

VIRGINIA ACTS OF ASSEMBLY -- 1998 RECONVENED SESSION

CHAPTER 855

An Act to amend and reenact § 58.1-3 of the Code of Virginia and to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.4, relating to the earned income tax credit for low-income families with children.

[H 848]

Approved April 22, 1998

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.4 as follows:

§ 58.1-3. Secrecy of information; penalties.

A. Except in accordance with proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;
2. Acts performed or words spoken or published in the line of duty under the law;
3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;
4. The sales price, date of construction, physical dimensions or characteristics of real property, or any information required for building permits;
5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent.

B. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to: (i) divulge tax information to any commissioner of the revenue, director of finance or other similar collector of county, city or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon written request, information on the amount of income reported by persons on their state income tax returns who have applied for public assistance benefits as defined in § 63.1-87; (iii) provide to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those persons identified by the designated guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Alcoholic Beverage Control Board, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the State Lottery Department such tax information

as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners of unclaimed property; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive Director of the Potomac and Rappahannock Transportation Commission for its confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the Executive Secretary of the Charitable Gaming Commission such tax information as may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing and Community Development for its confidential use such tax information as may be necessary to facilitate the administration of the Enterprise Zone Act (§ 59.1-270 et seq.); and (xiii) provide current name and address information to private collectors entering into a written agreement with the Tax Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its political subdivisions; however, the Tax Commissioner is not authorized to provide such information to a private collector who has used or disseminated in an unauthorized or prohibited manner any such information previously provided to such collector; and (xiv) provide upon written request information regarding taxpayers who claim the earned income tax credit for low-income families with children to the Virginia Department of Social Services and the United States Department of Health and Human Services, for their confidential use in collecting any additional information required to document the Commonwealth's compliance with maintenance of effort provisions of the Temporary Assistance for Needy Families (TANF) program. The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax officials of other states and of the United States for the inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the chief executive officer of any county or city with information furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax revenues payable to the county or city. The commissioner of revenue is authorized to provide to the Department of Professional and Occupational Regulation for its confidential use the name, address, and amount of gross receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a profession or occupation administered by the Department of Professional and Occupational Regulation, only after the Department of Professional and Occupational Regulation exhausts all other means of obtaining such information. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

This section shall not be construed to prohibit a local tax official from imprinting or displaying on a motor vehicle local license decal the year, make, and model and any other legal identification information about the particular motor vehicle for which that local license decal is assigned.

E. Notwithstanding any other provisions of law, state agencies and any other administrative or regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon written request, the name, address, and social security number of a taxpayer, necessary for the performance of the Commissioner's official duties regarding the administration and enforcement of laws within the jurisdiction of the Department of Taxation. The receipt of information by the Tax Commissioner or his agent which may be deemed taxpayer information shall not relieve the Commissioner of the obligations under this section.

F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published any confidential tax document which he knows or has reason to know is a confidential tax document. A confidential tax document is any correspondence, document, or tax return that is prohibited from being divulged by subsection A, B, C, or D of this section or by § 59.1-282.4. This prohibition shall not apply if such confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person violating the provisions of this subsection shall be guilty of a Class 2 misdemeanor.

§ 58.1-339.4. *Earned-income tax credit for low-income families with children.*

A. *As used in this section, unless the context requires otherwise:*

"Eligible child" means a child, by birth or adoption, of the individual (i) who lives with the individual who claims the child as a dependent on the individual's income tax return for the taxable year and (ii) who has not attained age eighteen years during the taxable year.

"Family" means an individual, the individual's spouse, and any person claimed as a dependent on the individual's income tax return for the taxable year.

"Poverty guidelines" means the poverty guidelines for the forty-eight contiguous states and the

District of Columbia updated annually in the Federal Register by the U.S. Department of Health and Human Services under the authority of § 673 (2) of the Omnibus Budget Reconciliation Act of 1981.

"Virginia adjusted gross income" has the same meaning as the term is defined in § 58.1-321.

B. For taxable years beginning on and after January 1, 1998, any individual with an eligible child whose Virginia adjusted gross income does not exceed the maximum family Virginia income amount set forth in subsection C, as such amount is increased for taxable years beginning on and after January 1, 1999, as provided in subsection D, shall be allowed a credit against the tax levied pursuant to § 58.1-320 in an amount equal to the greater of (i) seventy-five percent of the federal earned-income credit allowed the individual for the taxable year under § 32 (a) (1) of the Internal Revenue Code, using the percentages under § 32 (b) with the limitation contained in § 32 (a) (2) or (ii) \$300 for each eligible child.

C. An individual shall not be eligible for the credit provided by this section if the Virginia adjusted gross income of the members of the individual's family for the taxable year beginning on or after January 1, 1998, but before January 1, 1999, exceeds the maximum amount stated below that corresponds to the number of persons in the individual's family:

Family size	Maximum family Virginia adjusted gross income amount
Two persons	\$10,850
Three persons	\$13,650
Four persons	\$16,450
Five persons	\$19,250
Six persons	\$22,050
Seven persons	\$24,850
Eight or more persons	\$27,650

D. For taxable years beginning in calendar year 1999 and subsequent years, the maximum family Virginia adjusted gross income amount corresponding to family size as stated in subsection C shall be the poverty guideline amount corresponding to a household of an equal number of persons as listed in the poverty guidelines published during such taxable year.

E. The amount of the credit provided pursuant to this section for any taxable year shall not exceed the individual's Virginia income tax liability.

2. That the provisions of this act shall become effective upon written notice from the U.S. Department of Health and Human Services that (i) the income tax credit provided by this act qualifies as a portion of the Commonwealth's maintenance of effort under its Temporary Assistance to Needy Families (TANF) plan; (ii) the Commonwealth is exempt from the reporting requirements found in § 275.3 of Title 45 of the Code of Federal Regulations for families receiving the tax credit; and (iii) the exemption above will not disqualify the Commonwealth from receiving a work participation rate reduction based on a reduction in the TANF caseload, from receiving a high performance bonus, or from being considered for a reduction in penalties for failing to meet the work participation requirements.