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SENATE BILL NO. 711

Offered January 19, 2024

A BILL to amend and reenact § 58.1-3 of the Code of Virginia, relating to taxation; secrecy of information; taxpayer waiver.

Patron—DeSteph

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3. Secrecy of information; penalties.

A. Except in accordance with a 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 person to whom tax information is divulged pursuant to this section or § 58.1-512 or 58.1-2712.2, 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. This prohibition shall apply to any reports, returns, financial documents, or other information filed with the Attorney General pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions of this section is guilty of a Class 1 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, published, or shared with another agency or subdivision of the Commonwealth in the line of duty under state 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 the court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent or by the commissioner of accounts making a settlement of accounts filed in such estate;

6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when requested by the General Assembly or any duly constituted committee of the General Assembly;

7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, when such reports or information are provided by the Attorney General to a tobacco products manufacturer who is required to establish a qualified escrow fund pursuant to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the Tobacco Directory established pursuant to § 3.2-4206 and are limited to the current or previous two calendar years or in any year in which the Attorney General receives Stamping Agent information that potentially alters the required escrow deposit of the manufacturer. The information shall only be provided in the following manner: the manufacturer may make a written request, on a quarterly or yearly basis or when the manufacturer is notified by the Attorney General of a potential change in the amount of a required escrow deposit, to the Attorney General for a list of the Stamping Agents who reported stamping or selling its products and the amount reported. The Attorney General shall provide the list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of the reports the Stamping Agents filed with the Attorney General, it must first request them from the Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written request to the Attorney General, including a copy of the prior written request to the Stamping Agent and any response received, for copies of any reports not received. The Attorney General shall provide copies of the reports within 45 days of receipt of the request.

B. 1. 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 that in the opinion of the Department may assist in the collection of such delinquent taxes. Notwithstanding any other provision of this section or other law, the Department, upon request by the General Assembly or any duly constituted committee of the General Assembly, shall disclose

59 the total aggregate amount of an income tax deduction or credit taken by all taxpayers, regardless of (i) how  
60 few taxpayers took the deduction or credit or (ii) any other circumstances. This section shall not be construed  
61 to prohibit a local tax official from disclosing whether a person, firm, or corporation is licensed to do  
62 business in that locality and divulging, upon written request, the name and address of any person, firm, or  
63 corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of  
64 law, the commissioner of *the* revenue is authorized to provide, upon written request stating the reason for  
65 such request, the Tax Commissioner with information obtained from local tax returns and other information  
66 pertaining to the income, sales, and property of any person, firm, or corporation licensed to do business in  
67 that locality.

68 2. This section shall not prohibit the Department from disclosing whether a person, firm, or corporation is  
69 registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or whether a  
70 certificate of registration number relating to such tax is valid. Additionally, notwithstanding any other  
71 provision of law, the Department is hereby authorized to make available the names and certificate of  
72 registration numbers of dealers who are currently registered for retail sales and use tax.

73 3. This section shall not prohibit the Department from disclosing information to nongovernmental entities  
74 with which the Department has entered into a contract to provide services that assist it in the administration  
75 of refund processing or other services related to its administration of taxes.

76 4. This section shall not prohibit the Department from disclosing information to taxpayers regarding  
77 whether the taxpayer's employer or another person or entity required to withhold on behalf of such taxpayer  
78 submitted withholding records to the Department for a specific taxable year as required pursuant to  
79 subdivision C 1 of § 58.1-478.

80 5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or other  
81 similar local official who collects or administers taxes for a county, city, or town from disclosing information  
82 to nongovernmental entities with which the locality has entered into a contract to provide services that assist  
83 it in the administration of refund processing or other non-audit services related to its administration of taxes.  
84 The commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or  
85 administers taxes for a county, city, or town shall not disclose information to such entity unless he has  
86 obtained a written acknowledgement by such entity that the confidentiality and nondisclosure obligations of  
87 and penalties set forth in subsection A apply to such entity and that such entity agrees to abide by such  
88 obligations.

