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HOUSE BILL NO. 671

Offered January 11, 2012

Prefiled January 11, 2012

A *BILL* to amend the Code of Virginia by adding a section numbered 58.1-1809.1, relating to monetary awards for detection of underpayments of taxes.

Patron—Surovell

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 58.1-1809.1 as follows:**

§ 58.1-1809.1. Payments for detection of tax underpayments.

A. In accordance with the provisions of this section, the Tax Commissioner is hereby authorized to award monetary compensation to individuals who provide information that leads to the successful collection of delinquent taxes owed by other individual or business taxpayers. Any amount payable under this section shall be paid from the proceeds of the taxes collected by reason of the information provided.

B. If the Tax Commissioner proceeds with any administrative or judicial action described in this chapter based on information brought to the Tax Commissioner's attention by an individual, such individual shall receive as an award at least 15 percent but not more than 30 percent of the collected proceeds, including penalties, interest, additions to tax, and additional amounts, resulting from such action or from a settlement in response to such action. The determination of the amount of such award by the Tax Commissioner shall depend on the extent to which the individual informant substantially contributed to such action.

C. In the event the action described in subsection B is one that the Tax Commissioner determines is based principally on disclosures of specific allegations from some source or sources other than information provided by the individual, then the Tax Commissioner may award an amount he deems appropriate, but not more than 10 percent of the collected proceeds, including penalties, interest, additions to tax, and additional amounts, resulting from such action or from a settlement in response to such action. The Tax Commissioner shall take into account the significance of the individual's information and the role played by such individual or his legal representative in assisting in such action.

D. The Tax Commissioner may reduce or deny an award under subsection B or C as follows:

1. If the claim is brought by an individual who is a federal, state, or local tax official, and the information provided was obtained in the course of the individual's official duties, then the Tax Commissioner may deny the award.

2. If two or more individuals claim an award with respect to the same action described in subsection B, then the Tax Commissioner shall divide the award in proportion to the significance of each individual's information and the role played by each individual or his legal representative in assisting in such action. In no event shall the total of all awards to such individuals exceed the amount authorized by this section.

3. If the information provided by the individual claiming an award is information that the Department routinely receives from other sources, such as through an information exchange with the Internal Revenue Service, other state agencies, or local commissioners of the revenue, then the Commissioner may deny the award.

4. If any portion of the amount collectible as a result of the action described in subsection B is to be collected over time under an installment plan or a restitution order, then no award shall be paid until all such amounts have been collected. The award may be paid based on amounts collected to date if the Tax Commissioner and the individual agree that the collection of additional amounts is unlikely.

5. If the claim is brought by an individual who planned or initiated the actions that led to the underpayment of taxes, then the Tax Commissioner may reduce the award amount.

6. If the claim is brought by an individual who is convicted of criminal conduct arising from the role described in subdivision 5, then the Tax Commissioner shall deny any award.

E. Any individual informant not satisfied with a determination regarding an award made by the Tax Commissioner under subsection B, C, or D may bring an action in the circuit court within 30 days of such determination. The burden of proof shall be on the individual to show, by a preponderance of the evidence, that the information he provided substantially contributed to the collection of the additional tax proceeds and that the Tax Commissioner abused his discretion in determining the amount of the

59 award. Any information provided to the individual, his representative, or the court about the action
60 described in subsection B shall be considered tax information protected from further disclosure by
61 § 58.1-3 unless the person who was the subject of the action described in subsection B is a party to the
62 action in the circuit court.

63 F. This section shall only apply with respect to an action described in subsection B against (i) any
64 individual taxpayer with gross income exceeding \$100,000 or any business taxpayer with gross income
65 exceeding \$500,000 and (ii) only if the tax, penalties, interest, additions to tax, and additional amounts
66 in dispute exceed \$50,000.

67 G. The Tax Commissioner shall develop guidelines and forms implementing the provisions of this
68 section. The Tax Commissioner may require individuals to submit information in the form of an affidavit
69 under oath in contemplation of eventual proceedings under subsection E. Such guidelines shall be
70 exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).