

# **Chapter 35 SALES AND USE TAX**

*Last updated March 2017*

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## **Section 35.010 Definitions**

All terms defined in chapter 57.39-2 NDCC, and chapter 57-40.2 NDCC, including all future amendments, are adopted by reference. (Ord. No. 1040, § 1.)

## **Section 35.020 Sales tax imposed**

Except as otherwise provided in this article, a tax of one and one-half percent is imposed upon the gross receipts of retailers from all retail sales within the corporate limits of the City of Dickinson, North Dakota, of the following:

- (a) Tangible personal property, consisting of goods, wares, or merchandise.
- (b) The furnishing or service of gas, communication services, or steam other than steam used for processing agricultural products.
- (c) Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity, and including the playing of any machine for amusement or entertainment in response to the use of a coin.
- (d) Magazines and other periodicals.
- (e) The leasing or renting of a hotel or motel room or tourist court accommodations.
- (f) The leasing or renting of tangible personal property, the transfer of title to which has not been subjected to a retail sales tax under this chapter.
- (g) Sales of alcoholic beverages and tobacco products as defined in section 57-39.2-03.2 NDCC.
- (h) Furnishing and installment or attachment to real property in this state by a contractor or a subcontractor who is a retailer of drapes, hardware for hanging drapes, or carpet for floor covering. (Ord. No. 1040, § 1; Ord. 1233 § 1.)

### **Section 35.030 Use tax imposed**

Except as otherwise provided in this chapter, a use tax of one and one-half percent is imposed on the storage, use or consumption, in the city on:

- (a) The purchase price of tangible personal property purchased at retail for storage, use, or consumption within the city.
- (b) The fair-market value of tangible personal property which was not originally purchased for storage, use or consumption in the city, at the time which it is brought into this city.
- (c) Alcoholic beverages and tobacco products which are stored, used or consumed in this city, as provided in section 57-39.2-03.2 NDCC.
- (d) The purchase price of tangible personal property used by a contractor or subcontractor to fulfill a contract as defined in section 57-40.2-03.3 NDCC. This tax applies only to bids submitted on or after July 1, 1990. (Ord. No. 1040, § 1; Ord. 1233 § 2.)

### **Section 35.040 Exemptions**

All sales, storage, use, or consumption of tangible personal property which are exempt from imposition and computation of the sales or use tax of the state are specifically exempt from the provisions of this article. (Ord. No. 1040, § 1.)

### **Section 35.050 Maximum tax imposed**

No single transaction involving one or more items is subject to a tax in excess of one hundred dollars. (Ord. No. 1040, § 1; Ord. 1233 § 3; Ord. 1624 § 1 Ord. 1627 § 1.)

### **Section 35.060 Collection and administration**

The tax commissioner and the city auditor for the city shall have the powers enumerated in the provisions of chapter 57-39.2 NDCC and chapter 57-40.2 NDCC relating to the collection and administration of the state sales and use tax, including all administrative rules adopted by the tax commissioner. The tax commissioner is authorized to establish rate tables integrating the tax imposed by this chapter with other state, county and city taxes. (Ord. No. 1040, § 1.)

### **Section 35.070 Contract with state tax commissioner**

The city auditor is hereby authorized to contract with the tax commissioner for the administration and collection of taxes imposed by this chapter. The city auditor has all powers granted the commissioner and in the absence of a valid contract with the commissioner or failure of the commissioner to perform the delegated duties, shall perform these duties in place of the commissioner. (Ord. No. 1040, § 1.)

### **Section 35.080 Corporate officer liability**

Officers of any corporation required to remit taxes imposed by this article are personally liable for the failure of the corporation to file required returns or remit required payments. The dissolution of a corporation shall not discharge an officer's liability for a prior failure of the

corporation to make a return or remit the tax due. The tax, penalty, and interest due may be assessed and collected pursuant to the provisions adopted by this chapter. (Ord. No. 1040, § 1.)

