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HOUSE BILL NO. 901

Offered January 12, 2022

Prefiled January 12, 2022

A BILL to amend and reenact § 58.1-351 of the Code of Virginia, relating to individual income tax; late payment penalty.

 Patron—Avoli

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:**1. That § 58.1-351 of the Code of Virginia is amended and reenacted as follows:****§ 58.1-351. When, where and how individual income taxes payable and collectible.**

Each individual and fiduciary liable for income tax shall pay the same to the treasurer of the county or city with whose commissioner of the revenue the taxpayer files his return at the time fixed by law for filing the return. The full amount of the tax payable as shown on the face of the return shall be so paid. A taxpayer may file his return and pay his tax in full in the closing days of his taxable year provided he is able to prepare a complete return.

If any payment is not made in full when due, there shall be added to the entire tax or to any unpaid balance of the tax, a penalty of six percent of the amount thereof, if the failure is for not more than one month, with an additional six percent for each additional month or fraction thereof during which such failure to pay continues, not exceeding ~~thirty~~ 30 percent in the aggregate. *Such penalty shall not be added to the entire tax or to any unpaid balance of the tax unless and until both payment is not made in full and the taxpayer fails to file his return by the time fixed by law for filing a return or by the time prescribed pursuant to an extension under § 58.1-344, as applicable.* The entire tax or any unpaid balance of the tax, together with such penalty, will immediately become collectible. Interest upon such tax or any unpaid balance of the tax, and on the accrued penalty, shall be added at a rate determined in accordance with § 58.1-15, from the date the tax or any unpaid balance of the tax, was originally due until paid. In the case of an additional tax assessed by the commissioner of the revenue under the provisions of § 58.1-307, if the return was made in good faith and the understatement of the amount in the return was not due to any fault of the taxpayer, there shall be no penalty on the additional tax because of such understatement, but interest shall be added to the amount of the deficiency at a rate determined in accordance with § 58.1-15, from the time the said return was required by law to be filed until paid.

The penalty under this section shall not be applicable to any month or fraction thereof for which the individual is subject to the penalty imposed under § 58.1-347. In no event shall the total amount of penalty assessed under this section and under § 58.1-347 exceed ~~thirty~~ 30 percent in the aggregate.

INTRODUCED

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