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**HOUSE BILL NO. 331**

Offered January 8, 2014

Prefiled January 2, 2014

*A BILL to amend and reenact § 58.1-322 of the Code of Virginia and to amend the Code of Virginia by adding in Title 55 a chapter numbered 32, consisting of sections numbered 55-555 through 55-559, relating to the establishment of first-time home buyer savings plans for the purchase of single-family residences; exempting the earnings on such plans from taxation.*

Patrons—Greason, Comstock, Lopez, Ramadan, Futrell, Keam, LaRock, Leftwich, Lewis, Minchew, Peace, Rust, Simon, Torian and Yancey

Referred to Committee on Appropriations

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-322 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 55 a chapter numbered 32, consisting of sections numbered 55-555 through 55-559, as follows:**

**CHAPTER 32.****FIRST-TIME HOME BUYER SAVINGS PLANS ACT.****§ 55-555. Definitions.**

*As used in this chapter, unless the context requires a different meaning:*

*"Account holder" means an individual who establishes, individually or jointly with one or more other individuals, an account with a financial institution for which the account holder claims a first-time home buyer savings account status on his Virginia income tax return.*

*"Allowable closing costs" means a disbursement listed on a settlement statement for the purchase of a single-family residence by a qualified beneficiary.*

*"Eligible costs" means the down payment and allowable closing costs for the purchase of a single-family residence in the Commonwealth by a qualified beneficiary.*

*"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, credit union, or any benefit association, insurance company, safe deposit company, money market mutual fund, or similar entity authorized to do business in the Commonwealth.*

*"First-time home buyer savings account" or "account" means an account with a financial institution for which the account holder claims first-time home buyer savings account status on his Virginia income tax return for taxable year 2014 or any taxable year thereafter, pursuant to this chapter for the purpose of paying or reimbursing eligible costs for the purchase of a single-family residence by a qualified beneficiary. Financial institutions shall not be required to (i) designate an account as a first-time home buyer savings account, or designate the beneficiaries of such accounts, in the financial institutions' account contracts, systems or in any other way; (ii) track the use of funds withdrawn from such accounts; (iii) allocate funds in such accounts among joint account owners or multiple beneficiaries; or (iv) report any of the information stated in clauses (i), (ii), or (iii) to the Department of Taxation or other governmental agency. Financial institutions shall not be responsible for or liable for (a) determining or ensuring that an account satisfies the requirements to be a first-time home buyer savings account, (b) determining or ensuring that costs are eligible costs, or (c) reporting or remitting taxes or penalties for such accounts.*

*"Qualified beneficiary" means an individual or individuals only who reside in the Commonwealth at the time of settlement on the purchase of a single-family residence who (i) have never owned or purchased under contract for deed, either individually or jointly, a single-family residence in the Commonwealth or outside of the Commonwealth; (ii) are designated as the beneficiary of an account designated by the account holder as a first-time home buyer savings account; and (iii) may apply moneys or funds held in such account for eligible costs. A qualified beneficiary may use the funds from such account for eligible costs regardless of whether such qualified beneficiary purchases the single-family residence as sole owner or jointly with another individual.*

*"Settlement statement" means the statement of receipts and disbursements for a transaction related to real estate, including a statement prescribed under the Real Estate Settlement Procedures Act of 1974 (RESPA), 12 U.S.C. § 2601 et seq., as amended, and the regulations thereunder, or an executed sales agreement for the purchase of a manufactured home being conveyed as personal property.*

*"Single-family residence" means a single-family residence in the Commonwealth owned and occupied by a qualified beneficiary, including a manufactured home, trailer, mobile home, condominium unit, or*

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58 cooperative.

59 **§ 55-556. Claiming first-time home buyer status.**

60 A. The account holder shall be responsible for the use or application of moneys or funds in an  
61 account for which the account holder claims first-time home buyer savings account status.

62 B. The account holder shall (i) not use moneys or funds held in an account to pay expenses of  
63 administering the account, except that a service fee may be deducted from the account by a financial  
64 institution; (ii) maintain documentation of the segregation of moneys or funds in separate accounts and  
65 documentation of eligible costs for the purchase of a single-family residence; such documentation may  
66 include the settlement statement; (iii) file, with the account holder's Virginia income tax return, forms  
67 developed by the Department of Taxation regarding treatment of the account as a first-time home buyer  
68 savings account under this chapter, along with the Form 1099 issued by the financial institution for  
69 such account; and (iv) remit to the Department of Taxation the tax on any amounts (a) added to  
70 individual income pursuant to subdivision B 10 of § 58.1-322 or (b) recaptured pursuant to subdivision  
71 C 36 of § 58.1-322.

72 C. The Tax Commissioner shall develop guidelines applicable to account holders to implement the  
73 provisions of this chapter. Such guidelines shall be exempt from the provisions of the Administrative  
74 Process Act (§ 2.2-4000 et seq.). Such guidelines shall not apply to, or impose administrative, reporting,  
75 or other obligations or requirements on, financial institutions-related accounts for which first-time home  
76 buyer savings account status is claimed by the account holder.

