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HOUSE BILL NO. 409

Offered January 10, 2018

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A *BILL to amend and reenact §§ 58.1-322.02, 58.1-324, 58.1-326, 58.1-339.8, 58.1-341, 58.1-344.3, 58.1-344.4, 58.1-490, 58.1-499, 58.1-520, as it is currently effective and as it may become effective, 58.1-810, 58.1-3210, 58.1-3211.1, 58.1-3219.5, 58.1-3219.6, 58.1-3343, 58.1-3506.1, and 58.1-3506.2 of the Code of Virginia, relating to taxation; use of gender-neutral terms.*

Patron—Simon

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-322.02, 58.1-324, 58.1-326, 58.1-339.8, 58.1-341, 58.1-344.3, 58.1-344.4, 58.1-490, 58.1-499, 58.1-520, as it is currently effective and as it may become effective, 58.1-810, 58.1-3210, 58.1-3211.1, 58.1-3219.5, 58.1-3219.6, 58.1-3343, 58.1-3506.1, and 58.1-3506.2 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-322.02. Virginia taxable income; subtractions.

In computing Virginia taxable income pursuant to § 58.1-322, 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 the Commonwealth or of any political subdivision or instrumentality of the Commonwealth.

3. 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.

4. 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 5 of § 58.1-322.03 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 Work Opportunity Credit which was not deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

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

8. 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 in this subdivision.

9. 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 subdivision 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.

10. 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.

11. 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

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59 another state.

60 12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract
61 or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7
62 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be
63 limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a
64 scholarship.

65 13. All military pay and allowances, to the extent included in federal adjusted gross income and not
66 otherwise subtracted, deducted, or exempted under this section, earned by military personnel while
67 serving by order of the President of the United States with the consent of Congress in a combat zone or
68 qualified hazardous duty area that is treated as a combat zone for federal tax purposes pursuant to § 112
69 of the Internal Revenue Code.

70 14. For taxable years beginning before January 1, 2015, the gain derived from the sale or exchange
71 of real property or the sale or exchange of an easement to real property which results in the real
72 property or the easement thereto being devoted to open-space use, as that term is defined in §
73 58.1-3230, for a period of time not less than 30 years. To the extent that a subtraction is taken in
74 accordance with this subdivision, no tax credit under this chapter for donating land for its preservation
75 shall be allowed for three years following the year in which the subtraction is taken.

76 15. Fifteen thousand dollars of military basic pay for military service personnel on extended active
77 duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar
78 by the amount by which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero
79 if such military basic pay amount is equal to or exceeds \$30,000.

80 16. The first \$15,000 of salary for each federal and state employee whose total annual salary from all
81 employment for the taxable year is \$15,000 or less.

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

83 18. Any amount received as military retirement income by an individual awarded the Congressional
84 Medal of Honor.

85 19. Items of income attributable to, derived from, or in any way related to (i) assets stolen from,
86 hidden from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii)
87 damages, reparations, or other consideration received by a victim or target of Nazi persecution to
88 compensate such individual for performing labor against his will under the threat of death, during World
89 War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such
90 items of income or with the proceeds from the sale of assets stolen from, hidden from, or otherwise lost
91 to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The
92 provisions of this subdivision shall only apply to an individual who was the first recipient of such items
93 of income and who was a victim or target of Nazi persecution, or a spouse, ~~widow~~, ~~widower~~ *surviving*
94 *spouse*, or child or stepchild of such victim.

95 As used in this subdivision:

96 "Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those
97 European countries allied with Nazi Germany, or any other neutral European country or area in Europe
98 under the influence or threat of Nazi invasion.

99 "Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by
100 the Nazi regime who had assets stolen from, hidden from, or otherwise lost as a result of any act or
101 omission in any way relating to (i) the Holocaust, (ii) World War II and its prelude and direct aftermath,
102 (iii) transactions with or actions of the Nazi regime, (iv) treatment of refugees fleeing Nazi persecution,
103 or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II
104 and its prelude and aftermath. A "victim or target of Nazi persecution" also includes any individual
105 forced into labor against his will, under the threat of death, during World War II and its prelude and
106 direct aftermath.

107 20. The military death gratuity payment made after September 11, 2001, to the survivor of deceased
108 military personnel killed in the line of duty, pursuant to 10 U.S.C. Chapter 75; however, the subtraction
109 amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal
110 gross income in accordance with § 134 of the Internal Revenue Code.

111 21. The death benefit payments from an annuity contract that are received by a beneficiary of such
112 contract, provided that (i) the death benefit payment is made pursuant to an annuity contract with an
113 insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under
114 this subdivision shall be allowed only for that portion of the death benefit payment that is included in
115 federal adjusted gross income.

116 22. Any gain recognized from the sale of launch services to space flight participants, as defined in
117 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of
118 a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch
119 services must be performed in Virginia or originate from an airport or spaceport in Virginia.

120 23. 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.

24. 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 that 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, 2020. 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.

25. 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.

However, recapture 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 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 established 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.

