

Introduced by

Finance and Taxation Committee

(At the request of the Tax Commissioner)

1 A BILL for an Act to amend and reenact subsection 5 of section 57-39.4-19 and sections
2 57-39.4-29 and 57-39.4-33.4 of the North Dakota Century Code, relating to uniform tax returns,
3 the taxability matrix, and tax administration practices under the sales and use tax agreement.

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

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

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

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

18 **57-39.4-29. (328) Taxability matrix.**

19 1. a. To ensure uniform application of terms defined in part II and part III(B) of the
20 library ~~of definitions~~ as adopted by the governing board under section 57-39.4-28,
21 each member state shall complete, to the best of its ability, the section 4 of the
22 taxability matrix titled "library of definitions".
23 b. To inform the general public of its practices regarding certain ~~products,~~
24 ~~procedures, services, or transactions adopted~~ tax administration practices as

1 selected by the governing board under section 57-39.4-33.4, each member state
2 shall complete, to the best of its ability, the section 2 of the taxability matrix titled
3 "tax administration practices".

4 2. The member state's entries in the taxability matrix shall be provided and maintained in
5 a database that is in a downloadable format approved by the governing board. A
6 member state shall provide notice of changes in the taxability of the products or
7 services listed in the taxability matrix as required by the governing board.

8 3. A member state shall relieve sellers and certified service providers from liability to the
9 member state and its local jurisdictions for having charged and collected the incorrect
10 amount of sales or use tax resulting from the seller or certified service provider relying
11 on erroneous data provided by the member state in the library section of the taxability
12 matrix. If a member state amends an existing provision of the library section of its
13 taxability matrix, the member state shall, to the extent possible, relieve sellers and
14 certified service providers from liability to the member state and its local jurisdictions
15 until the first day of the calendar month that is at least thirty days after notice of
16 change to a member state's library section of the taxability matrix is submitted to the
17 governing board, provided the seller or certified service provider relied on the prior
18 version of the taxability matrix.

19 4. To the extent possible, the member state shall relieve sellers and certified service
20 providers from liability to the member state and its local jurisdictions for having
21 charged and collected the incorrect amount of sales or use tax resulting from the seller
22 or certified service provider relying on erroneous data provided by the member state in
23 the tax administration practices section of the taxability matrix. If a member state
24 amends an existing provision of the tax administration practices section of its taxability
25 matrix, the member state shall, to the extent possible, relieve sellers and certified
26 service providers from liability to the member state and its local jurisdictions until the
27 first day of the calendar month which is at least thirty days after notice of a change to a
28 member state's tax administration practices section of the taxability matrix is submitted
29 to the governing board, provided the seller or certified service provider relied on the
30 prior version of the taxability matrix.

1 5. If a state levies sales and use tax on a specified digital product and provides an
2 exemption for an item within the definition of such specified digital product under
3 subsection 8 of section 57-39.4-33.1, such exemption must be noted in the library
4 section of the taxability matrix.

5 5-6. Each state that provides for a sales tax holiday under section 57-39.4-23 shall, in a
6 format approved by the governing board, give notice in the library section of the
7 taxability matrix of the products for which a tax exemption is provided.

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

10 **57-39.4-33.4. Best(335) Tax administration practices.**

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

- 1 d. A majority vote of the entire governing board is required to approve a motion to
2 select a tax practice for disclosure.
- 3 3. The governing board shall select a best practice using the following procedures:
- 4 a. The state and local advisory council shall develop a best practice under the
5 guidelines set forth in governing board rule 335 only from among the disclosed
6 practices or from tax practices in concurrent development under subsection 2.
- 7 b. The governing board shall provide notice and opportunity for public comment
8 before voting on a motion to approve selection of a best practice.
- 9 c. A three-fourths vote of the entire governing board is required to approve a motion
10 to select a best practice.
- 11 4. ~~BestTax administration~~ practices adopted by the governing board must be maintained
12 in an appendix to the agreement.
- 13 ~~4.5. Conformance by a member state to best practices adopted by the governing board is~~
14 ~~voluntary and a~~ A state may not be found to be out of compliance with the agreement
15 because the effect of the state's laws, rules, regulations, and policies do not follow
16 ~~each of the best practices adopted by the governing board~~ a tax administration
17 practice. Following a tax administration practice is voluntary. All member states are
18 encouraged to follow each best practice.
- 19 ~~5.6. A~~ Each state shall complete the best practice matrix by the first day of the calendar
20 month that is at least thirty days after the date the governing board approves a best
21 ~~practice and submits it~~ submit to the executive director for posting on the governing
22 board's website. For subsequent best practices approved by the governing board, a
23 ~~state shall update its best practice matrix~~ the tax administration practices section of
24 the taxability matrix by the first day of the calendar month that which is at least
25 ~~thirtysixty~~ days after the date the governing board approves a new motion to select a
26 disclosed or best practice and submits it to the executive director for posting on, or
27 both, or the date specified by the governing board's website board, whichever is later.
- 28 7. Using the procedure for updating the taxability matrix, the executive director shall
29 make the necessary updates to the taxability matrix template no later than thirty days
30 after the date the governing board approves a motion to select a disclosed or best
31 practice.

- 1 8. All best practices existing on May 11, 2015, are disclosed practices. The executive
2 director shall implement this provision without changing any of the member states'
3 responses.
- 4 9. A disclosed practice may subsequently be modified or become a best practice by
5 following the provisions set forth in this section.