



COMMONWEALTH of VIRGINIA

Department of Taxation

October 1, 2020

The Honorable Vivian E. Watts
Chairwoman, House Finance Committee
8717 Mary Lee Lane
Annandale, Virginia 22003

The Honorable Luke E. Torian
Chairman, House Appropriations Committee
4222 Fortuna Plaza, Suite 659
Dumfries, Virginia 22025

The Honorable Janet D. Howell
Chairwoman, Senate Finance Committee
Post Office Box 2608
Reston, Virginia 20195

Dear Chairwoman Watts, Chairman Torian, and Chairman Howell:

The 1996 General Assembly enacted Chapter 634, 1996 Acts of Assembly (HB 1451), which established the *Virginia Taxpayer Bill of Rights* (TBR). The legislation largely codified the Department of Taxation's existing procedures with respect to audit, collection and appeals processes. The legislation also requires that the Department furnish written explanations of its audit and collections processes to taxpayers, as well as create a formal problem resolution program and designate a Taxpayer Rights Advocate to oversee the program. Finally, the legislation created a requirement under Section 58.1-202 of the *Code of Virginia* for the Tax Commissioner to file an annual report detailing the procedures used in the agency's collection process, and how the TBR is implemented to assist with collections.

General Provisions

The TBR generally provides for rights associated with the Department of Taxation's routine interactions with taxpayers, and the internal controls the agency has in place to ensure that these rights are protected.

The rights specified under the general provisions of the statute are:

Public Contact:

- the right to be treated with dignity and respect;
- the right to prompt, courteous, and accurate responses to questions and requests for tax assistance;

Save Time, Go Online - Visit www.tax.virginia.gov

- the right to record meetings or, if we record the meeting, to purchase a transcript at cost;
- the right to request help from the Taxpayer Rights Advocate when issues have not been resolved through normal administrative processes;
- the right to be advised or represented by counsel or another qualified person;
- the right to receive simple, nontechnical statements that explain the Taxpayer Bill of Rights and the audit, collections, and appeals processes; and
- the right to have tax, penalty and interest abated when the taxpayer relies on binding written advice from a department employee, and that advice is later found to be incorrect.

Internal Controls:

- the right to have property protected during assessment, collection and enforcement processes;
- the right to have tax information kept confidential; and
- the right to procedures that ensure department employees are not paid, evaluated, or promoted based on the amount of assessments or collections made.

Taxpayer Rights Advocate / Problem Resolution Program

As required by the *Code of Virginia*, the Department's Taxpayer Rights Advocate oversees a problem resolution program staffed by the Customer Satisfaction team. The team's goal is to ensure that taxpayers have a clear understanding of Virginia's tax laws, as well as how the laws apply to each individual's case. The team was established to address taxpayer issues that were not resolved through normal administrative channels. The majority of these requests include issues from state, local and federal elected officials, offers in compromise related to requests for waiver based on reasonable cause, and requests for direct assistance from the Taxpayer Rights Advocate. The team also handles customer education functions, and can investigate systemic issues that may hinder the delivery of quality customer service.

In addition to overseeing the operations of the Customer Satisfaction Team, the Taxpayer Rights Advocate ensures resolution of cases, and investigates allegations of rights violations. During the fiscal year 2019, the Taxpayer Rights Advocate investigated two claims of rights violations, and found no evidence of violations in any of those cases. In addition, the team handled 47 dispute resolution cases addressed directly to the Taxpayer Rights Advocate or forwarded to the Advocate's office.

Beyond the scope of the operations and duties of the Taxpayer Rights Advocate and the Customer Satisfaction Team, every employee of the Department of Taxation is required to adhere to the provisions of the Taxpayer Bill of Rights. Routine procedures employed to protect taxpayer rights in customer contacts include stopping collection action on assessments during any appeals process, as well as negotiating installment payment plans and offers in compromise to settle liabilities in an equitable manner. In addition, the agency's published document entitled the *Virginia Taxpayer Bill of Rights* is available to taxpayers as part of every face-to-face audit or collections contact.

