

VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

CHAPTER 445

An Act to amend and reenact § 58.1-3980 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-3903.1, relating to the statute of limitations for the correction and voluntary extension of local taxes.

[H 1940]

Approved March 20, 1995

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3980 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-3903.1 as follows:

§ 58.1-3903.1. Waiver of time limitation on assessment of local taxes.

Before the expiration of the time prescribed for the assessment of any local tax, if both the commissioner of the revenue or other assessing official and the taxpayer have consented in writing to the tax assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Whenever such an extension is agreed upon, it shall likewise extend the period relating to the collection of local taxes pursuant to § 58.1-3940 and applications for correction pursuant to § 58.1-3980.

§ 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 local taxes on tangible personal property, machinery and tools, or merchants' capital, or a local license 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.

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.

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 order the treasurer or other collecting official to discharge such assessment.

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 order the treasurer or other collecting official to issue a refund for the amount of the involuntary payment. For purposes of this section, "involuntary payment" means a payment received pursuant to § 58.1-3952 or § 58.1-520 et seq. (Setoff Debt Collection Act).