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HOUSE BILL NO. 1193

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Commerce and Labor
on February 5, 2008)

(Patron Prior to Substitute—Delegate Moran)

A BILL to amend and reenact §§ 2.2-2903.1, 51.1-502, and 58.1-322 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-1204.1, relating to supplemental state employee pay for, life insurance for, and income tax subtraction for certain military service personnel.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2903.1, 51.1-502, and 58.1-322 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-1204.1 as follows:

§ 2.2-1204.1. Supplemental pay policy for state employees on active military duty.

The Department shall develop, in cooperation with the Department of Planning and Budget, state personnel policies providing supplemental pay to any state employee who (i) is on active military duty in the armed forces of the United States and (ii) receives active military duty pay in an amount that is less than his regular state pay. Such policies shall provide, to the extent possible, for supplemental pay in the amount equaling the difference between the state employee's regular pay and the military pay received during all or any part of the term of active military duty.

As used in this section, "active military duty" and "state employee" mean the same as those terms are defined in § 2.2-2903.1.

§ 2.2-2903.1. State employees ordered to active military service.

A. As used in this section, unless the context requires a different meaning:

"Active military duty" means federally funded military duty as (i) a member of the armed forces of the United States on active duty pursuant to Title 10 U.S.C. or (ii) a member of the Virginia National Guard on active duty pursuant to either Title 10 or Title 32 U.S.C.

"State employee" means any person who is regularly employed full time on either a salaried or wage basis, whose tenure is not restricted as to temporary or provisional appointment, in the service of, and whose compensation is payable, no more often than biweekly, in whole or in part, by the Commonwealth or any department, institution or agency thereof.

B. For any state employee who has been ordered to active military service in the armed forces of the United States or in the organized reserve forces of any of the armed services of the United States or of the Virginia National Guard, the Commonwealth shall allow the use of accrued annual leave for active military duty according to personnel policies developed by the Department of Human Resource Management. In addition, any state employee who has been ordered to active military service shall also be eligible for supplemental pay benefits pursuant to § 2.2-1204.1.

§ 51.1-502. Eligible employees and officers.

The following persons are eligible to participate in the group insurance program:

1. Teachers.
2. State employees.
3. Members of the State Police Officers' Retirement System.
4. Members of the Judicial Retirement System.
5. Members of the Virginia Law Officers' Retirement System.

6. Regular full-time employees of a political subdivision participating in the Virginia Retirement System, subject to Board approval. In order for coverage to become effective, seventy-five percent of the eligible employees must elect to become covered on the effective date of coverage. Limitation of waiver of group insurance as provided in this chapter shall be in effect for all employees after the effective date of coverage.

7. Regular full-time employees of a local school board who participate in the retirement system of a local government which provides group life insurance for its employees under this chapter.

8. Individuals who have established domicile in Virginia, as provided in § 23-7.4, while they are members of the National Guard, provided that such individuals (i) comply with procedures for applying to the Board for coverage under the group insurance program, (ii) provide evidence of the amount of annual salary for such service, and (iii) notwithstanding any provision of § 51.1-506 to the contrary, pay the full amount of the cost of coverage under the group insurance program. Such individuals shall be provided the option of purchasing optional life insurance under §§ 51.1-512 and 51.1-512.1 to the same extent as active insured employees.

§ 58.1-322. Virginia taxable income of residents.

A. The Virginia taxable income of a resident individual means his federal adjusted gross income for

60 the taxable year, which excludes combat pay for certain members of the Armed Forces of the United
61 States as provided in § 112 of the Internal Revenue Code, as amended, and with the modifications
62 specified in this section.

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

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

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

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

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

76 5 through 8. [Repealed.]

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

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

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

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

87 3. [Repealed.]

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

90 4a. Through December 31, 2000, the same amount used in computing the federal credit allowed
91 under § 22 of the Internal Revenue Code by a retiree under age 65 who qualified for such retirement on
92 the basis of permanent and total disability and who is a qualified individual as defined in § 22 (b) (2) of
93 the Internal Revenue Code; however, any person who claims a deduction under subdivision 5 of
94 subsection D of this section may not also claim a subtraction under this subdivision.

