



FREDERICK COUNTY, VIRGINIA
Ellen E. Murphy, Commissioner of the Revenue
P.O. Box 552, Winchester VA 22604-0552
Phone: 540.722.8335 Fax: 540.667.6487
www.fcva.us/cor



RIGHT TO CORRECTION OF ASSESSMENTS, REMEDIES & REFUNDS

LOCAL BUSINESS TAX (M&T, Business Tangible Personal Property, Consumer, Utility) & LOCAL MOBILE PROPERTY TAX

CODE OF VIRGINIA

Title 58.1 Taxation

Article 5. Correction of Assessments, Remedies & Refunds

§ 58.1-3980. Application to commissioner of the revenue or other official for correction.

A. Any person, firm or corporation assessed by a commissioner of the revenue or other official performing the duties imposed on commissioners of the revenue under this title with any local tax authorized by this title, including, but not limited to, taxes on tangible personal property, machinery and tools, merchants' capital, transient occupancy, food and beverage, or admissions, or a local license tax, aggrieved by any such assessment, may, within three years from the last day of the tax year for which such assessment is made, or within one year from the date of the assessment, whichever is later, apply to the commissioner of the revenue or such other official who made the assessment for a correction thereof.

Sections 58.1-3980 through 58.1-3983 shall also apply to erroneous assessments of real estate if the error sought to be corrected in any case was made by the commissioner of the revenue or such other official to whom the application is made, or is due to a factual error made by others in connection with conducting general reassessments as provided in subsection C of § 58.1-3981.

B. Notwithstanding the provisions of subsection A, an unpaid tangible personal property tax assessment may be appealed to the commissioner of the revenue or other assessing official at any time during which such assessment is collectible under § 58.1-3940, provided the taxpayer can demonstrate by clear factual evidence that he was not subject to the tax for the year in question. If the assessing official is satisfied that the assessment is erroneous, he shall abate the assessment and notify the treasurer or other collecting official of the abatement. Upon receipt of such notice, the treasurer or other collecting official shall forthwith issue a refund or take such other steps as may be necessary to correct the taxpayer's liability accordingly upon the books of the locality.

In the case of an erroneous assessment that has been satisfied in whole or in part through an involuntary payment, an appeal to the assessing official must be made within one year from the date of the involuntary payment. If the assessing official is satisfied that the assessment is erroneous, he shall abate the assessment and notify the treasurer or other collecting official of the abatement. Upon receipt of such notice, the treasurer or other collecting official shall forthwith issue a refund. For purposes of this section, "involuntary payment" means a payment received pursuant to the Setoff Debt Collection Act (§ 58.1-520 et seq.) or § 58.1-3952.

§ 58.1-3981. Correction by commissioner or other official performing his duties.

A. If the commissioner of the revenue, or other official performing the duties imposed on commissioners of the revenue under this title, is satisfied that he has erroneously assessed such applicant with any such tax, he shall correct such assessment. If the assessment exceeds the proper amount, he shall exonerate the applicant from the payment of so much as is erroneously charged if not paid into the treasury of the county or city. If the assessment has been paid, the governing body of the county or city shall, upon the certificate of the commissioner with the consent of the town, city or county attorney, or if none, the attorney for the Commonwealth, that such assessment was erroneous, direct the treasurer of the county, city or town to refund the excess to the taxpayer, with interest if authorized pursuant to § 58.1-3918 or in the ordinance authorized by § 58.1-3916, or as otherwise authorized in that section. However, the governing body of the county, city or town may authorize the treasurer to approve and issue any refund up to \$2,500 as a result of an erroneous assessment.

B. If the assessment is less than the proper amount, the commissioner shall assess such applicant with the proper amount. If any assessment is erroneous because of a mere clerical error or calculation, the same may be corrected as herein provided and with or without petition from the taxpayer. If such error or calculation was made in work performed by others in connection with conducting general assessments, such mistake may be corrected by the commissioner of the revenue.

C. If the commissioner of the revenue, or other official performing the duties imposed on commissioners of the revenue under this title, is satisfied that any assessment is erroneous because of a factual error made in work performed by others in connection with conducting general reassessments, he shall correct such assessment as herein provided and with or without petition from the taxpayer.

