

2003 SESSION

INTRODUCED

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HOUSE BILL NO. 1658

Offered January 8, 2003

Prefiled December 31, 2002

A BILL to amend and reenact §§ 58.1-305, 58.1-306, and 58.1-350 of the Code of Virginia, relating to filing income tax returns.

Patron—Wardrup

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-305, 58.1-306, and 58.1-350 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-305. Duties of commissioner of the revenue relating to income tax.

Every commissioner of the revenue *or the Tax Commissioner* shall obtain an income tax return from every individual or fiduciary within his jurisdiction who is liable under the law to file such a return with him. This duty ~~of the commissioner of the revenue~~ to obtain such return shall in no manner diminish any obligation to file a return without being called upon to do so by the commissioner of the revenue, *the Tax Commissioner*, or any other officer. Each commissioner of the revenue *or the Tax Commissioner* shall audit returns as soon as practicable after they are made to him and shall assess the amount of taxes, or the amount of additional taxes, as the case may be, which appears to be due. Such auditing shall not be done in a manner or at a time in any case as will result in any delay on the part of the commissioner of the revenue in complying with §§ 58.1-307 and 58.1-350.

§ 58.1-306. Filing of individual, estate or trust income tax returns with the Department.

Whenever an individual or fiduciary files with the Department an income tax return for a current year, the Department ~~may, at the request of the taxpayer, and for reasons sufficient to it, shall~~ assess the state income tax against such taxpayer instead of transmitting such return to a commissioner of the revenue for assessment. In every such case the Department, however, shall advise the appropriate commissioner of the revenue of such action. The Department ~~shall not~~ *may* by any means whatsoever, either directly or indirectly, in its bulletins, instructions, publications or otherwise, request, promote or solicit, in any local jurisdiction, ~~unless requested by the commissioner of the revenue or assessing officer thereof on or before September 1 of each year,~~ the filing of such state income tax return with the Department.

§ 58.1-350. Procuring returns from delinquent individuals or fiduciaries.

The commissioner of the revenue *or the Tax Commissioner* shall secure a return from every delinquent individual or fiduciary within his jurisdiction; ~~or if or the Commonwealth, as applicable. If~~ any such individual or fiduciary refuses to make a return or fails to make such return for fifteen days after the commissioner of the revenue calls upon him to do so, such commissioner shall, from the best information he can obtain, make an estimate of the income of such individual or fiduciary and report the same to the Department.

The commissioner of the revenue *and the Tax Commissioner* shall have authority to assess taxes, penalties and interest upon such estimate, and such taxes, penalties and interest shall be collected in like manner as is provided by law for the collection of state taxes.

2. That the provisions of this act shall be effective for taxable years beginning on and after January 1, 2004.

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