The Honorable Vivian E. Watts
The Honorable Luke E. Torian
The Honorable Janet D. Howell
October 1, 2020
Page 3

Collection Processes

The Department of Taxation strictly adheres to the provisions of the Virginia Taxpayer Bill of Rights in its collection processes, particularly with respect to confidentiality of taxpayer information. When an assessment tax bill is issued, the taxpayer has 30 days to make payment or protest the assessment. If the taxpayer does not respond within that time, the Department may take collection actions to resolve the account. Examples of typical collection actions may include phone calls, letters, third party liens, and memorandum of liens.

The published *Virginia Taxpayer Bill of Rights* contains a complete description of the agency's collection and audit processes. In addition, the agency contracts with Penn Credit to manage its outsourced collection accounts. Finally, the agency also contracts with Taxing Authority Consulting Services (TACS) to manage all bankruptcy functions.

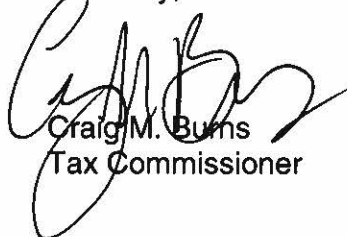
Any outside collection agency receives only limited information about the accounts they collect. In addition, the Department does not report information on outstanding tax liabilities and collection actions to credit bureaus.

Conclusion

The Department of Taxation takes its responsibilities under the Virginia Taxpayer Bill of Rights very seriously, and remains committed to making those rights an integral part of its business practices. A copy of the *Virginia Taxpayer Bill of Rights* booklet is attached. The booklet is also available on our web site at www.tax.virginia.gov, along with most tax forms and information designed to assist taxpayers in understanding and complying with Virginia's tax laws.

Should you or your staff have any questions, please contact me at (804) 786-3332.

Sincerely,



Craig M. Burns
Tax Commissioner

c: The Honorable Aubrey L. Layne, Jr., Secretary of Finance

Attachment: *Virginia Taxpayer Bill of Rights*

Virginia Taxpayer Bill of Rights

Virginia Department of Taxation

P.O. Box 1115

Richmond, Virginia 23218-1115

www.tax.virginia.gov

Individual	804.367.8031
Business	804.367.8037
Collections	804.367.8045



Contents

Introduction	4
Your Rights in General.....	4
Your Rights in Contacts with Virginia Tax	4
Your Right to Confidentiality	4
Filing and Paying Your Taxes	4
Audits and Examinations.....	4
Tax Bills	5
Payment Arrangements	5
Collection Actions	5
Appeals	5
Taxpayer Rights Advocate	6
Audits and Examinations.....	7
Your Rights	7
Your Responsibilities.....	7
Desk Audits and Examinations.....	7
Automated Audit Programs.....	7
Field Audits.....	8
Collection Processes.....	9
Your Rights	9
Your Responsibilities.....	9
Collection Actions	9
Payment Plans	9
Phone Calls and Letters	10
Collection Agencies	11
Visits	11
Debt Setoff	11
Third Party Liens	11
Memorandum of Lien	11
Liens Placed in Error.....	12
Conversion of Business Liabilities	12
Summons/Notice to Appear in Lieu of Summons	12
Padlocking.....	12
Revocation of the Certificate of Registration.....	12
Bonds	12
Seizure of Assets	13
Jeopardy Assessments	13

Appeals14

- Your Rights14**
- Your Responsibilities14**
- How Assessments Are Issued.....14**
- Assessment.....15**
- Informal Review15**
- Collection Actions15**
- Appeal to the Tax Commissioner Under *Va. Code* § 58.1-182115**
- Protective Claim under *Va. Code* § 58.1-1824.....16**
- Appeal to the Court under *Va. Code* § 58.1-1825.....17**
- Offer in Compromise under *Va. Code* § 58.1-105.....17**

Introduction

The Virginia Taxpayer Bill of Rights, *Va. Code § 58.1-1845*, guarantees certain rights in the tax assessment, audit, and collection processes of the Virginia Department of Taxation (Virginia Tax).

Your Rights in General

Our mission is to serve our customers by delivering an efficient, courteous, confidential, and equitable tax revenue system. Our employees honor this mission in performing their duties. We do not compensate, evaluate, or promote employees on the basis of the assessments or collections they make.

You have the right to be treated with dignity and respect, and to receive prompt, courteous, and accurate answers to your questions and requests for assistance. When you contact us in writing, you have the right to rely on our written advice.

