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HOUSE BILL NO. 880

Offered January 13, 2016

Prefiled January 12, 2016

A BILL to amend and reenact §§ 58.1-461, 58.1-462, and 58.1-470 of the Code of Virginia, relating to withholding for individual income taxes.

Patron—Hugo

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-461, 58.1-462, and 58.1-470 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-461. Requirement of withholding.

Every employer making payment of wages shall deduct and withhold with respect to the wages of each employee for each payroll period an amount determined as follows: Such amount which, if an equal amount was collected for each similar payroll period with respect to a similar amount of wages for each payroll period during an entire calendar year, would aggregate or approximate the income tax liability of such employee under this chapter after making allowance for (i) the personal exemptions to which such employee could be entitled on the basis of his status during such payroll period and after making allowance for withholding purposes for, with such exemptions determined in accordance with the income tax laws of the Commonwealth, and (ii) a standard deduction or an itemized deduction from wages as determined in accordance with the income tax laws of the United States relating to federal income taxes and after making an allowance for any credit available to the employee as provided by § 58.1-332, and without making allowance for any other deductions Commonwealth. No other allowance or deduction shall be allowed for withholding purposes. In determining the amount to be deducted and withheld under this article, the wages may, at the election of the employer, be computed to the nearest dollar.

An employer shall not be required to deduct any amount upon a payment of wages to an employee if there is in effect with respect to such payment a withholding exemption certificate, in such form and containing such other information as the Tax Commissioner may prescribe, furnished by the employee to the employer, certifying that the employee: (i) incurred no liability for income tax imposed by this chapter for his preceding taxable year; and (ii) anticipates that he will incur no liability for income tax imposed by this chapter for his current taxable year.

§ 58.1-462. Withholding tables.

The amount of tax to be withheld for each individual shall be based upon tables to be prepared and distributed by the Tax Commissioner. The tables shall be computed for the several permissible withholding periods and shall take account of the number of exemptions allowed under the income tax laws of the United States relating to federal income taxes Commonwealth and the standard deduction or itemized deduction as provided in § 58.1-461. The amounts computed for withholding shall be such that the amount withheld for any individual during his taxable year shall approximate in the aggregate as closely as practicable the tax which is levied and imposed under this chapter for that taxable year, upon his salary, wages or compensation for personal services of any kind for the employer.

§ 58.1-470. Withholding exemption certificates.

A. An employee receiving wages shall be entitled to the exemptions for which such employee qualifies under the income tax laws of the United States relating to federal income taxes Commonwealth. If the employee makes a withholding allowance for an itemized deduction in lieu of a standard deduction pursuant to § 58.1-461, the employee shall be allowed additional exemptions to approximate the difference between the employee's itemized deduction and the standard deduction allowed under the income tax laws of the Commonwealth.

B. Every employee shall at the time of commencing employment furnish his employer with a signed withholding exemption certificate relating to the withholding exemptions which he claims, which in no event shall exceed the sum of exemptions to which he is entitled.

C. Withholding exemption certificates shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished, provided that certificates furnished before January 1, 1983, shall be considered as furnished on that date.

D. A withholding exemption certificate which takes effect under this section shall continue in effect with respect to the employer until another such certificate takes effect under this section. If a

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59 withholding exemption certificate is furnished to take the place of an existing certificate, the employer at
60 his option may continue the old certificate in force with respect to all wages paid on or before the first
61 status determination date, January 1 or July 1, which occurs at least thirty days after the date on which
62 such new certificate is furnished.

63 E. If, on any day during the calendar year, the sum of withholding exemptions to which the
64 employee will be, or may reasonably be expected to be, entitled at the beginning of his next taxable
65 year is different from the sum of exemptions to which the employee is entitled on such day, the
66 employee shall in such cases and at such times as the Tax Commissioner may prescribe, furnish the
67 employer with a withholding exemption certificate relating to the exemptions which he claims with
68 respect to such next taxable year, which shall in no event exceed the sum of exemptions to which he
69 will be, or may reasonably be expected to be, so entitled. Exemption certificates furnished pursuant to
70 this subsection shall not take effect with respect to any payment of wages made in the calendar year in
71 which the certificate is furnished.

72 F. If, on any day during the calendar year, the sum of withholding exemptions to which the
73 employee is entitled is less than the sum of withholding exemptions claimed by the employee on the
74 withholding exemption certificate then in effect with respect to him, the employee shall, within ten days
75 thereafter, furnish the employer with a new withholding exemption certificate relating to the withholding
76 exemptions which the employee then claims, which shall in no event exceed the sum of exemptions to
77 which he is entitled on such day. If, on any day during the calendar year, the sum of withholding
78 exemptions to which the employee is entitled is greater than the sum of withholding exemptions
79 claimed, the employee may furnish the employer with a new withholding exemption certificate relating
80 to the withholding exemptions which the employee then claims, which shall in no event exceed the sum
81 of exemptions to which he is entitled on such day.

82 G. Withholding exemption certificates shall be in such form and contain such information as the Tax
83 Commissioner may prescribe.

84 **2. That the Department of Taxation shall develop and make publicly available guidelines**
85 **implementing the provisions of this act, including guidelines for determining under what**
86 **circumstances an employee will be allowed for income tax withholding purposes to make an**
87 **allowance for an itemized deduction in lieu of a standard deduction pursuant to § 58.1-461 of the**
88 **Code of Virginia. The guidelines shall be exempt from the provisions of the Administrative Process**
89 **Act (§ 2.2-4000 et seq. of the Code of Virginia).**

90 **3. That the provisions of this act shall become effective for taxable years beginning on or after**
91 **January 1, 2017.**