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SENATE BILL NO. 849

Offered January 11, 2017

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A *BILL to amend and reenact § 58.1-322 of the Code of Virginia, relating to Virginia taxable income; deduction for small business owners.*

Patron—Chase

Referred to Committee on Finance

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

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

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

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

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

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

4. The amount of a lump sum distribution from a qualified retirement plan, less the minimum distribution allowance and any amount excludable for federal income tax purposes 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;

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 [Repealed.]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, 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; and

11. For taxable years beginning on or after January 1, 2016, to the extent that tax credit is allowed for the same donation pursuant to § 58.1-439.12:12, any amount claimed as a federal income tax deduction for such donation under § 170 of the Internal Revenue Code, as amended or renumbered.

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

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59 under subdivision D 5 may not also claim a subtraction under this subdivision.

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

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

64 7, 8. [Repealed.]

65 9. [Expired.]

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

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

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

77 13. [Repealed.]

78 14. [Expired.]

79 15, 16. [Repealed.]

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

86 18. [Repealed.]

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

94 20. For taxable years beginning on and after January 1, 1997, any income attributable to a
95 distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the
96 Virginia College Savings Plan, created pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. The
97 subtraction for any income attributable to a refund shall be limited to income attributable to a refund in
98 the event of a beneficiary's death, disability, or receipt of a scholarship.

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

104 22. For taxable years beginning on or after January 1, 2000, but before January 1, 2015, the gain
105 derived from the sale or exchange of real property or the sale or exchange of an easement to real
106 property which results in the real property or the easement thereto being devoted to open-space use, as
107 that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent a
108 subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating
109 land for its preservation shall be allowed for three years following the year in which the subtraction is
110 taken.

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

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

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

120 26. For taxable years beginning on and after January 1, 2001, any amount received as military

121 retirement income by an individual awarded the Congressional Medal of Honor.

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

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

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

149 29, 30. [Repealed.]

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

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

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

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

170 35. For taxable years beginning on or after January 1, 2011, any income taxed as a long-term capital
171 gain for federal income tax purposes, or any income taxed as investment services partnership interest
172 income (otherwise known as investment partnership carried interest income) for federal income tax
173 purposes. To qualify for a subtraction under this subdivision, such income shall be attributable to an
174 investment in a "qualified business, " as defined in § 58.1-339.4, or in any other technology business
175 approved by the Secretary of Technology, provided the business has its principal office or facility in the
176 Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the investment. To
177 qualify for a subtraction under this subdivision, the investment shall be made between the dates of April
178 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified
179 business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an
180 investment in the same business.

181 36. For taxable years beginning on and after January 1, 2014, any income of an account holder for

182 the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's
183 first-time home buyer savings account established pursuant to Chapter 32 (§ 55-555 et seq.) of Title 55
184 and (ii) interest income or other income for federal income tax purposes attributable to such person's
185 first-time home buyer savings account.

186 Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction
187 taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys
188 or funds withdrawn from the first-time home buyer savings account were used for any purpose other
189 than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under
190 § 55-558. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable
191 year that was used for other than the payment of eligible costs, computed by multiplying the amount
192 withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in
193 the account at the time of the withdrawal to the total balance in the account at such time.

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

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

202 37. For taxable years beginning on or after January 1, 2015, any income for the taxable year
203 attributable to the discharge of a student loan solely by reason of the student's death. For purposes of
204 this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal
205 Revenue Code.

