



# ***COMMONWEALTH of VIRGINIA***

## ***Department of Taxation***

December 15, 2022

The Honorable Glenn Youngkin  
Governor of Virginia  
Patrick Henry Building, 3<sup>rd</sup> Floor  
111 East Broad Street  
Richmond, Virginia 23219

Members of the Virginia General Assembly  
Pocahontas Building  
900 East Main Street  
Richmond, Virginia 23219

Dear Governor Youngkin and Members of the Virginia General Assembly:

In 2020, the General Assembly enacted House Bill 1407 (2020 Acts of Assembly, Chapter 681) and Senate Bill 744 (2020 Acts of Assembly, Chapter 682) which established the Virginia standard for classifying workers performing services for remuneration as employees or independent contractors. The provisions of this legislation had an effective date of January 1, 2021. The legislation also requires the Department of Taxation (Virginia Tax) to publish an annual report regarding its activities regarding the misclassification of workers. The report is due on or before the end of the calendar year.

### **Calendar Year 2022 Program Activity**

The program is currently in year two of operation and the staff is becoming more experienced administering the program. During the calendar year 2022, 71 audits were completed, resulting in total assessments of \$1,586,291. This amount is comprised of \$747,668 in tax, \$56,351 in interest, \$1,253 in compliance penalty and \$781,000 in civil penalty. A total of 781 workers were found to be misclassified. A total of 4,517 hours were dedicated to the 71 completed audits. The staff continues to research potential audit leads that have come from a variety of sources such as other state agencies (VEC and DPOR) and taxpayer complaints.

### **Education & Outreach Strategy**

Our taxpayer outreach strategy for this program continues to be focused on driving education and awareness among business owners and tax professionals preventing misclassification before it

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occurs. To date, our outreach materials have included social media posts, articles in Virginia Chamber of Commerce publications and educational material on Virginia Tax's website. Virginia Tax also provided DPOR with a PowerPoint presentation to be used in their remedial training classes. We continue to share a dedicated email address, [misclassificationofworkers@tax.virginia.gov](mailto:misclassificationofworkers@tax.virginia.gov), for any worker misclassification inquiries.

#### Conclusion

Virginia Tax continues to administer a worker misclassification audit program that complies with House Bill 1407 and Senate Bill 744 passed by the 2020 General Assembly. We appreciate the assistance of all state agencies involved in the effort.

Sincerely,  
  
Craig M. Burns  
Tax Commissioner

C: The Honorable Stephen E. Cummings, Secretary of Finance  
Ms. Arleen Green, Assistant Commissioner of Compliance