D. An error in the valuation of property subject to the rollback tax imposed under § 58.1-3237 for those years to which such tax is applicable may be corrected within three years of the assessment of the rollback tax.

E. A copy of any correction made under this section shall be certified by the commissioner or such other official to the treasurer of his county, city or town. When an unpaid erroneous assessment of real estate is corrected under this section and such real estate has been sold at a delinquent land sale, the commissioner or such other official making such correction shall certify a copy of such correction to the clerk of the circuit court of his county or city; and such clerk shall note such correction in the delinquent land book opposite the entry of the tract or lot for the year or years for which such correction is made.

F. In any action on application for correction under § 58.1-3980, if so requested by the applicant, the commissioner or other such official shall state in writing the facts and law supporting the action on such application and mail a copy of such writing to the applicant at his last known address.

§ 58.1-3982. Appeal by locality.

Any county, city, town or other political subdivision of this Commonwealth, aggrieved by any such correction made by a commissioner of the revenue under the preceding section (§ 58.1-3981), may, through its county, city or town attorney, or if none, its attorney for the Commonwealth, within six months from the date such correction is certified by the commissioner of the revenue to such treasurer or city collector, apply to any court of record of the county or city for a review of the action of such commissioner. At least twenty-one days before the hearing on such application notice thereof shall be given the commissioner of the revenue.

§ 58.1-3983. Remedy not to affect right to apply to court.

The remedy granted by the three preceding sections (§§ 58.1-3980 through 58.1-3982) shall be in addition to the right of any taxpayer to apply within the time prescribed by law to the proper court as provided by law for the correction of erroneous assessments of the classes described in such sections. Application may be made to the proper court whether or not such applicant has theretofore made application to the commissioner of the revenue for the correction of any such assessment.

§ 58.1-3983.1. Appeals and rulings of local taxes.

A. Definitions. For purposes of this section:

"Amount in dispute," when used with respect to taxes due or assessed, means the amount specifically identified in the administrative appeal or application for judicial review as disputed by the party filing such appeal or application.

"Frivolous" means a finding, based upon specific facts, that the party asserting the appeal is unlikely to prevail upon the merits because the appeal is (i) not well grounded in fact; (ii) not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; (iii) interposed for an improper purpose, such as to harass, to cause unnecessary delay in the payment of tax or a refund, or to create needless cost from the litigation; or (iv) otherwise frivolous.

"Jeopardized by delay" means a finding, based upon specific facts, that a taxpayer designs to (i) depart quickly from the locality, (ii) remove his property therefrom, (iii) conceal himself or his property therein, or (iv) do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

"Local business tax" means machinery and tools tax, business tangible personal property tax (including, without limitation, computer equipment), merchant's capital tax, and a consumer utility tax where the amount in dispute exceeds \$2,500 other than the tax collected on mobile telecommunication service as defined in § 58.1-3812.

"Local mobile property tax" means the tangible personal property tax on airplanes, boats, campers, recreational vehicles, and trailers.

"Taxpayer" includes a business required to collect a local consumer utility tax to the extent that the business is charged or assessed with such tax.

B. Administrative appeal to commissioner of the revenue or other assessing official.

1. Any person assessed with any local mobile property tax or local business tax as defined in this section may appeal such assessment within one year from the last day of the tax year for which such assessment is made, or within one year from the date of such assessment, whichever is later, to the commissioner of the revenue or other assessing official.
2. The appeal shall be filed in good faith and sufficiently identify the taxpayer, the tax period covered by the challenged assessment, the amount in dispute, the remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention.
3. The commissioner of the revenue or other assessing official may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, an audit or further audits, or other evidence deemed necessary for a proper and equitable determination of the application.
4. The assessment shall be deemed prima facie correct.
5. The commissioner of the revenue or other assessing official shall undertake a full review of the taxpayer's claims and issue a written determination to the taxpayer setting forth the facts and arguments in support of his decision within 90 days after such appeal is filed. Such determination shall be accompanied by a written explanation of the taxpayer's right to file an administrative appeal of the determination to the Tax Commissioner pursuant to subsection D.
6. Any taxpayer whose administrative appeal to the commissioner of the revenue or other assessing official pursuant to this subsection has been pending for more than one year without the issuance of a final determination may, upon not less than 30 days' written notice to the commissioner of the revenue or other assessing official, elect to treat the application as denied and appeal the assessment to the Tax Commissioner in accordance with the provisions of subsection D. The Tax Commissioner shall not consider an appeal filed pursuant to the provisions of this subsection if he finds that the absence of a final determination on the part of the commissioner of the revenue or other assessing official was caused by the willful failure or refusal of the taxpayer to provide information requested and reasonably needed by the commissioner of the revenue or other assessing official to make his determination.

