

VIRGINIA ACTS OF ASSEMBLY -- 2001 SESSION

CHAPTER 307

An Act to amend and reenact § 58.1-478 of the Code of Virginia, relating to filing the annual return with employee withholding tax statements by electronic means.

[S 852]

Approved March 19, 2001

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-478 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-478. Withholding tax statements for employees; employers must file annual returns with Tax Commissioner.

A. Every person required to deduct and withhold from an employee's wages under this article shall furnish to each such employee in respect to the remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, or if his employment is terminated before the close of such calendar year, on the day on which the last payment of remuneration is made, a written statement in duplicate showing the following: (i) the name of such person; (ii) the name of the employee and his social security account number; (iii) the total amount of wages; and (iv) the total amount deducted and withheld under this article by such employer.

B. The written statements required to be furnished pursuant to this section in respect of any remuneration shall be furnished at such other times, shall contain such other information, and shall be in such form as the Tax Commissioner may by regulations prescribe.

C. 1. Every employer shall file an annual return with the Tax Commissioner, setting forth such information as the Tax Commissioner may require, not later than February 28 of the calendar year succeeding the calendar year in which wages were withheld from employees, and such annual return shall be accompanied by an additional copy of each of the written statements furnished each employee under subsections A and B of this section.

2. *Every employer who furnishes 250 or more written statements to employees under subsections A and B for any calendar year shall file the annual report required under this subsection using an electronic medium using a format prescribed by the Tax Commissioner. Waivers shall be granted only if the Tax Commissioner finds that this requirement creates an unreasonable burden on the employer. All requests for waiver must be submitted to the Tax Commissioner in writing. Employers who furnish fewer than 250 written statements to employees under subsections A and B may, at such employer's option, file such annual report on an electronic medium in lieu of filing the annual report on paper.*

D. The Tax Commissioner shall have the authority to require every employer to furnish the names and social security numbers of all employees whose wages or withholding amounts for the taxable year are below levels specified by the Commissioner.

2. That the provisions of this act amending § 58.1-478 shall be effective for annual reports filed on and after January 1, 2002.

3. That the Tax Commissioner shall adopt guidelines providing standards for filing the annual return using an electronic medium. In preparing such guidelines, the Tax Commissioner shall not be subject to the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.). In adopting such guidelines, the Tax Commissioner shall seek the counsel of interested groups including tax practitioners and representatives of the business community.