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SENATE BILL NO. 224
AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by the House Committee on Finance
 on _____)
 (Patron Prior to Substitute—Senator Surovell)

A *BILL* to amend the Code of Virginia by adding a section numbered 58.1-1803.1, relating to tax administration; award for tax underpayment detection assistance.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 58.1-1803.1 as follows:

§ 58.1-1803.1. Awards for tax underpayment detection assistance.

A. 1. In accordance with the provisions of this section, the Tax Commissioner is hereby authorized to award monetary compensation to individuals who provide information that assists the Department in the successful collection of delinquent taxes owed by other individuals or business taxpayers to the Commonwealth.

2. The provisions of this section shall apply only if (i) an action described in subsection B is brought against an individual taxpayer with gross income exceeding \$100,000 or a business taxpayer with gross income exceeding \$500,000 and (ii) the tax, penalties, interest, additions to tax, and additional amounts in dispute exceed \$50,000.

3. Any amount payable under this section shall be paid from the proceeds of the state taxes collected by reason of the provided information.

4. The Department and its employees who receive information from an individual shall be exempt from the provisions of § 58.1-3 but only with respect to the information provided to the Tax Commissioner on which such award is based. The individual providing information shall sign a confidentiality agreement or otherwise ensure that taxpayer information is kept confidential. Any information regarding the individual providing such information shall be considered tax information for purposes of enforcing the confidentiality provisions of § 58.1-3. Any public record that is created in the Department's receipt of information pursuant to this section shall not be divulged unless tax information is first redacted.

B. If the Tax Commissioner proceeds with any administrative or judicial action described in this chapter based upon information provided to the Tax Commissioner by an individual described in subsection A, such individual shall receive:

1. A discretionary award in an appropriate amount equal to at least 15 percent, but not more than 30 percent, of the collected proceeds, including penalties, interest, additions to tax, and additional amounts, that result from such action or from a settlement in response to such action. The determination of such award amount shall depend on the extent to which the individual informant substantially assisted or contributed to such action; or

2. A discretionary award in an appropriate amount determined by the Tax Commissioner, in the event that the Tax Commissioner determines the action is principally based on disclosures of specific allegations from some source other than information provided by the individual. However, such discretionary award amount may not exceed 10 percent of the collected proceeds, including penalties, interest, additions to tax, and additional amounts, resulting from such action or from a settlement in response to such action.

C. The Tax Commissioner may deny or reduce an award with respect to an action described in subsection B subject to the following:

1. If an award is sought by an individual who is a federal, state, or local tax official who obtained the information provided in the course of such individual's official duties, then the Tax Commissioner may deny the award.

2. If two or more individuals seek an award with respect to the same action described in subsection B, then the Tax Commissioner shall divide any award in proportion to the significance of each individual's information and the role played by each individual or his legal representative in assisting such action. In no event shall the total of all awards to such individuals exceed the amount authorized by this section.

3. If the information provided by the individual claiming an award is information that the Department routinely receives from other sources, such as through an information exchange with the Internal Revenue Service, other state agencies, or local commissioners of the revenue, then the Tax Commissioner may deny the award.

4. If any portion of the amount collectible as a result of the action described in subsection B will be collected over time under an installment plan or restitution order, then no award shall be paid until all such amounts have been collected. The award may be paid based on amounts collected to date if the Tax Commissioner and the individual agree that the collection of additional amounts is unlikely.

5. If an award is sought by an individual who planned or initiated actions that led to the underpayment of taxes, then the Tax Commissioner may reduce the award amount.

60 6. *If an award is sought by an individual who is convicted of criminal conduct arising from the role in*
61 *subdivision 5, then the Tax Commissioner shall deny any award.*
62 *D. The Tax Commissioner shall develop guidelines and forms implementing the provisions of this section.*
63 *Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).*