

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

400M0229

## HOUSE BILL NO. 1048

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

1 FOR AN ACT ENTITLED, An Act to revise the reporting and remittance requirements for  
2 certain state taxes and to declare an emergency.

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

4 Section 1. That chapter 10-59 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any person who is the holder of a license or who is a person whose receipts are subject to  
7 the tax imposed by chapters 10-33A, 10-45, 10-45D, 10-46A, 10-46B, or 10-52A shall file a  
8 return, and pay any tax due, to the Department of Revenue and Regulation on forms prescribed  
9 and furnished by the department in the following manner:

10 (1) For the first twelve months that a person is licensed, the person shall file a return, and  
11 pay any tax due, on or before the twentieth day of the month following each monthly  
12 period;

13 (2) The secretary may require or allow a person to file a return, and pay any tax due, on  
14 a bimonthly, semiannual, or annual basis and the return and remittance is due the last  
15 day of the month following the reporting period;



1 (3) For persons issued a temporary or seasonal sales tax permit, a person shall file a  
2 return, and pay any tax due, at a time determined by the secretary;

3 (4) Any person whose tax liability is one thousand dollars or more annually and who  
4 remits the tax by electronic transfer to the state, shall file the return by electronic  
5 means on or before the twenty-third day of the month following each monthly period  
6 and remit the tax on or before the second to the last day of the month following each  
7 monthly period.

8 The secretary of revenue and regulation may grant an extension of not more than five days  
9 for filing a return and remittance. However, the secretary of revenue and regulation may grant  
10 an extension for remitting the tax to a qualified business as provided in §§ 10-45-99 to 10-45-  
11 107, inclusive, for six months.

12 Unless an extension is granted, penalty or interest under § 10-59-6 shall be paid if a return  
13 or remittance is not made on time.

14 Section 2. That § 10-45-27 be repealed.

15 ~~10-45-27. Any person who is the holder of a sales tax permit or is a retailer whose receipts~~  
16 ~~are subject to sales tax in this state during the periods specified by this section shall make a~~  
17 ~~return and remittance to the Department of Revenue and Regulation on forms prescribed and~~  
18 ~~furnished by the department in the following manner:~~

19 ~~(1) Any person whose tax liability is one thousand dollars or more annually, shall file the~~  
20 ~~return and remit the tax on or before the twentieth day of the month following each~~  
21 ~~monthly period;~~

22 ~~(2) Any person whose tax liability is less than one thousand dollars annually, shall file~~  
23 ~~the return and remit the tax on or before the last day of the month following each~~  
24 ~~two-month period;~~

1 ~~—(3)— Any person whose tax liability is one thousand dollars or more annually and who~~  
2 ~~remits the tax by electronic transfer to the state, shall file the return by electronic~~  
3 ~~means on or before the twenty-third day of the month following each monthly period~~  
4 ~~and remit the tax on or before the second to the last day of the month following each~~  
5 ~~monthly period.~~

6 ~~—The secretary of revenue and regulation may grant an extension of not more than five days~~  
7 ~~for filing a return and remittance. However, the secretary of revenue and regulation may grant~~  
8 ~~an extension for remitting the tax to a qualified business as provided in §§ 10-45-99 to 10-45-~~  
9 ~~107, inclusive, for six months.~~

10 ~~—Unless an extension is granted, penalty or interest under § 10-59-6 shall be paid if a return~~  
11 ~~or remittance is not made on time.~~

12 Section 3. That § 10-45D-10 be repealed.

13 ~~—10-45D-10. Any person who is subject to the tax imposed by §§ 10-45D-1 to 10-45D-14,~~  
14 ~~inclusive, shall make a return and remittance to the Department of Revenue and Regulation on~~  
15 ~~forms prescribed and furnished by the department in the following manner:~~

16 ~~—(1)— Any person, whose tax liability is one thousand dollars or more annually, shall file~~  
17 ~~the return and remit the tax on or before the twentieth day of the month following~~  
18 ~~each monthly period;~~

19 ~~—(2)— Any person, whose tax liability is less than one thousand dollars annually, shall file~~  
20 ~~the return and remit the tax on or before the last day of the month following each~~  
21 ~~two-month period; and~~

22 ~~—(3)— Any person, whose tax liability is one thousand dollars or more annually and who~~  
23 ~~remits the tax by electronic transfer to the state, shall file the return by electronic~~  
24 ~~means on or before the twenty-third day of the month following each monthly period~~

1           and remit the tax on or before the second to the last day of the month following each  
2           monthly period:

3     ~~—The secretary of revenue and regulation may grant an extension of not more than five days~~  
4     ~~for filing a return and remittance. Unless an extension is granted, penalty or interest under § 10-~~  
5     ~~59-6 shall be paid if a return or remittance is not made on time.~~

6           Section 4. That § 10-46A-1.6 be repealed.

7     ~~—10-46A-1.6. Any person who is the holder of a contractor's excise tax license or is a~~  
8     ~~contractor whose receipts are subject to contractor's excise tax in this state during the periods~~  
9     ~~specified by this section shall make a return and remittance to the Department of Revenue and~~  
10    ~~Regulation on forms prescribed and furnished by the department in the following manner:~~

11    ~~—(1)—Any person whose tax liability is one thousand dollars or more annually, shall file the~~  
12    ~~return and remit the tax on or before the twentieth day of the month following each~~  
13    ~~monthly period;~~

14    ~~—(2)—Any person whose tax liability is less than one thousand dollars annually, shall file~~  
15    ~~the return and remit the tax on or before the last day of the month following each~~  
16    ~~two-month period;~~

17    ~~—(3)—Any person whose tax liability is one thousand dollars or more annually and who~~  
18    ~~remits the tax by electronic transfer to the state, shall file the return by electronic~~  
19    ~~means on or before the twenty-third day of the month following each monthly period~~  
20    ~~and remit the tax on or before the second to the last day of the month following each~~  
21    ~~monthly period.~~

22    ~~—The secretary of revenue and regulation may grant an extension of not more than five days~~  
23    ~~for filing a return and remittance. Unless an extension is granted, the person with the tax liability~~  
24    ~~shall pay the penalty or interest as provided by § 10-59-6 if a return or remittance is not made~~

1 on time.