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

27. a. Income, including investment services partnership interest income (otherwise known as investment partnership carried interest income), attributable to an investment in a Virginia venture capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a company that is owned or operated by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 27:

"Qualified portfolio company" means a company that (i) has its principal place of business in the Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or service other than the management or investment of capital; and (iii) provides equity in the company to the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company" does not include a company that is an individual or sole proprietorship.

"Virginia venture capital account" means an investment fund that has been certified by the Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital account, the operator of the investment fund shall register the investment fund with the Department prior to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one investor who has at least four years of professional experience in venture capital investment or substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to, an undergraduate degree from an accredited college or university in economics, finance, or a similar field of study. The Department may require an investment fund to provide documentation of the investor's training, education, or experience as deemed necessary by the Department to determine

substantial equivalency. If the Department determines that the investment fund employs at least one investor with the experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital account at such time as the investment fund actually invests at least 50 percent of the capital committed to its fund in qualified portfolio companies.

§ 58.1-324. Married individuals.

A. If the federal taxable income of ~~husband or wife~~ *married individuals* is determined on a separate federal ~~return~~ *returns*, their Virginia taxable incomes shall be separately determined.

B. If the federal taxable income of ~~husband and wife~~ *married individuals* is determined on a joint federal return, or if neither files a federal return:

1. Their tax shall be determined on their joint Virginia taxable income; or

2. Separate taxes may be determined on their separate Virginia taxable incomes if they so elect.

C. Where ~~husband and wife~~ *married individuals* have not separately reported and claimed items of income, exemptions and deductions for federal income tax purposes, and have not elected to file a joint Virginia income tax return, such items allowable for Virginia income tax purposes shall be allocated and adjusted as follows:

1. Income shall be allocated to the spouse who earned the income or with respect to whose property the income is attributable.

2. Allowable deductions with respect to trade, business, production of income, or employment shall be allocated to the spouse to whom attributable.

3. Nonbusiness deductions, where properly taken for federal income tax purposes, shall be allowable for Virginia income tax purposes, but shall be allocable between ~~husband and wife~~ *married individuals* as they may mutually agree. For this purpose, "nonbusiness deductions" consist of allowable deductions not described in subdivision 2.

4. Where the standard deduction or low income allowance is properly taken pursuant to subdivision 1 a of § 58.1-322.03, such deduction or allowance shall be allocable between ~~husband and wife~~ *married individuals* as they may mutually agree.

5. Personal exemptions properly allowable for federal income tax purposes shall be allocated for Virginia income tax purposes as ~~husband and wife~~ *married individuals* may mutually agree; however, exemptions for taxpayer and spouse together with exemptions for old age and blindness must be allocated respectively to the spouse to whom they relate.

D. Where allocations are permitted to be made under subsection C pursuant to agreement between ~~husband and wife~~ *married individuals*, and ~~husband and wife~~ *they* have failed to agree as to those allocations, such allocations shall be made between ~~husband and wife~~ *them* in a manner corresponding to the treatment for federal income tax purposes of the items involved, under regulations prescribed by the Department.

§ 58.1-326. Married individuals when one nonresident.

If ~~husband or wife~~ *either spouse* is a resident and the other *spouse* is a nonresident, separate taxes shall be determined on their separate Virginia taxable incomes on such single or separate forms as may be required by the Department, unless both elect to determine their joint Virginia taxable income as if both were residents.

§ 58.1-339.8. Income tax credit for low-income taxpayers.

A. As used in this section, unless the context requires otherwise:

"Family Virginia adjusted gross income" means the combined Virginia adjusted gross income of an individual, the individual's spouse, and any person claimed as a dependent on the individual's or his spouse's income tax return for the taxable year.

"Poverty guidelines" means the poverty guidelines for the 48 contiguous states and the District of Columbia updated annually in the Federal Register by the U.S. Department of Health and Human Services under the authority of § 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"Virginia adjusted gross income" has the same meaning as the term is defined in § 58.1-321.

B. 1. For taxable years beginning on and after January 1, 2000, any individual or persons filing a joint return whose family Virginia adjusted gross income does not exceed 100 percent of the poverty guideline amount corresponding to a household of an equal number of persons as listed in the poverty guidelines published during such taxable year, shall be allowed a credit against the tax levied pursuant to § 58.1-320 in an amount equal to \$300 each for the individual, the individual's spouse, and any person claimed as a dependent on the individual's or married ~~persons'~~ *individuals'* income tax return for the taxable year. For any taxable year in which a ~~husband and wife~~ *married individuals* file separate Virginia income tax returns, the credit provided under this section shall be allowed against the tax for only one of such two tax returns. Additionally, the credit provided under this section shall not be allowed against such tax of a dependent of the individual or of married ~~persons~~ *individuals*.

2. For taxable years beginning on and after January 1, 2006, any individual or married ~~persons~~ *individuals*, eligible for a tax credit pursuant to § 32 of the Internal Revenue Code, may for the taxable year, in lieu of the credit authorized under subdivision B 1, claim a credit against the tax imposed

pursuant to § 58.1-320 in an amount equal to 20 percent of the credit claimed by the individual or married ~~persons~~ *individuals* for federal individual income taxes pursuant to § 32 of the Internal Revenue Code for the taxable year. In no case shall a household be allowed a credit pursuant to this subdivision and subdivision B 1 for the same taxable year.