C. Suspension of collection activity pending administrative appeal to commissioner of the revenue or other assessing official. Provided a timely and complete appeal is filed pursuant to subsection B, collection activity shall be suspended by the treasurer or other official responsible for the collection of such tax until a final determination is issued by the commissioner of the revenue or other assessing official, unless the treasurer or other collection official (i) determines that collection would be jeopardized by delay as defined in this section; or (ii) is advised by the commissioner of the revenue or other assessing official that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of subdivision A 2 e of § 58.1-3703.1, but no further penalty shall be imposed while collection action is suspended.

D. Administrative appeal to Tax Commissioner.

1. Any person whose administrative appeal to the commissioner of the revenue or other assessing official pursuant to subsection B has been denied in whole or in part may appeal the determination of the commissioner of the revenue or other assessing official by filing an appeal with the Tax Commissioner and serving a copy of the appeal upon the commissioner of the revenue or other assessing official within 90 days of the date of the determination of the commissioner of the revenue or other assessing official. The appeal shall include a copy of the written determination of the commissioner of the revenue or other assessing official that is challenged, together with a statement of the facts and grounds upon which the taxpayer relies.
2. The Tax Commissioner shall determine whether he has jurisdiction to hear the appeal within 30 days of receipt of the taxpayer's appeal.
3. If the Tax Commissioner determines that he has jurisdiction, he shall provide the commissioner of the revenue or other assessing official with an opportunity to respond to the appeal and permit the commissioner of the revenue or other assessing official to participate in the proceedings. The Tax Commissioner shall issue a determination to the taxpayer within 90 days of receipt of the taxpayer's appeal, unless the taxpayer and the commissioner of the revenue or other assessing official are notified that a longer period will be required. Such longer period of time shall not exceed 60 days, and the Tax Commissioner shall notify the affected parties of the reason necessitating the longer period of time. If the Tax Commissioner is unable to issue a determination within the 60-day extension period due to the failure of an affected party to supply the Tax Commissioner with necessary information, the Tax Commissioner shall certify this fact in writing prior to the expiration of the extension period. The Tax Commissioner shall then issue his determination within 60 days of receipt of such necessary information.

4. The appeal shall be treated as an application pursuant to § 58.1-1821, and the Tax Commissioner may issue an order correcting such assessment of such property pursuant to § 58.1-1822, if the taxpayer has met the burden of proof provided in § 58.1-3987.

5. The Tax Commissioner shall not make a determination regarding the valuation or the method of valuation of property subject to any local tax other than a local business tax.

E. Suspension of collection activity during administrative appeal to Tax Commissioner. On receipt of a notice of intent to file an appeal to the Tax Commissioner under subsection D, the treasurer or other official responsible for the collection of such tax shall further suspend collection activity until a final determination is issued by the Tax Commissioner, unless the treasurer or other collection official (i) determines that collection would be jeopardized by delay as defined in this section; or (ii) is advised by the commissioner or other assessing official that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of subdivision A 2 e of § 58.1-3703.1, but no further penalty shall be imposed while collection action is suspended. The requirement that collection activity be suspended shall cease unless an appeal pursuant to subsection D is filed and served on the necessary parties within 30 days of the service of the notice of intent to file such appeal.

F. Implementation of determination of Tax Commissioner. Promptly upon receipt of a final determination of the Tax Commissioner, the commissioner of the revenue or other local assessing official shall take those steps necessary to calculate the amount of tax owed by or refund due to the taxpayer consistent with the Tax Commissioner's determination and shall provide that information to the taxpayer and to the treasurer or other official responsible for collection in accordance with the provisions of this subsection.

1. If the determination of the Tax Commissioner sets forth a specific amount of tax due, the commissioner of the revenue or other assessing official shall certify this amount to the treasurer or other official responsible for collection, and the treasurer or other official responsible for collection shall issue a bill to the taxpayer for such amount due, together with interest accrued, within 30 days of the date of the determination of the Tax Commissioner.