206 38. *For taxable years beginning on and after January 1, 2017, any income for the taxable year*
207 *attributable to the ownership and operation of a small business. The deduction shall only apply during*
208 *the first five years that the business is in operation. For purposes of this subdivision, "small business"*
209 *means a business that has its primary place of business in the Commonwealth, generates less than*
210 *\$100,000 in taxable income in the taxable year, and has fewer than 50 employees.*

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

213 1. a. The amount allowable for itemized deductions for federal income tax purposes where the
214 taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the
215 amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted
216 on such federal return and increased by an amount which, when added to the amount deducted under
217 § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for
218 such purposes at a rate of 18 cents per mile; or

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

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

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

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

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

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

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

242 b. For taxable years beginning on and after January 1, 2004, a deduction in the amount of \$12,000
243 for individuals born after January 1, 1939, who have attained the age of 65. This deduction shall be

244 reduced by \$1 for every \$1 that the taxpayer's adjusted federal adjusted gross income exceeds \$50,000
 245 for single taxpayers or \$75,000 for married taxpayers. For married taxpayers filing separately, the
 246 deduction will be reduced by \$1 for every \$1 the total combined adjusted federal adjusted gross income
 247 of both spouses exceeds \$75,000.

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

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

255 7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed
 256 during the taxable year for a prepaid tuition contract or college savings trust account entered into with
 257 the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as
 258 provided in subdivision 7 c, the amount deducted on any individual income tax return in any taxable
 259 year shall be limited to \$4,000 per prepaid tuition contract or college savings trust account. No
 260 deduction shall be allowed pursuant to this section if such payments or contributions are deducted on the
 261 purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a
 262 college savings trust account exceeds \$4,000, the remainder may be carried forward and subtracted in
 263 future taxable years until the purchase price or college savings trust contribution has been fully
 264 deducted; however, except as provided in subdivision 7 c, in no event shall the amount deducted in any
 265 taxable year exceed \$4,000 per contract or college savings trust account. Notwithstanding the statute of
 266 limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to
 267 recapture in the taxable year or years in which distributions or refunds are made for any reason other
 268 than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or
 269 (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision,
 270 the term "purchaser" or "contributor" means the person shown as such on the records of the Virginia
 271 College Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a
 272 prepaid tuition contract or college savings trust account, the transferee shall succeed to the transferor's
 273 tax attributes associated with a prepaid tuition contract or college savings trust account, including, but
 274 not limited to, carryover and recapture of deductions.

275 b. The amount paid for a prepaid tuition contract during taxable years beginning on or after January
 276 1, 1996, but before January 1, 1998, shall be deducted in taxable years beginning on or after January 1,
 277 1998, and shall be subject to the limitations set out in subdivision 7 a.

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

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

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

293 10. For taxable years beginning on or after January 1, 2000, the amount an individual pays annually
 294 in premiums for long-term health care insurance, provided the individual has not claimed a deduction for
 295 federal income tax purposes, or, for taxable years beginning before January 1, 2014, a credit under
 296 § 58.1-339.11. For taxable years beginning on or after January 1, 2014, no such deduction for long-term
 297 health care insurance premiums paid by the individual during the taxable year shall be allowed if the
 298 individual has claimed a federal income tax deduction for such taxable year for long-term health care
 299 insurance premiums paid by him.

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

304 a. If the payment is received in installment payments, then the recognized gain, including any gain

305 recognized in taxable year 2005, may be subtracted in the taxable year immediately following the year
306 in which the installment payment is received.

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

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

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

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

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

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

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

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

362 H. Notwithstanding any other provision of law, the income from any disposition of real property
363 which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or
364 business, as defined in § 453(l)(1)(B) of the Internal Revenue Code, of property made on or after
365 January 1, 2009, may, at the election of the taxpayer, be recognized under the installment method
366 described under § 453 of the Internal Revenue Code, provided that (i) the election relating to the dealer

367 disposition of the property has been made on or before the due date prescribed by law (including
368 extensions) for filing the taxpayer's return of the tax imposed under this chapter for the taxable year in
369 which the disposition occurs, and (ii) the dealer disposition is in accordance with restrictions or
370 conditions established by the Department, which shall be set forth in guidelines developed by the
371 Department. Along with such restrictions or conditions, the guidelines shall also address the recapture of
372 such income under certain circumstances. The development of the guidelines shall be exempt from the
373 Administrative Process Act (§ 2.2-4000 et seq.).

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