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HOUSE BILL NO. 384

Offered January 13, 2010

Prefiled January 12, 2010

A BILL to amend and reenact § 58.1-1823 of the Code of Virginia, relating to individual income tax reporting requirements.

Patrons—Cox, J.A., Athey, Cleaveland, Gilbert, Lingamfelter, Lohr, Marshall, D.W., Massie, Miller, J.H., O'Bannon and Peace

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That § 58.1-1823 of the Code of Virginia is amended and reenacted as follows:**

§ 58.1-1823. Reassessment and refund upon the filing of amended return or the payment of an assessment.

A. Any person filing a tax return or paying an assessment required for any tax administered by the Department of Taxation may file an amended return with the Department within the later of: (i) three years from the last day prescribed by law for the timely filing of the return; (ii) one year from the final determination of any change or correction in the liability of the taxpayer for any federal tax upon which the state tax is based, provided that the refund does not exceed the amount of the decrease in Virginia tax attributable to such federal change or correction; (iii) two years from the filing of an amended Virginia return resulting in the payment of additional tax, provided that the amended return raises issues relating solely to such prior amended return and that the refund does not exceed the amount of the payment with such prior amended return; (iv) two years from the payment of an assessment, provided that the amended return raises issues relating solely to such assessment and that the refund does not exceed the amount of such payment; or (v) one year from the final determination of any change or correction in the income tax of the taxpayer for any other state, provided that ~~the taxpayer previously claimed a credit for such tax pursuant to § 58.1-332 and~~ that the refund does not exceed the amount of the decrease in Virginia tax attributable to such change or correction. If the Department is satisfied, by evidence submitted to it or otherwise, that the tax assessed and paid upon the original return exceeds the proper amount, the Department may reassess the taxpayer and order that any amount excessively paid be refunded to him. The Department may reduce such refund by the amount of any taxes, penalties and interest which are due for the period covered by the amended return, or any past-due taxes, penalties and interest which have been assessed within the appropriate period of limitations. Any order of the Department denying such reassessment and refund, or the failure of the Department to act thereon within three months shall, as to matters first raised by the amended return, be deemed an assessment for the purpose of enabling the taxpayer to pursue the remedies allowed under this chapter.

B. Notwithstanding the statute of limitations established in this section, any retired employee of a political subdivision of the Commonwealth, established pursuant to Chapter 627 of the 1958 Acts of Assembly, may file an amended individual income tax return until May 1, 1990, for taxable years beginning on and after January 1, 1985, and before January 1, 1986, for taxes paid on retirement income exempt pursuant to § 58.1-322.

C. Notwithstanding the statute of limitations contained in subsection A, any individual who claimed an age subtraction on his 1990 individual income tax return may file an amended individual income tax return on July 1, 1994, for taxable years beginning on and after January 1, 1990, and ending before January 1, 1991, to claim an income deduction as provided in § 58.1-322 D 5 in lieu of the income subtraction originally claimed.

INTRODUCED

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