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HOUSE BILL NO. 2679

Offered January 12, 2005

Prefiled January 12, 2005

A BILL to amend and reenact §§ 58.1-3703.1 and 58.1-3983.1 of the Code of Virginia, relating to local business taxes; appeals.

Patrons—Lingamfelter, Albo, Byron, Cole, Fralin, Hull, Janis, Landes, Lewis, Louderback, McDonnell, McQuigg, O'Bannon, Parrish, Saxman, Ware, R.L., Watts and Welch; Senators: Colgan, Hanger and Wagner

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3703.1 and 58.1-3983.1 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-3703.1. Uniform ordinance provisions.

A. Every ordinance levying a license tax pursuant to this chapter shall include provisions substantially similar to this subsection. As they apply to license taxes, the provisions required by this section shall override any limitations or requirements in Chapter 39 (§ 58.1-3900 et seq.) of this title to the extent that they are in conflict.

1. License requirement. Every person shall apply for a license for each business or profession when engaging in a business in this jurisdiction if (i) the person has a definite place of business in this jurisdiction; (ii) there is no definite place of business anywhere and the person resides in this jurisdiction; or (iii) there is no definite place of business in this jurisdiction but the person operates amusement machines or is classified as an itinerant merchant, peddler, carnival, circus, contractor subject to § 58.1-3715, or public service corporation. A separate license shall be required for each definite place of business and for each business. A person engaged in two or more businesses or professions carried on at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied: (a) each business or profession is subject to licensure at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of this jurisdiction; (b) all of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and (c) the taxpayer agrees to supply such information as the assessor may require concerning the nature of the several businesses and their gross receipts.

Notwithstanding the foregoing, the governing body of any county, city or town with a population greater than 50,000 may waive the license requirements provided herein for businesses with gross receipts of less than \$100,000.

2. Due dates and penalties.

a. Each person subject to a license tax shall apply for a license prior to beginning business if he was not subject to licensure in this jurisdiction on or before January 1 of the license year, or no later than March 1 of the license year if he had been issued a license for the preceding year. The application shall be on forms prescribed by the assessing official.

b. The tax shall be paid with the application in the case of any license not based on gross receipts. If the tax is measured by the gross receipts of the business, the tax shall be paid on or before March 1 or a later date, including installment payment dates, or ~~thirty~~30 or more days after beginning business, at the locality's option.

c. The assessing official may grant an extension of time in which to file an application for a license, for reasonable cause. The extension may be conditioned upon the timely payment of a reasonable estimate of the appropriate tax; the tax is then subject to adjustment to the correct tax at the end of the extension, together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, with a penalty of ~~ten~~10 percent of the portion paid after the due date.

d. A penalty of ~~ten~~10 percent of the tax may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both penalties may be assessed if the assessing official determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the assessing official, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with

57 the additional tax. If any assessment of tax by the assessing official is not paid within ~~thirty~~30 days, the
58 treasurer or other collecting official may impose a ~~ten~~10 percent late payment penalty. If the failure to
59 file or pay was not the fault of the taxpayer, the penalties shall not be imposed, or if imposed, shall be
60 abated by the official who assessed them. In order to demonstrate lack of fault, the taxpayer must show
61 that he acted responsibly and that the failure was due to events beyond his control.

62 "Acted responsibly" means that: (i) the taxpayer exercised the level of reasonable care that a prudent
63 person would exercise under the circumstances in determining the filing obligations for the business and
64 (ii) the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting
65 appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to
66 remove an impediment once it occurred, and promptly rectifying a failure once the impediment was
67 removed or the failure discovered.

68 "Events beyond the taxpayer's control" include, but are not limited to, the unavailability of records
69 due to fire or other casualty; the unavoidable absence (e.g., due to death or serious illness) of the person
70 with the sole responsibility for tax compliance; or the taxpayer's reasonable reliance in good faith upon
71 erroneous written information from the assessing official who was aware of the relevant facts relating to
72 the taxpayer's business when he provided the erroneous information.

