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HOUSE BILL NO. 1930

Offered January 9, 2013

Prefiled January 9, 2013

A BILL to amend and reenact §§ 58.1-320, 58.1-321, and 58.1-322 of the Code of Virginia, relating to annually indexing elements of Virginia's individual income tax to account for inflation.

 Patron—Comstock

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-320, 58.1-321, and 58.1-322 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-320. Imposition of tax.

A. A tax is hereby annually imposed on the Virginia taxable income for each taxable year of every individual as follows:

Two percent on income not exceeding \$3,000;

Three percent on income in excess of \$3,000, but not in excess of \$5,000;

Five percent on income in excess of \$5,000, but not in excess of \$12,000 for taxable years beginning before January 1, 1987;

Five percent on income in excess of \$5,000 but not in excess of \$14,000 for taxable years beginning January 1, 1987, through December 31, 1987;

Five percent on income in excess of \$5,000 but not in excess of \$15,000 for taxable years beginning January 1, 1988, through December 31, 1988;

Five percent on income in excess of \$5,000 but not in excess of \$16,000 for taxable years beginning January 1, 1989, through December 31, 1989;

Five percent on income in excess of \$5,000 but not in excess of \$17,000 for taxable years beginning January 1, 1990;

Five and three-quarters percent on income in excess of \$12,000 for taxable years beginning before January 1, 1987;

Five and three-quarters percent on income in excess of \$14,000 for taxable years beginning January 1, 1987, through December 31, 1987;

Five and three-quarters percent on income in excess of \$15,000 for taxable years beginning January 1, 1988, through December 31, 1988;

Five and three-quarters percent on income in excess of \$16,000 for taxable years beginning January 1, 1989, through December 31, 1989; and

Five and three-quarters percent on income in excess of \$17,000 for taxable years beginning on and after January 1, 1990.

B. For taxable years beginning on and after January 1, 2014, all amounts of income in this section shall be adjusted annually by a percentage, as determined by the Tax Commissioner and rounded to the nearest one-tenth of one percent, equal to the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), for all items, from October 1 through September 30 for the year immediately preceding the affected taxable year. The Tax Commissioner shall round such amounts of income to the nearest dollar.

§ 58.1-321. Exemptions and exclusions.

A. No tax levied pursuant to § 58.1-320 is imposed, nor any return required to be filed by:

1. A single individual where the Virginia adjusted gross income for such taxable year is less than \$5,000 for taxable years beginning on and after January 1, 1987, but before January 1, 2004.

A single individual where the Virginia adjusted gross income plus the modification specified in subdivision D 5 of § 58.1-322 for such taxable year is less than \$5,000 for taxable years beginning on and after January 1, 2004, but before January 1, 2005.

A single individual where the Virginia adjusted gross income plus the modification specified in subdivision D 5 of § 58.1-322 for such taxable year is less than \$7,000 for taxable years beginning on and after January 1, 2005, but before January 1, 2008.

A single individual where the Virginia adjusted gross income plus the modification specified in subdivision D 5 of § 58.1-322 for such taxable year is less than \$11,250 for taxable years beginning on and after January 1, 2008, but before January 1, 2010.

A single individual where the Virginia adjusted gross income plus the modification specified in subdivision D 5 of § 58.1-322 for such taxable year is less than \$11,650 for taxable years beginning on

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59 and after January 1, 2010, but before January 1, 2012.

60 A single individual where the Virginia adjusted gross income plus the modification specified in
61 subdivision D 5 of § 58.1-322 for such taxable year is less than \$11,950 for taxable years beginning on
62 and after January 1, 2012, *but before January 1, 2014.*

63 *For taxable years beginning on and after January 1, 2014, the dollar threshold (for Virginia*
64 *adjusted gross income plus the modification specified in subdivision D 5 of § 58.1-322) for single*
65 *individuals shall equal one-half of the dollar threshold that is applicable under subdivision 2 for*
66 *married individuals filing a joint return for the taxable year.*

67 2. An individual and spouse if their combined Virginia adjusted gross income for such taxable year
68 is less than \$8,000 for taxable years beginning on and after January 1, 1987, (or one-half of such
69 amount in the case of a married individual filing a separate return) but before January 1, 2004.

