

TAXATION: GENERAL PROVISIONS OF TITLE 58.1.

'Line of duty' exclusion to prohibition against commissioner of revenue divulging personal property tax information is applicable to city revenue office employees. Commissioner is not prohibited from disclosing to another city revenue office information regarding year, make, model and assessed value of delinquent taxpayers' vehicles and whether taxes on such vehicles have been prorated or exonerated, to enable employees to perform duty under city code of collecting delinquent taxes.

The Honorable Marsha Compton Fielder

Commissioner of the Revenue for the City of Roanoke

January 20, 1999

You ask whether, in the circumstances you describe, § 58.1-3 of the *Code of Virginia* prohibits a commissioner of the revenue from providing employees of another city office access to confidential personal property files and records.

You state that the City of Roanoke has an office of billings and collections ("OBC") which is under the supervision of the director of finance and which has the responsibility under the city code to collect delinquent personal property taxes. While OBC currently has access to the name of the person assessed, the bill number and the amount due, you state that OBC wants access to the year, make, model and assessed value of each vehicle that a taxpayer owns and information regarding whether the personal property taxes for each vehicle have been prorated or exonerated. OBC represents that, by enabling it to provide the delinquent taxpayer specific information about the basis for the bill and to confirm or deny the accuracy of a delinquent taxpayer's statements at the outset, the information would assist OBC's collection of delinquent taxes.

Section 58.1-3(A) provides that, "[e]xcept in accordance with proper judicial order or as otherwise provided by law," a commissioner of the revenue shall not divulge any information acquired in the performance of his duties which relates to a person's personal property. While § 58.1-3 contains various exceptions to the prohibition, only two apply to the facts you present: (1) "[m]atters required by law to be entered on any public assessment roll or book;" and (2) "[a]cts performed or words spoken or published in the line of duty under the law."¹ You indicate that the information OBC requests is not entered on any public assessment roll or book.² Thus, unless the disclosure is permitted under the "line of duty" exclusion, you may not provide OBC access to the information.

Prior opinions of the Attorney General conclude that the line of duty exclusion permits local tax or revenue officers to divulge taxpayer information to other local tax or revenue officers or employees necessary for the performance of the officers' or employees' duties.³ A 1974 opinion also concludes that employees of a division within a city's department of finance are employees of a local revenue officer for purposes of the exclusion.⁴ Accordingly, it is my opinion that § 58.1-3 does not prohibit you from providing OBC information or access to information regarding the year, make, model and assessed value of delinquent taxpayers' vehicles and regarding whether the personal property taxes on the vehicles have been prorated or exonerated. This information will enable OBC to perform its duty of collecting delinquent taxes.⁵

¹Section 58.1-3(A)(1)-(2).

²See §§ 58.1-3115, 58.1-3118 (arrangement of assessment books and form of personal property book maintained by commissioner of revenue).

³See Op. Va. Att'y Gen.: 1984-1985 at 397, 398 (commissioner may disclose taxpayer's social security number to county treasurer for collection of delinquent taxes under Setoff Debt Collection Act because Act requires treasurer to submit social security numbers to Department of Taxation); 1982-1983 at 603, 604 (tax official may disclose information in aid of recovery of delinquent taxes to attorney hired to collect taxes within line of duty exclusion); 1975-1976 at 394, 395 (in light of complementary nature of duties of commissioner in assessing value of personal property and treasurer in collecting personal property taxes, commissioner's transfer of tax return of taxpayer to treasurer is within line of duty exception); 1957-1958 at 275, 276 (commissioner may permit delinquent tax collector hired by county to examine personal property return of any delinquent taxpayer who disputes correctness of tax bill).

⁴See 1974-1975 Op. Va. Att'y Gen. 524, 525 (employees of city's data processing division are employees of city's department of finance and are thus employees of revenue officer; commissioner may grant such employees access to gross receipts information to enable division to process business license tax forms).

⁵Because OBC's duty is to collect delinquent personal property taxes, only the files and records containing personal property tax information of delinquent taxpayers that will assist OBC in performing its duty may be disclosed. See 1957-1958 Op. Va. Att'y Gen., *supra* note 3, at 275-76. OBC employees are obligated to protect the confidentiality of the information the same as though they were tax officials. See § 58.1-3(A); 1982-1983 Op. Va. Att'y Gen., *supra* note 3, at 604.