

CHAPTER 57-39.3 IN LIEU OF SALES TAX FEES

57-39.3-01. In lieu fee imposed. An in lieu fee is imposed on sales with a destination within North Dakota if the sales are made by a person who by virtue of federal law is required to collect and pay the sales and use tax imposed by sections 57-39.2-02.1 and 57-40.2-02.1.

57-39.3-02. Rate of in lieu fee. The in lieu fee is imposed at a rate calculated annually by the tax commissioner. The rate is calculated by dividing the total local option sales and use tax revenues collected pursuant to sections 11-09.1-05 and 40-05.1-06 in the recent fiscal year by total state sales and use tax revenues collected pursuant to sections 57-39.2-02.1 and 57-40.2-02.1, and then multiplying the resulting quotient by the sales and use tax rate established in sections 57-39.2-02.1 and 57-40.2-02.1, and rounding the resulting product to the nearest twenty-five hundredths percent.

57-39.3-03. Election to collect actual tax. Any person required to collect and pay the in lieu fee imposed in section 57-39.3-01 may elect, on an annual basis, to collect and pay the local sales and use tax imposed in each political subdivision pursuant to sections 11-09.1-05 and 40-05.1-06.

57-39.3-04. Filing of returns and payment of tax. The person paying either the in lieu fee pursuant to section 57-39.3-01 or the local sales tax pursuant to section 57-39.3-03 must file returns and pay the tax due on the same date required by the sales and use tax imposed pursuant to sections 57-39.2-02.1 and 57-40.2-02.1, unless federal law requires a less frequent schedule. If federal law specifies a less frequent schedule, the tax commissioner shall adopt rules necessary to conform the filing and payment schedule to federal law. The returns must include such information as the tax commissioner may require consistent with federal law.

57-39.3-05. Administration. The provisions of chapter 57-39.2, pertaining to the administration of the retail sales tax, including provisions for refund, credits, or adoption of rules, not in conflict with this chapter or federal law, govern the administration of the in lieu fee imposed in this chapter.

57-39.3-06. Distribution of revenues. The tax commissioner shall deposit all moneys collected and received under this chapter with the state treasurer and shall certify to the treasurer, on a schedule consistent with federal law, the distribution of the in lieu fees collected pursuant to section 57-39.3-01 to the political subdivisions imposing a sales and use tax pursuant to sections 11-09.1-05 and 40-05.1-06. The distribution is based on the proportion that the political subdivision's sales and use tax receipts bears to the total sales and use tax receipts collected by political subdivisions pursuant to sections 11-09.1-05 and 40-05.1-06. The calculations are based on data for the most recent fiscal year. The state treasurer must make the distributions on a schedule consistent with federal law.