2. If the determination of the Tax Commissioner sets forth a specific amount of refund due, the commissioner of the revenue or other assessing official shall certify this amount to the treasurer or other official responsible for collection, and the treasurer or other official responsible for collection shall issue a payment to the taxpayer for such amount due, together with interest accrued, within 30 days of the date of the determination of the Tax Commissioner.

3. If the determination of the Tax Commissioner does not set forth a specific amount of tax due, or otherwise requires the commissioner of the revenue or other assessing official to undertake a new or revised assessment that will result in the determination of a tax due that has not previously been paid in full, the commissioner of the revenue or other assessing official shall promptly commence the steps necessary to undertake such new or revised assessment, and provide the same to the taxpayer within 60 days of the date of the determination of the Tax Commissioner, or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the Tax Commissioner, whichever is later. The commissioner of the revenue or other assessing official shall certify the new assessment to the treasurer or other official responsible for collection, and the treasurer or other official responsible for collection shall issue a bill to the taxpayer for the amount due, together with interest accrued, within 30 days of the date of the new assessment.

4. If the determination of the Tax Commissioner does not set forth a specific amount of refund due, or otherwise requires the commissioner of the revenue or other assessing official to undertake a new or revised assessment that will result in the determination of a refund of taxes previously paid, the commissioner of the revenue or other assessing official shall promptly commence the steps necessary to undertake such new or revised assessment, and provide the same to the taxpayer within 60 days of the date of the determination of the Tax Commissioner, or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the Tax Commissioner, whichever is later. The commissioner of the revenue or other assessing official shall certify the new assessment to the treasurer or other official responsible for collection, and the treasurer or other official responsible for collection shall issue a refund to the taxpayer for the amount of tax due, together with interest accrued, within 30 days of the date of the new assessment.

G. Judicial review of determination of Tax Commissioner. Following the issuance of a final determination of the Tax Commissioner pursuant to subsection D, the taxpayer or commissioner of the revenue or other assessing official may apply to the appropriate circuit court for judicial review of the determination, or any part thereof, pursuant to § 58.1-3984. In any such proceeding for judicial review of a determination of the Tax Commissioner, the burden shall be on the party challenging the determination of the Tax Commissioner, or any part thereof, to show that the ruling of the Tax Commissioner is erroneous with respect to the part challenged. Neither the Tax Commissioner nor the Department of Taxation shall be made a party to an application to correct an assessment merely because the Tax Commissioner has ruled on it.

H. Suspension of payment of disputed amount of tax due upon taxpayer's notice of intent to initiate judicial review.

1. On receipt of a notice of intent to file an application for judicial review, pursuant to § 58.1-3984, of a determination of the Tax Commissioner pursuant to subsection D, and upon payment of the amount of the tax that is not in dispute together with any penalty and interest then due with respect to such undisputed portion of the tax, the treasurer or other collection official shall further suspend collection activity while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that (i) the taxpayer's application for judicial review is frivolous, as defined in this section; (ii) collection would be jeopardized by delay, as defined in this section; or (iii) suspension of collection would cause substantial economic hardship to the locality. For purposes of determining whether substantial economic hardship to the locality would arise from a suspension of collection activity, the court shall consider the cumulative effect of then-pending appeals filed within the locality by different taxpayers that allege common claims or theories of relief.
2. Upon a determination that the appeal is frivolous, that collection may be jeopardized by delay, or that suspension of collection would result in substantial economic hardship to the locality, the court may require the taxpayer to pay the amount in dispute or a portion thereof, or to provide surety for payment of the amount in dispute in a form acceptable to the court.
3. No suspension of collection activity shall be required if the application for judicial review fails to identify with particularity the amount in dispute.
4. The requirement that collection activity be suspended shall cease unless an application for judicial review pursuant to § 58.1-3984 is filed and served on the necessary parties within 30 days of the service of the notice of intent to file such application.
5. The suspension of collection activity authorized by this subdivision shall not be applicable to any appeal of a local business tax or local mobile property tax that is initiated by the direct filing of an action pursuant to § 58.1-3984 without prior exhaustion of the appeals provided by subsections B and D.