Your Rights in Contacts with Virginia Tax

You have the right to have someone present with you or represent you in contacts with Virginia Tax, including an attorney or accountant. To allow another person to represent you in contacts where you are not present, you must sign a power of attorney (POA) to authorize that person to act on your behalf. The POA form and instructions are available [here](#).

You have the right to make an audio recording of any meeting relating to tax determination and collection actions, using your own equipment. You may suspend certain meetings to seek advice from your representative.

Your Right to Confidentiality

We keep the tax information in our records strictly confidential. This includes tax returns, correspondence, audit reports, and other account information. Virginia law allows only limited release of information. The law prohibits us from giving information to any person or organization that doesn't have the legal right to receive it. This means that we can't speak with anyone acting on your behalf without a power of attorney, even to answer basic questions about your account. When you contact us by phone, we will ask for specific information to confirm your identity before we discuss your account.

Filing and Paying Your Taxes

We want to make meeting tax filing requirements and paying the correct tax due as simple as possible. If you don't agree with the amount owed, the method used to compute the balance due, or our interpretation of tax law or agency policy, you have the right to appeal.

Audits and Examinations

We audit tax returns and business records to make sure taxpayers are complying with the law. Selection of your return or business for audit does not mean you will owe more tax. You have the right to a fair examination. You

also have the right to receive clear, simple explanations of audit procedures, appeal processes, and any changes we make to your tax liability. If we ask for information during the audit, you have the right to know the reason for the request and what will happen if you do not provide the information.

Tax Bills

If you don't pay the amount due with your return, or if we assess an additional amount, we will send you a bill. The bill will clearly state the amount due, including a breakdown of the charges, and the reason for the bill.

If you receive a bill because of incorrect written advice from a Virginia Tax employee, you have the right, if you meet all of the following conditions, to ask that we cancel the bill:

- You asked for information or guidance in writing,
- You presented full and accurate facts about your situation, and
- A Virginia Tax employee responded in writing.

Payment Arrangements

If you can't pay the full amount due on your tax return or bill, we'll help you make arrangements for payment, or set up an installment payment plan. We may ask you to provide a financial statement to prove hardship and to help us determine the best payment schedule for you. If your financial statement shows that you can pay the amount due, even if that means using available credit or getting a loan, we will require you to do so.

Collection Actions

If you do not pay a bill or make payment arrangements within 30 days from the bill's issue date, we may take legal action or assign your account to an outside collector to collect the balance due. If we take collection action, you have the right to receive clear, simple explanations of collection procedures and appeal processes, as well as your rights in those procedures and processes.

Appeals

You have the right to ask for an informal review of any bill we have issued or any refund that we have denied. You also have the right to file an appeal with the Tax Commissioner with 90 days from the bill's issue date or the refund's denial date. Asking for a review does not extend the time allowed for filing an appeal with the Tax Commissioner. You'll find more detailed information about reviews and appeals later in this document.

If you have filed an appeal and you do not agree with the Tax Commissioner's ruling, you may apply for a ruling from your local circuit court. If there is already a similar case waiting for a circuit court decision or a ruling from the Tax Commissioner, you may file a protective claim with the Tax Commissioner and ask us to consider your appeal based on the outcome of the other appeal or court case.

Under certain conditions, you can request an offer in compromise to seek relief from tax, penalty, and/or interest charges. You'll find more detailed information about offers in compromise later in this document.

Taxpayer Rights Advocate

The Taxpayer Rights Advocate ensures that your rights are protected in audit and collection processes. The Taxpayer Rights Advocate also provides prompt review and resolution of cases that have not been resolved through normal channels.

You may contact the Taxpayer Rights Advocate for assistance by sending in a detailed description of the problem or complaint and the steps you have taken to resolve the issue. Please include your address and a daytime telephone number and mail the request to:

**Taxpayer Rights Advocate
Virginia Department of Taxation
P.O. Box 546
Richmond, VA 23218-0546**

You may also fax your request to 804.367.0539. For questions about the Taxpayer Rights Advocate, call 804.367.8031 (individual) or 804.367.8037 (business).