95 4b. For taxable years beginning on or after January 1, 2001, up to \$20,000 of disability income, as
96 defined in § 22 (c) (2) (B) (iii) of the Internal Revenue Code; however, any person who claims a
97 deduction under subdivision 5 of subsection D of this section may not also claim a subtraction under
98 this subdivision.

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

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

103 7, 8. —Repealed.]

104 9. —Expired.]

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

107 11. The wages or salaries received by any person for active and inactive service in the National
108 Guard of the Commonwealth of Virginia, not to exceed the amount of income derived from 39 calendar
109 days of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of
110 O3 and below shall be entitled to the deductions specified herein.

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

117 13. [Repealed.]

118 14. [Expired.]

119 15, 16. [Repealed.]

120 17. For taxable years beginning on and after January 1, 1995, the amount of "qualified research
121 expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not

deducted, on account of the provisions of § 280C (c) of the Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and members of limited liability companies to the extent and in the same manner as other deductions may pass through to such partners, shareholders, and members.

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

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

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

21. For taxable years beginning on or after January 1, 1998, all military pay and allowances, to the extent included in federal adjusted gross income and not otherwise subtracted, deducted or exempted under this section, earned by military personnel while serving by order of the President of the United States with the consent of Congress in a combat zone or qualified hazardous duty area which is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

22. For taxable years beginning on or after January 1, 2000, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

23. Effective for all taxable years beginning on or after January 1, 2000, \$15,000 of military basic pay for military service personnel on extended active duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero if such military basic pay amount is equal to or exceeds \$30,000.

24. Effective for all taxable years beginning on and after January 1, 2000, the first \$15,000 of salary for each federal and state employee whose total annual salary from all employment for the taxable year is \$15,000 or less.

25. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

26. For taxable years beginning on and after January 1, 2001, any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

27. Effective for all taxable years beginning on and after January 1, 1999, income received as a result of (i) the "Master Settlement Agreement," as defined in § 3.1-1106; (ii) the National Tobacco Grower Settlement Trust dated July 19, 1999; and (iii) the Tobacco Loss Assistance Program, pursuant to 7 C.F.R. Part 1464 (Subpart C, §§ 1464.201 through 1464.205), by (a) tobacco farmers; (b) any person holding a tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of 1938; or (c) any person having the right to grow tobacco pursuant to such a quota or allotment, but only to the extent that such income has not been subtracted pursuant to subdivision C 18 of § 58.1-402.

28. For taxable years beginning on and after January 1, 2000, items of income attributable to, derived from or in any way related to (i) assets stolen from, hidden from or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other consideration received by a victim or target of Nazi persecution to compensate such individual for performing labor against his will under the threat of death, during World War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with the proceeds from the sale of assets stolen from, hidden from or otherwise lost to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this subdivision shall only apply to an individual who was the first recipient of such items of income and

183 who was a victim or target of Nazi persecution, or a spouse, widow, widower, or child or stepchild of
184 such victim.

185 "Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by
186 the Nazi regime who had assets stolen from, hidden from or otherwise lost as a result of any act or
187 omission in any way relating to (i) the Holocaust; (ii) World War II and its prelude and direct
188 aftermath; (iii) transactions with or actions of the Nazi regime; (iv) treatment of refugees fleeing Nazi
189 persecution; or (v) the holding of such assets by entities or persons in the Swiss Confederation during
190 World War II and its prelude and aftermath. A victim or target of Nazi persecution shall also include
191 any individual forced into labor against his will, under the threat of death, during World War II and its
192 prelude and direct aftermath. As used in this subdivision, "Nazi regime" means the country of Nazi
193 Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any
194 other neutral European country or area in Europe under the influence or threat of Nazi invasion.

