

## 23 VAC 10-110. INDIVIDUAL INCOME TAX

~~23 VAC 10-110-10. Incomes not subject to local taxation.~~

~~No city, county, town, or other political subdivision of the state may impose any tax or levy upon income. The right to impose an income tax rests exclusively with the state.~~

~~23 VAC 10-110-50. Assessment and payment of deficiency; fraud; penalties.~~

~~A. Underpayment. If the amount of tax computed by the department exceeds the tax computed by the taxpayer on his return, the department shall issue an assessment for the amount of such underpayment. The department will mail a Notice of Assessment to the taxpayer who must pay the additional tax and interest within thirty days of the date of assessment. (Date of assessment is defined by §§58.1-1820(2) of the Code of Virginia as the date on which a Notice of Assessment is mailed to the taxpayer at his last known address. See 23 VAC 10-110-50 and 23 VAC 10-20-160.)~~

~~If the underpayment of tax was not due to fraud or willful intent to avoid payment, no penalty shall be assessed on such underpayment provided the return is timely filed and payment of the tax as computed by the taxpayer is made on or before the due date of the return. However, interest will accrue on the amount of underpayment from the due date of the return until payment is made.~~

~~B. False or fraudulent return. If the amount of tax computed by the department exceeds the tax computed by the taxpayer on his return and the understatement of tax is false or fraudulent with willful intent to evade the tax, the department shall assess penalty of~~

## 23 VAC 10-110. INDIVIDUAL INCOME TAX

~~100% of the actual amount of tax due. In addition, interest on the amount of the underpayment will accrue from the due date of the return until paid.~~

~~The penalty for the filing of a false or fraudulent return with intent to evade the tax will be assessed against a taxpayer whenever the complementary federal fraud penalty is assessed against such taxpayer for the same taxable year. Otherwise, determination of whether a return is false or fraudulent with willful intent to evade the tax shall be made on the basis of the facts in each particular case. (See also 23 VAC 10-20-150.)~~

~~23 VAC 10-110-100. Jeopardy assessments.~~

~~A. Generally. The Tax Commissioner shall have the authority to assess any taxpayer with an actual or estimated amount of tax due, together with penalties and interest, at any time the Commissioner is of the opinion that the collection of income tax, penalty, and interest will be jeopardized by delay and may further demand immediate payment of such assessment. The assessment and any demand for immediate payment thereof shall be sent via certified mail, return receipt requested, to the taxpayer's last known address or delivered personally.~~

~~B. Jeopardized by delay, defined. For purposes of this regulation, the term "jeopardized by delay," means that it has been determined that a taxpayer designs to do any of the following:~~

- ~~(i) depart quickly from the Commonwealth;~~
- ~~(ii) remove his property from the Commonwealth;~~
- ~~(iii) conceal himself or his property;~~

## 23 VAC 10-110. INDIVIDUAL INCOME TAX

~~(iv) commit any other act tending to prejudice or to render wholly or partially ineffectual proceedings to collect the income tax for the period in question.~~

~~C. Termination of taxable period. If an assessment is issued pursuant to this section for the current period, the taxable period shall be immediately terminated and notice of such termination shall be sent via certified mail or personally delivered to the taxpayer together with a demand for immediate payment based upon the period declared terminated. Such tax shall be immediately due and payable regardless of whether the time otherwise allowed by law for the filing of a return and paying the tax has expired.~~

~~D. Payment on demand. All assessments issued pursuant to this section shall become immediately due and payable and any tax, penalty, or interest not paid upon demand of the Tax Commissioner, shall become collectible as otherwise provided by law. A memorandum of lien as provided under §58.1-1805 of the Code of Virginia may be issued immediately upon assessment and notice thereof or the Tax Commissioner may require the taxpayer to file a bond which, in the judgment of the Tax Commissioner, is sufficient to protect the Commonwealth's interest.~~

~~23 VAC 10-110-120. Imposition of the tax.~~

~~A tax is imposed upon the Virginia taxable income of every individual for each taxable year as follows:~~

~~Va. Taxable Income \_\_\_\_\_ Tax Rate \_\_\_\_\_~~

## 23 VAC 10-110. INDIVIDUAL INCOME TAX

~~\$0 - 3,000~~ ~~2%~~

~~3,001 - 5,000~~ ~~\$ 60 + 3% of excess over \$3,000~~

~~5,001 - 12,000~~ ~~\$120 + 5% of excess over \$5,000~~

~~over 12,000~~ ~~\$470 + 5.75% of excess over \$12,000~~

~~23 VAC 10-110-140. Virginia taxable income; generally.~~

~~An individual's Virginia taxable income for a taxable year is his FAGI for the taxable year with the additions, subtractions and deductions set forth in 23 VAC 10-110-141, 23 VAC 10-110-142, and 23 VAC 10-110-143.~~

~~23 VAC 10-110-210. Energy income tax credit.~~

~~A. Generally. Effective for taxable years beginning on and after January 1, 1983, a credit is allowable against the income tax liability of an individual for a portion of "renewable energy source expenditures" as defined by Section 44C of the Internal Revenue Code (IRC) of 1954 (as amended, 1982) and the accompanying regulations. If the federal renewable energy source income tax credit is terminated prior to January 1, 1983, all references herein to IRC Section 44C and its accompanying regulations shall mean the statute and regulations as they exist at the date of termination.~~