Audits and Examinations

Your Rights

We routinely review tax returns to make sure that filers have reported their tax liabilities correctly. Audits may conclude with no additional tax due, or with a refund due. Many of our audits are desk examinations that do not require a visit to your home or business. In those cases, we can usually resolve questions about your return by phone or letter. If we select you for an audit, you have the right to:

- Receive information about the audit process and procedures and your appeal rights,
- Have the audit conducted in a reasonable time after we issue an audit notice
- Receive a clear, non-technical explanation of any changes made to your tax liability during the audit.

Your Responsibilities

If you receive an audit inquiry letter or a notice of a field audit, you are responsible for:

- Responding to notices and providing requested documentation by the stated due date. Use the name, address, and telephone number provided for all contacts during the audit.
- Notifying the auditor before the due date if you need additional time to respond.

Desk Audits and Examinations

In a desk audit, the examiner will typically write to you asking for information about items on your return, or informing you about errors that we need to adjust. We then give you the opportunity to respond to our letter before we issue a bill.

Automated Audit Programs

The Internal Revenue Service (IRS) and other government agencies share tax return data and other income information with Virginia Tax each year. We compare that information with our records to identify taxpayers who may have underpaid their Virginia income tax or failed to file a Virginia return.

If we find a discrepancy in your Virginia tax return or if it appears that you did not file a return, we will send you a letter to:

- Explain the problem and tell you about any proposed changes in your tax liability,
- Ask you to provide information or tell us if you disagree with our findings,
- Give you a date for responding, and
- Give you the name and contact information for the employee who is handling your case.

If you don't respond to the letter or if you can't provide adequate information to show that our proposed changes are not correct, we will issue a bill for the tax due, as well as applicable penalty and interest charges.

Field Audits

A field audit is an on-site examination of returns and records. Virginia Tax auditors based in Virginia and in several locations across the country conduct field audits on the agency's behalf.

- We arrange field audits in advance, by letter or by phone.
- We make audit appointments with the business owner or corporate officer responsible for tax compliance. Once we make an appointment with you, the auditor can work with anyone you choose.
- The audit appointment arrangements will include the date, time, and place.
- We usually conduct field audits at your place of business during normal business hours. We will work with you to minimize the impact on your schedule and your business operations.
- We will explain the types of records we need to begin the audit.

Before the audit begins, the auditor will:

- Share how to obtain a copy of this publication, and discuss your rights in the audit process.
- Discuss the operation of your business, ask how you maintain your records, and ask you to identify any issues that might affect the audit.
- Discuss the specific process that we will use for your audit.
- Tour your place of business, if necessary.
- Determine how we will review your records.
- Determine the method for the audit. The method the auditor chooses depends on several factors, including the type of tax, the accuracy and availability of records, and the size and complexity of your business. We may conduct a detailed audit, which involves looking at all of your records, or we may select only a sample from your records for review.
- Determine the audit period. We usually audit a 3-year period, but we may expand the period beyond 3 years if you have not filed returns or if we find false or fraudulent returns on file.

During the audit, the auditor will:

- Review your records and the returns you have filed.
- Ask you to sign an extension of time limitation agreement, which allows the auditor and the taxpayer adequate time to respond to inquiries. Agreeing to an extension avoids the issuance of an assessment based on unresolved questions that could otherwise have been handled during the audit or in an informal review.
- Explain Virginia law and Virginia Tax agency policy and how they apply to your business transactions.
- Allow you adequate time to respond to questions that arise during the audit.

In concluding the audit, we will:

- Discuss our findings with you, or send you a letter explaining any changes.
- Explain any penalties to be billed (see the [Use Tax Compliance Ratio Computation](#) for details).
- Discuss future filing responsibilities and answer your questions about the audit,
- Give you a copy of the audit report identifying any issues that you need to correct for future tax compliance.
- Explain your rights to appeal the audit changes if you disagree with our findings.

For income tax audits only:

- If we find an issue that affects your federal income tax return for the period we are auditing, we may notify the IRS; in that case, we will not issue a bill until the federal issue has been resolved.
- A manager will discuss the situation with you if we need to use this procedure.

