SLS 18RS-575

ORIGINAL

2018 Regular Session

SENATE BILL NO. 239

BY SENATOR MORRELL

REVENUE DEPARTMENT. Authorizes the Department of Revenue to refuse to issue a resale certificate to a new business if the business reorganization was intended to evade payment of sales and use or withholding tax. (gov sig)

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 a sales tax clearance to a reorganized business
4	when the intent of the reorganization is to evade trust fund taxes; to provide for
5	definitions; to provide for penalties; and to provide for related matters.
6	Be it enacted by the Legislature of Louisiana:
7	Section 1. R.S. 47:1574.2 is hereby enacted to read as follows:
8	<u>§1574.2. Business reorganization to evade taxation; refusal to register a</u>
9	taxpayer or issue resale certificate
10	A. The department may refuse to register or to issue a sales exemption
11	certificate for resale pursuant to R.S. 47:301(10)(a)(i) to a business that has
12	reorganized if the purpose of the reorganization is to evade the payment of sales
13	and use taxes or withholding taxes.
14	B. Definitions. As used in this Section:
15	(1) "Evade" means the deliberate failure to pay tax, interest, and penalty
16	
	that the taxpayer knows are due.

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1	(a) The transfer of a majority of the assets of one business to another
2	business, where any of the persons having an interest in the ownership or
3	management in the former business maintain an ownership or management
4	interest in the new business, either directly or indirectly.
5	(b) A mere change in identity or form of ownership.
6	(c) The new business is a mere continuation of the former business based
7	on significant shared features including ownership, personnel, assets, or general
8	business activity.
9	C. The new business resulting from the reorganization is not entitled to
10	be registered or to receive a resale certificate from the department until all
11	sales, use, and withholding taxes, penalties, and interest due have been paid in
12	<u>full.</u>
13	D. A reorganization with the purpose of evading state sales and use or
14	withholding tax shall subject the owner of the business to the penalties provided
15	for in R.S. 47:1604.1(C) in addition to any other penalties for which the owner
16	may be liable.
17	Section 2. This Act shall become effective upon signature by the governor or, if not
18	signed by the governor, upon expiration of the time for bills to become law without signature
19	by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
20	vetoed by the governor and subsequently approved by the legislature, this Act shall become
21	effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Leonore Heavey.

SB 239 Original

DIGEST 2018 Regular Session

Morrell

<u>Proposed law</u> authorizes the Department of Revenue to refuse to register or issue a sales tax clearance to a reorganized business when the intent of the reorganization is to evade sales and use tax or withholding tax.

<u>Proposed law</u> defines reorganization as a transfer of assets between businesses with significant shared ownership or management, a mere change in ownership form, or significant shared features between the old and new business.

Proposed law requires that all tax, interest, and penalty due be paid before the business will

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be registered or the resale certificate will be issued.

<u>Proposed law</u> imposes a penalty of up to 25% of the tax balance due for a reorganization of a business with the purpose of evading taxes.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 47:1574.2)