

003182920

**HOUSE BILL NO. 798**

Offered January 21, 2000

*A BILL to amend and reenact §§ 58.1-322 and 58.1-402 of the Code of Virginia, relating to Virginia taxable income of residents and corporations.*

Patrons—Ruff, Albo, Barlow, Blevins, Broman, Drake, Dudley, Johnson, Landes, Stump and Van Yahres

Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:****1. That § 58.1-322 and 58.1-402 of the Code of Virginia are amended and reenacted as follows:**

§ 58.1-322. Virginia taxable income of residents.

A. The Virginia taxable income of a resident individual means his federal adjusted gross income for the taxable year, which excludes combat pay for certain members of the Armed Forces of the United States as provided in § 112 of the Internal Revenue Code, as amended, and with the modifications specified in this section.

B. To the extent excluded from federal adjusted gross income, there shall be added:

1. Interest, less related expenses to the extent not deducted in determining federal income, on obligations of any state other than Virginia, or of a political subdivision of any such other state unless created by compact or agreement to which Virginia is a party;

2. Interest or dividends, less related expenses to the extent not deducted in determining federal taxable income, on obligations or securities of any authority, commission or instrumentality of the United States, which the laws of the United States exempt from federal income tax but not from state income taxes;

3. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

4. The amount of a lump sum distribution from a qualified retirement plan, less the minimum distribution allowance and any amount excludable for federal income tax purposes which is excluded from federal adjusted gross income solely by virtue of an individual's election to use the averaging provisions under § 402 of the Internal Revenue Code;

5. through 7. [Repealed.]

8. For taxable years beginning on and after January 1, 1990, and before January 1, 1994, any amount of self-employment tax deduction under § 164 (f) of the Internal Revenue Code; and

9. The amount required to be included in income for the purpose of computing the partial tax on an accumulation distribution pursuant to § 667 of the Internal Revenue Code.

C. To the extent included in federal adjusted gross income, there shall be subtracted:

1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States including, but not limited to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2. Income derived from obligations, or on the sale or exchange of obligations of this Commonwealth or of any political subdivision or instrumentality of this Commonwealth.

3. [Repealed.]

4. Benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code.

4a. A deduction equal to the amount used in computing the federal credit allowed under § 22 of the Internal Revenue Code by a retiree under age sixty-five who qualified for such retirement on the basis of permanent and total disability and who is a qualified individual as defined in § 22 (b) (2) of the Internal Revenue Code; however, any person who claims a subtraction under subdivision 5 of subsection D of this section may not also claim a deduction under this subdivision.

5. The amount of any refund or credit for overpayment of income taxes imposed by the Commonwealth or any other taxing jurisdiction.

6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not deducted for federal purposes on account of the provisions of § 280 C (a) of the Internal Revenue Code.

7. Any amount included therein which is foreign source income as defined in § 58.1-302.

8. For taxable years beginning after December 31, 1983, the available portion of total excess cost recovery as defined in former § 58.1-323 B and for taxable years beginning after December 31, 1987, the excess cost recovery amount specified in § 58.1-323.1 B.

INTRODUCED

HB798

60 9. [Expired.]

61 10. Any amount included therein less than \$600 from a prize awarded by the State Lottery  
62 Department.

63 11. The wages or salaries received by any person for active and inactive service in the National  
64 Guard of the Commonwealth of Virginia, not to exceed the amount of income derived from thirty-nine  
65 calendar days of such service or \$3,000, whichever amount is less; however, only those persons in the  
66 ranks of O3 and below shall be entitled to the deductions specified herein.

67 12. Amounts received by an individual, not to exceed \$1,000 in any taxable year, as a reward for  
68 information provided to a law-enforcement official or agency, or to a nonprofit corporation created  
69 exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of  
70 perpetrators of crimes. This provision shall not apply to the following: an individual who is an employee  
71 of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which  
72 the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

73 13. [Repealed.]

74 14. (Expires for taxable years beginning on and after January 1, 2004.) The amount of any qualified  
75 agricultural contribution as determined in § 58.1-322.2.

76 15. [Repealed.]

