State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

636Q0717

HOUSE TAXATION ENGROSSED NO. HB 1276 - 2/17/2009

Introduced by: Representatives Rausch, Noem, Rave, Solum, and Street and Senators Merchant, Fryslie, and Peterson

FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the application for tax refunds for the construction of certain agricultural processing and new business facilities.

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

Section 1. That § 10-45B-6 be amended to read as follows:

10-45B-6. Any person desiring to claim a refund pursuant to this chapter shall apply for a permit from the secretary prior to or within one hundred eighty days after the construction date. However, any project with a construction date between January 1, 2006, and July 1, 2006, that would otherwise qualify for a refund shall apply for a permit by August 1, 2006. <u>In addition, any person that has a project with a construction date between October 1, 2007, and November 1, 2007, that would otherwise qualify for a refund, but did not apply for a permit before January 1, 2009, may apply for a permit by August 1, 2009, if the person agrees to the conditions established in section 2 of this Act.</u> The application for a permit shall be submitted on a form prescribed by the secretary. A separate application shall be made and submitted for each project.

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Insertions into existing statutes are indicated by <u>underscores</u>.
Deletions from existing statutes are indicated by ~~overstrikes~~.

Upon approval of the application, the secretary shall issue a permit entitling the applicant to submit refund claims as provided by §§ 10-45B-7 and 10-45B-8. Such permit or refund claims are not assignable or transferable except as collateral or security pursuant to chapter 57A-9.

Section 2. That chapter 10-45B be amended by adding thereto a NEW SECTION to read as follows:

The person agrees to only receive seventy-five percent of the total refund or credit for the sales and use tax and contractors' excise tax that the person would otherwise qualify to receive pursuant to this chapter.

Notwithstanding the provisions of § 10-45B-8, the secretary shall determine and pay five percent of the amount of the tax refund within ninety days of receipt of the return to the claimant in accordance with §§ 10-59-22 and 10-59-23, and ninety-five percent shall be withheld by the department until July 1, 2011. No interest shall be paid on the refund amount.