For the purpose of this subdivision, "household" means an individual and in the case of married ~~persons~~ *individuals*, the individual and his spouse regardless of whether or not the individual and his spouse file combined or separate Virginia individual income tax returns.

C. The amount of the credit provided pursuant to subsection B for any taxable year shall not exceed the individual's or married ~~persons'~~ *individuals'* Virginia income tax liability.

D. Notwithstanding any other provision of this section, no credit shall be allowed pursuant to subsection B in any taxable year in which the individual, the individual's spouse, or both, or any person claimed as a dependent on such individual's or married ~~persons'~~ *individuals'* income tax return, claims one or any combination of the following on his or their income tax return for such taxable year:

1. The subtraction under subdivision 8 of § 58.1-322.02;
2. The subtraction under subdivision 15 of § 58.1-322.02;
3. The subtraction under subdivision 16 of § 58.1-322.02;
4. The deduction for the additional personal exemption for blind or aged taxpayers under subdivision 2 b of § 58.1-322.03; or
5. The deduction under subdivision 5 of § 58.1-322.03.

§ 58.1-341. Returns of individuals.

A. On or before May 1 of each year if an individual's taxable year is the calendar year, or on or before the fifteenth day of the fourth month following the close of a taxable year other than the calendar year, an income tax return under this chapter shall be made and filed by or for:

1. Every resident individual, except as provided in § 58.1-321, required to file a federal income tax return for the taxable year, or having Virginia taxable income for the taxable year;
2. Every nonresident individual having Virginia taxable income for the taxable year, except as provided in § 58.1-321.

Notwithstanding the foregoing, every member of the armed services of the United States deployed outside of the United States shall be allowed an automatic extension to file an income tax return. Such extension shall expire 90 days following the completion of such member's deployment. For purposes of this section, "the armed services of the United States" includes active duty service with the regular Armed Forces of the United States or the National Guard or other reserve component.

B. If the federal income tax liability of ~~husband or wife~~ *either spouse* is determined on a separate federal return, their Virginia income tax liabilities and returns shall be separate. If the federal income tax liabilities of ~~husband and wife~~ *married individuals* (other than a ~~husband and wife~~ *married individuals* described in subdivision 2 of subsection A) are determined on a joint federal return, or if neither files a federal return:

1. They shall file a joint Virginia income tax return, and their tax liabilities shall be joint and several; or
2. They may elect to file separate Virginia income tax returns if they comply with the requirements of the Department in setting forth information (whether or not on a single form), in which event their tax liabilities shall be separate unless such ~~husband and wife~~ *married individuals* file separately on a combined return. The election permitted under this subsection may be made or changed at any time within three years from the last day prescribed by law for the timely filing of the return.

C. If either ~~husband or wife~~ *spouse* is a resident and the other is a nonresident, they shall file separate Virginia income tax returns on such single or separate forms as may be required by the Department, in which event their tax liabilities shall be separate except as provided in subsection D, unless both elect to determine their joint Virginia taxable income as if both were residents, in which event their tax liabilities shall be joint and several.

D. If ~~husband and wife~~ *married individuals* file separate Virginia income tax returns on a single form pursuant to subsection B or C, and:

1. If the sum of the payments by either spouse, including withheld and estimated taxes, exceeds the amount of the tax for which such spouse is separately liable, the excess may be applied by the Department to the credit of the other spouse if the sum of the payments by such other spouse, including withheld and estimated taxes, is less than the amount of the tax for which such other spouse is separately liable;
2. If the sum of the payments made by both spouses with respect to the taxes for which they are separately liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of the excess may be made payable to both spouses.

The provisions of this subsection shall not apply if the return of either spouse includes a demand that any overpayment made by him ~~or her~~ shall be applied only on account of his ~~or her~~ separate liability.

305 E. The return for any deceased individual shall be made and filed by his executor, administrator, or
306 other person charged with his property.

307 F. The return for an individual who is unable to make a return by reason of minority or other
308 disability shall be made and filed by his guardian, committee, fiduciary or other person charged with the
309 care of his person or property (other than a receiver in possession of only a part of his property), or by
310 his duly authorized agent.

311 **§ 58.1-344.3. Voluntary contributions of refunds requirements.**

312 A. 1. For taxable years beginning on and after January 1, 2005, all entities entitled to voluntary
313 contributions of tax refunds listed in subsections B and C must have received at least \$10,000 in
314 contributions in each of the three previous taxable years for which there is complete data and in which
315 such entity was listed on the individual income tax return.

316 2. In the event that an entity listed in subsections B and C does not satisfy the requirement in
317 subdivision 1, such entity shall no longer be listed on the individual income tax return.

318 3. a. The entities listed in subdivisions B 21 and B 22 as well as any other entities in subsections B
319 and C added subsequent to the 2004 Session of the General Assembly shall not appear on the individual
320 income tax return until their addition to the individual income tax return results in a maximum of 25
321 contributions listed on the return. Such contributions shall be added in the order that they are listed in
322 subsections B and C.

323 b. Each entity added to the income tax return shall appear on the return for at least three consecutive
324 taxable years before the requirement in subdivision 1 is applied to such entity.