I. Suspension of payment of disputed amount of refund due upon locality's notice of intent to initiate judicial review.

1. Payment of any refund determined to be due pursuant to the determination of the Tax Commissioner shall be suspended if the locality assessing the tax serves upon the taxpayer, within 60 days of the date of the determination of the Tax Commissioner, a notice of intent to file an application for judicial review of the Tax Commissioner's determination pursuant to § 58.1-3984 and pays the amount of the refund not in dispute, including tax and accrued interest. Payment of such refund shall remain suspended while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that the locality's application for judicial review is frivolous, as defined in this section.
2. No suspension of refund activity shall be permitted if the locality's application for judicial review fails to identify with particularity the amount in dispute.
3. The requirement that the obligation to make a refund be suspended shall cease unless an application for judicial review pursuant to § 58.1-3984 is filed and served on the necessary parties within 30 days of the service of the notice of intent to file such application.

J. Rulings and advisory opinions.

1. Written rulings from commissioner of the revenue or other assessing official. Any taxpayer or authorized representative of a taxpayer may request a written ruling regarding the application of a local mobile property tax or a local business tax to a specific situation from the commissioner of the revenue or other assessing official. Any taxpayer requesting such a ruling shall provide all facts relevant to the situation and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if (i) there is a change in the law, a court decision, or the guidelines issued by the Department of Taxation upon which the ruling was based or (ii) the commissioner of the revenue or other assessing official notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any taxpayer who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.
2. Advisory opinions of the Tax Commissioner. The Tax Commissioner shall have the authority to issue advisory written opinions in specific cases as requested to interpret a local business tax and matters related to the administration thereof

when an assessment of that tax is subject to appeal to the Tax Commissioner under this chapter. Opinions issued pursuant to this section shall not be applicable as an interpretation of any other tax law.

K. Record-keeping and audits. Every person who is assessable with a local mobile property tax or a local business tax shall keep sufficient records to enable the commissioner of the revenue or other assessing official to verify the correctness of the tax paid for the taxable years assessable and to enable the commissioner of the revenue or other assessing official to ascertain the correct amount of tax assessable for each of those years. All such records, books of accounts and other information shall be open to inspection and examination by the commissioner of the revenue or other assessing official in order to allow him to establish whether the tax is due within this jurisdiction. The commissioner of the revenue or other assessing official shall provide the taxpayer with the option to conduct the audit in the taxpayer's local business office, if the records are maintained there. In the event the records are maintained outside this jurisdiction, copies of the appropriate books and records shall be sent to the commissioner's or assessor's office upon demand.

§ 58.1-3984. Application to court to correct erroneous assessments of local levies generally.

A. Any person assessed with local taxes, aggrieved by any such assessment, may, unless otherwise specially provided by law (including, but not limited to, as provided under (i) § 15.2-717 and (ii) § 3 of Chapter 261 of the Acts of Assembly of 1936 (which was continued in effect by § 58-769 of the Code of Virginia; and now continued in effect by § 58.1-3260), as amended by Chapter 422 of the Acts of Assembly of 1950, as amended by Chapter 339 of the Acts of Assembly of 1958, and as amended by the 2003 Regular Session of the General Assembly), (a) within three years from the last day of the tax year for which any such assessment is made, (b) within one year from the date of the assessment, (c) within one year from the date of the Tax Commissioner's final determination under § 58.1-3703.1 A 5 or § 58.1-3983.1 D, or (d) within one year from the date of the final determination under § 58.1-3981, whichever is later, apply for relief to the circuit court of the county or city wherein such assessment was made. The application shall be before the court when it is filed in the clerk's office. In such proceedings, except for proceedings seeking relief from real property taxes, the burden of proof shall be upon the taxpayer to show that the property in question is valued at more than its fair market value or that the assessment is not uniform in its application, or that the assessment is otherwise invalid or illegal, but it shall not be necessary for the taxpayer to show that intentional, systematic and willful discrimination has been made.

All proceedings pursuant to this section shall be conducted as an action at law before the court, sitting without a jury. The county or city attorney, or if none, the attorney for the Commonwealth, shall defend the application.