77 **§ 55-557. Tax exemption; conditions.**

78 A. All interest or other income earned attributable to an account shall be excluded from the Virginia  
79 taxable income of the account holder as provided under subdivision C 36 of § 58.1-322.

80 B. There shall be an aggregate limit of \$50,000 per account on the amount of principal for which  
81 the account holder may claim first-time home buyer savings account status. Only cash and marketable  
82 securities may be contributed to an account.

83 C. Subject to the aggregate limit on the amount of principal that may be contributed into an account  
84 pursuant to subsection B, there shall be a limitation of \$150,000 on the amount of principal and interest  
85 or other income on the principal that may be retained within an account.

86 D. An account holder shall be subject to Virginia income tax pursuant to subdivision B 11 of §  
87 58.1-322 to the extent of any loss deducted as a capital loss by the individual for federal income tax  
88 purposes attributable to the person's account.

89 E. Upon being furnished proof of the death of the account holder, a financial institution shall  
90 distribute the principal and accumulated interest or other income in the account in accordance with the  
91 terms of the contract governing the account.

92 **§ 55-558. Withdrawal of funds from account for purposes other than eligible costs for first-time**  
93 **home purchase.**

94 If moneys or funds are withdrawn from an account for which first-time home buyer savings account  
95 status is claimed by the account holder for any purpose other than the payment of eligible costs by or  
96 on behalf of a qualified beneficiary, an amount equal to a five percent penalty shall be subject to  
97 individual income tax as provided under subdivision B 10 of § 58.1-322. Such penalty shall be  
98 calculated using the Form 1099 showing the amount of income exempted from state income tax and a  
99 five percent penalty shall be assessed on the amount of exempted income. In addition, as provided  
100 under subdivision C 36 of § 58.1-322, the account holder shall also be subject to recapture of income  
101 that was subtracted pursuant to that subdivision.

102 Such five percent penalty shall not apply to, and there shall be no recapture of income with regard  
103 to, the extent of moneys or funds withdrawn that were (i) withdrawn by reason of the qualified  
104 beneficiary's death or disability, (ii) a disbursement of assets of the account pursuant to a filing for  
105 protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101 through 1330, or (iii) transferred  
106 from an account established pursuant to this chapter into another account established pursuant to this  
107 chapter for the benefit of another qualified beneficiary.

108 **§ 55-559. False claims prohibited.**

109 A person who knowingly prepares or causes to be prepared a false claim, receipt, statement, or  
110 billing to avoid or evade taxes or penalties upon the withdrawal of money or funds from an account for  
111 which the account holder claims first-time home buyer savings account status is guilty of a Class 1  
112 misdemeanor.

113 **§ 58.1-322. Virginia taxable income of residents.**

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

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

119 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 that 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; and

5 through 8. [Repealed.]

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;

10. *For taxable years beginning on and after January 1, 2014, an amount equal to a five percent penalty for moneys or funds withdrawn in the taxable year by an account holder from an account claimed as his first-time home buyer savings account that were used for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under § 55-558. However, such five percent penalty shall not apply to the extent of moneys or funds withdrawn that were (i) withdrawn by reason of the qualified beneficiary's death or disability, (ii) a disbursement of assets of the account by the account holder pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101 through 1330, or (iii) transferred from an account established pursuant to Chapter 32 (§ 55-555 et seq.) of Title 55 into another account pursuant to such chapter for the benefit of another qualified beneficiary. For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings account," and "qualified beneficiary" mean the same as those terms are defined in § 55-555; and*

11. *For taxable years beginning on and after January 1, 2014, any loss for the taxable year that was deducted as a capital loss for federal income tax purposes by an account holder attributable to such person's first-time home buyer savings account established pursuant to Chapter 32 (§ 55-555 et seq.) of Title 55. For purposes of this subdivision, "account holder" and "first-time home buyer savings account" mean the same as those terms are defined in § 55-555.*

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

181 O3 and below shall be entitled to the deductions specified herein.

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

188 13. [Repealed.]

189 14. [Expired.]

190 15, 16. [Repealed.]

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

197 18. [Repealed.]

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

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

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

215 22. For taxable years beginning on or after January 1, 2000, the gain derived from the sale or  
216 exchange of real property or the sale or exchange of an easement to real property which results in the  
217 real property or the easement thereto being devoted to open-space use, as that term is defined in  
218 § 58.1-3230, for a period of time not less than 30 years. To the extent a subtraction is taken in  
219 accordance with this subdivision, no tax credit under this chapter for donating land for its preservation  
220 shall be allowed for three years following the year in which the subtraction is taken.

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

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

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

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

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

238 28. For taxable years beginning on and after January 1, 2000, items of income attributable to,  
239 derived from or in any way related to (i) assets stolen from, hidden from or otherwise lost by an  
240 individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other  
241 consideration received by a victim or target of Nazi persecution to compensate such individual for  
242 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 who was a victim or target of Nazi persecution, or a spouse, widow, widower, or child or stepchild of such victim.