## 23 VAC 10-110. INDIVIDUAL INCOME TAX

~~B. Qualified expenditures. This credit is applicable only to qualifying renewable energy source property installed in, or in connection with a dwelling unit located in Virginia which is used by an individual as his principal residence. No credit is allowable for energy conservation expenditures regardless of the fact that such expenditures also qualify for a federal credit under IRC Section 44C.~~

~~The definitions of renewable energy source expenditures under IRC Section 44C (c) and (d) and the accompanying regulations including, but not limited to, rules relating to allocation, property financed by subsidized energy financing, joint occupancy or ownership of property and a condominium, shall be applicable to this credit, except that references therein to taxable years and expenditure periods prior to January 1, 1983, shall not apply. For purposes of this tax credit, taxpayer labor may not be included in expenditure amounts.~~

~~C. Amount and taxable year in which credit allowed.~~

~~1. Credit amount. A credit in the amounts set forth below is allowable for expenditures made within the specified time period.~~

~~\_\_\_\_\_ % of Expenditures \_\_\_\_\_ Period in Which \_\_\_\_\_~~

23 VAC 10-110. INDIVIDUAL INCOME TAX

~~Allowed as Credit Expenditure is Made~~

~~25% January 1, 1983 through~~

~~December 31, 1984~~

~~20% January 1, 1985 through~~

~~December 31, 1985~~

23 VAC 10-110. INDIVIDUAL INCOME TAX

~~15% January 1, 1986 through~~

~~December 31, 1986~~

~~10% January 1, 1987 through~~

~~December 31, 1987~~

~~2. When expenditure deemed made. In accordance with Treasury Regulation 1.44C-3, an expenditure will be deemed made when original installation of the renewable energy source property is completed or, in the case of expenditures in connection with the construction or reconstruction of a dwelling which becomes the taxpayer's principal residence, when the original use of the dwelling by the taxpayer begins. Renewable energy source expenditures made prior to January 1, 1983, or after December 31, 1987, do not qualify for this credit.~~

## 23 VAC 10-110. INDIVIDUAL INCOME TAX

~~3. Taxable year in which credit allowable. Pursuant to Treasury Regulation 1.44C-3, the credit will be allowable in the year in which the expenditure qualifies for the complementary federal income tax credit under the provisions of IRC Section 44C or the taxable year in which such expenditure would qualify for the credit absent the prior expenditure limitation of IRC Section 44C(b)(3). (This section places a cumulative limitation of \$10,000 on total renewable energy source expenditures.) No credit may be claimed for any taxable year beginning on or after January 1, 1988, except as set forth in Subsection D of this regulation.~~

~~The following examples illustrate the operation of the credit.~~

~~Example 1: Taxpayer A installs a solar energy system and the installation is substantially complete on November 1, 1982. Payment is made to the contractor on January 20, 1983. Since the expenditure is deemed made when installation is substantially complete, i.e., November 1, 1982, no credit is available.~~

~~Example 2: Taxpayer B installs a renewable energy source system on December 15, 1984 and makes payment for the system on January 25, 1985. The credit must be claimed in taxable year 1985 since payment was made in 1985, even though the expenditure occurs in taxable year 1984. However, a 25% credit is allowed since the expenditure was made prior to December 31, 1984.~~

~~D. Limitations and carryover. Only one credit, not to exceed \$1,000 per expenditure, is allowable. Such credit is nonrefundable and may not exceed the lesser of \$1,000 or the actual tax liability computed without respect to the credit. If any portion of an otherwise~~



## 23 VAC 10-110. INDIVIDUAL INCOME TAX

~~allowable energy income tax credit is not used solely because it exceeds the individual's income tax liability, the unused portion of the credit may be carried to the succeeding taxable year and added to any credit allowable for that taxable year until used. No excess credit may be carried forward to a taxable year beginning on or after January 1, 1989.~~

~~E. Records. The taxpayer must maintain records that clearly identify the renewable energy source property with respect to which a credit is claimed and substantiate its cost to the taxpayer.~~

~~23 VAC 10-110-260. Place of filing.~~

~~Every individual who is required to file an income tax return for any taxable year must file such return, as set out in 23 VAC 10-110-240, with the commissioner of revenue, director of finance, or supervisor of assessments in the city or county in which he resides or, in the case of a nonresident, in the city or county in which his income from Virginia sources was derived. Only one return should be filed; separate returns are not required for each locality.~~

~~23 VAC 10-110-290. Voluntary contribution to political party.~~

~~Any individual who is eligible for a state income tax refund of his state income tax may elect to designate that \$2.00 of such refund be paid to the State Central Committee of a qualifying political party. A husband and wife may each designate that \$2.00 of the refund be paid to a political party regardless of whether such husband and wife file~~

## 23 VAC 10-110. INDIVIDUAL INCOME TAX

~~separate returns, a joint return or separately on a combined return. Any individual electing to make the \$2.00 contribution must designate the political party which should receive the contribution. No contribution may be made in any amount other than \$2.00 and no contribution may be made unless the contributor is due a refund of tax.~~

~~For purposes of this section, a "qualifying political party" shall be a party "which at the last preceding statewide general election polled at least 10% of the total vote cast for the office filled in that election by the voters of the Commonwealth at large." (§24.1-1 of the Code of Virginia).~~

~~23 VAC 10-110-300. Penalty for failure to file timely return.~~

~~Any person who is required by law or regulation to do so must file an income tax return and must do so on or before the due date of the return or on or before the extended due date of the return if an extension is granted by the department pursuant to 23VAC10-110-270. When any tax is due for a taxable year and the return is not timely filed, a penalty equal to 10% of the tax due shall be added to the tax due. The penalty once assessed shall become a part of the tax.~~