73 e. Interest shall be charged on the late payment of the tax from the due date until the date paid
74 without regard to fault or other reason for the late payment. Whenever an assessment of additional or
75 omitted tax by the assessing official is found to be erroneous, all interest and any penalties charged and
76 collected on the amount of the assessment found to be erroneous shall be refunded together with interest
77 on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the
78 refund of any BPOL tax from the date of payment or due date, whichever is later, whether attributable
79 to an amended return or other reason. Interest on any refund shall be paid at the same rate charged
80 under § 58.1-3916.

81 No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion
82 of a base year. No interest shall be paid on a refund or charged on a late payment, provided the refund
83 or the late payment is made not more than ~~thirty~~30 days from the date of the payment that created the
84 refund or the due date of the tax, whichever is later.

85 3. Situs of gross receipts.

86 a. General rule. Whenever the tax imposed by this ordinance is measured by gross receipts, the gross
87 receipts included in the taxable measure shall be only those gross receipts attributed to the exercise of a
88 privilege subject to licensure at a definite place of business within this jurisdiction. In the case of
89 activities conducted outside of a definite place of business, such as during a visit to a customer location,
90 the gross receipts shall be attributed to the definite place of business from which such activities are
91 initiated, directed, or controlled. The situs of gross receipts for different classifications of business shall
92 be attributed to one or more definite places of business or offices as follows:

93 (1) The gross receipts of a contractor shall be attributed to the definite place of business at which his
94 services are performed, or if his services are not performed at any definite place of business, then the
95 definite place of business from which his services are directed or controlled, unless the contractor is
96 subject to the provisions of § 58.1-3715;

97 (2) The gross receipts of a retailer or wholesaler shall be attributed to the definite place of business
98 at which sales solicitation activities occur, or if sales solicitation activities do not occur at any definite
99 place of business, then the definite place of business from which sales solicitation activities are directed
100 or controlled; however, a wholesaler or distribution house subject to a license tax measured by purchases
101 shall determine the situs of its purchases by the definite place of business at which or from which
102 deliveries of the purchased goods, wares and merchandise are made to customers. Any wholesaler who
103 is subject to license tax in two or more localities and who is subject to multiple taxation because the
104 localities use different measures, may apply to the Department of Taxation for a determination as to the
105 proper measure of purchases and gross receipts subject to license tax in each locality;

106 (3) The gross receipts of a business renting tangible personal property shall be attributed to the
107 definite place of business from which the tangible personal property is rented or, if the property is not
108 rented from any definite place of business, then to the definite place of business at which the rental of
109 such property is managed; and

110 (4) The gross receipts from the performance of services shall be attributed to the definite place of
111 business at which the services are performed or, if not performed at any definite place of business, then
112 to the definite place of business from which the services are directed or controlled.

113 b. Apportionment. If the licensee has more than one definite place of business and it is impractical or
114 impossible to determine to which definite place of business gross receipts should be attributed under the
115 general rule, the gross receipts of the business shall be apportioned between the definite places of
116 businesses on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business
117 unless some activities under the applicable general rule occurred at, or were controlled from, such
118 definite place of business. Gross receipts attributable to a definite place of business in another

jurisdiction shall not be attributed to this jurisdiction solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

c. Agreements. The assessor may enter into agreements with any other political subdivision of Virginia concerning the manner in which gross receipts shall be apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. Upon being notified by a taxpayer that its method of attributing gross receipts is fundamentally inconsistent with the method of one or more political subdivisions in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than 100 percent of its gross receipts from all locations in the affected jurisdictions, the assessor shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved. If an agreement cannot be reached, either the assessor or taxpayer may seek an advisory opinion from the Department of Taxation pursuant to § 58.1-3701; notice of the request shall be given to the other party. Notwithstanding the provisions of § 58.1-3993, when a taxpayer has demonstrated to a court that two or more political subdivisions of Virginia have assessed taxes on gross receipts that may create a double assessment within the meaning of § 58.1-3986, the court shall enter such orders pending resolution of the litigation as may be necessary to ensure that the taxpayer is not required to pay multiple assessments even though it is not then known which assessment is correct and which is erroneous.