Collection Processes

Your Rights

If you do not pay your Virginia tax bill for more than 30 days, we may take action to collect the balance due. In that case, you have the right to:

- Receive information about our collection procedures and your rights and responsibilities, at or before any meeting regarding the collection of your account balance.
- Receive notification before we take any collection action that could result in the loss of property, unless we determine that a delay would jeopardize collection of the unpaid balance.
- Request a review of any collection actions by calling or writing to Virginia Tax.
- Request a payment plan to pay your bill in installments.
- Request procedures for the release of a lien, if you have a basis for such a request.
- Have us issue a written notice to a credit agency if the lien was placed in error, provided you make the request within 3 years from the date we released the lien.

Your Responsibilities

When you receive a bill from Virginia Tax, you are responsible for:

- Reviewing all of the information on the notice, including the time limitations, addresses, telephone numbers, and procedures for asking questions, appealing the bill, or making arrangements for payment. To allow time for us to review an inquiry and prevent collection action, you should respond within 30 days from the bill's issue date, even if you plan to file a formal appeal.
- Providing any requested documentation, such as copies of canceled checks or current financial information, if we request that information to assist you in resolving your bill. To prevent collection action, you must respond within the time period stated in our request for information, whether you received the request in writing or during a conversation with a Virginia Tax employee.

Collection Actions

When we send a bill, the bill clearly states a date of assessment. Unless you have other unpaid bills, we will not take collection action until at least 30 days after the date of assessment. If you do not pay the bill or make payment arrangements during that time, we may take one or more of the actions described later in this section to collect the balance due. The bill also states that collection action may begin after 30 days. We may not send out additional notices before we take action to collect a bill.

Payment Plans

If you cannot pay your bill in full, you have the right to request a payment plan allowing you to pay in installments. In many cases, we will accept payment in 12 monthly installments. If a collection agency or a Virginia Tax Field Agent has contacted you, you should contact that agency or Field Agent to make your request. Otherwise, visit us at www.tax.virginia.gov/paymentplan to set up an online payment plan (if you are eligible), use our Teleplan service at 804.440.5100, or contact our office at 804.367.8045.

We do not approve all requests for payment plans. If you have not met the terms of a previous plan or if the amount due is not suitable for a routine plan, we may deny your request, ask for a financial statement, propose a different schedule, or make special arrangements, such as a balloon payment provision. Even if we agree to allow a payment plan, we must charge interest until you pay the balance in full. Therefore, setting your plan for the shortest possible period will cost you the lowest amount in added interest.

Once we agree to a payment plan, we will send you a monthly payment reminder if you are paying by check. If you are paying via automatic payments (EFT), you will not receive mailed reminders. However, you may elect to receive email reminders if you provide us with a valid email address. As long as you honor the terms of the agreement, we will not take any collection action while the plan is in effect, except to apply tax refunds and certain government payments to the outstanding balance.

For larger liabilities or extended payment terms, we may place a Memorandum of Lien against your property until you complete your scheduled payments.

If your small business has been in operation for 2 years or less, you may qualify for waiver of penalty related to your business tax if you are able to arrange for an installment plan to pay the tax on your bill. However, if we find that you can pay the full amount due without an installment plan, even if that means using credit or getting a loan, we will require you to pay the full amount of the bill. This waiver applies only to an independently-owned small business that is organized under Virginia law or has its principal place of business in Virginia, and that has 10 or fewer employees.

Completion of Payment Plans

To successfully complete your payment plan, you must:

- Pay each installment by the due date,
- Stay current with your Virginia tax filing requirements, including payments, so that you do not incur any new delinquencies, and
- Provide correct, complete, and current financial information when requested.

Cancellation of Payment Plans

If you do not honor the terms of your payment plan as listed above, we may cancel your plan and take other actions to collect the balance due. If you cannot make your payments on time, or if you cannot avoid creating new liabilities, you must contact us immediately to request a change in terms.

Renegotiation of Payment Plans

If you need to request a change in terms, contact us before missing a payment to prevent collection action. We can often agree to extend the terms of a plan, as long as you have made a good faith effort to pay your bill.

Phone Calls and Letters

Our first effort to collect a balance that is over 30 days old is to try to contact you by telephone or letter. However, if your account has been delinquent in the past, we may proceed with other collection actions.

Collection Agencies

We contract with commercial collection agencies to assist with collecting overdue tax bills. If we assign your account to a collection agency, that agency will send you a notice to provide contact information. You should work directly with the agency until you pay your account in full.

