

VIRGINIA ACTS OF ASSEMBLY -- 2000 SESSION

CHAPTER 388

An Act to amend and reenact § 58.1-492 of the Code of Virginia, relating to estimated taxes paid by trusts and estates.

[S 537]

Approved April 4, 2000

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-492 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-492. Failure by individual, trust or estate to pay estimated tax.

A. In the case of any underpayment of estimated tax by an individual, trust or estate, except as provided in subsection C, there shall be added to the tax under this chapter for the taxable year an amount determined at the rate established for interest, under § 58.1-15, upon the amount of the underpayment (determined below), for the period of the underpayment (determined under subsection B). The amount of such addition to the tax shall be reported and paid at the time of filing the individual income tax return or the fiduciary income tax return for the taxable year.

The amount of the underpayment shall be the excess of:

1. The amount of the installment which would be required to be paid if the estimated tax were equal to ninety percent (sixty-six and two-thirds percent in the case of an individual referred to in § 58.1-490 F, relating to income from farming) of the tax shown on the return for the taxable year, or if no return was filed, ninety percent (sixty-six and two-thirds percent in the case of individuals referred to in § 58.1-490 F, relating to income from farming) of the tax for such year; or 100 percent of the tax shown on the return of the taxpayer for the preceding taxable year, whichever is less, over

2. The amount, if any, of the installment paid on or before the last date prescribed for such payment.

B. The period of the underpayment shall run from the date the installment was required to be paid to whichever of the following dates is the earlier:

1. May 1, if a calendar year, or the fifteenth day of the fourth month following the close of the taxable year, if a fiscal year.

2. With respect to any portion of the underpayment, the date on which such portion is paid. For purposes of this subdivision a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under subdivision A 1 for such installment date.

C. Notwithstanding the provisions of subsections A and B, the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds whichever of the following is the lesser:

1. The amount which would have been required to be paid on or before such date if estimated tax were whichever of the following is the least:

a. The tax shown on the return of the individual, trust or estate for the preceding taxable year, if a return showing a liability for tax was filed by the individual, trust or estate for the preceding taxable year and such preceding year was a taxable year of twelve months;

b. An amount equal to the tax computed, at the rates applicable to the taxable year, on the basis of the taxpayer's status with respect to personal exemptions for the taxable year, otherwise on the basis of the facts shown on his return for, and the law applicable to, the preceding year; or

c. An amount equal to ninety percent (sixty-six and two-thirds percent in the case of individuals referred to in § 58.1-490 F, relating to income from farming) of the tax for the taxable year computed by placing on an annualized basis the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid. For purposes of this paragraph the taxable income shall be placed on an annualized basis by:

(i) Multiplying by twelve (or, in the case of a taxable year of less than twelve months, the number of months in the taxable year) the taxable income (computed without deduction of personal exemptions) for the months in the taxable year ending before the month in which the installment is required to be paid, *or, for a trust or estate, the months in the taxable year ending before the date that is one month before the month in which the installment is required to be paid;*

(ii) Dividing the resulting amount by the number of months in the taxable year ending before the month in which such installment date falls, *or, for a trust or estate, the months in the taxable year ending before the date that is one month before the month in which the installment is required to be paid;* and

(iii) Deducting from such amount the deductions for personal exemptions allowable for the taxable year (such personal exemptions being determined as of the last date prescribed for payment of the

installment); or

2. An amount equal to ninety percent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual taxable income for the months in the taxable year ending before the month in which the installment is required to be paid.

D. For purposes of applying this section:

1. The estimated tax shall be computed without any reduction for the amount which the individual estimates as his credit under § 58.1-480 (relating to tax withheld at source on wages);

2. The amount of the credit allowed under § 58.1-480 for the taxable year shall be deemed a payment of estimated tax, and an equal part of such amount shall be deemed paid on each installment date (determined under § 58.1-491) for such taxable year, unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts so withheld shall be deemed payments of estimated tax on the dates on which such amounts were actually withheld; and

3. There shall be no addition to tax imposed for underpayment of estimated tax of \$150 or less for the taxable year.

E. The application of this section to taxable years of less than twelve months shall be in accordance with regulations prescribed by the Tax Commissioner.

2. That the provisions of this act shall become effective for taxable years beginning on and after January 1, 2001.