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SENATE BILL NO. 1365

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on January 30, 2013)

(Patron Prior to Substitute—Senator Wagner)

A *BILL to amend the Code of Virginia by adding a section numbered 58.1-1809.1, relating to monetary awards for detection of underpayments of taxes.*

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 58.1-1809.1 as follows:

§ 58.1-1809.1. Payments for detection of tax underpayments.

A. In accordance with the provisions of this section, the Tax Commissioner is hereby authorized to award monetary compensation to individuals who provide information that leads to the successful collection of delinquent taxes owed by other individual or business taxpayers. Any amount payable under this section shall be paid from the proceeds of the taxes collected by reason of the information provided.

B. If the Tax Commissioner proceeds with any administrative or judicial action described in this chapter based on information brought to the Tax Commissioner's attention by an individual, such individual shall receive as an award 20 percent of the collected proceeds, including penalties, interest, additions to tax, and additional amounts, resulting from such action or from a settlement in response to such action.

C. The Tax Commissioner may reduce or deny an award under subsection B as follows:

1. If the claim is brought by an individual who is a federal, state, or local tax official, and the information provided was obtained in the course of the individual's official duties, then the Tax Commissioner may deny the award.

2. If two or more individuals claim an award with respect to the same action described in subsection B, then the Tax Commissioner shall divide the award in proportion to the significance of each individual's information and the role played by each individual or his legal representative in assisting in such action. In no event shall the total of all awards to such individuals exceed the amount authorized by this section.

3. If the information provided by the individual claiming an award is information that the Department routinely receives from other sources, such as through an information exchange with the Internal Revenue Service, other state agencies, or local commissioners of the revenue, then the Commissioner may deny the award.

4. If any portion of the amount collectible as a result of the action described in subsection B is to be collected over time under an installment plan or a restitution order, then no award shall be paid until all such amounts have been collected. The award may be paid based on amounts collected to date if the Tax Commissioner and the individual agree that the collection of additional amounts is unlikely.

5. If the claim is brought by an individual who planned or initiated the actions that led to the underpayment of taxes, then the Tax Commissioner may deny the award amount.

6. If the claim is brought by an individual who is convicted of criminal conduct arising from the role described in subdivision 5, then the Tax Commissioner shall deny any award.

D. This section shall only apply with respect to an action described in subsection B against (i) any individual taxpayer, or married taxpayers, with gross income exceeding \$100,000 or any business taxpayer with gross income exceeding \$500,000 and (ii) only if the tax, penalties, interest, additions to tax, and additional amounts in dispute exceed \$50,000.

E. The Tax Commissioner shall develop guidelines and forms implementing the provisions of this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

2. That the provisions of this act shall not become effective unless an appropriation effectuating the purposes of this act is included in a general appropriation act passed by the 2013 Session of the General Assembly, which becomes law.

SENATE SUBSTITUTE

SB1365S1