Collection agencies must adhere to the provisions of the Fair Debt Collections Practices Act. If you believe that a collection agency is acting improperly, contact us at 804.367.8045 or write to the Collections Section, P.O. Box 1880, Richmond, VA 23218-1880.

Visits

We generally will not visit your home unless you are operating a home-based business. We visit businesses during normal business hours.

Debt Setoff

Virginia law requires us to hold state tax refunds, lottery prizes, and certain other refunds and payments from other state agencies and apply the funds to your unpaid tax bills. We may also hold federal income tax refunds and some other payments from federal agencies after notifying you in writing that we have reported your debt to the federal government. If we hold a refund or payment, we will notify you and allow time for you to protest that action.

Third Party Liens

We may place a lien against your bank account or a garnishment with your employer. This means that funds from your account or your paycheck will come directly to Virginia Tax where we will apply them to your debt.

If this action will cause severe financial hardship, you may contact us at 804.367.8045 to negotiate a payment arrangement. We may ask you to provide a financial statement as proof of hardship. In the case of a wage garnishment, you may agree to have a set amount taken from your check each pay period until the bill is paid, but you must make sure that your employer will agree to this arrangement and send the payments on your behalf.

We generally will not release a third party lien until you have paid or resolved the debt. A third party lien is not a matter of public record, but your bank may report the lien to credit bureaus.

Memorandum of Lien

The court records a Memorandum of Lien as a judgment against your property in favor of the Commonwealth of Virginia. This means that we could apply funds from sale of the property to your tax debt. A Memorandum of Lien can also affect your ability to refinance or otherwise dispose of the property. Once recorded, the lien remains in effect for 20 years, or until you have resolved the tax debt.

Because we generally file a Memorandum of Lien with the circuit court of the county or city where you live or where your business is located, it is a matter of public record. Although Virginia Tax does not report tax debts to credit bureaus, a judgment is public information and could affect your credit rating.

Liens Placed in Error

If you believe we have placed a third party lien or recorded a Memorandum of Lien in error, contact us immediately at 804.367.8045 to request procedures for release of the lien. We will expedite the review of your account and correct any error we find.

Conversion of Business Liabilities

If your business has unpaid tax bills, we can transfer the outstanding balances to the responsible officers of the business. Before taking this action, we will notify you in writing and allow time for you to present information to show why we should not hold you personally liable for the business tax bills.

Summons/Notice to Appear in Lieu of Summons

A Notice to Appear in Lieu of Summons is a written notice to attend a scheduled meeting with a Virginia Tax representative to answer questions about your tax debt or delinquencies. The notice and meeting are not legal proceedings. If you do not attend, we may seek a legal summons, which is a court order for your appearance, or we may take more severe collection action.

Padlocking

If collection efforts do not resolve your business tax bills, we may padlock the business. If this action is necessary, we will schedule a hearing, giving you at least 10 days' notice, to determine whether we will padlock the business. You will be able to present evidence to show why we should not padlock the business, and you will have the opportunity to negotiate payment arrangements to keep the business open. If we cannot reach an agreement, we may revoke the company's sales tax certificate and business registration and/or padlock the business. If we padlock the business, we may have the assets sold.

Revocation of the Certificate of Registration

If you do not pay your business's sales tax as required, we may revoke your certificate of registration, which authorizes the business to make retail sales. If we revoke your certificate, the business must stop making sales. If we are considering revocation, we will schedule a hearing and notify you in writing so that you may present evidence to support your case for retaining your certificate and keeping your business open.

Bonds

If your business tax account is frequently delinquent, we may require you to post a bond to continue operating. We may also take this action if you are or were an officer or owner of another business with a history of delinquency. Once posted, we can seize the bond without notice to pay an outstanding tax liability.

Seizure of Assets

If we cannot collect by any other means, we may direct the sheriff to seize and sell your property to pay your tax debt. Before taking this action, we will send a notice allowing you 10 days to settle your liability. If we cannot reach a settlement, the sheriff will proceed with the sale of the property.

