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**HOUSE BILL NO. 2444**

Offered January 19, 2011

*A BILL to amend and reenact §§ 58.1-633 and 58.1-634 of the Code of Virginia, relating to authorizing local commissioners of the revenue to examine books and records for sales tax purposes.*

Patrons—Keam, Armstrong, BaCote, Brink, Carrico, Edmunds, Herring, Hope, Ingram, Johnson, Kilgore, Marshall, R.G., Phillips, Shuler, Surovell, Tyler, Villanueva, Ward and Watts; Senator: Puckett

Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-633 and 58.1-634 of the Code of Virginia are amended and reenacted as follows:**  
 § 58.1-633. Records.

A. Every dealer required to make a return and pay or collect any tax under this chapter shall keep and preserve suitable records of the sales, leases, or purchases, as the case may be, taxable under this chapter, and such other books of account as may be necessary to determine the amount of tax due hereunder, and such other pertinent information as may be required by the Tax Commissioner.

B. In order to aid in the administration and enforcement of the provisions of this chapter, all wholesalers and jobbers in this Commonwealth shall keep a record of all sales of tangible personal property, whether such sales be for cash or on terms of credit. Such records shall include the name and address of the purchaser, the number of the certificate of registration issued to the purchaser, the date of the purchase, the article purchased, and the price at which the article is sold to the purchaser. Any wholesaler or jobber failing to keep such records shall be guilty of a Class 1 misdemeanor. Any person who is both a retailer and a wholesaler or jobber and who fails to keep proper records showing wholesale sales and retail sales separately shall pay the tax as a retailer on both classes of his business.

C. For the purpose of enforcing the collection of the tax levied by this chapter, the Tax Commissioner *or local commissioner of the revenue* is authorized to examine the books, records, and other documents of all transportation companies, agencies, firms, or persons as defined herein that conduct their business by truck, rail, water, airplane, or otherwise, in order to determine what dealers are importing or otherwise are shipping articles of tangible personal property which are liable for the tax. If such transportation company, agency, firm or person as defined herein refuses to permit such examination of its or his books, records, and other documents by the Tax Commissioner *or local commissioner of the revenue*, as aforesaid, it or he shall be guilty of a Class 1 misdemeanor. The Tax Commissioner *or local commissioner of the revenue* may proceed by petitioning the appropriate circuit court to require the transportation company, agency, firm, or person to show cause as to why such books, records, and other documents should not be examined pursuant to the injunction of the court, and as to why a bond should not be required with proper security in the penalty of not more than \$2,000 conditioned upon compliance with the provisions hereof for a period of not more than 1 year.

D. *The local commissioner of the revenue shall as soon as practicable report in detail on the results of any such examination to the Tax Commissioner, including but not limited to any local use tax or portion thereof that has been incorrectly distributed pursuant to subsection F of § 58.1-606.*

§ 58.1-634. Period of limitations.

The taxes imposed by this chapter shall be assessed *by the Tax Commissioner* within three years from the date on which such taxes became due and payable. In the case of a false or fraudulent return with intent to evade payment of the taxes imposed by this chapter, or a failure to file a return, the taxes may be assessed, or a proceeding in court for the collection of such taxes may be begun without assessment, at any time within six years from such date. The Tax Commissioner *or local commissioner of the revenue* shall not examine any person's records beyond the three-year period of limitations unless he has reasonable evidence of fraud, or reasonable cause to believe that such person was required by law to file a return and failed to do so.

*The local commissioner of the revenue shall as soon as practicable report in detail on the results of any such examination to the Tax Commissioner, including but not limited to any local use tax or portion thereof that has been incorrectly distributed pursuant to subsection F of § 58.1-606.*

INTRODUCED

HB2444