

SENATE BILL NO. 294

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations

on _____)

(Patron Prior to Substitute--Senator DeSteph)

A BILL to amend and reenact §§ 58.1-3913 and 58.1-3980 of the Code of Virginia, relating to meals tax; statute of limitations; penalties and interest.

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3913 and 58.1-3980 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-3913. When treasurer to receive taxes and levies without penalty; how payments credited.

Each treasurer shall commence to receive local levies as soon as he receives copies of the commissioner's books and continue to receive the same without penalty up to and including December 5 of each year, or such other date set by the governing body. Unless otherwise provided by ordinance of the governing body, any payment of local levies received shall be credited first against the most delinquent local account, the collection of which is not subject to a defense of an applicable statute of limitations.

Notwithstanding the foregoing, any voluntary payment made by a taxpayer for meals taxes to a city that utilizes a director of finance to assess or collect taxes and that is accompanied by a tax return or written instructions as to its application will be applied by the locality in accordance with such return or written instructions, provided, however, that in the event that the application of the voluntary payment as set forth in the taxpayer's return or instructions would leave outstanding tax obligations incurred earlier, the applicable statute of limitations with respect to such outstanding tax obligations incurred earlier shall be extended for a period of 12 months.

§ 58.1-3980. Application to commissioner of the revenue or other official for correction.

A. Any person, firm or corporation assessed by a commissioner of the revenue or other official performing the duties imposed on commissioners of the revenue under this title with any local tax

27 authorized by this title, including, but not limited to, taxes on tangible personal property, machinery and
28 tools, merchants' capital, transient occupancy, food and beverage, or admissions, or a local license tax,
29 aggrieved by any such assessment, may, within three years from the last day of the tax year for which
30 such assessment is made, or within one year from the date of the assessment, whichever is later, apply to
31 the commissioner of the revenue or such other official who made the assessment for a correction thereof.

32 Sections 58.1-3980 through 58.1-3983 shall also apply to erroneous assessments of real estate if
33 the error sought to be corrected in any case was made by the commissioner of the revenue or such other
34 official to whom the application is made, or is due to a factual error made by others in connection with
35 conducting general reassessments as provided in subsection C of § 58.1-3981.

36 B. Notwithstanding the provisions of subsection A, an unpaid tangible personal property tax
37 assessment may be appealed to the commissioner of the revenue or other assessing official at any time
38 during which such assessment is collectible under § 58.1-3940, provided the taxpayer can demonstrate by
39 clear factual evidence that he was not subject to the tax for the year in question. If the assessing official is
40 satisfied that the assessment is erroneous, he shall abate the assessment and notify the treasurer or other
41 collecting official of the abatement. Upon receipt of such notice, the treasurer or other collecting official
42 shall forthwith issue a refund or take such other steps as may be necessary to correct the taxpayer's liability
43 accordingly upon the books of the locality.

44 In the case of an erroneous assessment that has been satisfied in whole or in part through an
45 involuntary payment, an appeal to the assessing official must be made within one year from the date of
46 the involuntary payment. If the assessing official is satisfied that the assessment is erroneous, he shall
47 abate the assessment and notify the treasurer or other collecting official of the abatement. Upon receipt of
48 such notice, the treasurer or other collecting official shall forthwith issue a refund. For purposes of this
49 section, "involuntary payment" means a payment received pursuant to the Setoff Debt Collection Act (§
50 58.1-520 et seq.) or § 58.1-3952.

51 C. Notwithstanding any provision to the contrary, with respect to any meals tax assessed by a city
52 that utilizes a director of finance to assess or collect taxes, such director may, in his sole discretion, waive

53 any penalties and interest where he determines that the best interest of the locality will be served by such

54 waiver.

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