Jeopardy Assessments

A jeopardy assessment is an accelerated assessment and collection process used in rare cases where the Tax Commissioner determines that delay will jeopardize the collection of a balance due. If we issue a jeopardy assessment, you have 14 days to make an oral or written objection, which may include a meeting with a Virginia Tax representative. We will then issue a written determination within 20 days. If we filed a Memorandum of Lien in connection with the assessment process, the lien will remain in effect during the review period.

Appeals

If you believe that we have incorrectly issued your Virginia tax bill or improperly denied your claim for refund, you have the right to ask Virginia Tax to adjust the bill or issue the refund.

Your Rights

In the appeals process, you have the right to:

- Receive simple and non-technical information about informal reviews and formal appeals, as well as your rights in those processes.
- Receive an informal review when you disagree with a bill or with the denial of a refund.
- Appeal your case to the Tax Commissioner and request a formal ruling if you disagree with the finding of an informal review or if you choose not to request an informal review.
- Appeal your bill to a circuit court if you disagree with decision of the Tax Commissioner in your case.
- File a protective claim with the Tax Commissioner to protect your right to claim a refund of taxes paid in error.
- Request an offer in compromise to seek full or partial relief from the amount assessed, as discussed later in this section.

Your Responsibilities

To protect your rights of appeal, you are responsible for requesting explanations and informal reviews as early in the assessment process as possible.

- If you choose to file a formal appeal to the Tax Commissioner, you must do so no later than 90 days after the date of assessment.
- If you choose to file an appeal with your circuit court, you must do so within the time periods discussed later in this section.
- If you choose to file a protective claim, you must do so within the time periods specified later in this section.
- If you choose to file an offer in compromise, you must do so using the forms and instructions provided [here](#).

How Assessments Are Issued

If you file your return late or it contains an obvious error, or if you do not pay your tax by the required due date, we will make adjustments and corrections and issue a Notice of Assessment (bill) once we process the return. We also examine processed returns through a number of compliance programs, and we perform some onsite audits, as discussed in the Audits and Examinations section of this document. In the case of an audit or examination, we usually send a letter explaining the proposed adjustments before we issue a bill.

Assessment

The assessment of tax, penalty, and/or interest is a formal act that starts time limitations on your appeal rights, and allows Virginia Tax to begin collection actions. If you receive a letter stating that we intend to assess additional tax after an audit or other examination and you do not agree with the proposed assessment, you should request an informal review immediately. If we can resolve your concerns before we issue an assessment, we may be able to assess a lower amount or avoid an assessment entirely.

If you receive a Notice of Assessment (bill), which means that we have already assessed the additional amount, you can still request an informal review. However, this will not extend the time limits for filing a formal appeal or applying to the circuit court for relief.

We strongly recommend that you resolve issues related to audits and examinations informally, before we have issued an assessment. If the statute of limitations for assessment is about to expire, it is usually in both parties' interest to agree to an extension of the time limitation, rather than opting to have a bill issued before a review can take place.

Informal Review

You can request an informal review by contacting the Virginia Tax employee named in your adjustment letter. If you have already received a bill, contact Customer Service at 804.367.8031 (individual) or 804.367.8037 (business). You may be able to resolve the matter by phone, or we may instruct you to present your case in writing. If you choose to make your request in writing, use the address provided on your letter or bill, explain why you disagree with the assessment, and include any documentation needed to support your position.

In the case of a field audit, which takes place onsite, the auditor will discuss the audit findings with you before issuing an assessment, and will give you the opportunity to present information to support your position. You may also ask to meet with a manager to address unresolved issues before we issue a bill.

Collection Actions

As described in the Collection Processes section of this document, you have a number of rights related to collection actions that Virginia Tax may take to satisfy an assessment. In addition to those rights, you may question the accuracy of a bill, ask for more information about the charges, or present additional information to dispute a liability at any point during the collection process. However, you may not file a formal administrative appeal of an assessment more than 90 days after the date of assessment, even if the bill remains unpaid. In addition, the age of the bill will also affect your right to appeal to your circuit court.

Appeal to the Tax Commissioner Under *Va. Code § 58.1-1821*

If you believe we have incorrectly assessed tax, penalty, and/or interest, or have improperly denied a claim for refund, you have the right to file an appeal directly with the Tax Commissioner. You must file your appeal no later than 90 days after the date of assessment or the date we denied your refund. We strictly enforce the 90-day limitation, regardless of actions such as requesting an informal review or filing a statement of intent to appeal.