4. Limitations and extensions.

a. Where, before the expiration of the time prescribed for the assessment of any license tax imposed pursuant to this ordinance, both the assessing official and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

b. Notwithstanding § 58.1-3903, the assessing official shall assess the local license tax omitted because of fraud or failure to apply for a license for the current license year and the six preceding license years.

c. The period for collecting any local license tax shall not expire prior to the period specified in § 58.1-3940, two years after the date of assessment if the period for assessment has been extended pursuant to this subdivision of the ordinance, two years after the final determination of an appeal for which collection has been stayed pursuant to subdivision 5 b or 5 d of this ordinance, or two years after the final decision in a court application pursuant to § 58.1-3984 or a similar law for which collection has been stayed, whichever is later.

5. Appeals and rulings.

a. Any person assessed with a local license tax as a result of an appealable event as defined in this section may apply within one year from the last day of the tax year for which such assessment is made, or within one year from the date of the appealable event, whichever is later, to the assessor for a correction of the assessment. The application must be filed in good faith and sufficiently identify the taxpayer, the tax periods covered by the challenged assessments, the remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The assessor may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, an audit or further audit, or other evidence deemed necessary for a proper and equitable determination of the application. The assessment shall be deemed prima facie correct. The assessor shall undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth its position. Every assessment pursuant to an appealable event shall be accompanied by a written explanation of the taxpayer's right to seek correction and the specific procedure to be followed in the jurisdiction (e.g., the name and address to which an application should be directed).

b. Provided a timely and complete application is made, collection activity *with respect to the amount of any tax placed at issue in the application* shall be suspended until a final determination is issued by the assessor, unless the ~~assessor~~ *treasurer or other official responsible for the collection of such tax* determines that collection would be jeopardized by delay or *is advised by the commissioner or other assessing official* that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of subdivision 2. e. of this subsection, but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" includes a finding that the application is frivolous, or that a taxpayer desires to (i) depart quickly from the locality, (ii) remove his property therefrom, (iii) conceal himself or his property therein, or (iv) do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

c. Any person assessed with a local license tax as a result of a determination, upon an application for correction pursuant to subdivision 5 a, that is adverse to the position asserted by the taxpayer in such

180 application may apply within ~~ninety~~90 days of the determination by the assessing official to the Tax
181 Commissioner for a correction of such assessment. The Tax Commissioner shall issue a determination to
182 the taxpayer within ~~ninety~~90 days of receipt of the taxpayer's application, unless the taxpayer and the
183 assessing official are notified that a longer period will be required. The application shall be treated as an
184 application pursuant to § 58.1-1821, and the Tax Commissioner may issue an order correcting such
185 assessment pursuant to § 58.1-1822. Following such an order, either the taxpayer or the assessing official
186 may apply to the appropriate circuit court pursuant to § 58.1-3984. However, the burden shall be on the
187 party making the application to show that the ruling of the Tax Commissioner is erroneous. Neither the
188 Tax Commissioner nor the Department of Taxation shall be made a party to an application to correct an
189 assessment merely because the Tax Commissioner has ruled on it.

190 d. On receipt of a notice of intent to file an appeal to the Tax Commissioner under subdivision 5 c,
191 the ~~assessing official treasurer or other official responsible for the collection of such tax~~ shall further
192 suspend collection activity *with respect to the amount of any tax placed at issue in the application* until
193 a final determination is issued by the Tax Commissioner, unless the ~~assessor treasurer or other~~
194 *collection official* determines that collection would be jeopardized by delay or *is advised by the*
195 *commissioner or other assessing official* that the taxpayer has not responded to a request for relevant
196 information after a reasonable time. *On receipt of a notice of intent to file an application for relief*
197 *under § 58.1-3984 from a determination by the Tax Commissioner pursuant to subdivision 5 c, and upon*
198 *payment of the portion of the tax that is not in dispute together with any penalty and interest then due*
199 *with respect to such undisputed portion of the tax, the treasurer or other collection official shall further*
200 *suspend collection activity while the court retains jurisdiction unless the court determines (i) that the*
201 *locality is likely to prevail upon the merits because the application for relief is not well grounded in*
202 *fact, not warranted by existing law or a good faith argument for the extension, modification, or reversal*
203 *of existing law, interposed for an improper purpose, such as to harass, to cause unnecessary delay in*
204 *the collection of the revenue, or to create needless cost to the locality from the litigation, or otherwise*
205 *frivolous; (ii) that collection would be jeopardized by delay; or (iii) that suspension of collection would*
206 *cause substantial economic hardship on the applicable locality. The requirement that collection activity*
207 *be suspended shall cease unless an application for relief under § 58.1-3984 is filed and served on the*
208 *necessary parties within 30 days of the receipt of the notice of intent to file such application. Interest*
209 *shall accrue in accordance with the provisions of subdivision 2 e of this subsection, but no further*
210 *penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" shall*
211 *have the same meaning as set forth in subdivision 5 b above. For the purposes of determining the*
212 *amount "not in dispute" that must be paid to effect a suspension of collection activity pursuant to this*
213 *subdivision, if the appeal fails to identify with particularity that portion of the tax claimed due that is*
214 *disputed, the taxpayer shall not be entitled to a suspension of collection activity. For the purposes of*
215 *determining whether "substantial economic hardship" would arise from a suspension of collection*
216 *activity pursuant to this subdivision, the court may consider the cumulative effect of then-pending*
217 *appeals filed by different taxpayers that allege common claims or theories of relief.*