Prior to the release of any information that constitutes confidential tax information under § 58.1-3, pursuant to discovery or otherwise, for the purposes of a proceeding under this section, the court shall, no later than the issuance of the scheduling order, make the following order:

"Unless otherwise ordered by the court, no entity or person who has obtained confidential information protected by § 58.1-3 of the Code of Virginia regarding [property reference], directly or indirectly through any party to this action, shall disclose, exhibit, or discuss the confidential information except as provided herein. Confidential information protected by § 58.1-3 may be revealed to or discussed only with the following persons in connection with the review or litigation of the assessment of the above-referenced property:

1. The taxpayer or the local government (the "Parties");
2. Counsel for any Party to this action and employees of the counsel's firm, including attorneys other than counsel;
3. Outside experts retained by and assisting counsel for any Party in the preparation for or trial of this action;
4. The court or an administrative board reviewing the assessment on the above-referenced property, persons employed by the court or administrative board, and persons employed to transcribe or record the testimony or argument at a hearing, trial, or deposition regarding the assessment of the above-referenced property; and
5. Any person who may be called as a witness in a hearing, trial, or discovery that counsel believes in good faith to be necessary for the preparation or presentation of the case.

No person who is furnished with confidential information shall reveal it to, or discuss it with, any person who is not entitled to receive it under the terms of this order. Prior to their receipt of confidential information, those persons described in subdivisions 3 and 5 shall be required to sign an acknowledgement of this order and agree to be bound by the terms hereof and be subject to the jurisdiction of the court for enforcement thereof. Any person who violates the provisions of this order shall be subject to the penalty provided in subsection F of § 58.1-3."

Once the above-referenced order is entered, § 58.1-3 shall not be applicable to prevent the release of any relevant information that is responsive to a request for discovery made in the course of an appeal pursuant to this section.

B. In circuit court proceedings to seek relief from real property taxes, there shall be a presumption that the valuation determined by the assessor or as adjusted by the board of equalization is correct. The burden of proof shall be on the taxpayer to rebut such presumption and show by a preponderance of the evidence that the property in question is valued at more than its fair market value or that the assessment is not uniform in its application, and that it was not arrived at in accordance with generally accepted appraisal practices, procedures, rules, and standards as prescribed by nationally recognized professional appraisal organizations such as the International Association of Assessing Officers (IAAO) and applicable Virginia law relating to valuation of property. Mistakes of fact, including computation, that affect the assessment shall be deemed not to be in accordance with generally accepted appraisal practice.

However, in any appeal of the assessment of residential property filed by a taxpayer as an owner of real property containing less than four residential units, the assessing officer shall give the required written notice to the taxpayer, or his duly authorized representative, under subsection E of § 58.1-3331, and, upon written request, shall provide the taxpayer or his duly authorized representative copies of the assessment records set out in subsections A, B, and C of § 58.1-3331 pertaining to the assessing officer's determination of fair market value of the property under appeal. A written request by the taxpayer or his duly authorized representative shall be made following the filing of the appeal to circuit court and no later than 45 days prior to trial, unless otherwise provided by an order of the court before which the appeal is pending. Provided the written request is made in accordance with this section or any applicable court order, the assessing officer shall provide such records within 15 days of the written request to the taxpayer or his duly authorized representative. If the assessing officer fails to do so, the assessing officer shall present the following into evidence prior to the presentation of evidence by the taxpayer at the hearing: (i) copies of the assessment records maintained by the assessing officer under § 58.1-3331, (ii) testimony that explains the methodologies employed by the assessing officer to determine the assessed value of the property, and (iii) testimony that states that the assessed value was arrived at in accordance with generally accepted appraisal practices, procedures, rules, and standards as prescribed by nationally recognized professional appraisal organizations such as the International Association of Assessing Officers (IAAO) and applicable Virginia law relating to valuation of property. Upon the conclusion of the presentation of the evidence of the assessing officer, the taxpayer shall have the burden of proof by a preponderance of the evidence to rebut such evidence presented by the assessing officer as otherwise provided in this section.

C. The presumptions, burdens, and standards set out in subsection B shall not be construed to change or have any effect upon the presumptions, burdens, and standards applicable to applications for the correction of erroneous assessments of any local tax other than real property taxes.

