

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 58.1-301 of the Code of Virginia, relating to conformity of the*
3 *Commonwealth's taxation system with Internal Revenue Code § 199.*

4 [H 1153]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 58.1-301 of the Code of Virginia is amended and reenacted as follows:**

8 § 58.1-301. Conformity to Internal Revenue Code.

9 A. Any term used in this chapter shall have the same meaning as when used in a comparable context
10 in the laws of the United States relating to federal income taxes, unless a different meaning is clearly
11 required.12 B. Any reference in this chapter to the laws of the United States relating to federal income taxes
13 shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other
14 provisions of the laws of the United States relating to federal income taxes, as they existed on
15 December 31, 2010, except for:16 1. The special depreciation allowance for certain property provided for under §§ 168(k), 168(l),
17 168(m), 1400L, and 1400N of the Internal Revenue Code;18 2. The carry-back of certain net operating losses for five years under § 172(b)(1)(H) of the Internal
19 Revenue Code;20 3. The original issue discount on applicable high yield discount obligations under § 163(e)(5)(F) of
21 the Internal Revenue Code;22 4. The deferral of certain income under § 108(i) of the Internal Revenue Code. For Virginia income
23 tax purposes, income from the discharge of indebtedness in connection with the reacquisition of an
24 "applicable debt instrument" (as defined under § 108(i) of the Internal Revenue Code) reacquired in the
25 taxable year shall be fully included in the taxpayer's Virginia taxable income for the taxable year, unless
26 the taxpayer elects to include such income in the taxpayer's Virginia taxable income ratably over a
27 3-taxable-year period beginning with taxable year 2009 for transactions completed in taxable year 2009,
28 or over a three-taxable-year period beginning with taxable year 2010 for transactions completed in
29 taxable year 2010 on or before April 21, 2010. For purposes of such election, all other provisions of
30 § 108(i) shall apply mutatis mutandis. No other deferral shall be allowed for income from the discharge
31 of indebtedness in connection with the reacquisition of an "applicable debt instrument";32 5. The amount of the deduction allowed for domestic production activities pursuant to § 199 of the
33 Internal Revenue Code for taxable years beginning on or after January 1, 2010. For Virginia income tax
34 purposes, two-thirds of the amount deducted pursuant to § 199 of the Internal Revenue Code for federal
35 income tax purposes during the taxable year may be deducted for Virginia income tax purposes for
36 taxable years beginning on and after January 1, 2010. *For taxable years beginning on and after January*
37 *1, 2013, the entire amount of the deduction allowed for domestic production activities pursuant to § 199*
38 *of the Internal Revenue Code may be deducted for Virginia income tax purposes; and*39 6. For taxable years beginning on or after January 1, 2011, the provisions of § 32(b)(3) of the
40 Internal Revenue Code relating to the earned income tax credit.41 The Department of Taxation is hereby authorized to develop procedures or guidelines for
42 implementation of the provisions of this section, which procedures or guidelines shall be exempt from
43 the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).