218 e. Any taxpayer may request a written ruling regarding the application of a local license tax to a
219 specific situation from the assessor. Any person requesting such a ruling must provide all the relevant
220 facts for the situation and may present a rationale for the basis of an interpretation of the law most
221 favorable to the taxpayer. Any misrepresentation or change in the applicable law or the factual situation
222 as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be
223 revoked or amended prospectively if (i) there is a change in the law, a court decision, or the guidelines
224 issued by the Department of Taxation upon which the ruling was based or (ii) the assessor notifies the
225 taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any
226 person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good
227 faith during the period in which such ruling was in effect.

228 f. For purposes of this section, "appealable event" means an increase in the assessment of a local
229 license tax payable by a taxpayer, the denial of a refund, or the assessment of a local license tax where
230 none previously was assessed, arising out of the local assessing official's (i) examination of records,
231 financial statements, books of account or other information for the purpose of determining the
232 correctness of an assessment, (ii) determination regarding the rate or classification applicable to the
233 licensable business, (iii) assessment of a local license tax when no return has been filed by the taxpayer,
234 or (iv) denial of an application for correction of erroneous assessment attendant to the filing of an
235 amended application for license.

236 g. Any taxpayer whose application for correction pursuant to the provisions of subdivision 5 a has
237 been pending for more than two years without the issuance of a final determination may, upon not less
238 than ~~thirty~~30 days' written notice to the assessor, elect to treat the application as denied and appeal the
239 assessment to the Tax Commissioner in accordance with the provisions of subdivision 5 c. The Tax
240 Commissioner shall not consider an appeal filed pursuant to the provisions of this subdivision if he finds
241 that the absence of final determination on the part of the assessor was caused by the willful failure or

refusal of the taxpayer to provide information requested and reasonably needed by the assessor to make his determination.

6. Record-keeping and audits. Every person who is assessable with a local license tax shall keep sufficient records to enable the assessor to verify the correctness of the tax paid for the license years assessable and to enable the assessor to ascertain what is the correct amount of tax that was assessable for each of those years. All such records, books of accounts and other information shall be open to inspection and examination by the assessor in order to allow the assessor to establish whether a particular receipt is directly attributable to the taxable privilege exercised within this jurisdiction. The assessor shall provide the taxpayer with the option to conduct the audit in the taxpayer's local business office, if the records are maintained there. In the event the records are maintained outside this jurisdiction, copies of the appropriate books and records shall be sent to the assessor's office upon demand.

B. Transitional provisions.

1. A locality which changes its license year from a fiscal year to a calendar year and adopts March 1 as the due date for license applications shall not be required to prorate any license tax to reflect a license year of less than ~~twelve~~ 12 months, whether the tax is a flat amount or measured by gross receipts, provided that no change is made in the taxable year for measuring gross receipts.

2. The provisions of this section relating to penalties, interest, and administrative and judicial review of an assessment shall be applicable to assessments made on and after January 1, 1997, even if for an earlier license year. The provisions relating to agreements extending the period for assessing tax shall be effective for agreements entered into on and after July 1, 1996. The provisions permitting an assessment of a license tax for up to six preceding years in certain circumstances shall not be construed to permit the assessment of tax for a license year beginning before January 1, 1997.

