



COMMONWEALTH of VIRGINIA

DEPARTMENT OF TAXATION

MEMORANDUM

RICHMOND 22262

TO: William J. West, Supervisor  
Technical Services Section  
Office Services Division

FROM: Danny M. Payne, Director *Danny*  
Tax Policy Division

DATE: June 9, 1983

RE: Sales and Use Tax Audit Limitations  
House Bill 846 (1983, Chapter 104)

This will reply to your memorandum of June 3, 1983, requesting an interpretation of House Bill 846 (1983) relating to the statute of limitations for sales and use tax audits.

The effect of House Bill 846, which amends Virginia Code Section 58-441.38, is minimal in terms of an audit policy. The only significant change is the new requirement that a six-year audit may be conducted only where reasonable evidence of fraud or reasonable cause to believe that the taxpayer failed to file a return when required to do so.

Therefore, in practical terms "reasonable cause to believe" a return has not been filed as requested means only that we must demonstrate, within a three-year statutory period, that the taxpayer failed to file a return for any month/quarter in which such was due. Once this is established, the statutory audit period may be extended to six years. This will, of course, primarily apply to use tax audits.

Although the law does not become effective until July 1, 1983, we would strongly suggest that we follow the procedures set forth above with any audits in progress or scheduled to begin in the near future. Additionally, when any six-year audit is conducted, the audit report should clearly indicate the basis or justification for extending the audit beyond the three-year statute.

rmt

cc: J. Harris Payne