77 16. The amounts of self-employment tax required to be added in computing Virginia taxable income  
78 for taxable years beginning on and after January 1, 1990, but before January 1, 1994, pursuant to  
79 subdivision B 8 of this section, as follows:

80 a. For taxable years beginning on and after January 1, 1994, and before January 1, 1995, the amount  
81 of self-employment tax added to federal adjusted gross income in taxable years beginning on and after  
82 January 1, 1990, and before January 1, 1991;

83 b. For taxable years beginning on and after January 1, 1995, and before January 1, 1996, the amount  
84 of self-employment tax added to federal adjusted gross income in taxable years beginning on and after  
85 January 1, 1991, and before January 1, 1992;

86 c. For taxable years beginning on and after January 1, 1996, and before January 1, 1997, the amount  
87 of self-employment tax added to federal adjusted gross income in taxable years beginning on and after  
88 January 1, 1992, and before January 1, 1993;

89 d. For taxable years beginning on and after January 1, 1997, and before January 1, 1998, the amount  
90 of self-employment tax added to federal adjusted gross income in taxable years beginning on and after  
91 January 1, 1993, and before January 1, 1994, and any amount of self-employment tax required to be  
92 added back for taxable years beginning on and after January 1, 1990, and before January 1, 1994, which  
93 was not subtracted in those taxable years.

94 17. For taxable years beginning on and after January 1, 1995, the amount of "qualified research  
95 expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not  
96 deducted, on account of the provisions of § 280 C (c) of the Internal Revenue Code and which shall be  
97 available to partners, shareholders of S corporations, and members of limited liability companies to the  
98 extent and in the same manner as other deductions may pass through to such partners, shareholders, and  
99 members.

100 18. For taxable years beginning on or after January 1, 1995, all military pay and allowances, not  
101 otherwise subtracted under this subsection, earned for any month during any part of which such member  
102 performed military service in any part of the former Yugoslavia, including the air space above such  
103 location or any waters subject to related naval operations, in support of Operation JOINT ENDEAVOR  
104 as part of the NATO Peace Keeping Force. Such subtraction shall be available until the taxpayer  
105 completes such service.

106 19. For taxable years beginning on and after January 1, 1996, any income received during the taxable  
107 year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the  
108 Internal Revenue Code, an individual retirement account or annuity established under § 408 of the  
109 Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code,  
110 or any federal government retirement program, the contributions to which were deductible from the  
111 taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or  
112 program were subject to taxation under the income tax in another state.

113 20. For taxable years beginning on and after January 1, 1997, any income attributable to a  
114 distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the  
115 Virginia Higher Education Tuition Trust Fund, created pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of  
116 Title 23. The subtraction for any income attributable to a refund shall be limited to income attributable  
117 to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

118 21. For taxable years beginning on or after January 1, 1998, all military pay and allowances, to the  
119 extent included in federal adjusted gross income and not otherwise subtracted, deducted or exempted  
120 under this section, earned by military personnel while serving by order of the President of the United  
121 States with the consent of Congress in a combat zone or qualified hazardous duty area which is treated

122 as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

123 22. For taxable years beginning on or after January 1, 2000, the gain derived from the sale or  
124 exchange of real property or the sale or exchange of an easement to real property which results in the  
125 real property or the easement thereto being devoted to open-space use, as that term is defined in  
126 § 58.1-3230, for a period of time not less than thirty years. To the extent a subtraction is taken in  
127 accordance with this subdivision, no tax credit under this chapter for donating land for its preservation  
128 shall be allowed for three years following the year in which the subtraction is taken.

129 23. (Delayed effective date) Effective for all taxable years beginning on or after January 1, 2000,  
130 \$15,000 of military basic pay for military service personnel on extended active duty for periods in  
131 excess of ninety days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount  
132 which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero if such military  
133 basic pay amount is equal to or exceeds \$30,000.

134 24. (Delayed effective date) Effective for all taxable years beginning on and after January 1, 2000,  
135 the first \$15,000 of salary for each federal and state employee whose annual salary is \$15,000 or less.

136 25. (Delayed effective date) Unemployment benefits taxable pursuant to § 85 of the Internal Revenue  
137 Code.