325 4. The Department of Taxation shall report annually by the first day of each General Assembly
326 Regular Session to the chairmen of the House and Senate Finance Committees the amounts collected for
327 each entity listed under subsections B and C for the three most recent taxable years for which there is
328 complete data. Such report shall also identify the entities, if any, that will be removed from the
329 individual income tax return because they have failed the requirements in subdivision 1, the entities that
330 will remain on the individual income tax return, and the entities, if any, that will be added to the
331 individual income tax return.

332 B. Subject to the provisions of subsection A, the following entities entitled to voluntary contributions
333 shall appear on the individual income tax return and are eligible to receive tax refund contributions of
334 not less than \$1:

335 1. Nongame wildlife voluntary contribution.

336 a. All moneys contributed shall be used for the conservation and management of endangered species
337 and other nongame wildlife. "Nongame wildlife" includes protected wildlife, endangered and threatened
338 wildlife, aquatic wildlife, specialized habitat wildlife both terrestrial and aquatic, and mollusks,
339 crustaceans, and other invertebrates under the jurisdiction of the Board of Game and Inland Fisheries.

340 b. All moneys shall be deposited into a special fund known as the Game Protection Fund and which
341 shall be accounted for as a separate part thereof to be designated as the Nongame Cash Fund. All
342 moneys so deposited in the Nongame Cash Fund shall be used by the Commission of Game and Inland
343 Fisheries for the purposes set forth herein.

344 2. Open space recreation and conservation voluntary contribution.

345 a. All moneys contributed shall be used by the Department of Conservation and Recreation to
346 acquire land for recreational purposes and preserve natural areas; to develop, maintain, and improve state
347 park sites and facilities; and to provide funds to local public bodies pursuant to the Virginia Outdoor
348 Fund Grants Program.

349 b. All moneys shall be deposited into a special fund known as the Open Space Recreation and
350 Conservation Fund. The moneys in the fund shall be allocated one-half to the Department of
351 Conservation and Recreation for the purposes stated in subdivision 2 a and one-half to local public
352 bodies pursuant to the Virginia Outdoor Fund Grants Program.

353 3. Voluntary contribution to political party.

354 All moneys contributed shall be paid to the State Central Committee of any party that meets the
355 definition of a political party under § 24.2-101 as of July 1 of the previous taxable year. The maximum
356 contribution allowable under this subdivision shall be \$25. In the case of a joint return of husband and
357 wife married individuals, each spouse may designate that the maximum contribution allowable be paid.

358 4. United States Olympic Committee voluntary contribution.

359 All moneys contributed shall be paid to the United States Olympic Committee.

360 5. Housing program voluntary contribution.

361 a. All moneys contributed shall be used by the Department of Housing and Community Development
362 to provide assistance for emergency, transitional, and permanent housing for the homeless; and to
363 provide assistance to housing for the low-income elderly for the physically or mentally disabled.

364 b. All moneys shall be deposited into a special fund known as the Virginia Tax Check-off for
365 Housing Fund. All moneys deposited in the fund shall be used by the Department of Housing and
366 Community Development for the purposes set forth in this subdivision. Funds made available to the

Virginia Tax Check-off for Housing Fund may supplement but shall not supplant activities of the Virginia Housing Trust Fund established pursuant to Chapter 9 (§ 36-141 et seq.) of Title 36 or those of the Virginia Housing Development Authority.

6. Voluntary contributions to the Department for Aging and Rehabilitative Services.

a. All moneys contributed shall be used by the Department for Aging and Rehabilitative Services for the enhancement of transportation services for the elderly and disabled.

b. All moneys shall be deposited into a special fund known as the Transportation Services for the Elderly and Disabled Fund. All moneys so deposited in the fund shall be used by the Department for Aging and Rehabilitative Services for the enhancement of transportation services for the elderly and disabled. The Department for Aging and Rehabilitative Services shall conduct an annual audit of the moneys received pursuant to this subdivision and shall provide an evaluation of all programs funded pursuant to this subdivision annually to the Secretary of Health and Human Resources.

7. Voluntary contribution to the Community Policing Fund.

a. All moneys contributed shall be used to provide grants to local law-enforcement agencies for the purchase of equipment or the support of services, as approved by the Criminal Justice Services Board, relating to community policing.

b. All moneys shall be deposited into a special fund known as the Community Policing Fund. All moneys deposited in such fund shall be used by the Department of Criminal Justices Services for the purposes set forth herein.

8. Voluntary contribution to promote the arts.

All moneys contributed shall be used by the Virginia Arts Foundation to assist the Virginia Commission for the Arts in its statutory responsibility of promoting the arts in the Commonwealth. All moneys shall be deposited into a special fund known as the Virginia Arts Foundation Fund.

9. Voluntary contribution to the Historic Resources Fund.

All moneys contributed shall be deposited in the Historic Resources Fund established pursuant to § 10.1-2202.1.

10. Voluntary contribution to the Virginia Foundation for the Humanities and Public Policy.

All moneys contributed shall be paid to the Virginia Foundation for the Humanities and Public Policy. All moneys shall be deposited into a special fund known as the Virginia Humanities Fund.

