

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 544

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

[H 902]

Approved April 12, 2004

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-305 and 58.1-306 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 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; *provided such individual or fiduciary has not filed such a return with the Department of Taxation*. 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 or any other officer. Each commissioner of the revenue 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.

Every individual and fiduciary responsible for filing income tax returns may file such returns with the Department of Taxation or the appropriate commissioner of the revenue. 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,~~ 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 *may advise taxpayers through its publications and instructions of their right to file state income tax returns with the Department* but shall not 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.