

# VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

## CHAPTER 526

*An Act to amend the Code of Virginia by adding in Article 5 of Chapter 39 of Title 58.1 a section numbered 58.1-3994, relating to offers in compromise with respect to local taxes.*

[H 293]

Approved April 12, 2004

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 5 of Chapter 39 of Title 58.1 a section numbered 58.1-3994 as follows:**

*§ 58.1-3994. Offers in compromise with respect to local taxes.*

*A. Notwithstanding any other provision of law, the commissioner of the revenue or other official responsible for the assessment of any local tax appealed pursuant to § 58.1-3703.1 or § 58.1-3983.1 may, in his sole discretion, compromise and settle any disputed assessment of taxes prior to the time that such assessment is no longer subject to administrative or judicial review pursuant to applicable law if the commissioner or other official responsible for assessment determines that there is substantial doubt under applicable law, regulations, or guidelines as to the taxpayer's liability for such taxes.*

*B. Notwithstanding any other provision of law, the treasurer or other official responsible for the collection of any local tax imposed pursuant to this title may, with the consent of the governing body or its designee, compromise and settle the amount due and payable when the treasurer or other official determines that the collection of the entire amount due and owing is in substantial doubt and the best interests of the locality will be served by such compromise. Whenever a tax otherwise due and owing is compromised pursuant to the provisions of this subsection, the difference between the amount of tax then due and owing, and the amount of tax paid pursuant to such compromise, shall be treated for the purposes of § 58.1-3921 in the same fashion as a tax rendered legally uncollectible by reason of the application of the United States Bankruptcy Code.*

*C. Any offer in compromise submitted to an official responsible for the assessment or collection of local taxes shall be made in writing and shall be deemed accepted only when the taxpayer is notified in writing of the acceptance by the responsible official.*

*D. Whenever a compromise and settlement is made pursuant to the provisions of this section, the responsible official shall make a complete record of the case, including: (i) the tax assessed; (ii) audit findings, if any; (iii) the taxpayer's grounds for dispute or contest together with all evidences thereof; (iv) factors calling collectibility into substantial doubt; (v) any nonprivileged reports or recommendations made with respect to the liability of the taxpayer, the requirements of effective tax administration considered, and/or the collectibility of taxes due; and (vi) the amount assessed or accepted and the terms and conditions attendant to settlement or compromise, with respect to the liability in question.*

*E. The treasurer or other official charged with collection of taxes may deposit into the treasury of the county, city or town any and all payments submitted with offers in compromise, unless the taxpayer specifically, clearly and conspicuously directs otherwise in writing at the time the offer in compromise is submitted to the responsible official. For the purposes of this subsection, no restrictive endorsement or other notation upon a check or other payment instrument shall constitute clear and conspicuous notice of a direction not to deposit.*

*F. Upon acceptance of an offer in compromise by the responsible local official with respect to a tax liability, the matter thereafter may not be reopened except upon a showing of fraud, malfeasance or misrepresentation of a material fact.*