



Administration
Corp. Officer Liability

MEMORANDUM

TO: C. B. Davidson, Supervisor
Collections Section
Office Services Division

DATE: December 24, 1986

SUBJECT: Converted Assessments

In response to your memorandum of November 5, 1986, I enclose a copy of rules relating to the statute of limitations for converted assessments. They state that the three year period for assessing taxes (and the exceptions) also apply to conversions of an assessment.

With respect to the partnership names, a converted assessment must be made against the "responsible person" as that term is defined in § 58.1-1813. If only one of the partners is responsible then only that partner can be assessed. If more than one partner, or all partners, are responsible then each can be assessed for the entire amount for which he is "responsible."

I hope this answers your questions on converted assessments.

A handwritten signature in cursive script, appearing to read "Danny M. Payne".

Danny M. Payne, Director
Tax Policy Division

Enclosure

LIMITATIONS FOR COLLECTION OF BUSINESS TAX ASSESSMENTS

GENERAL RULE:

Taxes assessed against a corporation or partnership must be converted into the name of the "responsible person" (as defined in § 58.1-1813) and a "notice of assessment" mailed to the responsible person at his or her last known address, or personally delivered, within three years of the date on which the taxes were due and payable. (§§ 58.1-104, 58.1-1813, 58.1-1820)

EXCEPTION:

If no return was filed, or if a false or fraudulent return was filed with the intent to evade tax, then the tax may be assessed, or a proceeding begun in court, within six years of the date the tax was due and payable. (§ 58.1-104)

SPECIAL EXCEPTION FOR CHAPTER 3 TAXES:

(Specifically, the corporation income and withholding taxes)

If no return was filed, or if a false or fraudulent return was filed with the intent to evade tax, then the tax may be assessed, or a proceeding begun in court, at any time.

The other exceptions contained in § 58.1-312 also apply. Thus there are special rules for failure to report a change in federal taxable income, erroneous refunds and net operating loss carryovers.

If the underlying corporation income tax or withholding tax liability involves any of the above special exceptions, then the outstanding liability may be assessed against the responsible person within the period specified in § 58.1-312. (§§ 58.1-104, 58.1-312)

Approved:

Danny M. Payne
Danny M. Payne, Director
Tax Policy Division

12/23/82
Date

Raymond E. Dobyms
Raymond E. Dobyms
Deputy Tax Commissioner

12/23/82
Date