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HOUSE BILL NO. 1553

Offered January 18, 2008

A BILL to amend and reenact §§ 58.1-3, 58.1-105, 58.1-1724, and 58.1-1724.1 of the Code of Virginia, relating to the collection of motor fuel sales tax in certain transportation districts.

Patron—Lingamfelter

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3, 58.1-105, 58.1-1724, and 58.1-1724.1 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-3. Secrecy of information; penalties.

A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to § 58.1-2712.2, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. This prohibition shall apply to any reports, returns, financial documents or other information filed with the Attorney General pursuant to the provisions of Article 6 (§ 3.1-336.3 et seq.) of Chapter 18 of Title 3.1. Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;
2. Acts performed or words spoken or published in the line of duty under the law;
3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;
4. The sales price, date of construction, physical dimensions or characteristics of real property, or any information required for building permits;

5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent;

6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when requested by the General Assembly or any duly constituted committee of the General Assembly.

B. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to: (i) divulge tax information to any commissioner of the revenue, director of finance or other similar collector of county, city or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon written request, information on the amount of income, filing status, number and type of dependents, and whether a federal earned income tax credit has been claimed as reported by persons on their state income tax returns who have applied for public assistance or social services benefits as defined in § 63.2-100; (iii) provide to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those persons identified by the designated guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts

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59 receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the
60 collection of fines, penalties and costs imposed in a proceeding in that court; (v) provide to the
61 Commissioner of the Virginia Employment Commission, after entering into a written agreement, such
62 tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid
63 benefits; (vi) provide to the Alcoholic Beverage Control Board, upon entering into a written agreement,
64 such tax information as may be necessary to facilitate the collection of state and local taxes and the
65 administration of the alcoholic beverage control laws; (vii) provide to the Director of the State Lottery
66 Department such tax information as may be necessary to identify those lottery ticket retailers who owe
67 delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax
68 information as may be necessary to facilitate the location of owners and holders of unclaimed property,
69 as defined in § 55-210.2; (ix) provide to the State Corporation Commission, upon entering into a written
70 agreement, such tax information as may be necessary to facilitate the collection of taxes and fees
71 administered by the Commission; (x) provide to the ~~Executive Director~~ *executive director of the*
72 ~~Potomac and Rappahannock Transportation Commission~~ *the transportation commission established for a*
73 *transportation district created pursuant to Chapter 45 (§ 15.2-4500 et seq.) of Title 15.2* for its
74 confidential use such tax information as may be necessary to facilitate the collection of the motor
75 vehicle fuel sales tax; (xi) provide to the Director of the Department of Charitable Gaming such tax
76 information as may be necessary to identify those applicants for registration as a supplier of charitable
77 gaming supplies who have not filed required returns or who owe delinquent taxes; (xii) provide to the
78 Department of Housing and Community Development for its confidential use such tax information as
79 may be necessary to facilitate the administration of the remaining effective provisions of the Enterprise
80 Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide
81 current name and address information to private collectors entering into a written agreement with the
82 Tax Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its
83 political subdivisions; however, the Tax Commissioner is not authorized to provide such information to
84 a private collector who has used or disseminated in an unauthorized or prohibited manner any such
85 information previously provided to such collector; (xiv) provide current name and address information as
86 to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any
87 person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for
88 injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or
89 Distribution of Cigarettes Act; (xv) provide to the Commissioner of Labor and Industry, upon entering
90 into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid
91 wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource
92 Management, upon entering into a written agreement, such tax information as may be necessary to
93 identify persons receiving workers' compensation indemnity benefits who have failed to report earnings
94 as required by § 65.2-712; and (xvii) provide to any commissioner of the revenue, director of finance, or
95 any other officer of any county, city, or town performing any or all of the duties of a commissioner of
96 the revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a
97 list of the names, business addresses, and dates of registration of all dealers registered for such tax. The
98 Tax Commissioner is further authorized to enter into written agreements with duly constituted tax
99 officials of other states and of the United States for the inspection of tax returns, the making of audits,
100 and the exchange of information relating to any tax administered by the Department of Taxation. Any
101 person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions
102 and penalties prescribed herein as though he were a tax official.

103 D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the
104 commissioner of revenue or other assessing official is authorized to (i) provide, upon written request
105 stating the reason for such request, the chief executive officer of any county or city with information
106 furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of
107 any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the
108 local sales and use tax revenues payable to the county or city; (ii) provide to the Department of
109 Professional and Occupational Regulation for its confidential use the name, address, and amount of gross
110 receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a
111 profession or occupation administered by the Department of Professional and Occupational Regulation,
112 only after the Department of Professional and Occupational Regulation exhausts all other means of
113 obtaining such information; and (iii) provide to any representative of a condominium unit owners'
114 association, property owners' association or real estate cooperative association, or to the owner of
115 property governed by any such association, the names and addresses of parties having a security interest
116 in real property governed by any such association; however, such information shall be released only
117 upon written request stating the reason for such request, which reason shall be limited to proposing or
118 opposing changes to the governing documents of the association, and any information received by any
119 person under this subsection shall be used only for the reason stated in the written request. The treasurer
120 or other local assessing official may require any person requesting information pursuant to clause (iii) of

this subsection to pay the reasonable cost of providing such information. Any person to whom tax information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

Notwithstanding the provisions of subsection A or B or any other provisions of this title, the treasurer or other collector of taxes for a county, city or town is authorized to provide information relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course of performing his duties to the commissioner of the revenue or other assessing official for such jurisdiction for use by such commissioner or other official in performing assessments.