11. Voluntary contribution to the Center for Governmental Studies.

All moneys contributed shall be paid to the Center for Governmental Studies, a public service and research center of the University of Virginia. All moneys shall be deposited into a special fund known as the Governmental Studies Fund.

12. Voluntary contribution to the Law and Economics Center.

All moneys contributed shall be paid to the Law and Economics Center, a public service and research center of George Mason University. All moneys shall be deposited into a special fund known as the Law and Economics Fund.

13. Voluntary contribution to Children of America Finding Hope.

All moneys contributed shall be used by Children of America Finding Hope (CAFH) in its programs which are designed to reach children with emotional and physical needs.

14. Voluntary contribution to 4-H Educational Centers.

All moneys contributed shall be used by the 4-H Educational Centers throughout the Commonwealth for their (i) educational, leadership, and camping programs and (ii) operational and capital costs. The State Treasurer shall pay the moneys to the Virginia 4-H Foundation in Blacksburg, Virginia.

15. Voluntary contribution to promote organ and tissue donation.

a. All moneys contributed shall be used by the Virginia Transplant Council to assist in its statutory responsibility of promoting and coordinating educational and informational activities as related to the organ, tissue, and eye donation process and transplantation in the Commonwealth of Virginia.

b. All moneys shall be deposited into a special fund known as the Virginia Donor Registry and Public Awareness Fund. All moneys deposited in such fund shall be used by the Virginia Transplant Council for the purposes set forth herein.

16. Voluntary contributions to the Virginia War Memorial division of the Department of Veterans Services and the National D-Day Memorial Foundation.

All moneys contributed shall be used by the Virginia War Memorial division of the Department of Veterans Services and the National D-Day Memorial Foundation in their work through each of their respective memorials. The State Treasurer shall divide the moneys into two equal portions and pay one portion to the Virginia War Memorial division of the Department of Veterans Services and the other portion to the National D-Day Memorial Foundation.

17. Voluntary contribution to the Virginia Federation of Humane Societies.

All moneys contributed shall be paid to the Virginia Federation of Humane Societies to assist in its mission of saving, caring for, and finding homes for homeless animals.

428 18. Voluntary contribution to the Tuition Assistance Grant Fund.

429 a. All moneys contributed shall be paid to the Tuition Assistance Grant Fund for use in providing
430 monetary assistance to residents of the Commonwealth who are enrolled in undergraduate or graduate
431 programs in private Virginia colleges.

432 b. All moneys shall be deposited into a special fund known as the Tuition Assistance Grant Fund.
433 All moneys so deposited in the Fund shall be administered by the State Council of Higher Education for
434 Virginia in accordance with and for the purposes provided under the Tuition Assistance Grant Act
435 (§ 23.1-628 et seq.).

436 19. Voluntary contribution to the Spay and Neuter Fund.

437 All moneys contributed shall be paid to the Spay and Neuter Fund for use by localities in the
438 Commonwealth for providing low-cost spay and neuter surgeries through direct provision or contract or
439 each locality may make the funds available to any private, nonprofit sterilization program for dogs and
440 cats in such locality. The Tax Commissioner shall determine annually the total amounts designated on
441 all returns from each locality in the Commonwealth, based upon the locality that each filer who makes a
442 voluntary contribution to the Fund lists as his permanent address. The State Treasurer shall pay the
443 appropriate amount to each respective locality.

444 20. Voluntary contribution to the Virginia Commission for the Arts.

445 All moneys contributed shall be paid to the Virginia Commission for the Arts.

446 21. Voluntary contribution for the Department of Emergency Management.

447 All moneys contributed shall be paid to the Department of Emergency Management.

448 22. Voluntary contribution for the cancer centers in the Commonwealth.

449 All moneys contributed shall be paid equally to all entities in the Commonwealth that officially have
450 been designated as cancer centers by the National Cancer Institute.

451 23. Voluntary contribution to the Brown v. Board of Education Scholarship Program Fund.

452 a. All moneys contributed shall be paid to the Brown v. Board of Education Scholarship Program
453 Fund to support the work of and generate nonstate funds to maintain the Brown v. Board of Education
454 Scholarship Program.

455 b. All moneys shall be deposited into the Brown v. Board of Education Scholarship Program Fund as
456 established in § 30-231.4.

457 c. All moneys so deposited in the Fund shall be administered by the State Council of Higher
458 Education in accordance with and for the purposes provided in Chapter 34.1 (§ 30-231.01 et seq.) of
459 Title 30.

460 24. Voluntary contribution to the Martin Luther King, Jr. Living History and Public Policy Center.

461 All moneys contributed shall be paid to the Board of Trustees of the Martin Luther King, Jr. Living
462 History and Public Policy Center.

463 25. Voluntary contribution to the Virginia Caregivers Grant Fund.

464 All moneys contributed shall be paid to the Virginia Caregivers Grant Fund established pursuant to
465 § 63.2-2202.

466 26. Voluntary contribution to public library foundations.

467 All moneys contributed pursuant to this subdivision shall be deposited into the state treasury. The
468 Tax Commissioner shall determine annually the total amounts designated on all returns for each public
469 library foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the
470 appropriate amount to the respective public library foundation.

