

June 2023

NORTH DAKOTA WHOLESALE & OIL TAXES NEWSLETTER

2023 LEGISLATIVE RECAP

The following are highlights of wholesale & oil tax legislation approved by the 2023 Legislative Assembly and signed into law by Governor Doug Burgum.

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Bill text and additional information for the 68th Legislative Assembly is available at ndlegis.gov.

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ALCOHOL WHOLESALE TAX

HB 1449 – ALCOHOL WHOLESALE TAX DOMESTIC LICENSES

House Bill 1449 updates the special event permit privileges for microbrew pubs license holders, domestic distillery license holders, and brewer taproom license holders.

Licensees may be issued up to 40 special event permits per calendar year. A special event permit allows a licensee, subject to local ordinance, to dispense, sell, and give free samples of beer or spirits they manufacture at an off-premises event.

A licensee may apply for a special event permit through their account on **North Dakota Taxpayer Access Point (ND TAP)**. ND TAP provides easy access to history, tracking, and electronic copies of special event permits.

House Bill 1449 also removes the requirement that a North Dakota domestic distillery licensee use a majority of North Dakota farm products to manufacture spirits at their licensed location.

Statute Affected: N.D.C.C. §§ 5-01-04, 5-01-19, and 5-01-21
Effective Date: August 1, 2023

CIGARETTE & TOBACCO

WHOLESALE TAX

HB 1057 – DEFINITION OF SNUFF

House Bill 1057 is a bill containing several amendments to support tax administration by the Office of State Tax Commissioner. Section three of the bill updates the definition of snuff to clarify that snuff includes products that are intended to be placed in the nose.

Snuff means any finely cut, ground, or powdered tobacco, that is intended to be placed in the mouth or nose.

Statute Affected: N.D.C.C. § 57-36-01(14)
Effective Date: August 1, 2023

HB 1412 – ELECTRONIC SMOKING DEVICES

House Bill 1412 updates definitions, licensing requirements, and reporting requirements under cigarette and tobacco tax law.

Updates to the law include:

- Creating definitions for “electronic smoking device”, “outlet”, “place of business”, and “retailer”.
- Expanding the definition of “distributor” to include producing or manufacturing electronic smoking devices.
- Expanding the definition of “dealer” to include retailers and other sellers of electronic smoking devices.
- Expanding licensure requirements for distributors and dealers.
- Making it unlawful to sell electronic smoking devices without a license.
- Expanding the records a distributor must keep, to include records on electronic smoking devices.
- Expanding the reporting requirements for a distributor to include reporting purchases and sales of electronic smoking devices.
- Expanding record retention requirements for warehouses and outlets to include records on deliveries and shipments of electronic smoking devices and extending the one-year retention period to three years.

Statute Affected: N.D.C.C. Ch. 57-36
Effective Date: August 1, 2023

TRIBAL TOBACCO & ALCOHOL TAX

SB - 2377 - TRIBAL TOBACCO & ALCOHOL TAX AGREEMENT

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 Native American 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 for the collection, administration, enforcement, and allocation of 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

MOTOR VEHICLE FUEL WHOLESALE TAX

HB 1099 - INDUSTRIAL USE MOTOR FUEL REFUNDS

House Bill 1099 removes the refund reduction of one-half cent per gallon on refunds of motor vehicle fuel taxes that are paid to a consumer who buys or uses motor vehicle fuel for an industrial purpose.

Starting for refunds claims submitted after August 1, 2023, the one-half cent per gallon amount that was previously withheld from the refunds of industrial consumers and transferred to the Agricultural Products Utilization Fund will be paid to the consumer.

Statute Affected: N.D.C.C. § 57-43-1-03
Effective Date: August 1, 2023

COMING SOON

MOTOR FUEL TAX REFUND

SUBMIT REFUNDS ONLINE THROUGH ND TAP

Beginning August 2023, taxpayers will be able to file their Motor Fuel Tax Refund on [ND TAP](#).

WHY ND TAP?

- Upload supporting documentation
- Direct deposit refunds
- Review past ND TAP submissions
- Reduce refund request processing time
- Save money on stamps

ND TAP
TAXPAYER ACCESS POINT

OIL & GAS TAX

HB 1057 - GAS GROSS PRODUCTION TAX BASE RATE ADJUSTMENTS

House Bill 1057 is a bill containing several amendments to support tax administration by the Office of State Tax Commissioner. Section five of the bill allows the annual base rate adjustment and tax rate notice to be provided by posting it on the Tax Commissioner's [website](#).

Statute Affected: N.D.C.C. § 57-51-02.2
Effective Date: July 1, 2023

HB 1427- OIL EXTRACTION TAX - TRIGGER REMOVAL

House Bill 1286 removes the oil extraction tax rate change trigger for all North Dakota oil wells, except designated tribal oil wells and designated straddle wells. The bill eliminates the oil extraction tax rate increase from 5% to 6% after three months of average prices for a barrel of crude oil exceeding the annual trigger price adjustment.

The annual oil trigger price adjustment can be found on the Office of State Tax Commissioner's [website](#).

Statute Affected: N.D.C.C. § 57-51-02.2
Effective Date: July 1, 2023

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Sign up for email updates related to oil and gas taxes on our [website](#).



OIL & GAS TAX

HB 1427 - OIL EXTRACTION TAX - RESTIMULATED WELL INCENTIVE

House Bill 1427 creates a new oil extraction tax incentive rate for restimulated wells. A restimulated well is a previously completed well that produced oil and has subsequently been treated with an application of fluid under pressure for the purpose of creating additional fractures in a targeted geological formation.

- The reduced oil extraction tax rate for restimulated wells is 2%.
- The North Dakota Industrial Commission must certify that the project qualifies as a restimulation well.
- The reduced oil extraction tax rate will be effective for the first 75,000 barrels or 18 months, whichever occurs first, after restimulation is complete.
- A tribe may elect to opt-in to the restimulation well oil extraction tax incentive rate.

Statute Affected: N.D.C.C. § 57-51.1
Effective Date: July 1, 2023

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