

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

4 [H 902]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That §§ 58.1-305 and 58.1-306 of the Code of Virginia are amended and reenacted as follows:**

8 § 58.1-305. Duties of commissioner of the revenue relating to income tax.

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

18 § 58.1-306. Filing of individual, estate or trust income tax returns with the Department.

19 *Every individual and fiduciary responsible for filing income tax returns may file such returns with*  
20 *the Department of Taxation or the appropriate commissioner of the revenue.* Whenever an individual or  
21 fiduciary files with the Department an income tax return for a current year, the Department may; ~~at the~~  
22 ~~request of the taxpayer, and for reasons sufficient to it,~~ assess the state income tax against such taxpayer  
23 instead of transmitting such return to a commissioner of the revenue for assessment. In every such case  
24 the Department, however, shall advise the appropriate commissioner of the revenue of such action. The  
25 Department *may advise taxpayers through its publications and instructions of their right to file state*  
26 *income tax returns with the Department but* shall not by any means whatsoever, either directly or  
27 indirectly, in its bulletins, instructions, publications or otherwise, request, promote or solicit, in any local  
28 jurisdiction, unless requested by the commissioner of the revenue or assessing officer thereof on or  
29 before September 1 of each year, the filing of such state income tax return with the Department.