89 C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax  
90 Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director of  
91 finance, or other similar collector of county, city, or town taxes who, for the performance of his official  
92 duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the  
93 Commissioner of the Department of Social Services, upon entering into a written agreement, the amount of  
94 income, filing status, number and type of dependents, whether a federal earned income tax credit as  
95 authorized in § 32 of the Internal Revenue Code and an income tax credit for low-income taxpayers as  
96 authorized in § 58.1-339.8 have been claimed, and Forms W-2 and 1099 to facilitate the administration of  
97 public assistance or social services benefits as defined in § 63.2-100 or child support services pursuant to  
98 Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or as may be necessary to facilitate the administration of  
99 outreach and enrollment related to the federal earned income tax credit authorized in § 32 of the Internal  
100 Revenue Code and the income tax credit for low-income taxpayers authorized in § 58.1-339.8; (iii) provide to  
101 the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon  
102 written request, the names and home addresses of those persons identified by the designated guarantor as  
103 having delinquent loans guaranteed by the designated guarantor; (iv) provide current address information  
104 upon request to state agencies and institutions for their confidential use in facilitating the collection of  
105 accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the  
106 collection of fines, penalties, and costs imposed in a proceeding in that court; (v) provide to the  
107 Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax  
108 information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi)  
109 provide to the Virginia Alcoholic Beverage Control Authority, upon entering into a written agreement, such  
110 tax information as may be necessary to facilitate the collection of state and local taxes and the administration  
111 of the alcoholic beverage control laws; (vii) provide to the Director of the Virginia Lottery such tax  
112 information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii)  
113 provide to the Department of the Treasury for its confidential use such tax information as may be necessary  
114 to facilitate the location of owners and holders of unclaimed property, as defined in § 55.1-2500; (ix) provide  
115 to the State Corporation Commission, upon entering into a written agreement, such tax information as may be  
116 necessary to facilitate the collection of taxes and fees administered by the Commission; (x) provide to the  
117 Executive Director of the Potomac and Rappahannock Transportation Commission for his confidential use  
118 such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi)  
119 provide to the Commissioner of the Department of Agriculture and Consumer Services such tax information

120 as may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies  
 121 who have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing  
 122 and Community Development for its confidential use such tax information as may be necessary to facilitate  
 123 the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and  
 124 the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and address information  
 125 to private collectors entering into a written agreement with the Tax Commissioner, for their confidential use  
 126 when acting on behalf of the Commonwealth or any of its political subdivisions; however, the Tax  
 127 Commissioner is not authorized to provide such information to a private collector who has used or  
 128 disseminated in an unauthorized or prohibited manner any such information previously provided to such  
 129 collector; (xiv) provide current name and address information as to the identity of the wholesale or retail  
 130 dealer that affixed a tax stamp to a package of cigarettes to any person who manufactures or sells at retail or  
 131 wholesale cigarettes and who may bring an action for injunction or other equitable relief for violation of  
 132 Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes Act; (xv) provide to the Commissioner  
 133 of Labor and Industry, upon entering into a written agreement, such tax information as may be necessary to  
 134 facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to the Director of the Department of  
 135 Human Resource Management, upon entering into a written agreement, such tax information as may be  
 136 necessary to identify persons receiving workers' compensation indemnity benefits who have failed to report  
 137 earnings as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of finance, or  
 138 any other officer of any county, city, or town performing any or all of the duties of a commissioner of the  
 139 revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list of the  
 140 names, business addresses, and dates of registration of all dealers registered for such tax; (xviii) provide to  
 141 the Executive Director of the Northern Virginia Transportation Commission for his confidential use such tax  
 142 information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xix) provide  
 143 to the Commissioner of Agriculture and Consumer Services the name and address of the taxpayer businesses  
 144 licensed by the Commonwealth that identify themselves as subject to regulation by the Board of Agriculture  
 145 and Consumer Services pursuant to § 3.2-5130; (xx) provide to the developer or the economic development  
 146 authority of a tourism project authorized by § 58.1-3851.1, upon entering into a written agreement, tax  
 147 information facilitating the repayment of gap financing; (xxi) provide to the Virginia Retirement System and  
 148 the Department of Human Resource Management, after entering into a written agreement, such tax  
 149 information as may be necessary to facilitate the enforcement of subdivision C 4 of § 9.1-401; (xxii) provide  
 150 to the Department of Medical Assistance Services and the Department of Social Services, upon entering into  
 151 a written agreement, the name, address, social security number, email address, dependent information  
 152 provided pursuant to subdivision B 2 of § 58.1-341.1, number and type of personal exemptions, tax-filing  
 153 status, adjusted gross income, and any additional information voluntarily provided by the taxpayer for  
 154 disclosure pursuant to subdivisions B 1 and 2 of § 58.1-341.1, of an individual, or spouse in the case of a  
 155 married taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying  
 156 persons who would like to newly enroll in medical assistance; (xxiii) provide to the Commissioner of the  
 157 Department of Motor Vehicles information sufficient to verify that an applicant for a driver privilege card or  
 158 permit under § 46.2-328.3 or an applicant for an identification privilege card under § 46.2-345.3 reported  
 159 income and deductions from Virginia sources, as defined in § 58.1-302, or was claimed as a dependent, on an  
 160 individual income tax return filed with the Commonwealth within the preceding 12 months; and (xxiv)  
 161 provide to the Virginia Health Benefit Exchange, upon entering into a written agreement, for taxable years  
 162 starting on January 1, 2023, or as soon thereafter as practicable, as determined by the Department of Taxation  
 163 and the Virginia Health Benefit Exchange, the name, address, social security number, email address,  
 164 dependent information provided pursuant to subdivision B 2 of § 58.1-341.1, number and type of personal  
 165 exemptions, tax-filing status, adjusted gross income, and any additional information voluntarily provided by  
 166 the taxpayer for disclosure pursuant to subdivision B 3 of § 58.1-341.1, of an individual, or spouse in the case  
 167 of a married taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of  
 168 identifying persons who do not meet the income eligibility requirements for medical assistance and would  
 169 like to newly enroll in a qualified health plan. The Tax Commissioner is further authorized to enter into  
 170 written agreements with duly constituted tax officials of other states and of the United States for the  
 171 inspection of tax returns, the making of audits, and the exchange of information relating to any tax  
 172 administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to  
 173 this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax  
 174 official.