D. In the event it comes or is brought to the attention of the commissioner of the revenue of the locality that the assessment of any tax is improper or is based on obvious error and should be corrected in order that the ends of justice may be served, and he is not able to correct it under § 58.1-3981, the commissioner of the revenue shall apply to the appropriate court, in the manner herein provided for relief of the taxpayer. Such application may include a petition for relief for any of several taxpayers.

§ 58.1-3986. Correction of double assessments; time for filing.

When it is shown to the satisfaction of the court that there has been a double assessment in any case, one of which assessments is proper and the other erroneous, and that a proper single tax has been paid thereon, the court may order such erroneous assessment to be corrected and grant redress therefor, whether such erroneously assessed tax has been paid or not, even though the application for such relief or redress be not made to the court within the time hereinbefore required.

§ 58.1-3987. Action of court.

If the court is satisfied from the evidence that the assessment is erroneous and that the erroneous assessment was not caused by the wilful failure or refusal of the applicant to furnish the tax-assessing authority with the necessary information, as required by law, the court may order that the assessment be corrected and that the applicant be exonerated from the payment of so much as is erroneously charged, if not already paid. If the tax has been paid, the court shall order that it be refunded to the taxpayer, with interest at the rate provided by § 58.1-3918 or in the ordinance authorized by § 58.1-3916, or as otherwise authorized in that section.

If, in the opinion of the court, any property is valued for taxation at more than fair market value, the court may reduce the assessment to what in its opinion based on the evidence is the fair market value of the property involved. If, in the opinion of the court, the assessment be less than fair market value, the court shall order it increased to what in its opinion is the fair market value of the property involved and shall order that the applicant pay the proper taxes.

For the purpose of reducing or increasing the assessment and adjusting the taxes the court shall have all the powers and duties of the authority which made the assessment complained of, as of the time when such assessment was made, and all powers and duties conferred by law upon such authority between the time such assessment was made and the time such application is heard.

§ 58.1-3988. Effect of order.

An order of exoneration under § 58.1-3987, when delivered to the tax-collecting officer, shall restrain him from collecting so much as is thus erroneously charged. If what was so erroneously charged has been paid, the order of the court shall compel the tax collecting officer, to refund to the applicant the amount specified in the order.

§ 58.1-3989. Remedy applicable upon general reassessments; all changes to be certified to commissioners.

Sections 58.1-3984 through 58.1-3988, insofar as they apply to real estate, shall be construed to include assessments made at a general reassessment, and the remedy therein provided shall be available to any person assessed at such general reassessment although no taxes may have been extended on the basis of such assessment at the time the application is filed. Whenever a correction of a real estate assessment is ordered by a court, whether such assessment was made at a general reassessment or not, the clerk of the court shall certify to the proper commissioner of the revenue and treasurer the changes made by the court so that they may note such changes on the land assessment books.

§ 58.1-3990. Refunds of local taxes erroneously paid.

The governing body of any city or county may provide by ordinance for the refund of any local taxes or classes of taxes erroneously paid. If such ordinance be passed, and the commissioner of the revenue is satisfied that he has erroneously assessed any applicant with any local taxes, he shall certify to the tax-collecting officer the amount erroneously assessed. If the taxes have not been paid, the applicant shall be exonerated from payment of so much thereof as is erroneous, and if such taxes have been paid, the tax-collecting officer or his successor in office shall refund to the applicant the amount erroneously paid, together with any penalties and interest paid thereon.

When the commissioner of the revenue who made the erroneous assessment has been succeeded by another person, such person shall have the same authority as the commissioner making the original erroneous assessment provided he makes diligent investigation to determine that the original assessment was erroneously made and certifies thereto to the local tax-collecting officer and to his local governing body.

No refund shall be made in any case when application therefor was made more than three years after the last day of the tax year for which such taxes were assessed; that however, if any tax is declared to be unconstitutional by a court of competent jurisdiction, the governing body may grant a refund of such tax hereunder to all taxpayers, for those years to which the court proceeding was applicable.

§ 58.1-3992. Appeal.

Any locality or taxpayer aggrieved by the action of a court of record under this article may appeal to the Supreme Court.

§ 58.1-3993. No injunctions against assessment or collection of taxes.

No suit for the purpose of restraining the assessment or collection of any local tax shall be maintained in any court of this Commonwealth, except when the party has no adequate remedy at law.