70 An individual and spouse if their combined Virginia adjusted gross income plus the modification
71 specified in subdivision D 5 of § 58.1-322 is less than \$8,000 for taxable years beginning on and after
72 January 1, 2004, (or one-half of such amount in the case of a married individual filing a separate return)
73 but before January 1, 2005; less than \$14,000 for taxable years beginning on and after January 1, 2005,
74 (or one-half of such amount in the case of a married individual filing a separate return) but before
75 January 1, 2008; less than \$22,500 for taxable years beginning on and after January 1, 2008, (or
76 one-half of such amount in the case of a married individual filing a separate return) but before January
77 1, 2010; less than \$23,300 for taxable years beginning on and after January 1, 2010, (or one-half of
78 such amount in the case of a married individual filing a separate return) but before January 1, 2012; and
79 less than \$23,900 for taxable years beginning on and after January 1, 2012, (or one-half of such amount
80 in the case of a married individual filing a separate return).

81 *For taxable years beginning on and after January 1, 2014, such \$23,900 threshold (for combined*
82 *Virginia adjusted gross income plus the modification specified in subdivision D 5 of § 58.1-322) for an*
83 *individual and spouse shall be adjusted annually by a percentage, as determined by the Tax*
84 *Commissioner and rounded to the nearest one-tenth of one percent, equal to the percentage increase in*
85 *the Consumer Price Index for All Urban Consumers (CPI-U), for all items, from October 1 through*
86 *September 30 for the year immediately preceding the affected taxable year. The Tax Commissioner shall*
87 *round such dollar threshold to the nearest dollar. An amount equal to one-half of such \$23,900*
88 *threshold, as adjusted, shall be the dollar threshold (for Virginia adjusted gross income plus the*
89 *modification specified in subdivision D 5 of § 58.1-322) that is applicable in the case of a married*
90 *individual filing a separate return.*

91 For the purposes of this section "Virginia adjusted gross income" means federal adjusted gross
92 income for the taxable years with the modifications specified in § 58.1-322 B, § 58.1-322 C and the
93 additional deductions allowed under § 58.1-322 D 2 b and D 5 for taxable years beginning before
94 January 1, 2004. For taxable years beginning on and after January 1, 2004, Virginia adjusted gross
95 income means federal adjusted gross income with the modifications specified in subsections B and C of
96 § 58.1-322.

97 B. Persons in the armed forces of the United States stationed on military or naval reservations within
98 Virginia who are not domiciled in Virginia shall not be held liable to income taxation for compensation
99 received from military or naval service.

100 **§ 58.1-322. Virginia taxable income of residents.**

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

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

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

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

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

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

118 5 through 8. [Repealed.]

119 9. The amount required to be included in income for the purpose of computing the partial tax on an
120 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 the 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. Through December 31, 2000, the same amount used in computing the federal credit allowed under § 22 of the Internal Revenue Code by a retiree under age 65 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 deduction under subdivision D 5 may not also claim a subtraction under this subdivision.

4b. For taxable years beginning on or after January 1, 2001, up to \$20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code; however, any person who claims a deduction under subdivision D 5 may not also claim a subtraction 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 § 280C(a) of the Internal Revenue Code.

7, 8. [Repealed.]

9. [Expired.]

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

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

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

13. [Repealed.]

14. [Expired.]

15, 16. [Repealed.]

17. For taxable years beginning on and after January 1, 1995, the amount of "qualified research 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. [Repealed.]

