

VIRGINIA ACTS OF ASSEMBLY -- 1996 SESSION

CHAPTER 640

An Act to amend and reenact § 58.1-105 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 1 of Title 58.1 a section numbered 58.1-112, relating to the compromise of penalties and extensions for filing returns and paying taxes.

[S 210]

Approved April 5, 1996

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-105 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 1 of Title 58.1 a section numbered 58.1-112 as follows:

§ 58.1-105. Offers in compromise; Department may accept; authority and duty of Tax Commissioner.

A. In all cases in which under the laws of this Commonwealth a prosecution is authorized for violation of the revenue laws and in all cases in which a penalty is imposed upon the taxpayer for failure to comply with the requirements of the tax laws, the Department shall in its discretion have authority to accept offers made in compromise of such prosecution and in compromise or in lieu of such penalties. *An offer in lieu of the assessment of a penalty shall be deemed to be made by the filing of a return or payment of tax without payment of a penalty if information filed with the return or payment of tax or obtained from other sources demonstrates reasonable cause for the failure or omission for which the penalty would be imposed.* The reason for the acceptance of such offers in compromise shall be preserved among the records of the Department.

B. The Tax Commissioner may compromise and settle doubtful or disputed claims for taxes or tax liability of doubtful collectibility. An offer in compromise shall be deemed accepted only when the taxpayer is notified in writing of the acceptance by the Tax Commissioner. Whenever such a compromise and settlement is made, the Tax Commissioner shall make a complete record of the case showing the tax assessed, recommendations, reports and audits of departmental personnel, if any, the taxpayer's grounds for dispute or contest together with all evidences thereof, and the amounts, conditions and settlement or compromise of same.

C. The Department may deposit into the state treasury all payments submitted with offers in compromise, unless the taxpayer specifically and clearly directs otherwise.

§ 58.1-112. *Return filing frequency; waiver of penalties.*

A. *In the case of any return or payment for a tax administered by the Department that is required to be filed or paid more often than annually, the Tax Commissioner shall have the authority to set thresholds or other conditions in which such returns or payments for all or any class of taxpayers may be filed or paid less frequently, but at least annually.*

B. *The Tax Commissioner shall have the authority to waive penalties and grant extensions of time to file a return or pay a tax, or both, to any class of taxpayers when the Tax Commissioner in his discretion finds that the normal due date has, or would, cause undue hardship to the class of taxpayers because of a natural disaster or other reason.*

C. *Any action of the Department under this section shall be exempt from the Administrative Process Act and the Virginia Register Act, but the Department shall preserve the reason for its action among its records. The Department shall promulgate its action in a manner that is reasonably calculated to inform the affected class of the action.*

2. That an emergency exists and this act is in force from its passage.