

AN ACT

ENTITLED, An Act to revise the rate of interest for late payment of certain taxes.

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

Section 1. That § 10-59-6 be amended to read as follows:

10-59-6. Any person required to file returns or reports under the chapters set out in § 10-59-1, who fails to file a return or report which includes all taxable transactions within thirty days following the month the return or report is due is subject to an additional amount, assessed as a penalty, equal to ten percent of the tax or ten dollars whichever is greater. However, for reasonable cause shown, the secretary may reduce or eliminate such penalty.

Any person subject to tax under the chapters set out in § 10-59-1 who fails to pay the tax within the time prescribed is subject to an interest charge for each month or part thereof for which the payment is late, which interest shall be one percent or five dollars whichever is greater for the first month, and one percent per month thereafter. If the failure to pay tax was with the intent to intentionally avoid or delay the payment of tax, the person who fails to pay the tax within the time prescribed is subject to an interest charge for each month or part thereof for which the payment is late, which interest shall be one and one-half percent or five dollars, whichever is greater. Interest is tolled during any appeal taken by the department or during any period the hearing examiner extends the time in which to submit a proposed decision or during any period the secretary fails to rule within thirty days after receiving the proposed decision.

Penalty and interest are considered the same as tax for the purposes of collection and enforcement including liens, distress warrants, and criminal violations. Any payment received for taxes, penalty, or interest is applied first to tax, beginning with the oldest delinquency, then to interest and then to penalty.

The secretary may, upon application of the taxpayer, establish a maximum interest rate of twenty-

four percent upon delinquent taxes if the secretary determines that the delinquent payment was caused by a mistake of law and was not caused by an intent to evade the tax.

An Act to revise the rate of interest for late payment of certain taxes.

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I certify that the attached Act
originated in the
SENATE as Bill No. 182

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 182  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office
this \_\_\_\_ day of \_\_\_\_\_ ,
20\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby
approved this \_\_\_\_\_ day of
\_\_\_\_\_, A.D., 20\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State