471 27. Voluntary contribution to Celebrating Special Children, Inc.

472 All moneys contributed shall be paid to Celebrating Special Children, Inc. and shall be deposited into
473 a special fund known as the Celebrating Special Children, Inc. Fund.

474 28. Voluntary contributions to the Department for Aging and Rehabilitative Services.

475 a. All moneys contributed shall be used by the Department for Aging and Rehabilitative Services for
476 providing Medicare Part D counseling to the elderly and disabled.

477 b. All moneys shall be deposited into a special fund known as the Medicare Part D Counseling Fund.
478 All moneys so deposited shall be used by the Department for Aging and Rehabilitative Services to
479 provide counseling for the elderly and disabled concerning Medicare Part D. The Department for Aging
480 and Rehabilitative Services shall conduct an annual audit of the moneys received pursuant to this
481 subdivision and shall provide an evaluation of all programs funded pursuant to the subdivision to the
482 Secretary of Health and Human Resources.

483 29. Voluntary contribution to community foundations.

484 All moneys contributed pursuant to this subdivision shall be deposited into the state treasury. The
485 Tax Commissioner shall determine annually the total amounts designated on all returns for each
486 community foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the
487 appropriate amount to the respective community foundation. A "community foundation" shall be defined
488 as any institution that meets the membership requirements for a community foundation established by
489 the Council on Foundations.

30. Voluntary contribution to the Virginia Foundation for Community College Education.
 a. All moneys contributed shall be paid to the Virginia Foundation for Community College Education for use in providing monetary assistance to Virginia residents who are enrolled in comprehensive community colleges in Virginia.

b. All moneys shall be deposited into a special fund known as the Virginia Foundation for Community College Education Fund. All moneys so deposited in the Fund shall be administered by the Virginia Foundation for Community College Education in accordance with and for the purposes provided under the Community College Incentive Scholarship Program (former § 23-220.2 et seq.).

31. Voluntary contribution to the Middle Peninsula Chesapeake Bay Public Access Authority.
 All moneys contributed shall be paid to the Middle Peninsula Chesapeake Bay Public Access Authority to be used for the purposes described in § 15.2-6601.

32. Voluntary contribution to the Breast and Cervical Cancer Prevention and Treatment Fund.
 All moneys contributed shall be paid to the Breast and Cervical Cancer Prevention and Treatment Fund established pursuant to § 32.1-368.

33. Voluntary contribution to the Virginia Aquarium and Marine Science Center.
 All moneys contributed shall be paid to the Virginia Aquarium and Marine Science Center for use in its mission to increase the public's knowledge and appreciation of Virginia's marine environment and inspire commitment to preserve its existence.

34. Voluntary contribution to the Virginia Capitol Preservation Foundation.
 All moneys contributed shall be paid to the Virginia Capitol Preservation Foundation for use in its mission in supporting the ongoing restoration, preservation, and interpretation of the Virginia Capitol and Capitol Square.

35. Voluntary contribution for the Secretary of Veterans and Defense Affairs.
 All moneys contributed shall be paid to the Office of the Secretary of Veterans and Defense Affairs for related programs and services.

C. Subject to the provisions of subsection A, the following voluntary contributions shall appear on the individual income tax return and are eligible to receive tax refund contributions or by making payment to the Department if the individual is not eligible to receive a tax refund pursuant to § 58.1-309 or if the amount of such tax refund is less than the amount of the voluntary contribution:

1. Voluntary contribution to the Family and Children's Trust Fund of Virginia.
 All moneys contributed shall be paid to the Family and Children's Trust Fund of Virginia.

2. Voluntary Chesapeake Bay restoration contribution.
 a. All moneys contributed shall be used to help fund Chesapeake Bay and its tributaries restoration activities in accordance with tributary plans developed pursuant to Article 7 (§ 2.2-215 et seq.) of Chapter 2 of Title 2.2 or the Chesapeake Bay Watershed Implementation Plan submitted by the Commonwealth of Virginia to the U.S. Environmental Protection Agency on November 29, 2010, and any subsequent revisions thereof.

b. The Tax Commissioner shall annually determine the total amount of voluntary contributions and shall report the same to the State Treasurer, who shall credit that amount to a special nonreverting fund to be administered by the Office of the Secretary of Natural Resources. All moneys so deposited shall be used for the purposes of providing grants for the implementation of tributary plans developed pursuant to Article 7 (§ 2.2-215 et seq.) of Chapter 2 of Title 2.2 or the Chesapeake Bay Watershed Implementation Plan submitted by the Commonwealth of Virginia to the U.S. Environmental Protection Agency on November 29, 2010, and any subsequent revisions thereof.

c. No later than November 1 of each year, the Secretary of Natural Resources shall submit a report to the House Committee on Agriculture, Chesapeake and Natural Resources; the Senate Committee on Agriculture, Conservation and Natural Resources; the House Committee on Appropriations; the Senate Committee on Finance; and the Virginia delegation to the Chesapeake Bay Commission, describing the grants awarded from moneys deposited in the fund. The report shall include a list of grant recipients, a description of the purpose of each grant, the amount received by each grant recipient, and an assessment of activities or initiatives supported by each grant. The report shall be posted on a website maintained by the Secretary of Natural Resources, along with a cumulative listing of previous grant awards beginning with awards granted on or after July 1, 2014.