138 26. *Effective for all taxable years beginning on and after January 1, 1999, income received by*  
139 *tobacco farmers as a result of the "Master Settlement Agreement" as defined in § 3.1-336.1, but only to*  
140 *the extent that such income has not been subtracted pursuant to subdivision C 18 of § 58.1-402.*

141 D. In computing Virginia taxable income there shall be deducted from federal adjusted gross income:

142 1. a. The amount allowable for itemized deductions for federal income tax purposes where the  
143 taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the  
144 amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted  
145 on such federal return and increased by an amount which, when added to the amount deducted under  
146 § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for  
147 such purposes at a rate of eighteen cents per mile; or

148 b. Two thousand dollars for taxable years beginning January 1, 1987, through December 31, 1987;  
149 \$2,700 for taxable years beginning January 1, 1988, through December 31, 1988; and \$5,000 for  
150 married persons (one-half of such amounts in the case of a married individual filing a separate return);  
151 and \$3,000 for single individuals for taxable years beginning on and after January 1, 1989; provided that  
152 the taxpayer has not itemized deductions for the taxable year on his federal income tax return. For  
153 purposes of this section, any person who may be claimed as a dependent on another taxpayer's return for  
154 the taxable year may compute the deduction only with respect to earned income.

155 2. a. A deduction in the amount of \$700 for taxable years beginning January 1, 1987, through  
156 December 31, 1987, and \$800 for taxable years beginning on and after January 1, 1988, for each  
157 personal exemption allowable to the taxpayer for federal income tax purposes. For taxable years  
158 beginning on and after January 1, 1987, each blind or aged taxpayer as defined under § 63 (f) of the  
159 Internal Revenue Code shall be entitled to an additional personal exemption.

160 b. An additional deduction of \$200 for taxable years beginning January 1, 1987, through December  
161 31, 1987, for each blind or aged taxpayer as defined under § 63 (f) of the Internal Revenue Code. The  
162 additional deduction for blind or aged taxpayers allowed under this subdivision and the additional  
163 personal exemption allowed to blind or aged taxpayers under subdivision 2 a of this subsection shall be  
164 allowable regardless of whether the taxpayer itemizes deductions for the taxable year for federal income  
165 tax purposes.

166 3. A deduction equal to the amount of employment-related expenses upon which the federal credit is  
167 based under § 21 of the Internal Revenue Code for expenses for household and dependent care services  
168 necessary for gainful employment.

169 4. An additional \$1,000 deduction for each child residing for the entire taxable year in a home under  
170 permanent foster care placement as defined in Chapter 10 (§ 63.1-195 et seq.) of Title 63.1, provided the  
171 taxpayer can also claim the child as a personal exemption under § 151 of the Internal Revenue Code.

172 5. Effective for all taxable years beginning on and after January 1, 1990, a deduction in the amount  
173 of \$12,000 for taxpayers age sixty-five or older, or \$6,000 for taxpayers age sixty-two through  
174 sixty-four, less any amount received pursuant to the (i) Social Security Act or (ii) Railroad Retirement  
175 Act and treated for federal income tax purposes as equivalent to social security. Beginning in taxable  
176 year 1992 through taxable year 1993, the \$12,000 and \$6,000 deduction amounts shall be indexed  
177 annually in each such taxable year by an amount equivalent to the most recent percentage increase in  
178 the social security wage base.

179 Effective for the taxable year beginning January 1, 1994, a deduction in the amount of \$12,944 for  
180 taxpayers age sixty-five or older, or \$6,472 for taxpayers age sixty-two through sixty-four. Effective for  
181 the taxable year beginning January 1, 1995, a deduction in the amount of \$10,000 for taxpayers age  
182 sixty-five or older, or \$5,000 for taxpayers age sixty-two through sixty-four. Effective for all taxable

183 years beginning on or after January 1, 1996, a deduction in the amount of \$12,000 for taxpayers age  
184 sixty-five or older, or \$6,000 for taxpayers age sixty-two through sixty-four.

185 Beginning in taxable year 1995, the deductions under this subdivision shall not be reduced by any  
186 amount received pursuant to the (i) Social Security Act or (ii) Railroad Retirement Act and treated for  
187 federal income tax purposes as equivalent to social security.

188 6. For taxable years beginning on and after January 1, 1997, the amount an individual pays as a fee  
189 for an initial screening to become a possible bone marrow donor, if (i) the individual is not reimbursed  
190 for such fee or (ii) the individual has not claimed a deduction for the payment of such fee on his federal  
191 income tax return.

