to the tax commissioner upon request. The amount the tax commissioner remits  
18 monthly to each city as taxes collected for that city's visitors' promotion fund and visitors'  
19 promotion capital construction fund must be reduced by three percent as an administrative fee  
20 necessary to defray the cost to the tax commissioner of collecting the taxes and the expenses  
21 incident to collection. The administrative fee must be deposited in the general fund in the state  
22 treasury. The tax commissioner shall adopt rules necessary for the administration of this  
23 chapter. The penalties and liabilities provided in sections 57-39.2-18 and 57-39.2-18.1

1 specifically apply to the filing of returns and administration of the taxes imposed under this  
2 chapter.

3 **SECTION 2. AMENDMENT.** Section 57-39.2-12.1 of the North Dakota Century Code  
4 is amended and reenacted as follows:

5 **57-39.2-12.1. Deduction to reimburse retailer for administrative expenses.**

- 6 1. A retailer required to report and pay monthly under section 57-39.2-12 may deduct  
7 and retain ~~one and one-half~~ three percent of the tax due. The aggregate of  
8 deductions allowed by this section and section 57-40.2-07.1 may not exceed  
9 ~~eighty-five~~ one hundred seventy dollars per month. Retailers that receive  
10 compensation under this subsection may not receive additional compensation  
11 under subsection 2 or 3 for the same period.
- 12 2. A certified service provider that contracts with retailers to calculate, collect, and  
13 remit tax due on behalf of retailers may deduct and retain from the tax remitted to  
14 the tax commissioner compensation or a monetary allowance up to the amount  
15 approved by the streamlined sales and use tax governing board effective June 1,  
16 2006. The compensation provided in this subsection applies only to tax remitted  
17 by certified service providers on behalf of retailers that are remote sellers  
18 registered to collect sales and use tax in this state under chapter 57-39.4. Certified  
19 service providers that receive compensation under this subsection may not receive  
20 additional compensation under subsection 1 or 3 for the same period.
- 21 3. A retailer that is a remote seller registered to collect sales and use tax under  
22 chapter 57-39.4 and that uses a certified automated system to calculate, report,  
23 and remit tax due under chapters 57-39.2, 57-39.4, and 57-40.2 may deduct and  
24 retain compensation or a monetary allowance up to the amount approved by the  
25 streamlined sales and use tax governing board during its December 2006 meeting.  
26 Retailers that receive compensation under this subsection may not receive  
27 additional compensation under subsection 1 or 2 for the same period.
- 28 4. For purposes of this section, "remote seller" means a retailer that does not have an  
29 adequate physical presence to establish nexus in this state for sales and use tax  
30 purposes.

1           5. Compensation may not be deducted and retained under this section unless the tax  
2           due is paid within the time limitations under section 57-39.2-12 or 57-40.2-07 or  
3           chapter 57-39.4.

4           6. The deduction allowed retailers or certified service providers by this section is to  
5           reimburse retailers directly or indirectly for expenses incurred in keeping records,  
6           preparing and filing returns, remitting the tax, and supplying information to the tax  
7           commissioner upon request.

8           **SECTION 3. AMENDMENT.** Section 57-40.2-07.1 of the North Dakota Century Code  
9           is amended and reenacted as follows:

10           **57-40.2-07.1. Deduction to reimburse retailer for administrative expenses.**

11           1. A retailer required to report and pay monthly under section 57-40.2-07 may deduct  
12           and retain ~~one and one-half~~ three percent of the tax due. The aggregate of  
13           deductions allowed by this section and section 57-39.2-12.1 may not exceed  
14           ~~eighty-five~~ one hundred seventy dollars per month. Retailers that receive  
15           compensation under this subsection may not receive additional compensation  
16           under subsection 2 or 3 for the same period.

17           2. A certified service provider that contracts with retailers to calculate, collect, and  
18           remit tax due on behalf of retailers may deduct and retain from the tax remitted to  
19           the tax commissioner compensation or a monetary allowance up to the amount  
20           approved by the streamlined sales and use tax governing board effective June 1,  
21           2006. The compensation provided in this subsection applies only to tax remitted  
22           by certified service providers on behalf of retailers that are remote sellers  
23           registered to collect sales and use tax in this state under chapter 57-39.4. Certified  
24           service providers that receive compensation under this subsection may not receive  
25           additional compensation under subsection 1 or 3 for the same period.

26           3. A retailer that is a remote seller registered to collect sales and use tax under  
27           chapter 57-39.4 and that uses a certified automated system to calculate, report,  
28           and remit tax due under chapters 57-39.2, 57-39.4, and 57-40.2 may deduct and  
29           retain compensation or a monetary allowance up to the amount approved by the  
30           streamlined sales and use tax governing board during its December 2006 meeting.

- 1                   Retailers that receive compensation under this subsection may not receive  
2                   additional compensation under subsection 1 or 2 for the same period.
- 3           4.   For purposes of this section, "remote seller" means a retailer that does not have an  
4                   adequate physical presence to establish nexus in this state for sales and use tax  
5                   purposes.
- 6           5.   Compensation may not be deducted and retained under this section unless the tax  
7                   due is paid within the time limitations under section 57-39.2-12 or 57-40.2-07 or  
8                   chapter 57-39.4.
- 9           6.   The deduction allowed retailers or certified service providers by this section is to  
10                  reimburse retailers directly or indirectly for expenses incurred in keeping records,  
11                  preparing and filing returns, remitting the tax, and supplying information to the tax  
12                  commissioner upon request.

13           **SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable events occurring after  
14   June 30, 2009.