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HOUSE BILL NO. 35

Offered January 11, 2012

Prefiled December 13, 2011

A BILL to amend and reenact § 58.1-1802.1 of the Code of Virginia, relating to state taxes; period of limitation on collection.

Patron—Cole

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That § 58.1-1802.1 of the Code of Virginia is amended and reenacted as follows:**

§ 58.1-1802.1. Period of limitations on collection; accrual of interest and penalty.

A. Where the assessment of any tax imposed by this subtitle has been made within the period of limitation properly applicable thereto, such tax may be collected by levy, by a proceeding in court, or by any other means available to the Tax Commissioner under the laws of the Commonwealth, but only if such collection effort is made or instituted within ~~10~~ *seven* years from the date of the assessment of such tax. Prior to the expiration of any period for collection, the period may be extended by a written agreement between the Tax Commissioner and the taxpayer, and subsequent written agreements may likewise extend the period previously agreed upon. The period of limitations provided in this subsection during which a tax may be collected shall not apply to executions, levy or other actions to enforce a lien created before the expiration of the period of limitations by the docketing of a judgment or the filing of a memorandum of lien pursuant to § 58.1-1805; nor shall the period of limitations apply to the provisions of §§ 8.01-251 and 8.01-458.

B. The running of the period of limitations on collection shall be suspended for the period the assets of the taxpayer are in the control or custody of any state or federal court, including the United States Bankruptcy Court, or for the period during which a taxpayer is outside the Commonwealth if such period of absence is for a continuous period of at least six months.

C. If the Department of Taxation has no contact with the delinquent taxpayer for a period of ~~seven~~ *six* years and no memorandum of lien has been appropriately filed in a jurisdiction in which such taxpayer owns real estate, interest and penalty shall no longer be added to the delinquent tax liability. The mailing of notices by the Department to the taxpayer's last known address shall constitute contact with the taxpayer.

D. For purposes of this section, the "last known address" of the taxpayer means the address shown on the most recent return filed by or on behalf of the taxpayer or the address provided in correspondence by or on behalf of the taxpayer indicating that it is a change of the taxpayer's address.