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

182 under this section, earned by military personnel while serving by order of the President of the United
183 States with the consent of Congress in a combat zone or qualified hazardous duty area which is treated
184 as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

185 22. For taxable years beginning on or after January 1, 2000, the gain derived from the sale or
186 exchange of real property or the sale or exchange of an easement to real property which results in the
187 real property or the easement thereto being devoted to open-space use, as that term is defined in
188 § 58.1-3230, for a period of time not less than 30 years. To the extent a subtraction is taken in
189 accordance with this subdivision, no tax credit under this chapter for donating land for its preservation
190 shall be allowed for three years following the year in which the subtraction is taken.

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

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

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

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

202 27. Effective for all taxable years beginning on and after January 1, 1999, income received as a
203 result of (i) the "Master Settlement Agreement," as defined in § 3.2-3100; and (ii) the National Tobacco
204 Grower Settlement Trust dated July 19, 1999, by (a) tobacco farmers; (b) any person holding a tobacco
205 marketing quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of 1938; or
206 (c) any person having the right to grow tobacco pursuant to such a quota or allotment, but only to the
207 extent that such income has not been subtracted pursuant to subdivision C 18 of § 58.1-402.

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

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

229 29, 30. [Repealed.]

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

235 32. Effective for all taxable years beginning on or after January 1, 2007, the death benefit payments
236 from an annuity contract that are received by a beneficiary of such contract provided that (i) the death
237 benefit payment is made pursuant to an annuity contract with an insurance company and (ii) the death
238 benefit payment is paid solely by lump sum. The subtraction under this subdivision shall be allowed
239 only for that portion of the death benefit payment that is included in federal adjusted gross income.

240 33. For taxable years beginning on and after January 1, 2009, any gain recognized from the sale of
241 launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended
242 to provide individuals the training or experience of a launch, without performing an actual launch. To
243 qualify for a deduction under this subdivision, launch services must be performed in Virginia or

originate from an airport or spaceport in Virginia.

34. For taxable years beginning on and after January 1, 2009, any gain recognized as a result of resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.

35. (See Editor's note) For taxable years beginning on or after January 1, 2011, any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income shall be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the Secretary of Technology, provided the business has its principal office or facility in the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2015. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.

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

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

b. Three thousand dollars for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return) for taxable years beginning on and after January 1, 2005; provided that the taxpayer has not itemized deductions for the taxable year on his federal income tax return.

For taxable years beginning on and after January 1, 2014, such \$6,000 deduction for married persons shall be adjusted annually by a percentage, as determined by the Tax Commissioner and rounded to the nearest one-tenth of one percent, equal to the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), for all items, from October 1 through September 30 for the year immediately preceding the affected taxable year. The Tax Commissioner shall round such deduction to the nearest dollar. An amount equal to one-half of such \$6,000 deduction, as adjusted, shall be the deduction under this subdivision that is applicable for a single individual who has not itemized deductions for the taxable year on his federal income tax return and a married individual filing a separate return who has not itemized deductions for the taxable year on his federal income tax return.

For purposes of this section, any person who may be claimed as a dependent on another taxpayer's return for the taxable year may compute the deduction only with respect to earned income.

2. a. A deduction in the amount of \$900 for taxable years beginning on and after January 1, 2005, but before January 1, 2008; and \$930 for taxable years beginning on and after January 1, 2008, for each personal exemption allowable to the taxpayer for federal income tax purposes. *For taxable years beginning on and after January 1, 2014, such \$930 deduction shall be adjusted annually by a percentage, as determined by the Tax Commissioner and rounded to the nearest one-tenth of one percent, equal to the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), for all items, from October 1 through September 30 for the year immediately preceding the affected taxable year. The Tax Commissioner shall round such personal exemption amount to the nearest dollar.*

b. For taxable years beginning on and after January 1, 1987, each blind or aged taxpayer as defined under § 63(f) of the Internal Revenue Code shall be entitled to an additional personal exemption in the amount of \$800. *For taxable years beginning on and after January 1, 2014, such \$800 additional personal exemption amount for each blind or aged taxpayer shall be adjusted annually by a percentage, as determined by the Tax Commissioner and rounded to the nearest one-tenth of one percent, equal to the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), for all items, from October 1 through September 30 for the year immediately preceding the affected taxable year. The Tax Commissioner shall round such additional personal exemption amount to the nearest dollar.*

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

305 based under § 21 of the Internal Revenue Code for expenses for household and dependent care services
306 necessary for gainful employment.

