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HOUSE BILL NO. 2135

Offered January 10, 2007

Prefiled January 8, 2007

A *BILL to amend and reenact §§ 58.1-1803 and 58.1-1821 of the Code of Virginia, relating to collection of taxes by the Department of Taxation.*

Patron—Hugo

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That §§ 58.1-1803 and 58.1-1821 of the Code of Virginia are amended and reenacted as follows:**

§ 58.1-1803. Department of Taxation may appoint collectors of delinquent state taxes; Contract Collector Fund established.

A. The Department of Taxation may appoint a collector in any county or city, including the treasurer thereof, to collect delinquent state taxes, *that were assessed at least 90 days previously* therein, or elsewhere in the Commonwealth, and may allow him a reasonable compensation, to be agreed on before the service is commenced. Where the appointed collector is a local government treasurer, any actions taken pursuant to this section shall be considered part of the official duties of such treasurer.

B. The Department of Taxation may appoint collectors or contract with collection agencies to collect delinquent state taxes *that were assessed at least 90 days previously* and allow reasonable compensation for such services, to be agreed on before the service is commenced. Delinquent claims for state taxes may be assigned to collectors or collection agencies so designated for the purpose of litigation in the Department of Taxation's name and at the Department of Taxation's expense.

C. Such collectors who are attorneys-at-law shall have authority to institute actions at law or suits in equity for the recovery of state taxes. For the purpose of this section, the term "state taxes" shall include any penalty and interest and shall also include the local sales and use tax imposed under the authority of §§ 58.1-605 and 58.1-606 and any penalty and interest applicable thereto. Each collector so appointed or collection agency so contracted with shall give bond to the Commonwealth for the faithful performance of the duties placed upon him by this section, in a penalty to be fixed by the Tax Commissioner, in whose office the bond shall be filed. Notwithstanding any other provision of law, any local government treasurer so appointed may collect any delinquent state taxes pursuant to the provisions of Article 2 (§ 58.1-3910 et seq.) of Chapter 39 of this title. Any county or city treasurer turning over delinquent tax tickets to any such collector in pursuance of orders issued by the Department of Taxation shall receive credit on the Comptroller's books for the amount so turned over.

D. There is hereby established a special fund in the state treasury to be known as the Contract Collector Fund, hereinafter referred to as the Fund. All moneys collected by collectors and collection agencies appointed by or under contract with the Department of Taxation pursuant to this section shall be placed in the Fund. Compensation of such collectors and collection agencies shall be paid out of the Fund on warrant of the Comptroller. The Comptroller shall transfer to the appropriate general, nongeneral, or local fund all moneys in the Fund in excess of that required to be paid to persons under contract, as determined by the Department, no later than June 30 each year.

§ 58.1-1821. Application to Tax Commissioner for correction.

Any person assessed with any tax administered by the Department of Taxation may, within ninety days from the date of such assessment, apply for relief to the Tax Commissioner. Such application shall be in the form prescribed by the Department, and shall fully set forth the grounds upon which the taxpayer relies and all facts relevant to the taxpayer's contention. The Tax Commissioner may also require such additional information, testimony or documentary evidence as he deems necessary to a fair determination of the application.

On receipt of a notice of intent to file under this section, the Tax Commissioner shall refrain from collecting the tax until the time for filing hereunder has expired, unless he determines that collection is in jeopardy.

Any person whose tax assessment has been improperly collected by the Department may apply hereunder to assert a claim that any amount so collected was exempt from process.

The initial assessment of any tax administered by the Department of Taxation shall include a notice to the taxpayer that specifies all of the taxpayer's rights under this section, including but not limited to the right to have the Tax Commissioner refrain from collecting the tax upon the Commissioner's receipt from the taxpayer of a notice of intent to file for relief under this section.