

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

400Q0323

HOUSE TAXATION ENGROSSED NO. **HB 1072** - 2/19/2009

Introduced by: The Committee on Taxation at the request of the Department of Revenue and Regulation

1 FOR AN ACT ENTITLED, An Act to repeal certain provisions concerning the delayed
2 remittance of sales and use taxes for certain businesses.

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

4 Section 1. That § 10-45-99 be repealed.

5 ~~— 10-45-99. Terms used in §§ 10-45-99 to 10-45-107, inclusive, mean:~~

6 ~~— (1) — "Department," the Department of Revenue and Regulation;~~

7 ~~— (2) — "Business," a business that has purchased and is installing tangible personal property~~
8 ~~in the form of equipment or machinery for direct use in a manufacturing, fabricating,~~
9 ~~or processing business, which is subject to sales or use tax pursuant to chapter 10-45~~
10 ~~or 10-46;~~

11 ~~— (3) — "Project," the purchase and installation of equipment or machinery;~~

12 ~~— (4) — "Project cost," the amount paid in money for a project;~~

13 ~~— (5) — "Secretary," the secretary of the Department of Revenue and Regulation.~~

14 Section 2. That § 10-45-100 be repealed.



1 ~~10-45-100. Any manufacturing, fabricating, or processing business may apply for and obtain~~
2 ~~an extension for remitting the sales and use tax imposed and due under the provisions of chapter~~
3 ~~10-45 or 10-46 for equipment or machinery that will be for direct use in a manufacturing,~~
4 ~~fabricating, or processing business. The extension shall end after six months.~~

5 Section 3. That § 10-45-101 be repealed.

6 ~~10-45-101. The extension pertains only to equipment and machinery purchased and installed~~
7 ~~after July 1, 2001. No extension may be made unless:~~

8 ~~(1) The project cost exceeds twenty thousand dollars; and~~

9 ~~(2) The business applying for the extension obtains a permit from the secretary as set~~
10 ~~forth in § 10-45-103.~~

11 Section 4. That § 10-45-102 be repealed.

12 ~~10-45-102. The amount of the tax extension shall apply to one hundred percent of the~~
13 ~~equipment and machinery costs and installation fees.~~

14 Section 5. That § 10-45-103 be repealed.

15 ~~10-45-103. Any business desiring an extension pursuant to §§ 10-45-99 to 10-45-107,~~
16 ~~inclusive, shall apply for a permit from the secretary at least thirty days prior to commencement~~
17 ~~of the project. The application for a permit shall be submitted on a form prescribed by the~~
18 ~~secretary. A separate application shall be made and submitted for each project. Upon approval~~
19 ~~of the application, the secretary shall issue a permit entitling the applicant to an extension as~~
20 ~~provided by §§ 10-45-99 to 10-45-107, inclusive. The permit or extension is not assignable or~~
21 ~~transferable.~~

22 Section 6. That § 10-45-104 be repealed.

23 ~~10-45-104. Any extension shall be submitted on forms prescribed by the secretary and shall~~
24 ~~be supported by such documentation as the secretary may require. The secretary may deny any~~

1 ~~extension where the business has failed to provide information or documentation requested or~~
2 ~~considered necessary by the secretary to determine the validity of the extension.~~

3 Section 7. That § 10-45-105 be repealed.

4 ~~— 10-45-105. If any extension has been fraudulently presented or supported as to any item in~~
5 ~~the claim, or if the business fails to meet all the conditions §§ 10-45-99 to 10-45-107, inclusive,~~
6 ~~then the business may be rejected in its entirety and any tax due from the business shall~~
7 ~~constitute a debt to the state and a lien in favor of the state upon all property and rights to~~
8 ~~property whether real or personal belonging to the business and may be recovered in an action~~
9 ~~of debt.~~

10 Section 8. That § 10-45-106 be repealed.

11 ~~— 10-45-106. Any business aggrieved by the denial in whole or in part of a extension requested~~
12 ~~under §§ 10-45-99 to 10-45-107, inclusive, may within thirty days after service of the notice of~~
13 ~~a denial by the secretary, demand and is entitled to a hearing, upon notice, before the secretary.~~
14 ~~The hearing shall be conducted pursuant to chapter 1-26.~~

15 Section 9. That § 10-45-107 be repealed.

16 ~~— 10-45-107. The secretary may promulgate rules, pursuant to chapter 1-26, concerning the~~
17 ~~procedures for filing extensions and the requirements necessary to qualify for an extension.~~