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SENATE BILL NO. 914

Offered January 15, 1999

A *BILL to amend and reenact §§ 58.1-3980 and 58.1-3981 of the Code of Virginia, relating to corrections of assessments by commissioners of the revenue.*

Patrons—Hawkins and Newman; Delegate: Byron

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3980 and 58.1-3981 of the Code of Virginia are amended and reenacted as follows:

§ 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, *or is due to a factual error made by others in connection with conducting general reassessments as provided in subsection C of § 58.1-3981.*

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 abate the assessment and notify the treasurer or other collecting official of the abatement. Upon receipt of such notice, the treasurer or other collecting official shall forthwith issue a refund or take such other steps as may be necessary to correct the taxpayer's liability accordingly upon the books of the locality.

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 abate the assessment and notify the treasurer or other collecting official of the abatement. Upon receipt of such notice, the treasurer or other collecting official shall ~~for with~~ *forthwith* issue a refund. For purposes of this section, "involuntary payment" means a payment received pursuant to ~~§ 58.1-3952 or § 58.1-520 et seq. (the Setoff Debt Collection Act (§ 58.1-520 et seq.) or § 58.1-3952.~~

§ 58.1-3981. Correction by commissioner or other official performing his duties.

A. If the commissioner of the revenue, or other official performing the duties imposed on commissioners of the revenue under this title, is satisfied that he has erroneously assessed such applicant with any such tax, he shall correct such assessment. If the assessment exceeds the proper amount, he shall exonerate the applicant from the payment of so much as is erroneously charged if not paid into the treasury of the county or city. If the assessment has been paid, the governing body of the county or city shall, upon the certificate of the commissioner with *the* consent of the town, city or county attorney, or if none, the attorney for the Commonwealth, that such assessment was erroneous, direct the treasurer of the county, city or town to refund the excess to the taxpayer, with interest if authorized pursuant to § 58.1-3991. However, the governing body of the county, city or town may authorize the treasurer to approve and issue any refund up to \$2,500 as a result of an erroneous assessment.

B. If the assessment is less than the proper amount, the commissioner shall assess such applicant with the proper amount. If any assessment is erroneous because of a mere clerical error or calculation, the same may be corrected as herein provided and with or without petition from the taxpayer. If such error or calculation was made in work performed by others in connection with conducting general assessments, such mistake may be corrected by the commissioner of the revenue.

C. *If the commissioner of the revenue, or other official performing the duties imposed on commissioners of the revenue under this title, is satisfied that any assessment is erroneous because of a factual error made in work performed by others in connection with conducting general reassessments, he shall correct such assessment as herein provided and with or without petition from the taxpayer.*

D. An error in the valuation of property subject to the rollback tax imposed under § 58.1-3237 for those years to which such tax is applicable may be corrected within three years of the assessment of the

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60 rollback tax.

61 *E.* A copy of any correction made under this section shall be certified by the commissioner or such
62 other official to the treasurer of his county, city or town. When an unpaid erroneous assessment of real
63 estate is corrected under this section and such real estate has been sold at a delinquent land sale, the
64 commissioner or such other official making such correction shall certify a copy of such correction to the
65 clerk of the circuit court of his county or city; and such clerk shall note such correction in the
66 delinquent land book opposite the entry of the tract or lot for the year or years for which such
67 correction is made.

68 *F.* In any action on application for correction under § 58.1-3980, if so requested by the applicant, the
69 commissioner or other such official shall state in writing the facts and law supporting the action on such
70 application and mail a copy of such writing to the applicant at his last known address.