



# SALES & SPECIAL TAXES NEWSLETTER

## 2023 LEGISLATIVE RECAP

The following are highlights of sales and special taxes legislation approved by the 2023 Legislative Assembly and signed into law by Governor Doug Burgum.

# IN THIS ISSUE

Bill text and additional information for the 68th Legislative Assembly is available at [ndlegis.gov](http://ndlegis.gov).

## SALES & USE TAX LEGISLATION

- Children's Diapers - House Bill 1177 - Page 2
- Senior Citizen Organizations - House Bill 1210 - Page 3
- Renewable Feedstock Refinery - House Bill 1430 - Page 4
- Bioscience Manufacturing - House Bill 1455 - Page 5
- Coal Feedstock Facility - House Bill 1511 - Page 6
- Sustainable Aviation Fuel Facility Refining Renewable Feedstock - Senate Bill 2006 - Page 7
- Fertilizer or Chemical Processing Plant - Senate Bill 2334 - Page 8

## MOTOR VEHICLE EXCISE TAX LEGISLATION

- Surviving Spouses of Disabled Veterans - House Bill 1212 - Page 9
- Enrolled Tribal Members with Residing on a Reservation - House Bill 1223 - Page 9
- Auction Service Fees - Senate Bill 2141 - Page 10

## TRIBAL TOBACCO & ALCOHOL TAX LEGISLATION

- Tribal Tobacco & Alcohol Tax Agreements - Senate Bill 2377 - Page 11

## CIGAR CERTIFICATION LEGISLATION

- Cigar Lounges - House Bill 1229 - Page 12





## **SALES & USE TAX**

### **HB 1177 – SALES AND USE TAX EXEMPTION ON SALES OF CHILDREN'S DIAPERS**

House Bill 1177 creates a sales and use tax exemption for children's diapers. Starting July 1, 2023, sales and use tax will not be collected on the sale of children's diapers in North Dakota.

The exemption will apply to both disposable and reusable diapers marketed to be worn by children.

Adult diapers are presently exempt from North Dakota sales and use tax.

Statute Affected: N.D.C.C. § 57-39.2-04  
Effective Date: July 1, 2023



# **SALES & USE TAX**

## **HB 1210 – SENIOR CITIZEN ORGANIZATIONS**

House Bill 1210 updates the sales and use tax exemption for purchases made by qualified senior citizen organizations. To qualify an organization must:

- Provide informational, health, welfare, counseling, and referral services for seniors in North Dakota;
- Be designated as a 501(c)(3) by the IRS;
- Be registered as a charitable organization with the North Dakota Secretary of State;

And one of the following:

- Provide services through the North Dakota Department of Health and Human Service's Aging Service Division;
- Receive grant funds through the North Dakota Department of Transportation and use them for enhancing the mobility of seniors and individuals with disabilities; or
- Provide services through a contract with the North Dakota Department of Health and Human Services as a program of all-inclusive care for the elderly (PACE).

A senior organization meeting these qualifications may apply for an exemption number and certificate by submitting the Application for Sales Tax Exemption Certificate available at [tax.nd.gov](https://tax.nd.gov).

Statute Affected: N.D.C.C. §§ 57-39.2-04(60) and 57-40.2-04(27)  
Effective Date: July 1, 2023



# **SALES & USE TAX**

## **HB 1430 – RENEWABLE FEEDSTOCK REFINERY**

House Bill 1430 creates a new sales and use tax exemption for materials used to construct, expand, or make an environmental upgrade to a renewable feedstock refinery.

A renewable feedstock refinery is a North Dakota facility that creates gasoline, jet fuel, or other transportation fuels by refining renewable feedstock through deoxygenation and has a nameplate capacity of 5,000 or more barrels of renewable feedstock per day.

For this exemption, renewable feedstock means “renewable biomass” as defined in Title 40 of the Code of Federal Regulations (CFR) section 80.1401.

The exemption may only be received at the time the materials are purchased. The owner of the renewable feedstock facility must apply to the North Dakota Office of State Tax Commissioner to receive a certificate before purchasing the materials. The certificate must be presented to the seller at the time of purchase to receive the exemption.

To apply for the renewable feedstock refinery sales and use tax exemption certificate, a letter of application must be submitted to the Sales and Special Taxes Compliance section by mail or email at [salestax@nd.gov](mailto:salestax@nd.gov). Detailed information on the application process is on the Office of State Tax Commissioner’s website at [tax.nd.gov](https://tax.nd.gov).

