

VIRGINIA ACTS OF ASSEMBLY -- 2011 SESSION

CHAPTER 295

An Act to amend and reenact § 58.1-1822 of the Code of Virginia, relating to accrual of interest after application of correction filed.

[S 1152]

Approved March 18, 2011

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-1822 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-1822. Action of Tax Commissioner on application for correction.

If the Tax Commissioner is satisfied, by evidence submitted to him or otherwise, that an applicant is erroneously or improperly assessed with any tax administered by the Department of Taxation, or that an action with respect to a transferred credit or other tax attribute is erroneous, the Tax Commissioner may order that such assessment or action be corrected. If the assessment exceeds the proper amount, the Tax Commissioner shall order that the applicant be exonerated from the payment of so much as is erroneously or improperly charged, if not already paid into the state treasury, and, if paid, that it be refunded to him. If the assessment is less than the proper amount, the Tax Commissioner shall order that the applicant pay the proper taxes. He shall refund to the taxpayer any exempt funds which have been improperly collected. The Tax Commissioner shall refrain from collecting a contested assessment until he has made a final determination under this section unless he determines that collection is in jeopardy. In any action on an application for correction, the Tax Commissioner shall state in writing the facts and law supporting the action on such application.

For all outstanding liabilities upon which an application for correction has been filed, interest shall accrue on the outstanding liability at the rate prescribed by § 58.1-15 until nine months from the date of assessment. From nine months after the date of the related assessment until the Tax Commissioner issues a determination under this section, interest shall accrue at the "Federal short-term rate" established pursuant to § 6621(b) of the Internal Revenue Code. If the Tax Commissioner determines that any portion of the assessment is correct after considering the application for correction, accrual of interest at the rate prescribed in § 58.1-15 shall resume 30 days after the date of the Tax Commissioner's action on the application for correction. If the Tax Commissioner issues a determination within nine months from the date of assessment, interest shall accrue on the outstanding liability solely at the rate prescribed by § 58.1-15.

2. That the provisions of this act shall be effective for administrative appeals filed on or after July 1, 2011.