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

29, 30. [Repealed.]

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

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

33. For taxable years beginning on and after January 1, 2009, any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals the training or experience of a launch, without performing an actual launch. To 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. 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.

36. For taxable years beginning on and after January 1, 2014, any income of an account holder for the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's first-time home buyer savings account established pursuant to Chapter 32 (§ 55-555 et seq.) of Title 55 and (ii) interest income or other income for federal income tax purposes attributable to such person's first-time home buyer savings account.

Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys or funds withdrawn from the first-time home buyer savings account were used for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under § 55-558. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable year that was used for other than the payment of eligible costs, computed by multiplying the amount withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in the account at the time of the withdrawal to the total balance in the account at such time.

304 *However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i)*  
305 *withdrawn by reason of the qualified beneficiary's death or disability, (ii) a disbursement of assets of the*  
306 *account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101*  
307 *through 1330, (iii) or transferred from an account established pursuant to Chapter 32 (§ 55-555 et seq.)*  
308 *of Title 55 into another account established pursuant to such chapter for the benefit of another qualified*  
309 *beneficiary.*

310 *For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings*  
311 *account," and "qualified beneficiary" mean the same as those terms are defined in § 55-555.*

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

314 1. a. The amount allowable for itemized deductions for federal income tax purposes where the  
315 taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the  
316 amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted  
317 on such federal return and increased by an amount which, when added to the amount deducted under  
318 § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for  
319 such purposes at a rate of 18 cents per mile; or

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

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

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

332 The additional deduction for blind or aged taxpayers allowed under this subdivision shall be  
333 allowable regardless of whether the taxpayer itemizes deductions for the taxable year for federal income  
334 tax purposes.

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

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

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

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

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

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

356 7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed  
357 during the taxable year for a prepaid tuition contract or savings trust account entered into with the  
358 Virginia College Savings Plan, pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. Except as  
359 provided in subdivision 7 c, the amount deducted on any individual income tax return in any taxable  
360 year shall be limited to \$4,000 per prepaid tuition contract or savings trust account. No deduction shall  
361 be allowed pursuant to this section if such payments or contributions are deducted on the purchaser's or  
362 contributor's federal income tax return. If the purchase price or annual contribution to a savings trust  
363 account exceeds \$4,000, the remainder may be carried forward and subtracted in future taxable years  
364 until the purchase price or savings trust contribution has been fully deducted; however, except as  
365 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.

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 or 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, for taxable years beginning before January 1, 2014, a credit under § 58.1-339.11. For taxable years beginning on or after January 1, 2014, no such deduction for long-term health care insurance premiums paid by the individual during the taxable year shall be allowed if the individual has claimed a federal income tax deduction for such taxable year for long-term health care insurance premiums paid by him.

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 percent 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 percent of the sum paid by an individual pursuant to Chapter 6 (§ 58.1-600 et seq.), 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 percent, 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

427 expenses directly related to the donation that arose within 12 months of such donation, provided the  
428 donor has not taken a medical deduction in accordance with the provisions of § 213 of the Internal  
429 Revenue Code for such expenses. The deduction may be taken in the taxable year in which the donation  
430 is made or the taxable year in which the 12-month period expires.

431 14. For taxable years beginning on or after January 1, 2013, the amount an individual age 66 or  
432 older with earned income of at least \$20,000 for the year and federal adjusted gross income not in  
433 excess of \$30,000 for the year pays annually in premiums for (i) a prepaid funeral insurance policy  
434 covering the individual or (ii) medical or dental insurance for any person for whom individual tax filers  
435 may claim a deduction for such premiums under federal income tax laws. "Earned income" means the  
436 same as that term is defined in § 32(c) of the Internal Revenue Code of 1954, as amended or  
437 renumbered. The deduction shall not be allowed for any portion of such premiums paid for which the  
438 individual has (a) been reimbursed, (b) claimed a deduction for federal income tax purposes, (c) claimed  
439 a deduction or subtraction under another provision of this section, or (d) claimed a federal income tax  
440 credit or any income tax credit pursuant to this chapter.

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

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

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

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

462 H. Notwithstanding any other provision of law, the income from any disposition of real property  
463 which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or  
464 business, as defined in § 453(l)(1)(B) of the Internal Revenue Code, of property made on or after  
465 January 1, 2009, may, at the election of the taxpayer, be recognized under the installment method  
466 described under § 453 of the Internal Revenue Code, provided that (i) the election relating to the dealer  
467 disposition of the property has been made on or before the due date prescribed by law (including  
468 extensions) for filing the taxpayer's return of the tax imposed under this chapter for the taxable year in  
469 which the disposition occurs, and (ii) the dealer disposition is in accordance with restrictions or  
470 conditions established by the Department, which shall be set forth in guidelines developed by the  
471 Department. Along with such restrictions or conditions, the guidelines shall also address the recapture of  
472 such income under certain circumstances. The development of the guidelines shall be exempt from the  
473 Administrative Process Act (§ 2.2-4000 et seq.).