

SENATE BILL NO. 239

BY SENATOR MORRELL

1 AN ACT

2 To enact R.S. 47:1574.2, relative to tax administration; to authorize the Department of
3 Revenue to refuse to register or issue or to revoke a sales tax clearance to a
4 reorganized business when the intent of the reorganization is to evade trust fund
5 taxes; to provide for definitions; to provide for penalties; and to provide for related
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:1574.2 is hereby enacted to read as follows:

9 **§1574.2. Business reorganization to evade taxation; refusal to register a**
10 **taxpayer or issue resale certificate**

11 **A. The secretary may refuse to register or issue or may revoke a state**
12 **sales tax resale certificate to a business that has reorganized if the purpose of**
13 **the reorganization is to evade the payment of sales and use taxes or withholding**
14 **taxes when the taxes have been collected but not remitted to the department.**

15 **B. Definitions. As used in this Section:**

16 **(1) "Evade" means the deliberate failure to pay tax, interest, and penalty**
17 **that the taxpayer knows are due.**

18 **(2) "Reorganization" means any of the following:**

19 **(a) The transfer of a majority of the assets of one business to another**
20 **business, where any of the persons having an interest in the ownership or**
21 **management in the former business maintain an ownership or management**
22 **interest in the new business, either directly or indirectly.**

23 **(b) A mere change in identity or form of ownership.**

24 **(c) A mere continuation of the former business based on significant**
25 **shared features including ownership, personnel, assets, or general business**
26 **activity.**

1 C. The new business resulting from the reorganization for the purpose
 2 of evading the payment of sales and use taxes or withholding taxes when the
 3 taxes have been collected but not remitted to the department is not entitled to
 4 be registered or to receive a resale certificate from the secretary until all sales,
 5 use, and withholding taxes, penalties, and interest due have been paid in full.

6 D. A reorganization with the purpose of evading state sales and use or
 7 withholding tax collected but not remitted to the department shall subject the
 8 owner of the business to a penalty of five thousand dollars. This penalty shall
 9 be in addition to any other tax, interest, and penalties for which the business or
 10 the owner of the business may be liable.

11 Section 2. This Act shall become effective on July 1, 2018.

 PRESIDENT OF THE SENATE

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____