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HOUSE BILL NO. 483

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 29, 2012)

(Patron Prior to Substitute—Delegate Iaquinto)

A *BILL to amend and reenact §§ 58.1-3903 and 58.1-3980 of the Code of Virginia, relating to real property taxes; collection.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3903 and 58.1-3980 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-3903. Omitted local taxes or levies.

A. If the commissioner of the revenue of any county or city or the tax-assessing officer of any town ascertains that any local tax, *except for real property tax*, has not been assessed for any tax year of the three preceding tax years or that the same has been assessed at less than the law required for any one or more of such years, or that the taxes for any cause have not been realized, the commissioner of the revenue or other assessing officer shall list and assess the same with taxes at the rate or rates prescribed for that year, adding thereto penalty and interest at the rate provided under §§ 58.1-3916 and 58.1-3918. Interest may be computed upon the taxes and penalty from the first day following the due date in the year in which such taxes should have been paid and shall accrue thereon from such date until payment; provided, *that* if such assessment was necessitated through no fault of the taxpayer, such penalty and interest shall accrue after ~~thirty~~ 30 days from such date of assessment until payment.

B. *If the commissioner of the revenue of any county or city or the tax-assessing officer of any town ascertains that real property tax has not been assessed in the preceding tax year or that the same has been assessed at less than the law requires for such year, the commissioner of the revenue or other assessing officer shall list and assess the same with taxes at the rate or rates prescribed for that year, adding thereto penalty and interest at the rate provided under §§ 58.1-3916 and 58.1-3918. Interest may be computed upon the taxes and penalty from the first day following the due date in the year in which taxes should have been paid and shall accrue thereon from such date until payment, provided that if such assessment was necessitated through no fault of the taxpayer, such penalty and interest shall accrue after 30 days from such date of assessment until payment.*

§ 58.1-3980. Application to commissioner of the revenue or other official for correction.

A. Any person, firm or corporation assessed by a commissioner of the revenue or other official performing the duties imposed on commissioners of the revenue under this title with any local tax authorized by this title, including, but not limited to, taxes on tangible personal property, machinery and tools, merchants' capital, transient occupancy, food and beverage, or admissions, or a local license tax, *but excluding real property tax*, aggrieved by any such assessment, may, within three years from the last day of the tax year for which such assessment is made, or within one year from the date of the assessment, whichever is later, apply to the commissioner of the revenue or such other official who made the assessment for a correction thereof. *For purposes of assessments of real property, the aggrieved person, firm or corporation shall apply to the commissioner of the revenue or other such person who made the assessment for a correction thereof within one year from the last day of the tax year for which such assessment was made.*

Sections 58.1-3980 through 58.1-3983 shall also apply to erroneous assessments of real estate if the error sought to be corrected in any case was made by the commissioner of the revenue or such other official to whom the application is made, or is due to a factual error made by others in connection with conducting general reassessments as provided in subsection C of § 58.1-3981.

B. Notwithstanding the provisions of subsection A, an unpaid tangible personal property tax assessment may be appealed to the commissioner of the revenue or other assessing official at any time during which such assessment is collectible under § 58.1-3940, provided the taxpayer can demonstrate by clear factual evidence that he was not subject to the tax for the year in question. If the assessing official is satisfied that the assessment is erroneous, he shall abate the assessment and notify the treasurer or other collecting official of the abatement. Upon receipt of such notice, the treasurer or other collecting official shall forthwith issue a refund or take such other steps as may be necessary to correct the taxpayer's liability accordingly upon the books of the locality.

In the case of an erroneous assessment that has been satisfied in whole or in part through an involuntary payment, an appeal to the assessing official must be made within one year from the date of the involuntary payment. If the assessing official is satisfied that the assessment is erroneous, he shall abate the assessment and notify the treasurer or other collecting official of the abatement. Upon receipt of such notice, the treasurer or other collecting official shall forthwith issue a refund. For purposes of this section, "involuntary payment" means a payment received pursuant to the Setoff Debt Collection

60 Act (§ 58.1-520 et seq.) or § 58.1-3952.