192 7. a. (Effective for taxable years beginning on and after January 1, 1996.) A deduction shall be  
193 allowed to the purchaser or contributor for the amount paid or contributed during the taxable year for a  
194 prepaid tuition contract or savings trust account entered into with the Virginia Higher Education Tuition  
195 Trust Fund, pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. Except as provided in subdivision 7  
196 c, the amount deducted on any individual income tax return in any taxable year shall be limited to  
197 \$2,000 per prepaid tuition contract or savings trust account. No deduction shall be allowed pursuant to  
198 this section if such payments or contributions are deducted on the purchaser's or contributor's federal  
199 income tax return. If the purchase price or annual contribution to a savings trust account exceeds  
200 \$2,000, the remainder may be carried forward and subtracted in future taxable years until the purchase  
201 price or savings trust contribution has been fully deducted; however, except as provided in subdivision 7  
202 c, in no event shall the amount deducted in any taxable year exceed \$2,000 per contract or savings trust  
203 account. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any  
204 deduction taken hereunder shall be subject to recapture in the taxable year or years in which  
205 distributions or refunds are made for any reason other than (i) to pay qualified higher education  
206 expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death, disability, or  
207 receipt of a scholarship. For the purposes of this subdivision, the term "purchaser" or "contributor"  
208 means the person shown as such on the records of the Virginia Higher Education Tuition Trust Fund as  
209 of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract  
210 or savings trust account, the transferee shall succeed to the transferor's tax attributes associated with a  
211 prepaid tuition contract or savings trust account, including, but not limited to, carryover and recapture of  
212 deductions.

213 b. (Effective for taxable years beginning on and after January 1, 1996.) The amount paid for a  
214 prepaid tuition contract during taxable years beginning on or after January 1, 1996, but before January  
215 1, 1998, shall be deducted in taxable years beginning on or after January 1, 1998, and shall be subject  
216 to the limitations set out in subdivision 7 a.

217 c. (Effective for taxable years beginning on and after January 1, 1998.) A purchaser of a prepaid  
218 tuition contract who has attained age seventy shall not be subject to the limitation that the amount of the  
219 deduction not exceed \$2,000 per contract in any taxable year. Such taxpayer shall be allowed a  
220 deduction for the full amount paid for the contract, less any amounts previously deducted. If a prepaid  
221 tuition contract was purchased by such taxpayer during taxable years beginning on or after January 1,  
222 1996, but before January 1, 1998, such taxpayer may take the deduction for the full amount paid during  
223 such years, less any amounts previously deducted with respect to such payments, in taxable year 1999 or  
224 by filing an amended return for taxable year 1998.

225 8. For taxable years beginning on and after January 1, 2000, the total amount an individual actually  
226 contributed in funds to the Virginia Public School Construction Grants Program and Fund, established in  
227 Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1, provided the individual has not claimed a deduction for  
228 such amount on his federal income tax return.

229 9. For taxable years beginning on and after January 1, 1999, an amount equal to twenty percent of  
230 the tuition costs incurred by an individual employed as a primary or secondary school teacher licensed  
231 pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1 to attend continuing teacher education courses  
232 that are required as a condition of employment; however, the deduction provided by this subsection shall  
233 be available only if (i) the individual is not reimbursed for such tuition costs and (ii) the individual has  
234 not claimed a deduction for the payment of such tuition costs on his federal income tax return.

235 10. For taxable years beginning on and after January 1, 2000, the amount an individual pays  
236 annually in premiums for long term health care insurance, provided the individual has not claimed a  
237 deduction for federal income tax purposes.

238 E. There shall be added to or subtracted from federal adjusted gross income, as the case may be, the  
239 individual's share, as beneficiary of an estate or trust, of the Virginia fiduciary adjustment determined  
240 under § 58.1-361.

241 F. There shall be added or subtracted, as the case may be, the amounts provided in § 58.1-315 as  
242 transitional modifications.

243 § 58.1-402. Virginia taxable income.

244 A. For purposes of this article, Virginia taxable income for a taxable year means the federal taxable

245 income and any other income taxable to the corporation under federal law for such year of a corporation  
246 adjusted as provided in subsections B, C and D.

247 For a regulated investment company and a real estate investment trust, such term means the  
248 "investment company taxable income" and "real estate investment trust taxable income," respectively, to  
249 which shall be added in each case any amount of capital gains and any other income taxable to the  
250 corporation under federal law which shall be further adjusted as provided in subsections B, C and D.