You should submit your appeal using [this form](#), and must include a complete statement of the facts involved in your case and the reason for your disagreement, as well as any documentation to support your position. If we

have to return an incomplete filing for additional information it will not be considered timely filed for purposes of meeting the 90-day deadline. Please review the forms and instructions for details.

Send your application to:

**Tax Commissioner
Virginia Department of Taxation
P.O. Box 2475
Richmond, VA 23218-2475**

If you are unable to file your appeal within 90 days, you must pay the bill in full and file a protective claim for refund with the same information required for an appeal.

Once we receive your properly filed appeal or protective claim, we will suspend all collection action on your bill until the Tax Commissioner makes a final determination of your case. Interest will continue to accrue on any balance due. If you disagree with only a portion of the assessment, we recommend that you pay the uncontested amount to prevent accrual of interest on that balance. As an alternative, you can pay the full assessment without affecting your appeal rights. If we reduce your liability, we will issue a refund with applicable interest following the final determination.

Protective Claim under Va. Code § 58.1-1824

A protective claim for refund preserves your right to have a Virginia Tax decision reversed or to amend a return beyond the normal statute of limitations based on actions taken by other taxpayers or other taxing jurisdictions.

When another taxpayer whose liability arises from the same issue as your liability is pursuing an appeal with the Tax Commissioner or is seeking judicial remedy in court, you may file a protective claim. You may also file a protective claim when another state is conducting an examination of a return you filed in that state and the outcome may affect your Virginia return for the same taxable year. In that case, a protective claim will preserve your right to amend your Virginia return, even if the other state does not complete its examination within the 3-year period of limitations for filing an amended return.

To file a protective claim you must:

- Pay the full amount outstanding on your bill or return as of the date of payment.
- Within 3 years from the date of assessment, or from the due date of the return in the case of a potential amendment, write a letter to the Tax Commissioner (you may use the Appeal form [here](#)), and furnish the following information:
 - Tax type
 - Taxable period
 - Date and amount of your bill, if applicable
 - Payments made
 - A detailed explanation of the issues you are contesting or other reason for the claim, including documentation showing that the resolution of your case depends on the outcome of another specific case pending with Virginia Tax or the court
 - Either a request for a determination based on your submission or a request that we hold your claim until the other case or the other state's examination is resolved.
- Send your claim to:

**Tax Commissioner
Virginia Department of Taxation
P.O. Box 2475
Richmond, VA 23218-2475**

Once we receive your claim, the Tax Commissioner may:

- Make a determination based on the facts as submitted, essentially treating the claim as an administrative appeal under *Va. Code* § 58.1-1821, or
- Hold the claim until the other pending case is resolved or the other state's examination is complete, then take appropriate action to issue a determination and resolve your claim.

If you disagree with the outcome, you may appeal the decision to your circuit court within 1 year from the tax Commissioner's decision or within 3 years from the date of your assessment, whichever is later.

Appeal to the Court under *Va. Code* § 58.1-1825

If you disagree with the decision of the Tax Commissioner in your appeal under *Va. Code* § 58.1-1821, you may apply to a circuit court for a hearing. The law does not require you to automatically pay the bill or post a bond. You should consult a lawyer for advice and assistance with any application to the court.

If you believe we have collected an assessment improperly from property that is exempt from process, you may apply to a circuit court for relief. You must apply within 3 years from the date the assessment was made or within 1 year from the date of the Tax Commissioner's ruling in your process exemption appeal under *Va. Code* § 58.1-1821, whichever is later.

Offer in Compromise under *Va. Code* § 58.1-105

An offer in compromise is a proposal from you to settle your tax debt for less than the full amount due.

We may reduce or waive a penalty entirely for good cause. We may waive tax and associated interest if you can show that the liability itself is doubtful, or that it is doubtful that we can collect the bill because of your financial circumstances.

To file an offer in compromise, use the forms available [here](#). Choose the appropriate form for a [business](#) or an [individual](#). Doubtful collectibility claims require a financial statement, and may require a [submission fee](#). Please review the forms and instructions carefully before submitting an offer in compromise.