

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0206

## SENATE BILL NO. 14

Introduced by: The Committee on Taxation at the request of the Department of Revenue and Regulation

1 FOR AN ACT ENTITLED, An Act to extend the time allowed to request a hearing or pay an  
2 audit assessment.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-59-9 be amended to read as follows:

5 10-59-9. Any taxpayer against whom a certificate of assessment is issued may request a  
6 hearing before the secretary if the taxpayer believes that the assessment is based upon a mistake  
7 of fact or an error of law. A request for hearing shall be made in writing within ~~thirty~~ sixty days  
8 from the date of the certificate of assessment and shall contain a statement indicating the portion  
9 of the assessment being contested and the mistake of fact or error of law the taxpayer believes  
10 resulted in an invalid assessment. Amended or additional statements of facts or errors of law  
11 may be made not less than fourteen days prior to the hearing if the hearing examiner determines  
12 such additional or amended statements are in the interest of justice and do not prejudice either  
13 party. Hearings are conducted and appeals taken pursuant to the provisions of chapters 1-26 and  
14 1-26D. A copy of the hearing examiner's proposed decision, findings of fact and conclusions  
15 of law shall be served on all parties when furnished to the secretary. If the secretary, pursuant



1 to chapter 1-26D, accepts the final decision of the hearing examiner, no appeal from a final  
2 decision of the secretary upon an assessment may be taken unless any amount ordered paid by  
3 the secretary is paid or a bond filed to insure payment of such amount. However, if the final  
4 decision of the secretary, pursuant to chapter 1-26D, rejects or modifies the decision of the  
5 hearing examiner regarding the amount due on the assessment, an appeal may be taken without  
6 payment of the amount ordered to be paid and without filing of a bond. If the secretary's  
7 decision is affirmed by the circuit court, no appeal may be taken unless any amount ordered to  
8 be paid by the secretary is paid or a bond is filed to insure payment of such amount.

9 Section 2. That § 10-59-8 be amended to read as follows:

10 10-59-8. If the secretary determines that any taxpayer owes tax, penalty, or interest, the  
11 secretary shall issue a certificate of assessment and mail a copy of the certificate to the last  
12 known address of the taxpayer by certified mail. The certificate of assessment shall be deemed  
13 prima facie correct. Any taxpayer against whom an assessment is made shall either pay the  
14 amount of the assessment or make arrangements agreeable to the secretary to pay the assessment  
15 plus additional interest required by § 10-59-6 within ~~thirty~~ sixty days from the date of the  
16 certificate or request a hearing pursuant to the provisions of § 10-59-9.