3. Every locality shall adopt a March 1 due date for applications no later than the 2001 license year. § 58.1-3983.1. (Effective January 1, 2005) Appeals and rulings of local taxes.

A. For purposes of this section:

"Jeopardized by delay" means that a taxpayer desires to (i) depart quickly from the locality, (ii) remove his property therefrom, (iii) conceal himself or his property therein, or (iv) do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

"Local business tax" means machinery and tools tax, business tangible personal property tax (including, without limitation, computer equipment), and merchant's capital tax.

"Local mobile property tax" means the tangible personal property tax on airplanes, boats, campers, recreational vehicles, and trailers.

B. Any person assessed with any local mobile property tax or local business tax may apply within one year from the last day of the tax year for which such assessment is made, or within one year from the date of such assessment, whichever is later, to the commissioner of the revenue or other official responsible for assessment for a correction of the assessment. The application shall be filed in good faith and sufficiently identify the taxpayer, remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The commissioner or other assessing official may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents or other evidence deemed necessary for a proper and equitable determination of the application. The assessment shall be deemed prima facie correct. The commissioner or other assessing official shall undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth his position within 90 days after such application is filed. Such determination shall be accompanied by a written explanation of the taxpayer's right to seek correction and the specific procedure to be followed in the jurisdiction (e.g., the name and address to which an application should be directed).

C. Provided a timely and complete application is made, collection activity shall be suspended by the treasurer or other official responsible for the collection of such tax until a final determination is issued by the commissioner or other assessing official, unless the treasurer or other collection official determines that collection would be jeopardized by delay or is advised by the commissioner or other assessing official that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of subdivision A 2 e of § 58.1-3703.1, but no further penalty shall be imposed while collection action is suspended.

D. 1. Any person whose application for a correction of assessment pursuant to subsection B has been denied in whole or in part may apply within 90 days of the determination by the commissioner of the revenue or other assessing official to the Tax Commissioner for a correction of such assessment. The Tax Commissioner shall determine whether he has jurisdiction to hear the appeal within 30 days of receipt of the taxpayer's application for correction of an assessment. If the Tax Commissioner has jurisdiction, he shall issue a determination to the taxpayer within 90 days of receipt of the taxpayer's

303 application, unless the taxpayer and the commissioner of the revenue or other assessing official are
304 notified that a longer period will be required. Such longer period of time shall not exceed 60 days, and
305 the Tax Commissioner shall notify the affected parties of the reason necessitating the longer period of
306 time. If the Tax Commissioner is unable to issue a determination within the 60-day extension period due
307 to the failure of an affected party to supply the Tax Commissioner with necessary information, the Tax
308 Commissioner shall certify this fact in writing prior to the expiration of the extension period. The Tax
309 Commissioner shall then issue his determination within 60 days of receipt of such necessary
310 information. The person making such request for correction to the Tax Commissioner must in all cases
311 have filed with the affected commissioner of the revenue or other local assessing official a copy of such
312 person's application for correction to the Tax Commissioner. The Tax Commissioner shall furnish a copy
313 of such person's request for correction to the affected commissioner of the revenue or other local
314 assessing official within 14 working days of the receipt of the request for correction and shall allow the
315 local assessing official to participate in the proceedings. The application shall be treated as an
316 application pursuant to § 58.1-1821, and the Tax Commissioner may issue an order correcting such
317 assessment of such property pursuant to § 58.1-1822, if the taxpayer has met the burden of proof
318 provided in § 58.1-3987. The Tax Commissioner shall not make a determination regarding the valuation
319 or the method of valuation of property subject to any local tax other than a local business tax.
320 Following such an order, either the taxpayer or the commissioner of the revenue or other assessing
321 official may apply to the appropriate circuit court pursuant to § 58.1-3984. However, the burden shall be
322 on the party making the application to show that the ruling of the Tax Commissioner is erroneous.
323 Neither the Tax Commissioner nor the Department of Taxation shall be made a party to an application
324 to correct an assessment merely because the Tax Commissioner has ruled on it.

325 2. Any taxpayer whose application for correction pursuant to subsection B has been pending for
326 more than two years without the issuance of a final determination may, upon not less than 30 days'
327 written notice to the assessor, elect to treat the application as denied and appeal the assessment to the
328 Tax Commissioner in accordance with the provisions of subdivision D 1. The Tax Commissioner shall
329 not consider an appeal filed pursuant to the provisions of this subdivision if he finds that the absence of
330 a final determination on the part of the assessor was caused by the willful failure or refusal of the
331 taxpayer to provide information requested and reasonably needed by the assessor to make his
332 determination.