2 Section 5. That § 10-46B-1.4 be repealed.

3 ~~10-46B-1.4. Any person who is the holder of a contractor's excise tax license or is a~~  
4 ~~contractor whose receipts are subject to contractor's excise tax in this state during the periods~~  
5 ~~specified by this section shall make a return and remittance to the Department of Revenue and~~  
6 ~~Regulation on forms prescribed and furnished by the department in the following manner:~~

7 ~~(1) Any person whose tax liability is one thousand dollars or more annually, shall file the~~  
8 ~~return and remit the tax on or before the twentieth day of the month following each~~  
9 ~~monthly period;~~

10 ~~(2) Any person whose tax liability is less than one thousand dollars annually, shall file~~  
11 ~~the return and remit the tax on or before the last day of the month following each~~  
12 ~~two-month period;~~

13 ~~(3) Any person whose tax liability is one thousand dollars or more annually and who~~  
14 ~~remits the tax by electronic transfer to the state, shall file the return by electronic~~  
15 ~~means on or before the twenty-third day of the month following each monthly period~~  
16 ~~and remit the tax on or before the second to the last day of the month following each~~  
17 ~~monthly period.~~

18 ~~The secretary of revenue and regulation may grant an extension of not more than five days~~  
19 ~~for filing a return and remittance. Unless an extension is granted, the person with the tax liability~~  
20 ~~shall pay the penalty or interest as provided by § 10-59-6 if a return or remittance is not made~~  
21 ~~on time.~~

22 Section 6. That § 10-52A-4 be repealed.

23 ~~10-52A-4. Any person who is subject to the tax imposed by this chapter shall make a return~~  
24 ~~and remittance to the department on forms prescribed and furnished by the department in the~~

1 following manner:

2 ~~—(1)— Any person whose tax liability is one thousand dollars or more annually, shall file the~~  
3 ~~return and remit the tax on or before the twentieth day of the month following each~~  
4 ~~monthly period;~~

5 ~~—(2)— Any person whose tax liability is less than one thousand dollars annually, shall file~~  
6 ~~the return and remit the tax on or before the last day of the month following each~~  
7 ~~two-month period; and~~

8 ~~—(3)— Any person whose tax liability is one thousand dollars or more annually and who~~  
9 ~~remits the tax by electronic transfer to the state, shall file the return by electronic~~  
10 ~~means on or before the twenty-third day of the month following each monthly period~~  
11 ~~and remit the tax on or before the second to the last day of the month following each~~  
12 ~~monthly period.~~

13 ~~—The secretary of revenue and regulation may grant an extension of not more than five days~~  
14 ~~for filing a return and remittance. Unless an extension is granted, penalty or interest pursuant~~  
15 ~~to § 10-59-6 shall be paid if a return or remittance is not made on time.~~

16 Section 7. That § 10-33A-10 be repealed.

17 ~~—10-33A-10. Any person who is the holder of a telecommunications gross receipts tax license~~  
18 ~~or is a telecommunications company whose receipts are subject to telecommunications gross~~  
19 ~~receipts tax in this state shall file a return and remit the tax on or before the twentieth day of the~~  
20 ~~month following each monthly period. If the telecommunications company files the return and~~  
21 ~~remits the tax by electronic transfer to the state, the telecommunications company shall file the~~  
22 ~~return and remit the tax on or before the last day of the month following each monthly period.~~

23 ~~—The secretary may grant an extension of not more than five days for filing a return and~~  
24 ~~remittance. Unless an extension is granted, penalty or interest under § 10-59-6 shall be paid if~~

1 ~~a return or remittance is not made on time.~~

2 Section 8. That chapter 10-59 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 Any person licensed pursuant to chapter 10-33A, 10-45, 10-45D, 10-46A, 10-46B, or 10-  
5 52A shall file the applicable tax return whether or not the person has gross receipts subject to  
6 tax.

7 Section 9. Any prior collection, appropriation, or distribution of the revenue consistent with  
8 the provisions of section 8 of this Act is hereby validated, ratified, and affirmed.

9 Section 10. That § 10-45-27.1 be repealed.

10 ~~10-45-27.1. A person licensed pursuant to this chapter shall file the applicable tax return~~  
11 ~~whether or not the person has gross receipts subject to tax.~~

12 Section 11. That § 10-45D-10.1 be repealed.

13 ~~10-45D-10.1. A person licensed pursuant to this chapter shall file the applicable tax return~~  
14 ~~whether or not the person has gross receipts subject to tax.~~

15 Section 12. That § 10-46A-8.1 be repealed.

16 ~~10-46A-8.1. A person licensed pursuant to this chapter shall file the applicable tax return~~  
17 ~~whether or not the person has gross receipts subject to tax.~~

18 Section 13. That § 10-46B-15.1 be repealed.

19 ~~10-46B-15.1. A person licensed pursuant to this chapter shall file the applicable tax return~~  
20 ~~whether or not the person has gross receipts subject to tax.~~

21 Section 14. That § 10-52A-4.1 be repealed.

22 ~~10-52A-4.1. A person licensed pursuant to this chapter shall file the applicable tax return~~  
23 ~~whether or not the person has gross receipts subject to tax.~~

24 Section 15. Whereas, this Act is necessary for the support of the state government and its

- 1 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
- 2 full force and effect from and after its passage and approval.