Statute Affected: N.D.C.C. §§ 57-39.2-04.4 and 57-40.2-03.3  
Effective Date: July 1, 2023



# **SALES & USE TAX**

## **HB 1455 – BIOSCIENCE MANUFACTURING**

House Bill 1455 creates a new sales and use tax exemption for sales of raw materials, single-use product contact systems, and reagents used directly in North Dakota biologic manufacturing.

The exemption may only be received at the time the materials are purchased. The owner of the biologic manufacturing facility must apply to the North Dakota Office of State Tax Commissioner to receive a certificate before purchasing the materials. The certificate must be presented to the seller at the time of purchase to receive the exemption.

A biologic manufacturer receiving this exemption must report annually to the Tax Commissioner. The report is due by April 1 for the preceding calendar year. The report must include:

- Total sales and use tax liability exempted under this law
- Total gross payroll
- Total property taxes paid, and square footage of buildings owned by the taxpayer
- Total North Dakota workforce safety and insurance premiums paid
- North Dakota unemployment taxes paid
- Total state income tax withheld by the taxpayer

To apply for the bioscience manufacturing sales and use tax exemption certificate, a letter of application must be submitted to the Sales and Special Taxes Compliance section by mail or email at [salestax@nd.gov](mailto:salestax@nd.gov).

Detailed information on the application process is on the Office of State Tax Commissioner's website at [tax.nd.gov](http://tax.nd.gov).

Statute Affected: N.D.C.C. §§ 57-39.2-04.4 and 57-40.2-03.3  
Effective Dates: July 1, 2023 - June 30, 2029



# **SALES & USE TAX**

## **HB 1511 - COAL FEEDSTOCK FACILITY**

House Bill 1511 creates a sales and use tax exemption for materials used to construct or expand a North Dakota coal processing facility that utilizes coal as a feedstock. The facility must either extract critical minerals or rare earth elements from lignite coal or create a product from the lignite coal, like nanomaterials, carbon fibers, graphite, or building materials.

The exemption may only be received at the time the materials are purchased. The owner of the coal feedstock facility must apply to the North Dakota Office of State Tax Commissioner to receive a certificate before purchasing the materials. The certificate must be presented to the seller at the time of purchase to receive the exemption.

To apply for the coal feedstock facility sales and use tax exemption certificate, a letter of application must be submitted to the Sales and Special Taxes Compliance section by mail or email [salestax@nd.gov](mailto:salestax@nd.gov).

Detailed information on the application process is on the Office of State Tax Commissioner's website at:  
[www.nd.gov/tax/SalesTaxExemptions](http://www.nd.gov/tax/SalesTaxExemptions).

Statutory Affected: N.D.C.C. § 57-39.2-04.4 and 57-40.2-03.3.  
Effective Date: July 1, 2023



# **SALES & USE TAX**

## **SB 2006 - SUSTAINABLE AVIATION FUEL FACILITY REFINING RENEWABLE FEEDSTOCK**

Senate Bill 2006 creates a new sales and use tax exemption for materials used to construct, expand, or upgrade a facility that refines renewable feedstock into sustainable aviation fuel.

For this exemption, renewable feedstock means ethanol and other types of feedstock from renewable sources.

The exemption may only be received at the time the materials are purchased. The owner of a sustainable aviation fuel facility must apply to the North Dakota Office of State Tax Commissioner to receive a certificate before purchasing the materials. The certificate must be presented to the seller at the time of purchase to receive the exemption.

To apply for the sustainable aviation fuels facility sales and use tax exemption certificate, a letter of application must be submitted to the Sales and Special Taxes Compliance section by mail or email at [salestax@nd.gov](mailto:salestax@nd.gov).

Detailed information on the application process is on the Office of State Tax Commissioner's website at [tax.nd.gov](http://tax.nd.gov).

Statute Affected: N.D.C.C. §§ 57-39.2-04.4 and 57-40.2-03.3  
Effective Dates: July 1, 2023 - June 30, 2025





# **SALES & USE TAX**

## **SB 2334 - FERTILIZER OR CHEMICAL PROCESSING PLANT**

Senate Bill 2334 removes the sunset date from the sales and use tax exemption for materials used to construct a new fertilizer or chemical processing plant in North Dakota.