175 D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the  
 176 commissioner of *the* revenue or other assessing official is authorized to (i) provide, upon written request  
 177 stating the reason for such request, the chief executive officer of any county or city with information  
 178 furnished to the commissioner of *the* revenue by the Tax Commissioner relating to the name and address of  
 179 any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the local  
 180 sales and use tax revenues payable to the county or city; (ii) provide to the Department of Professional and

181 Occupational Regulation for its confidential use the name, address, and amount of gross receipts of any  
182 person, firm, or entity subject to a criminal investigation of an unlawful practice of a profession or occupation  
183 administered by the Department of Professional and Occupational Regulation, only after the Department of  
184 Professional and Occupational Regulation exhausts all other means of obtaining such information; and (iii)  
185 provide to any representative of a condominium unit owners' association, property owners' association, or real  
186 estate cooperative association, or to the owner of property governed by any such association, the names and  
187 addresses of parties having a security interest in real property governed by any such association; however,  
188 such information shall be released only upon written request stating the reason for such request, which reason  
189 shall be limited to proposing or opposing changes to the governing documents of the association, and any  
190 information received by any person under this subsection shall be used only for the reason stated in the  
191 written request. The treasurer or other local assessing official may require any person requesting information  
192 pursuant to clause (iii) of this subsection to pay the reasonable cost of providing such information. Any  
193 person to whom tax information is divulged pursuant to this subsection shall be subject to the prohibitions  
194 and penalties prescribed herein as though he were a tax official.

195 Notwithstanding the provisions of subsection A or B or any other provisions of this title, the treasurer or  
196 other collector of taxes for a county, city, or town is authorized to provide information relating to any motor  
197 vehicle, trailer, or semitrailer obtained by such treasurer or collector in the course of performing his duties to  
198 the commissioner of the revenue or other assessing official for such jurisdiction for use by such  
199 commissioner or other official in performing assessments.

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

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

209 F. Additionally, it is unlawful for any person to disseminate, publish, or cause to be published any  
210 confidential tax document that he knows or has reason to know is a confidential tax document. A confidential  
211 tax document is any correspondence, document, or tax return that is prohibited from being divulged by  
212 subsection A, B, C, or D and includes any document containing information on the transactions, property,  
213 income, or business of any person, firm, or corporation that is required to be filed with any state official by §  
214 58.1-512. This prohibition shall not apply if such confidential tax document has been divulged or  
215 disseminated pursuant to a provision of law authorizing disclosure. Any person violating the provisions of  
216 this subsection is guilty of a Class 1 misdemeanor.

217 G. *Notwithstanding any other provisions of law, a taxpayer may waive a portion or all secrecy of*  
218 *information provisions of this section with respect to his own confidential tax documents and information in a*  
219 *written acknowledgement stating such waiver, to whom such documents and information are being disclosed,*  
220 *and the extent to which such documents and information may be utilized by the authorized recipient. An*  
221 *authorized recipient of such documents and information shall not be subject to any penalties of this section if*  
222 *using such documents and information in compliance with the terms and scope of the taxpayer's waiver*  
223 *acknowledgement. The Tax Commissioner shall develop and prescribe forms and instructions for the*  
224 *taxpayer waiver described herein.*