

AN ACT

ENTITLED, An Act to establish procedures for reporting federal tax changes for purposes of the bank franchise tax.

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

Section 1. That chapter 10-43 be amended by adding a NEW SECTION to read:

A taxpayer who has filed a return with the department for a specific tax year and subsequently has a change or correction to the taxpayer's net income, as a result of audit or adjustment by the United States, that increases the taxpayer's taxable income in this state, shall report the change or correction in writing to the secretary. The report shall be in the form of a supplementary return and shall be filed within one hundred twenty days of the final adjustment by the United States. Any additional tax due and applicable interest shall be paid at the time of filing the supplementary return. The provisions of this section apply notwithstanding the limitation period for collection of taxes provided under § 10-59-16.

Section 2. That chapter 10-43 be amended by adding a NEW SECTION to read:

A taxpayer who has filed a return with the department for a specific tax year and subsequently has a change or correction to the taxpayer's net income, as a result of audit or adjustment by the United States, that decreases the taxpayer's taxable income in this state, may report the change or correction in writing to the secretary. The report shall be in the form of a supplementary return and shall be filed within one hundred twenty days of the final adjustment by the United States. Any refund for overpayment of tax, penalty, or interest shall be made pursuant to §§ 10-59-22, 10-59-22.1, 10-59-23, and 10-59-24. The provisions of this section apply notwithstanding §§ 10-59-17 and 10-59-19.

No court has jurisdiction of a suit to recover the taxes, penalties, or interest unless the taxpayer seeking the recovery of the tax complies with the provisions of this section.

Section 3. That chapter 10-43 be amended by adding a NEW SECTION to read:

If a taxpayer fails to file a supplementary return as required by section 1 of this Act, the secretary may determine the amount of additional tax due, if any, based on information available to the secretary. The secretary's determination of additional tax due, together with interest and penalty as provided in § 10-59-6, shall be made within six years after the time the supplementary return was due.

The secretary may also impose a penalty of five thousand dollars or ten percent of the additional tax due, whichever is greater, for failure to timely file a supplementary return and pay any additional tax and applicable interest as required by section 1 of this Act. This penalty is in addition to all other penalties provided by law and shall be deposited in the state general fund.

Section 4. That § 10-43-50 be repealed.

Section 5. That § 10-43-51 be repealed.

Section 6. That § 10-43-51.1 be repealed.

Section 7. That § 10-43-55 be repealed.

Section 8. That § 10-43-60 be repealed.

Section 9. That ARSD 64:26:02:05 be repealed.

Section 10. That ARSD 64:26:02:06 be repealed.

Section 11. The provisions of this Act only apply to returns that are related to tax years ending in 2015 or thereafter and filed after December 31, 2015.

An Act to establish procedures for reporting federal tax changes for purposes of the bank franchise tax.

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I certify that the attached Act originated in the

SENATE as Bill No. 52

Secretary of the Senate

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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 52
File No. _____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State