§ 58.1-3994. Offers in compromise with respect to local taxes.

A. Notwithstanding any other provision of law, the commissioner of the revenue or other official responsible for the assessment of any local tax appealed pursuant to § 58.1-3703.1 or § 58.1-3983.1 may, in his sole discretion, compromise and settle any disputed assessment of taxes prior to the time that such assessment is no longer subject to administrative or judicial review pursuant to applicable law if the commissioner or other official responsible for assessment determines that there is substantial doubt under applicable law, regulations, or guidelines as to the taxpayer's liability for such taxes.

B. Notwithstanding any other provision of law, the treasurer or other official responsible for the collection of any local tax imposed pursuant to this title may, with the consent of the governing body or its designee, compromise and settle the amount due and payable when the treasurer or other official determines that the collection of the entire amount due and owing is in substantial doubt and the best interests of the locality will be served by such compromise. Whenever a tax

otherwise due and owing is compromised pursuant to the provisions of this subsection, the difference between the amount of tax then due and owing, and the amount of tax paid pursuant to such compromise, shall be treated for the purposes of § 58.1-3921 in the same fashion as a tax rendered legally uncollectible by reason of the application of the United States Bankruptcy Code.

C. Any offer in compromise submitted to an official responsible for the assessment or collection of local taxes shall be made in writing and shall be deemed accepted only when the taxpayer is notified in writing of the acceptance by the responsible official.

D. Whenever a compromise and settlement is made pursuant to the provisions of this section, the responsible official shall make a complete record of the case, including: (i) the tax assessed; (ii) audit findings, if any; (iii) the taxpayer's grounds for dispute or contest together with all evidences thereof; (iv) factors calling collectibility into substantial doubt; (v) any nonprivileged reports or recommendations made with respect to the liability of the taxpayer, the requirements of effective tax administration considered, and/or the collectibility of taxes due; and (vi) the amount assessed or accepted and the terms and conditions attendant to settlement or compromise, with respect to the liability in question.

E. The treasurer or other official charged with collection of taxes may deposit into the treasury of the county, city or town any and all payments submitted with offers in compromise, unless the taxpayer specifically, clearly and conspicuously directs otherwise in writing at the time the offer in compromise is submitted to the responsible official. For the purposes of this subsection, no restrictive endorsement or other notation upon a check or other payment instrument shall constitute clear and conspicuous notice of a direction not to deposit.

F. Upon acceptance of an offer in compromise by the responsible local official with respect to a tax liability, the matter thereafter may not be reopened except upon a showing of fraud, malfeasance or misrepresentation of a material fact.

§ 58.1-3995. Effect of application for correction of assessment or appeal upon applications for local permits and licenses.

A. Except as otherwise provided in subsection B, no county, city or town shall deny to any person a permit or license to which such person otherwise is entitled solely on the grounds that such person has failed to pay taxes, penalties and interest due such locality, as applicable, when and to the extent that such taxes, penalties and interest are the subject of a pending, bona fide: (i) application for correction of an assessment of taxes pursuant to § 58.1-3980; (ii) appeal of a local license tax pursuant to § 58.1-3703.1; (iii) appeal by a political subdivision pursuant to § 58.1-3982 of a correction of assessment of local taxes; (iv) appeal of a local tax or local business tax pursuant to § 58.1-3983.1; (v) an application pursuant to § 58.1-3984 for correction of a local tax or local business tax as those terms are defined in § 58.1-3983.1; or (vi) an application for correction or equalization of an assessment with respect to real property pursuant to § 58.1-3350.

B. Nothing in this section shall be construed to require: (i) the issuance by a county, city or town of a local vehicle license that has been withheld pursuant to the provisions of § 46.2-752 or any subsection thereof; or (ii) the issuance by the Commissioner of Motor Vehicles of a vehicle registration or renewal of registration with respect to a vehicle as to which registration has been withheld pursuant to the provisions of subsection J of § 46.2-752.

C. Nothing in this section shall be construed to limit the ability of a locality to exercise powers granted under general law, including without limitation §§ 15.2-2286 and 58.1-3700, to deny a license or permit to a taxpayer who is delinquent in the payment of taxes, penalties, or interest and who does not have presently pending a bona fide application or appeal enumerated in subsection A with respect to such taxes, penalties, or interest.