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

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

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

318 For the purposes of this subdivision, "adjusted federal adjusted gross income" means federal adjusted
319 gross income minus any benefits received under Title II of the Social Security Act and other benefits
320 subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code, as amended.

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

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

345 b. The amount paid for a prepaid tuition contract during taxable years beginning on or after January
346 1, 1996, but before January 1, 1998, shall be deducted in taxable years beginning on or after January 1,
347 1998, and shall be subject to the limitations set out in subdivision 7 a.

348 c. A purchaser of a prepaid tuition contract or contributor to a savings trust account who has attained
349 age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000 per
350 prepaid tuition contract or savings trust account in any taxable year. Such taxpayer shall be allowed a
351 deduction for the full amount paid for the contract or contributed to a savings trust account, less any
352 amounts previously deducted.

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

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

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

366 11. For taxable years beginning on and after January 1, 2006, contract payments to a producer of

367 quota tobacco or a tobacco quota holder, or their spouses, as provided under the American Jobs Creation
 368 Act of 2004 (P.L. 108-357), but only to the extent that such payments have not been subtracted pursuant
 369 to subsection D of § 58.1-402, as follows:

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

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

376 12. For taxable years beginning on and after January 1, 2007, an amount equal to 20 percent of the
 377 sum paid by an individual pursuant to Chapter 6 (§ 58.1-600 et seq.), not to exceed \$500 in each taxable
 378 year, in purchasing for his own use the following items of tangible personal property: (i) any clothes
 379 washers, room air conditioners, dishwashers, and standard size refrigerators that meet or exceed the
 380 applicable energy star efficiency requirements developed by the United States Environmental Protection
 381 Agency and the United States Department of Energy; (ii) any fuel cell that (a) generates electricity using
 382 an electrochemical process, (b) has an electricity-only generation efficiency greater than 35 percent, and
 383 (c) has a generating capacity of at least two kilowatts; (iii) any gas heat pump that has a coefficient of
 384 performance of at least 1.25 for heating and at least 0.70 for cooling; (iv) any electric heat pump hot
 385 water heater that yields an energy factor of at least 1.7; (v) any electric heat pump that has a heating
 386 system performance factor of at least 8.0 and a cooling seasonal energy efficiency ratio of at least 13.0;
 387 (vi) any central air conditioner that has a cooling seasonal energy efficiency ratio of at least 13.5; (vii)
 388 any advanced gas or oil water heater that has an energy factor of at least 0.65; (viii) any advanced
 389 oil-fired boiler with a minimum annual fuel-utilization rating of 85; (ix) any advanced oil-fired furnace
 390 with a minimum annual fuel-utilization rating of 85; and (x) programmable thermostats.

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

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

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

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

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

418 H. Notwithstanding any other provision of law, the income from any disposition of real property
 419 which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or
 420 business, as defined in § 453(l)(1)(B) of the Internal Revenue Code, of property made on or after
 421 January 1, 2009, may, at the election of the taxpayer, be recognized under the installment method
 422 described under § 453 of the Internal Revenue Code, provided that (i) the election relating to the dealer
 423 disposition of the property has been made on or before the due date prescribed by law (including
 424 extensions) for filing the taxpayer's return of the tax imposed under this chapter for the taxable year in
 425 which the disposition occurs, and (ii) the dealer disposition is in accordance with restrictions or
 426 conditions established by the Department, which shall be set forth in guidelines developed by the
 427 Department. Along with such restrictions or conditions, the guidelines shall also address the recapture of

428 such income under certain circumstances. The development of the guidelines shall be exempt from the
429 Administrative Process Act (§ 2.2-4000 et seq.).