195 29. For taxable years beginning on and after January 1, 2002, any gain recognized as a result of the
196 Peanut Quota Buyout Program of the Farm Security and Rural Investment Act of 2002 pursuant to 7
197 C.F.R. Part 1412 (Subpart H, §§ 1412.801 through 1412.811) as follows:

198 a. If the payment is received in installment payments pursuant to 7 C.F.R. § 1412.807(a) (2), then the
199 entire gain recognized may be subtracted.

200 b. If the payment is received in a single payment pursuant to 7 C.F.R. § 1412.807(a) (3), then 20
201 percent of the recognized gain may be subtracted. The taxpayer may then deduct an equal amount in
202 each of the four succeeding taxable years.

203 30. Effective for all taxable years beginning on and after January 1, 2002, but before January 1,
204 2005, the indemnification payments received by contract poultry growers and table egg producers from
205 the U.S. Department of Agriculture as a result of the depopulation of poultry flocks because of low
206 pathogenic avian influenza in 2002. In no event shall indemnification payments made to owners of
207 poultry who contract with poultry growers qualify for this subtraction.

208 31. Effective for all taxable years beginning on or after January 1, 2001, the military death gratuity
209 payment made after September 11, 2001, to the survivor of deceased military personnel killed in the line
210 of duty, pursuant to Chapter 75 of Title 10 of the United States Code; however, the subtraction amount
211 shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal gross
212 income in accordance with § 134 of the Internal Revenue Code.

213 32. Effective for all taxable years beginning on or after January 1, 2007, the death benefit payments
214 from an annuity contract that are received by a beneficiary of such contract and are subject to federal
215 income taxation.

216 33. *Effective for all taxable years beginning on or after January 1, 2008, all military pay included in*
217 *federal adjusted gross income and not otherwise subtracted, deducted, or exempted under this section,*
218 *for National Guard and Reserve personnel on extended active duty for periods of 90 days or more,*
219 *outside the United States, in an area not designated as a combat zone or qualified hazardous duty area*
220 *as defined in subdivision C 21.*

221 D. In computing Virginia taxable income there shall be deducted from Virginia adjusted gross
222 income as defined in § 58.1-321:

223 1. a. The amount allowable for itemized deductions for federal income tax purposes where the
224 taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the
225 amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted
226 on such federal return and increased by an amount which, when added to the amount deducted under
227 § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for
228 such purposes at a rate of 18 cents per mile; or

229 b. Three thousand dollars for single individuals for taxable years beginning on and after January 1,
230 1989; \$5,000 for married persons (one-half of such amounts in the case of a married individual filing a
231 separate return) for taxable years beginning on and after January 1, 1989, but before January 1, 2005;
232 and \$6,000 for married persons (one-half of such amounts in the case of a married individual filing a
233 separate return) for taxable years beginning on and after January 1, 2005; provided that the taxpayer has
234 not itemized deductions for the taxable year on his federal income tax return. For purposes of this
235 section, any person who may be claimed as a dependent on another taxpayer's return for the taxable year
236 may compute the deduction only with respect to earned income.

237 2. a. A deduction in the amount of \$800 for taxable years beginning on and after January 1, 1988,
238 but before January 1, 2005; \$900 for taxable years beginning on and after January 1, 2005, but before
239 January 1, 2008; and \$930 for taxable years beginning on and after January 1, 2008, for each personal
240 exemption allowable to the taxpayer for federal income tax purposes.

241 b. For taxable years beginning on and after January 1, 1987, each blind or aged taxpayer as defined
242 under § 63 (f) of the Internal Revenue Code shall be entitled to an additional personal exemption in the
243 amount of \$800.

244 The additional deduction for blind or aged taxpayers allowed under this subdivision shall be

allowable regardless of whether the taxpayer itemizes deductions for the taxable year for federal income tax purposes.

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

4. An additional \$1,000 deduction for each child residing for the entire taxable year in a home under permanent foster care placement as defined in § 63.2-908, provided the taxpayer can also claim the child as a personal exemption under § 151 of the Internal Revenue Code.