3. Voluntary Jamestown-Yorktown Foundation Contribution.
 All moneys contributed shall be used by the Jamestown-Yorktown Foundation for the Jamestown 2007 quadricentennial celebration. All moneys shall be deposited into a special fund known as the Jamestown Quadricentennial Fund. This subdivision shall be effective for taxable years beginning before January 1, 2008.

4. State forests voluntary contribution.
 a. All moneys contributed shall be used for the development and implementation of conservation and education initiatives in the state forests system.

551 b. All moneys shall be deposited into a special fund known as the State Forests System Fund,
552 established pursuant to § 10.1-1119.1. All moneys so deposited in such fund shall be used by the State
553 Forester for the purposes set forth herein.

554 5. Voluntary contributions to Uninsured Medical Catastrophe Fund.

555 All moneys contributed shall be paid to the Uninsured Medical Catastrophe Fund established
556 pursuant to § 32.1-324.2, such funds to be used for the treatment of Virginians sustaining uninsured
557 medical catastrophes.

558 6. Voluntary contribution to local school divisions.

559 a. All moneys contributed shall be used by a specified local public school foundation as created by
560 and for the purposes stated in § 22.1-212.2:2.

561 b. All moneys collected pursuant to subdivision 6 a or through voluntary payments by taxpayers
562 designated for a local public school foundation over refundable amounts shall be deposited into the state
563 treasury. The Tax Commissioner shall determine annually the total amounts designated on all returns for
564 each public school foundation and shall report the same to the State Treasurer. The State Treasurer shall
565 pay the appropriate amount to the respective public school foundation.

566 c. In order for a public school foundation to be eligible to receive contributions under this section,
567 school boards must notify the Department during the taxable year in which they want to participate prior
568 to the deadlines and according to procedures established by the Tax Commissioner.

569 7. Voluntary contribution to Home Energy Assistance Fund.

570 All moneys contributed shall be paid to the Home Energy Assistance Fund established pursuant to
571 § 63.2-805, such funds to be used to assist low-income Virginians in meeting seasonal residential energy
572 needs.

573 8. Voluntary contribution to the Virginia Military Family Relief Fund.

574 a. All moneys contributed shall be paid to the Virginia Military Family Relief Fund for use in
575 providing assistance to military service personnel on active duty and their families for living expenses
576 including, but not limited to, food, housing, utilities, and medical services.

577 b. All moneys shall be deposited into a special fund known as the Virginia Military Family Relief
578 Fund, established and administered pursuant to § 44-102.2.

579 9. Voluntary contribution to the Federation of Virginia Food Banks.

580 All moneys contributed shall be paid to the Federation of Virginia Food Banks, a Partner State
581 Association of Feeding America. The Federation of Virginia Food Banks shall as soon as practicable
582 make an equitable distribution of all such moneys to the Blue Ridge Area Food Bank, Capital Area
583 Food Bank, Feeding America Southwest Virginia, FeedMore, Inc., Foodbank of Southeastern Virginia
584 and the Eastern Shore, Fredericksburg Area Food Bank, or Virginia Peninsula Foodbank.

585 The Secretary of Finance may request records or receipts of all distributions by the Federation of
586 Virginia Food Banks of such moneys contributed for purposes of ensuring compliance with the
587 requirements of this subdivision.

588 D. Unless otherwise specified and subject to the requirements in § 58.1-344.2, all moneys collected
589 for each entity in subsections B and C shall be deposited into the state treasury. The Tax Commissioner
590 shall determine annually the total amount designated for each entity in subsections B and C on all
591 individual income tax returns and shall report the same to the State Treasurer, who shall credit that
592 amount to each entity's respective special fund.

593 **§ 58.1-344.4. Voluntary contributions of refunds into Virginia College Savings Plan accounts.**

594 A. If an individual is entitled to an income tax refund for the taxable year, that individual may
595 designate on his Virginia individual income tax return a contribution to one or more Virginia College
596 Savings Plan accounts established under Chapter 7 (§ 23.1-700 et seq.) of Title 23.1, in the amount of
597 the entire individual income tax refund or a portion thereof.

598 B. 1. The Department of Taxation shall send each contribution made pursuant to subsection A to the
599 Virginia College Savings Plan with the following information:

600 a. The amount of the individual income tax refund or that portion of the refund that the individual
601 has chosen to contribute;

602 b. The taxpayer's name, Social Security number or taxpayer identification number, address, and
603 telephone number; and

604 c. The Virginia College Savings Plan account number or numbers into which the contributions will
605 be deposited.

606 2. If a contribution to a Virginia College Savings Plan account is designated in an individual income
607 tax return filed jointly by a husband and wife married individuals, the Department of Taxation shall
608 send the information described in subdivision 1 for both the husband and wife spouses to the Virginia
609 College Savings Plan.

610 C. 1. If the taxpayer owns a single Virginia College Savings Plan account, the Virginia College
611 Savings Plan shall deposit the contribution made pursuant to subsection A into that account.

