

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

447W0663

SENATE BILL NO. 182

Introduced by: Senators Tidemann, Brown, Haverly, Heineman (Phyllis), Peters, Rave, and Van Gerpen and Representatives Munsterman, Cronin, Dryden, Hunhoff (Jean), and Jensen (Alex)

1 FOR AN ACT ENTITLED, An Act to revise the rate of interest for late payment of certain
2 taxes.

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

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

5 10-59-6. Any person required to file returns or reports under the chapters set out in § 10-59-
6 1, who fails to file a return or report which includes all taxable transactions within thirty days
7 following the month the return or report is due is subject to an additional amount, assessed as
8 a penalty, equal to ten percent of the tax or ten dollars whichever is greater. However, for
9 reasonable cause shown, the secretary may reduce or eliminate such penalty.

10 Any person subject to tax under the chapters set out in § 10-59-1 who fails to pay the tax
11 within the time prescribed is subject to an interest charge for each month or part thereof for
12 which the payment is late, which interest shall be ~~one and one-quarter~~ one-half percent or five
13 dollars whichever is greater for the first month, and ~~one and one-quarter~~ one-half percent per
14 month thereafter. If the failure to pay tax was with the intent to intentionally avoid or delay the



1 payment of tax, the person who fails to pay the tax within the time prescribed is subject to an
2 interest charge for each month or part thereof for which the payment is late, which interest shall
3 be one ~~and one-half~~ percent or five dollars, whichever is greater. Interest is tolled during any
4 appeal taken by the department or during any period the hearing examiner extends the time in
5 which to submit a proposed decision or during any period the secretary fails to rule within thirty
6 days after receiving the proposed decision.

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

11 The secretary may, upon application of the taxpayer, establish a maximum interest rate of
12 thirty percent upon delinquent taxes if the secretary determines that the delinquent payment was
13 caused by a mistake of law and was not caused by an intent to evade the tax.