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SENATE BILL NO. 1438

Offered January 13, 2017

A BILL to amend the Code of Virginia by adding in Article 3 of Chapter 18 of Title 58.1 a section numbered § 58.1-1840.2, relating to Virginia Tax Amnesty Program.

Patron—Norment

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 3 of Chapter 18 of Title 58.1 a section numbered § 58.1-1840.2 as follows:

§ 58.1-1840.2. *Virginia Tax Amnesty Program.*

A. There is hereby established the Virginia Tax Amnesty Program (the Program).

B. The Virginia Tax Amnesty Program shall be administered by the Department. Any taxpayer required to file a return or to pay any tax administered or collected by the Department shall be eligible to participate in the Program, subject to the requirements in this section and guidelines established by the Tax Commissioner. The Tax Commissioner may require participants in the Program to complete an amnesty application and such other forms as he may prescribe and to furnish any additional information he deems necessary to make a determination regarding the validity of such amnesty application.

C. The Tax Commissioner shall establish guidelines and rules for the procedures for participation and any other rules that are deemed necessary by the Tax Commissioner. The guidelines and rules issued by the Tax Commissioner regarding the Program shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

D. The Program shall have the following features:

1. The Program shall be conducted during the period July 1, 2017, through June 30, 2018, and shall not last less than 60 nor more than 75 days. The exact dates of the Program shall be established by the Tax Commissioner.

2. All civil or criminal penalties assessed or assessable, as provided in this title, including the addition to tax under §§ 58.1-492 and 58.1-504, and one-half of the interest assessed or assessable, as provided in this title, which are the result of nonpayment, underpayment, nonreporting, or underreporting of tax liabilities, shall be waived upon receipt of the payment of the amount of taxes and interest owed, with the following exceptions:

a. No taxpayer currently under investigation or prosecution for filing a fraudulent return or failing to file a return with the intent to evade tax shall be eligible to participate in the Program.

b. No taxpayer shall be eligible to participate in the Program with respect to any assessment outstanding for which the date of assessment is less than 90 days prior to the first day of the Program or with respect to any liability arising from the failure to file a return for which the due date of the return is less than 90 days prior to the first day of the Program.

c. No taxpayer shall be eligible to participate in the Program with respect to any tax liability from the income taxes imposed by §§ 58.1-320, 58.1-360, and 58.1-400, if the tax liability is attributable to taxable years beginning on and after January 1, 2016.

E. For the purpose of computing the outstanding balance due because of the nonpayment, underpayment, nonreporting, or underreporting of any tax liability that has not been assessed prior to the first day of the Program, the rate of interest specified for omitted taxes and assessments under § 58.1-15 shall not be applicable. Instead, the Tax Commissioner shall establish one interest rate to be used for each taxable year that approximates the average "underpayment rate" specified under § 58.1-15 for the five-year period immediately preceding the Program.

F. 1. If any taxpayer eligible for amnesty under this section and under the rules and guidelines established by the Tax Commissioner retains any outstanding balance after the close of the Program because of the nonpayment, underpayment, nonreporting, or underreporting of any tax liability eligible for relief under the Program, then such balance shall be subject to a 20 percent penalty on the unpaid tax. This penalty is in addition to all other penalties that may apply to the taxpayer.

2. Any taxpayer who defaults upon any agreement to pay tax and interest arising out of a grant of amnesty is subject to reinstatement of the penalty and interest forgiven and the imposition of the penalty under this section as though the taxpayer retained the original outstanding balance at the close of the Program.

G. For the purpose of implementing the Program, the Department is exempt from subsection B of § 2.2-2016.1 and §§ 2.2-2018.1, 2.2-2020, and 2.2-2021 pertaining to the Virginia Information

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