333 E. On receipt of a notice of intent to file an appeal to the Tax Commissioner under subsection D, the
334 treasurer or other official responsible for the collection of such tax shall further suspend collection
335 activity until a final determination is issued by the Tax Commissioner, unless the treasurer or other
336 collection official determines that collection would be jeopardized by delay or is advised by the
337 commissioner or other assessing official that the taxpayer has not responded to a request for relevant
338 information after a reasonable time. *On receipt of a notice of intent to file an application for relief*
339 *under § 58.1-3984 from a determination by the Tax Commissioner pursuant to subdivision D 1, and*
340 *upon payment of the portion of the tax that is not in dispute together with any penalty and interest then*
341 *due with respect to such undisputed portion of the tax, the treasurer or other collection official shall*
342 *further suspend collection activity while the court retains jurisdiction unless the court determines (i) that*
343 *the locality is likely to prevail upon the merits because the application for relief is not well grounded in*
344 *fact, not warranted by existing law or a good faith argument for the extension, modification, or reversal*
345 *of existing law, interposed for an improper purpose, such as to harass, to cause unnecessary delay in*
346 *the collection of the revenue, or to create needless cost to the locality from the litigation, or otherwise*
347 *frivolous; (ii) that collection would be jeopardized by delay; or (iii) that suspension of collection would*
348 *cause substantial economic hardship on the applicable locality. The requirement that collection activity*
349 *be suspended shall cease unless an application for relief under § 58.1-3984 is filed and served on the*
350 *necessary parties within 30 days of the receipt of the notice of intent to file such application. Interest*
351 *shall accrue in accordance with the provisions of subdivision A 2 e of § 58.1-3703.1, but no further*
352 *penalty shall be imposed while collection action is suspended. For the purposes of determining the*
353 *amount "not in dispute" that must be paid to effect a suspension of collection activity pursuant to this*
354 *subdivision, if the appeal fails to identify with particularity that portion of the tax claimed due that is*
355 *disputed, the taxpayer shall not be entitled to a suspension of collection activity. For the purposes of*
356 *determining whether "substantial economic hardship" would arise from a suspension of collection*
357 *activity pursuant to this subdivision, the court may consider the cumulative effect of then-pending*
358 *appeals filed by different taxpayers that allege common claims or theories of relief.*

359 F. Any taxpayer may request a written ruling regarding the application of a local mobile property tax
360 or a local business tax to a specific situation from the commissioner of the revenue or other assessing
361 official. Any taxpayer requesting such a ruling shall provide all the relevant facts for the situation and
362 may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. Any
363 misrepresentation or change in the applicable law or the factual situation as presented in the ruling
364 request shall invalidate any such ruling issued. A written ruling may be revoked or amended

prospectively if (i) there is a change in the law, a court decision, or the guidelines issued by the Department of Taxation upon which the ruling was based or (ii) the commissioner of the revenue or other assessing official notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any taxpayer who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

G. The Tax Commissioner shall have the authority to issue advisory written opinions in specific cases as requested to interpret a local business tax and matters related to the administration thereof when an assessment of that tax is subject to appeal to the Tax Commissioner under this chapter. Opinions issued pursuant to this section shall not be applicable as an interpretation of any other tax law.

H. Every person who is assessable with a local mobile property tax or a local business tax shall keep sufficient records to enable the commissioner of the revenue or other assessing official to verify the correctness of the tax paid for the taxable years assessable and to enable the commissioner of the revenue or other assessing official to ascertain what is the correct amount of tax that was assessable for each of those years. All such records, books of accounts and other information shall be open to inspection and examination by the commissioner of the revenue or other assessing official in order to allow him to establish whether the tax is due within this jurisdiction. The commissioner of the revenue or other assessing official shall provide the taxpayer with the option to conduct the audit in the taxpayer's local business office, if the records are maintained there. In the event the records are maintained outside this jurisdiction, copies of the appropriate books and records shall be sent to the commissioner's or assessor's office upon demand.