

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2347
(Senator Cook)
(Representatives Drovdal, Weiler)

AN ACT to create and enact a new subsection to section 57-39.2-04 and a new subsection to section 57-40.2-04 of the North Dakota Century Code, relating to gross receipts from the sale of items delivered electronically; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 57-39.2-04 of the North Dakota Century Code is created and enacted as follows:

Gross receipts from the sale of items delivered electronically, including specified digital products. For purposes of this subsection:

- a. "Specified digital products" means:
 - (1) "Digital audio-visual works" which means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any;
 - (2) "Digital audio works" which means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones; and
 - (3) "Digital books" which means works that are generally recognized in the ordinary and usual sense as books.
- b. For purposes of the definition of "specified digital products", "transferred electronically" means obtained by the purchaser by means other than tangible storage media.
- c. For purposes of the definition of "digital audio work", "ringtones" means digitized sound files that are downloaded onto a device and which may be used to alert the customer with respect to a communication.
- d. "Specified digital products" may not be construed to include prewritten computer software as that term is defined in subdivision g of subsection 1 of section 57-39.2-02.1.

SECTION 2. A new subsection to section 57-40.2-04 of the North Dakota Century Code is created and enacted as follows:

Gross receipts from the sale of items delivered electronically, including specified digital products. For purposes of this subsection:

- a. "Specified digital products" means:
 - (1) "Digital audio-visual works" which means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any;
 - (2) "Digital audio works" which means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones; and

- (3) "Digital books" which means works that are generally recognized in the ordinary and usual sense as books.
- b. For purposes of the definition of "specified digital products", "transferred electronically" means obtained by the purchaser by means other than tangible storage media.
- c. For purposes of the definition of "digital audio works", "ringtones" means digitized sound files that are downloaded onto a device and which may be used to alert the customer with respect to a communication.
- d. "Specified digital products" may not be construed to include prewritten computer software as that term is defined in subdivision g of subsection 1 of section 57-39.2-02.1.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2009.

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-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2347.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 83 Nays 3 Absent 8

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State