251 B. There shall be added to the extent excluded from federal taxable income:

252 1. Interest, less related expenses to the extent not deducted in determining federal taxable income, on  
253 obligations of any state other than Virginia, or of a political subdivision of any such other state unless  
254 created by compact or agreement to which the Commonwealth is a party;

255 2. Interest or dividends, less related expenses to the extent not deducted in determining federal  
256 taxable income, on obligations or securities of any authority, commission or instrumentality of the  
257 United States, which the laws of the United States exempt from federal income tax but not from state  
258 income taxes;

259 3. [Repealed.]

260 4. The amount of any net income taxes and other taxes, including franchise and excise taxes, which  
261 are based on, measured by, or computed with reference to net income, imposed by the Commonwealth  
262 or any other taxing jurisdiction, to the extent deducted in determining federal taxable income;

263 5. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

264 6. The amount of employee stock ownership credit carry-over deducted by the corporation in  
265 computing federal taxable income under § 404 (i) of the Internal Revenue Code;

266 7. The amount required to be included in income for the purpose of computing the partial tax on an  
267 accumulation distribution pursuant to § 667 of the Internal Revenue Code.

268 C. There shall be subtracted to the extent included in and not otherwise subtracted from federal  
269 taxable income:

270 1. Income derived from obligations, or on the sale or exchange of obligations, of the United States  
271 and on obligations or securities of any authority, commission or instrumentality of the United States to  
272 the extent exempt from state income taxes under the laws of the United States including, but not limited  
273 to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes,  
274 interest on equipment purchase contracts, or interest on other normal business transactions.

275 2. Income derived from obligations, or on the sale or exchange of obligations of this Commonwealth  
276 or of any political subdivision or instrumentality of this Commonwealth.

277 3. Dividends upon stock in any domestic international sales corporation, as defined by § 992 of the  
278 Internal Revenue Code, fifty percent or more of the income of which was assessable for the preceding  
279 year, or the last year in which such corporation has income, under the provisions of the income tax laws  
280 of the Commonwealth.

281 4. The amount of any refund or credit for overpayment of income taxes imposed by this  
282 Commonwealth or any other taxing jurisdiction.

283 5. Any amount included therein by the operation of the provisions of § 78 of the Internal Revenue  
284 Code (foreign dividend gross-up).

285 6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not  
286 deducted for federal purposes on account of the provisions of § 280 C (a) of the Internal Revenue Code.

287 7. Any amount included therein by the operation of § 951 of the Internal Revenue Code (subpart F  
288 income).

289 8. Any amount included therein which is foreign source income as defined in § 58.1-302.

290 9. For taxable years beginning after December 31, 1983, the available portion of total excess cost  
291 recovery as defined in former § 58.1-323 B and for taxable years beginning after December 31, 1987,  
292 the excess cost recovery amount specified in § 58.1-323.1 C.

293 10. The amount of any dividends received from corporations in which the taxpaying corporation  
294 owns fifty percent or more of the voting stock.

295 11. [Repealed.]

296 12. [Expired.]

297 13. (Expires for taxable years beginning on and after January 1, 2004.) The amount of any qualified  
298 agricultural contribution as determined in § 58.1-322.2.

299 14. For taxable years beginning on or after January 1, 1995, the amount for "qualified research  
300 expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not  
301 deducted, on account of the provisions of § 280 C (c) of the Internal Revenue Code.

302 15. For taxable years beginning on or after January 1, 2000, the total amount actually contributed in  
303 funds to the Virginia Public School Construction Grants Program and Fund established in Chapter 11.1  
304 (§ 22.1-175.1 et seq.) of Title 22.1.

305 16. For taxable years beginning on or after January 1, 2000, the gain derived from the sale or

306 exchange of real property or the sale or exchange of an easement to real property which results in the  
307 real property or the easement thereto being devoted to open-space use, as that term is defined in  
308 § 58.1-3230, for a period of time not less than thirty years. To the extent a subtraction is taken in  
309 accordance with this subdivision, no tax credit under this chapter for donating land for its preservation  
310 shall be allowed for three years following the year in which the subtraction is taken.

311 17. For taxable years beginning on and after January 1, 2001, any amount included therein with  
312 respect to § 58.1-440.1.

313 18. *For taxable years beginning on and after January 1, 1999, income received by tobacco farming*  
314 *businesses as a result of the "Master Settlement Agreement" as defined in § 3.1-336.1.*

315 D. Adjustments to federal taxable income shall be made to reflect the transitional modifications  
316 provided in § 58.1-315.

317 **2. That an emergency exists and this act is in force from its passage.**