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HOUSE BILL NO. 1220

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact §§ 58.1-308 and 58.1-311 of the Code of Virginia, relating to state income tax; amended return notice; interest accrual period.

Patron—Tran

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-308 and 58.1-311 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-308. Assessment and payment of deficiency; fraud; penalties.

If the amount of tax computed by the Department is greater than the amount theretofore assessed, the excess shall be assessed by the Department and a bill for the same shall be mailed to the taxpayer. The taxpayer shall pay such additional tax to the Department within thirty days after the amount of the tax as computed is mailed by the Department. In such case, if the return was made in good faith and the understatement of the amount in the return was not due to any fault of the taxpayer, there shall be no penalty on the additional tax because of such understatement, but interest shall be added to the amount of the deficiency at a rate determined in accordance with § 58.1-15, from the time the ~~return was required by law to be filed~~ bill and notice of additional tax assessment is mailed by the Department to the taxpayer until paid.

If the understatement is false or fraudulent with intent to evade the tax, a penalty of 100 percent shall be added together with interest on the tax at a rate determined in accordance with § 58.1-15, from the time the return was required by law to be filed until paid.

Nothing contained in this section shall prevent the taxpayer from applying to the circuit court of the county or the city wherein he resides for a correction of the assessment made by the Department, with right of appeal in the manner provided by law.

§ 58.1-311. Report of change in federal taxable income.

If the amount of any individual, estate, trust or corporate taxpayer's federal taxable income reported on his federal income tax return for any taxable year is changed or corrected by the United States Internal Revenue Service or other competent authority, or as the result of a renegotiation of a contract or subcontract with the United States, the taxpayer shall file an amended return, or such other form as the Department may prescribe, reporting such change or correction in federal taxable income within one year after the final determination of such change, correction, or renegotiation, or as otherwise required by the Department, and shall concede the accuracy of such determination or state wherein it is erroneous. However, if the Department has sufficient information from which to compute the proper additional tax and the taxpayer has paid such tax, then the taxpayer is not required to file an amended individual income tax return. Any taxpayer filing an amended federal income tax return shall also file within one year thereafter an amended return under this chapter and shall give such information as the Department may require.

If the Department is made aware that a taxpayer is required to file an amended federal income tax return from information provided by the taxpayer, or any agency or authority of the federal government or the Commonwealth, then the Department shall notify such taxpayer in writing whether an amended return under this chapter shall also be filed. Such written notice shall detail (i) the additional tax owed to the Department, if any, that is assessed as a result of such amended federal income tax return and the amount of overpayment that shall be refunded to the taxpayer, if any, or (ii) any information the Department may require from the taxpayer to compute the amount of additional tax owed or to be refunded, if any.

The Department may by regulation prescribe such exceptions to the requirements of this section as it deems appropriate.

INTRODUCED

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