5. a. Effective for all taxable years beginning on or after January 1, 1996, but before January 1, 2004, a deduction in the amount of \$12,000 for taxpayers age 65 or older, or \$6,000 for taxpayers age 62 through 64.

b. For taxable years beginning on and after January 1, 2004, a deduction in the amount of \$12,000 for individuals born on or before January 1, 1939.

c. For taxable years beginning January 1, 2004, but before January 1, 2005, a deduction in the amount of \$6,000 for individuals born on or between January 2, 1940, and January 1, 1942.

d. For taxable years beginning January 1, 2005, but before January 1, 2006, a deduction in the amount of \$6,000 for individuals born on or between January 2, 1941, and January 1, 1942.

e. For taxable years beginning on and after January 1, 2004, a deduction in the amount of \$12,000 for individuals born after January 1, 1939, who have attained the age of 65. This deduction shall be reduced by \$1 for every \$1 that the taxpayer's adjusted federal adjusted gross income exceeds \$50,000 for single taxpayers or \$75,000 for married taxpayers. For married taxpayers filing separately, the deduction will be reduced by \$1 for every \$1 the total combined adjusted federal adjusted gross income of both spouses exceeds \$75,000.

f. For the purposes of this subdivision, "adjusted federal adjusted gross income" means federal adjusted gross income minus any 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, as amended.

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

7. a. (Applicable to taxable years beginning before January 1, 2009) A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed during the taxable year for a prepaid tuition contract or savings trust account entered into with the Virginia College Savings Plan, pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. Except as provided in subdivision 7 c, the amount deducted on any individual income tax return in any taxable year shall be limited to \$2,000 per prepaid tuition contract or savings trust account. No deduction shall be allowed pursuant to this section if such payments or contributions are deducted on the purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a savings trust account exceeds \$2,000, the remainder may be carried forward and subtracted in future taxable years until the purchase price or savings trust contribution has been fully deducted; however, except as provided in subdivision 7 c, in no event shall the amount deducted in any taxable year exceed \$2,000 per contract or savings trust account. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are made for any reason other than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision, the term "purchaser" or "contributor" means the person shown as such on the records of the Virginia College Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or savings trust account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition contract or savings trust account, including, but not limited to, carryover and recapture of deductions.

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

c. A purchaser of a prepaid tuition contract or contributor to a savings trust account who has attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$2,000 per prepaid tuition contract or savings trust account in any taxable year. Such taxpayer shall be allowed a deduction for the full amount paid for the contract or contributed to a savings trust account, less any amounts previously deducted. If a prepaid tuition contract was purchased by such taxpayer during taxable years beginning on or after January 1, 1996, but before January 1, 1998, such taxpayer may take the deduction for the full amount paid during such years, less any amounts previously deducted with

respect to such payments, in taxable year 1999 or by filing an amended return for taxable year 1998.

7. a. (Applicable to taxable years beginning on or after January 1, 2009) A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed during the taxable year for a prepaid tuition contract or savings trust account entered into with the Virginia College Savings Plan, pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. Except as provided in subdivision 7 c, the amount deducted on any individual income tax return in any taxable year shall be limited to \$4,000 per prepaid tuition contract or savings trust account. No deduction shall be allowed pursuant to this section if such payments or contributions are deducted on the purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a savings trust account exceeds \$4,000, the remainder may be carried forward and subtracted in future taxable years until the purchase price or savings trust contribution has been fully deducted; however, except as provided in subdivision 7 c, in no event shall the amount deducted in any taxable year exceed \$4,000 per contract or savings trust account. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are made for any reason other than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision, the term "purchaser" or "contributor" means the person shown as such on the records of the Virginia College Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or savings trust account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition contract or savings trust account, including, but not limited to, carryover and recapture of deductions.

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

c. A purchaser of a prepaid tuition contract or contributor to a savings trust account who has attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000 per prepaid tuition contract or savings trust account in any taxable year. Such taxpayer shall be allowed a deduction for the full amount paid for the contract or contributed to a savings trust account, less any amounts previously deducted. If a prepaid tuition contract was purchased by such taxpayer during taxable years beginning on or after January 1, 1996, but before January 1, 1998, such taxpayer may take the deduction for the full amount paid during such years, less any amounts previously deducted with respect to such payments, in taxable year 1999 or by filing an amended return for taxable year 1998.

