

2018 Regular Session

SENATE BILL NO. 239

BY SENATOR MORRELL

REVENUE DEPARTMENT. Authorizes the secretary of the Department of Revenue to refuse to register or issue or may revoke a state sales tax resale certificate to new business if the business reorganization was intended to evade payment of sales and use or withholding tax. (7/1/18)

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.

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.

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

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

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

7                   **(c) The new business is a mere continuation of the former business based**  
8                   **on significant shared features including ownership, personnel, assets, or general**  
9                   **business activity.**

10                   **C. The new business resulting from the reorganization is not entitled to**  
11                   **be registered or to receive a resale certificate from the secretary until all sales,**  
12                   **use, and withholding taxes, penalties, and interest due have been paid in full.**

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 a penalty of five**  
15                   **thousand dollars. This penalty shall be in addition to any other tax, interest, and**  
16                   **penalties for which the business or the owner of the business may be liable.**

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

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The original instrument was prepared by Leonore F. Heavey. The following digest, which does not constitute a part of the legislative instrument, was prepared by James Benton.

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SB 239 Engrossed

DIGEST  
2018 Regular Session

Morrell

Proposed law authorizes the secretary of the Department of Revenue to refuse to register or issue or may revoke a state sales tax resale certificate to a reorganized business when the intent of the reorganization is to evade sales and use tax or withholding tax.

Proposed law 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 be registered or the resale certificate will be issued.

Proposed law imposes a penalty of \$5,000 for a reorganization of a business with the purpose of evading taxes.

Effective on July 1, 2018.

(Adds R.S. 47:1574.2)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Adds secretary authority to revoke a state sales tax resale certificate.
2. Changes the penalties for a reorganization of a business with the purpose of evading taxes.
3. Adds July 1, 2018, effective date.