

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.

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 PRESIDENT OF THE SENATE

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 SPEAKER OF THE HOUSE OF REPRESENTATIVES

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 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_