### **Section 35.090 Dedication of tax proceeds**

- (a) All revenues raised and collected from the one percent sales and use tax initially adopted on July 1, 1990, less administrative expenses, shall be dedicated as follows:
  - (1) Fifty percent of said revenues shall be dedicated to bonded indebtedness, property tax reduction, and infrastructure (streets, water and sewer).
  - (2) Thirty percent of said revenues shall be dedicated to capital improvements to enhance social and economic vitality of Dickinson and the Southwest area.
  - (3) Twenty percent of said revenues shall be dedicated to job creation and senior citizen activities. All revenue shall be maintained in a fund, to be known as the sales tax fund, separate and apart from all other funds, except as provided by this section.
- (b) All revenues raised and collected from the additional one-half percent sales and use tax adopted by Ordinance No. 1233, less administrative expenses, shall be dedicated as follows:
  - (1) Construction of a public building (community center) to be used for the purpose of an aquatic center, gymnasium and related uses, which may include pledging such sales and use tax revenues to the payment of bond issued for such construction in anticipation of the collection and receipt of such sales and use tax, and if so pledged, the sales and use tax may not be repealed so long as any such bonds or bonds refunding the bonds are outstanding; or
  - (2) Operation, maintenance and repair expenses for a public building (community center) to be used for the purpose of an aquatic center, gymnasium and related uses; or
  - (3) Property tax reduction and infrastructure (streets, water and sewer).
- (c) The board of city commissioners shall determine the amount by which the bonded debt and the property tax levy shall be reduced each year prior to the adoption of the city's budget.
- (d) In the event that the board of city commissioners desires to change the distribution formula herein created and the board of city commissioners has so determined the necessity of such changes, the board of city commissioners shall call for an election for any change or modification of a sales tax in the city.
- (e) Revenues and any income therefrom shall accumulate in the sales tax fund until expended by the board as permitted by this section. (Ord. No. 1040, § 1; Ord. No. 1100, § 1; Ord. 1233 § 4; Ord. No. 1351 §1.)

### **Section 35.100 Effective date**

The tax shall be implemented and take effect on July 1, 1990. (Ord. No. 1040, § 1.)

### **Section 35.110 Termination**

The board of city commissioners shall refer to a vote of electorate, no later than July 1, in the fifth year following the year in which the ordinance codified in this chapter takes effect, the

question of whether said ordinance shall be repealed or continued in effect. If a majority of qualified voters voting on the question vote to repeal the ordinance, it shall be repealed effective at midnight on March 31 of the following year. (Ord. No. 1040, § 1.)

### **Section 35.120 Lodging and restaurant tax**

In accordance with a resolution adopted May 17, 1982, the city of Dickinson imposes a two-percent tax on the gross receipts of retailers on the leasing or renting of hotel, motel, or tourist court accommodations within the City for periods of less than one month. All proceeds of this tax, less administration costs shall be deposited in the city visitor's promotion fund, up to \$800,000. Once the annual deposits into the city's visitor's promotion fund reach \$800,000, the City Commission shall, by resolution, determine the dedication and use of all further funds collected under this tax. (Ord. No. 1074, § 1; Ord. No. 1088, § 4; Ord. No. 1091, § 1; Ord. No. 1149 § 1, Ord. No. 1426 § 1, Ord. No. 1630 § 1 )

### **Section 35.125 Hospitality Tax**

Under the authority of NDCC 40-57.3, and its home rule authority, the City imposes a one-percent (1%) tax on gross receipts, which is separate from the lodging sales tax imposed under Dickinson Municipal Code 35.120 and the sales tax imposed under Dickinson Municipal Code 35.020 on the following: 1. the leasing or renting of hotel, motel, or tourist court accommodations within the City for periods of less than one month; 2. the gross receipts of a restaurant from any sales of prepared food or beverages, which are subject to state sales taxes. For purposes of this section, "restaurant" means any place where food is prepared and intended for individual position service for consumption on or off the premises and "prepared" includes heating prepackaged food; and 3. Other accommodations, food, and beverages are all, each, or in any combination subject to the tax under this section, if all items in any category which are taxable under state law are taxable, except as otherwise provided by chapter NDCC 40.57.03. An owner of an establishment licensed to engage in the sale of alcoholic beverages that is not required to pay the tax may voluntarily pay the tax to become a qualified alcoholic beverage licensee for the purposes of sections 4.08.270 and 4.08.280. Failure to continuously pay the tax will void the remaining term of the permit and the licensee will be ineligible for any additional permit. A portion of the proceeds will be deposited in the visitor's promotion capital construction reserve account within the fund. The City Commission may transfer funds from the visitor's promotion capital construction fund to the visitor's promotion fund. A portion not exceeding \$50,000 of total revenues are dedicated to support of Dickinson visitor attraction through a grant program to special projects and programs. The grant program will be established by the visitors committee, which will also oversee the program and recommend grant awards to the City Commission. (Ord. No. 1149 § 1; Ord. No. 1184, § 14; Ord. No. 1373 §1; Ord. No. 1426 § 1, Ord. No. 1631 §1)

### **Section 35.130 Visitors committee for lodging and restaurant tax**

There is hereby created a visitor's committee, which shall serve as an advisory committee to the City Commission in administering the proceeds of taxes available to the City under Sections 35.120 and 35.125. The committee shall be appointed by the Board of City

Commissioners. The appointees shall serve without compensation, except for reimbursement for necessary expenses. (Ord. 1076, § 1; Ord. No. 1149 § 1; Ord. No. 1426 § 1.)