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

9. For taxable years beginning on and after January 1, 1999, an amount equal to 20 percent of the tuition costs incurred by an individual employed as a primary or secondary school teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1 to attend continuing teacher education courses that are required as a condition of employment; however, the deduction provided by this subsection shall be available only if (i) the individual is not reimbursed for such tuition costs and (ii) the individual has not claimed a deduction for the payment of such tuition costs on his federal income tax return.

10. For taxable years beginning on and after January 1, 2000, the amount an individual pays annually in premiums for long-term health care insurance, provided the individual has not claimed a deduction for federal income tax purposes, or a credit under § 58.1-339.11.

11. For taxable years beginning on and after January 1, 2006, contract payments to a producer of quota tobacco or a tobacco quota holder, or their spouses, as provided under the American Jobs Creation Act of 2004 (P.L. 108-357), but only to the extent that such payments have not been subtracted pursuant to subsection D of § 58.1-402, as follows:

a. If the payment is received in installment payments, then the recognized gain, including any gain recognized in taxable year 2005, may be subtracted in the taxable year immediately following the year in which the installment payment is received.

b. If the payment is received in a single payment, then 10% of the recognized gain may be subtracted in the taxable year immediately following the year in which the single payment is received. The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

12. For taxable years beginning on and after January 1, 2007, an amount equal to 20% of the sum paid by an individual pursuant to Chapter 6 (§ 58.1-600 et seq.) of this title, not to exceed \$500 in each taxable year, in purchasing for his own use the following items of tangible personal property: (i) any clothes washers, room air conditioners, dishwashers, and standard size refrigerators that meet or exceed the applicable energy star efficiency requirements developed by the United States Environmental Protection Agency and the United States Department of Energy; (ii) any fuel cell that (a) generates electricity using an electrochemical process, (b) has an electricity-only generation efficiency greater than

35%, and (c) has a generating capacity of at least two kilowatts; (iii) any gas heat pump that has a coefficient of performance of at least 1.25 for heating and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that yields an energy factor of at least 1.7; (v) any electric heat pump that has a heating system performance factor of at least 8.0 and a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner that has a cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater that has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization rating of 85; and (x) programmable thermostats.

13. For taxable years beginning on or after January 1, 2007, the lesser of \$5,000 or the amount actually paid by a living donor of an organ or other living tissue for unreimbursed out-of-pocket expenses directly related to the donation that arose within 12 months of such donation, provided the donor has not taken a medical deduction in accordance with the provisions of § 213 of the Internal Revenue Code for such expenses. The deduction may be taken in the taxable year in which the donation is made or the taxable year in which the 12-month period expires.

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

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

G. Effective for all taxable years beginning on or after January 1, 2007, to the extent included in federal adjusted gross income, there shall be (i) subtracted from federal adjusted gross income by a shareholder of an electing small business corporation (S corporation) that is subject to the bank franchise tax imposed under Chapter 12 (§ 58.1-1200 et seq.) for the calendar year in which such taxable year begins, the shareholder's allocable share of the income or gain of such electing small business corporation (S corporation), and (ii) added back to federal adjusted gross income such that, federal adjusted gross income shall be increased, by a shareholder of an electing small business corporation (S corporation) that is subject to the bank franchise tax imposed under Chapter 12 (§ 58.1-1200 et seq.) for the calendar year in which such taxable year begins, the shareholder's allocable share of the losses or deductions of such electing small business corporation (S corporation).

Effective for all taxable years beginning on or after January 1, 2007, to the extent excluded from federal adjusted gross income, there shall be added to federal adjusted gross income by a shareholder of an electing small business corporation (S corporation) that is subject to the bank franchise tax imposed under Chapter 12 (§ 58.1-1200 et seq.) for the calendar year in which such taxable year begins, the value of any distribution paid or distributed to the shareholder by such electing small business corporation (S corporation).