This section shall not be construed to prohibit a local tax official from imprinting or displaying on a motor vehicle local license decal the year, make, and model and any other legal identification information about the particular motor vehicle for which that local license decal is assigned.

E. Notwithstanding any other provisions of law, state agencies and any other administrative or regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon written request, the name, address, and social security number of a taxpayer, necessary for the performance of the Commissioner's official duties regarding the administration and enforcement of laws within the jurisdiction of the Department of Taxation. The receipt of information by the Tax Commissioner or his agent which may be deemed taxpayer information shall not relieve the Commissioner of the obligations under this section.

F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published any confidential tax document which he knows or has reason to know is a confidential tax document. A confidential tax document is any correspondence, document, or tax return that is prohibited from being divulged by subsection A, B, C, or D of this section. This prohibition shall not apply if such confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person violating the provisions of this subsection shall be guilty of a Class 2 misdemeanor.

§ 58.1-105. Offers in compromise; Department may accept; authority and duty of Tax Commissioner.

A. In all cases in which under the laws of this Commonwealth a prosecution is authorized for violation of the revenue laws and in all cases in which a penalty is imposed upon the taxpayer for failure to comply with the requirements of the tax laws, the Department shall in its discretion have authority to accept offers made in compromise of such prosecution and in compromise or in lieu of such penalties. An offer in lieu of the assessment of a penalty shall be deemed to be made by the filing of a return or payment of tax without payment of a penalty if information filed with the return or payment of tax or obtained from other sources demonstrates reasonable cause for the failure or omission for which the penalty would be imposed. The reason for the acceptance of such offers in compromise shall be preserved among the records of the Department.

B. The Tax Commissioner may compromise and settle doubtful or disputed claims for taxes or tax liability of doubtful collectibility. An offer in compromise shall be deemed accepted only when the taxpayer is notified in writing of the acceptance by the Tax Commissioner. Whenever such a compromise and settlement is made, the Tax Commissioner shall make a complete record of the case showing the tax assessed, recommendations, reports and audits of departmental personnel, if any, the taxpayer's grounds for dispute or contest together with all evidences thereof, and the amounts, conditions and settlement or compromise of same. *For the collection of motor vehicle fuel sales taxes levied pursuant to § 58.1-1720 in transportation districts created under Chapter 45 (§ 15.2-4500 et seq.) of Title 15.2 no compromise and settlement shall be finalized by the Tax Commissioner without the consultation and consent of the transportation commission for the transportation district in which the taxes in issue were or should have been collected. Evidence of the transportation district's consent of the compromise and settlement shall also be made part of the case record.*

C. The Department may deposit into the state treasury all payments submitted with offers in compromise, unless the taxpayer specifically and clearly directs otherwise.

§ 58.1-1724. Disposition of tax revenues.

All taxes paid to the Commissioner pursuant to this article *shall be for the benefit and use of the transportation districts in which they are collected. As such, the Commissioner shall not compromise and settle any dispute arising from the levy and collection of motor vehicle fuel sales tax pursuant to § 58.1-105 without the consultation and consent of the transportation district in which the taxes in dispute were or should have been collected.* ~~;~~ *after* After subtraction of the direct costs of administration by the Department, all taxes paid to the Commissioner pursuant to this article shall be deposited in a special fund entitled the "Special Fund Account of the Transportation District of" The amounts deposited in the special fund shall be distributed monthly to the applicable transportation district commission of which the county or city is a member to be applied to the operating deficit, capital and debt service of the mass transit system of such district or, in the case of a transportation district subject to the provisions of § 15.2-4515 C, to be applied to and expended for any transportation

182 purpose of such district. In the case of a jurisdiction which, after July 1, 1989, joins a transportation
183 district which was established on or before January 1, 1986, and is also subject to § 15.2-4515 C, the
184 funds collected from that jurisdiction shall be applied to and expended for any transportation purpose of
185 such jurisdiction. The direct costs of administration shall be credited to the funds appropriated to the
186 Department.

187 § 58.1-1724.1. Disclosure of information; penalties.

188 For purposes of administering the tax levied under this article, the Commissioner, upon written
189 request, is authorized to provide to the *executive director of a transportation commission as defined in*
190 *§ 15.2-4502, the finance officer of said transportation commission, and the finance officer of any city or*
191 *county who is charged with administering the motor vehicle fuel sales tax, such information as may be*
192 *necessary for the performance of official duties and the enforcement and collection of the tax. The*
193 *executive director of the transportation commission, in the performance of his duties, is authorized to*
194 *disclose to the governing bodies of the member jurisdictions the information received from the Tax*
195 *Commissioner.* Any person to whom information is provided pursuant to this section shall be subject to
196 the prohibitions and penalties prescribed in § 58.1-3.