To apply for the fertilizer or chemical processing plant sales and use tax exemption, a letter of application must be submitted to the Sales and Special Taxes Compliance section by mail or email at [salestax@nd.gov](mailto:salestax@nd.gov).

Detailed information on the application process is on the Office of State Tax Commissioner's website at [tax.nd.gov](http://tax.nd.gov).

Statute Affected: N.D.C.C. § 57-39.2-04.4-15  
Effective Date: July 1, 2023

# **MOTOR VEHICLE EXCISE TAX**

## **HB 1212 - DISABLED VETERAN'S SURVIVING SPOUSE**

House Bill 1212 expands the motor vehicle excise tax exemption for disabled veterans allowing the exemption to apply to a remarried surviving spouse. The exemption will also apply to a surviving spouse of a veteran who is determined to qualify for United States Department of Veterans Affairs disability and indemnity compensation after the veteran's death.

Proof of disability and indemnity compensation includes correspondence from the United States Department of Veterans Affairs showing that the surviving spouse will be receiving the compensation.

Statute Affected: N.D.C.C. § 57-40.3-04(1)  
Effective Date: July 1, 2023

## **HB 1223 - ENROLLED TRIBAL MEMBERS RESIDING ON A RESERVATION**

House Bill 1223 updates the motor vehicle excise tax exemption for enrolled tribal members. It clarifies that a purchase of a motor vehicle by an enrolled tribal member whose primary residence is within the exterior boundaries of any reservation in North Dakota is exempt from motor vehicle excise tax.

Statute Affected: N.D.C.C. § 57-40.3-04(15)  
Effective Date: July 1, 2023





# **MOTOR VEHICLE EXCISE TAX**

## **SB 2141 - AUCTION SERVICE FEES**

Senate Bill 2141 amends the definition of motor vehicle purchase price to exclude any charges or fees paid for auction services, often referred to as a buyer's premium. Starting July 1, 2023, these fees will not be part of the taxable purchase price of a motor vehicle.

Statute Affected: N.D.C.C. § 57-40.3-01(5)  
Effective Dates: July 1, 2023

# **TRIBAL TOBACCO &** **ALCOHOL TAX AGREEMENT**

## **SB 2377 - TRIBAL TOBACCO & ALCOHOL TAX AGREEMENTS**

Senate Bill 2377 amends the existing law enabling the Governor, in consultation with the Tax Commissioner, to enter into an agreement with a North Dakota Indian Tribe to administer tribal wholesale taxes on cigarette and tobacco transactions, wholesale taxes on alcoholic beverage transactions, and gross receipts taxes on retail sales of alcoholic beverages.

The amended language allows a tribe to enter into an agreement with any combination of the three identified tax types and updates the revenue-sharing allocation to 80% to the tribe and 20% to the state.

Statute Affected: N.D.C.C. Ch. 57-39-10  
Effective Date: August 1, 2023





## **ADVANTAGES ND TAP**

- View return and payment history, anytime.
- Access all your accounts in one place.
- File returns early and schedule your payment.
- Review your submitted tax records.
- Save money on stamps.

# **CIGAR LOUNGE** **CERTIFICATION**

## **HB 1229 - CIGAR LOUNGES**

House Bill 1229 allows customers to smoke a cigar inside a cigar lounge. A cigar lounge must meet specific criteria, including generating 15% of its annual gross income from sales of cigars, having a humidor on-premises, being enclosed by and having a ventilation system to be recirculated or back streamed into non-smoking areas of the facility.

A cigar lounge meeting these criteria must also receive a valid certificate from the North Dakota Office of State Commissioner. A cigar lounge must report to the Tax Commissioner their previous year's annual gross income and revenue generated by the sales of cigars to receive this certificate. The report is due to the agency on January 31 of each year.

Statute Affected: N.D.C.C. § 23-12-10  
Effective Date: August 1, 2023

# CONTACT INFORMATION

## NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER

600 E. Boulevard Ave., Dept. 127  
Bismarck, N.D. 58505-0599  
tax.nd.gov  
taxinfo@nd.gov  
701-328-7088

## SALES TAX & MOTOR VEHICLE EXCISE TAX

EMAIL: [salestax@nd.gov](mailto:salestax@nd.gov)  
PHONE: 701-328-1246

## ALCOHOL WHOLESALE TAX

EMAIL: [alcoholtax@nd.gov](mailto:alcoholtax@nd.gov)  
PHONE: 701-328-2702



@NDTAXDEPARTMENT

