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SENATE BILL NO. 141

Offered January 8, 2014

Prefiled December 30, 2013

A BILL to amend and reenact § 58.1-1833 of the Code of Virginia, relating to the payment of individual income tax refunds.

Patron—Barker

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-1833 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-1833. Interest on overpayments or improper collection.

A. Interest shall be allowed and paid upon the overpayment of any tax administered by the Department, the refund of which is permitted or required under the provisions of this article, or on moneys improperly collected from the taxpayer and refunded pursuant to § 58.1-1822, at a rate equal to the rate of interest established pursuant to § 58.1-15. Such interest shall accrue from a date sixty days after payment of the tax, or sixty days after the last day prescribed by law for such payment, whichever is later, and shall end on a date determined by the Department preceding the date of the refund check by not more than thirty days. Notwithstanding the above, any tax refunded pursuant to a court order or otherwise as a result of an erroneous assessment shall bear interest from the date the assessment was paid. No interest will be paid on sales taxes refunded to a dealer unless the dealer agrees to pass such interest on to the purchaser.

B. 1. Notwithstanding the provisions of subsection A, if an individual overpays his individual income tax, the overpayment was for individual income taxes for the immediately preceding taxable year, and the overpayment has not been refunded, then interest shall accrue on the amount of the overpayment, beginning:

(i) thirty days after payment of such tax if the individual filed his individual income tax return via electronic means; or

(ii) sixty days after payment of such tax if the individual filed his individual income tax return using a method other than electronic means.

In no case shall interest be paid for the overpayment of the same tax pursuant to this subsection and subsection A.

2. For the purposes of this subsection, interest shall accrue at a rate equal to the rate of interest established pursuant to § 58.1-15. Such interest shall end on a date determined by the Department preceding the date of the refund check by not more than seven days.

C. For purposes of this section:

1. Any individual income tax deducted and withheld at the source and paid to the Department, and any amount paid as estimated tax, shall be deemed to have been paid on the day on which the return for such year's income was filed;

2. Any corporate or estate and trust income tax deducted and withheld at the source and paid to the Department, and any amount paid as estimated tax, shall be deemed to have been paid on the day on which the return for such year's income was filed, or the last day prescribed by law for filing such return, whichever is later; and

3. Any overpayment of tax resulting from the carry-back of a net operating loss or net capital loss shall be deemed to have been made on the day on which the return for the year in which the loss occurred was filed, or the last day prescribed by law for such filing, whichever is later.

D. The Tax Commissioner and the State Comptroller shall implement procedures to allow an individual requesting a refund for the overpayment of individual income tax when filing his individual income tax return to elect on such return to have the refund paid by check mailed to the address provided on his return. The ability of the individual to elect such refund check shall be in addition to other methods utilized by the State Comptroller for the payment of such refund, including but not limited to debit cards, direct deposits, or other electronic means. However, if the individual makes no election on his individual income tax return as to the method of payment of such refund, the refund shall be paid by check mailed to the address provided on his return.

2. That the provisions of this act shall be applicable to individual income tax returns relating to taxable year 2014 and taxable years thereafter.