612 2. If the taxpayer owns more than one Virginia College Savings Plan account, the Virginia College

Savings Plan shall allocate the contribution made pursuant to subsection A between or among the accounts in equal amounts, or as otherwise designated by the taxpayer.

3. If the taxpayer does not own an existing Virginia College Savings Plan account and does not wish to open an account, contributions made pursuant to subsection A shall be returned to the taxpayer by the Virginia College Savings Plan.

D. For the purpose of determining interest on an overpayment or refund under § 58.1-1833, no interest shall accrue after the Department of Taxation sends the contribution to the Virginia College Savings Plan.

E. Any taxpayer designating that a refund be contributed to a Virginia College Savings Plan account shall, by making such designation, be deemed to authorize the Department of Taxation to provide all necessary information, including the information specified in subdivision B 1, to the Virginia College Savings Plan.

§ 58.1-490. Declarations of estimated tax.

A. Every resident and nonresident individual shall make a declaration of his estimated tax for every taxable year, if his Virginia tax liability can reasonably be expected to exceed an amount, to be determined under regulations promulgated by the Tax Commissioner, which takes into account the additions, subtractions, and deductions set forth in §§ 58.1-322.01, 58.1-322.02, 58.1-322.03, and 58.1-322.04, the credits set forth in Articles 3 (§ 58.1-332 et seq.) and 13.2 (§ 58.1-439.18 et seq.), and the filing exclusions set forth in § 58.1-321. Every estate with respect to any taxable year ending two or more years after the date of death of the decedent and every trust shall make a declaration of its estimated tax for every taxable year, if its Virginia taxable income can reasonably be expected to exceed the amount specified by regulation for individuals as set forth above.

B. For purposes of this article, "estimated tax" means the amount which an individual estimates to be his income tax under this chapter for the taxable year, less the amount which he estimates to be the sum of any credits allowable against the tax.

C. For purposes of this section, the declaration shall be the first voucher.

D. In the case of a ~~husband and wife~~ *married individuals*, a single declaration under this section may be made by them jointly, in which case the liability with respect to the estimated tax shall be joint and several. No joint declaration may be made if either ~~the husband or the wife~~ *spouse* is a nonresident of the Commonwealth unless both are required by this chapter to file a return, if they are separated under a decree of divorce or of separate maintenance, or if they have different taxable years. If a joint declaration is made but a joint return is not made for the taxable year, the estimated tax for such year may be treated as the estimated tax of either ~~the husband or the wife~~ *spouse*, or may be divided between them.

E. A declaration of estimated tax of an individual other than a farmer, fisherman, or merchant seaman shall be filed on or before May 1 of the taxable year, except that if the requirements of subsection A are first met:

1. The declaration shall be filed on or before June 15; or

2. After June 1 and before September 2 of the taxable year, the declaration shall be filed on or before September 15; or

3. After September 1 of the taxable year, the declaration shall be filed on or before January 15 of the succeeding year.

F. A declaration of estimated tax of an individual having an estimated gross income from (i) farming (including oyster farming); (ii) fishing; or (iii) working as a merchant seaman for the taxable year, which is at least two-thirds of his total estimated gross income for the taxable year, may be filed at any time on or before January 15 of the succeeding year, in lieu of the time otherwise prescribed.

G. A declaration of estimated tax of an individual having a total estimated tax for the taxable year of \$40 or less may be filed at any time on or before January 15 of the succeeding year under regulations of the Tax Commissioner.

H. An individual may amend a declaration under regulations of the Tax Commissioner.

I. If on or before March 1 of the succeeding taxable year an individual files his return for the taxable year for which the declaration is required, and pays therewith the full amount of the tax shown to be due on the return:

1. Such return shall be considered as his declaration if no declaration was required to be filed during the taxable year, but is otherwise required to be filed on or before January 15.

2. Such return shall be considered as the amendment permitted by subsection H to be filed on or before January 15 if the tax shown on the return is greater than the estimated tax shown in a declaration previously made.

J. This section shall apply to a taxable year other than a calendar year by the substitution of the months of such fiscal year for the corresponding months specified in this section.

K. An individual having a taxable year of less than 12 months shall make a declaration in

674 accordance with regulations of the Tax Commissioner.

675 L. The declaration of estimated tax for an individual who is unable to make a declaration by reason
676 of any disability shall be made and filed by his guardian, committee, fiduciary or other person charged
677 with the care of his person or property (other than a receiver in possession of only a part of his
678 property), or by his duly authorized agent.

679 M. The declaration of estimated tax for a trust or estate shall be made by the fiduciary. For purposes
680 of the estimated tax imposed in this article, any reference to an "individual" shall be deemed to include
681 the fiduciary required to file a declaration for a trust or estate. Any overpayment of estimated tax with
682 respect to any trust or estate shall be refunded to the fiduciary. A beneficiary of a trust or estate shall
683 not be entitled to a credit against the beneficiary's individual income tax for any overpayment of
684 estimated tax by a trust or estate.

685 **§ 58.1-499. Refunds to individual taxpayers; crediting overpayment against estimated tax for**
686 **ensuing year.**

687 A. In the case of any overpayment of any tax, addition to tax, interest or penalties imposed on an
688 individual income taxpayer by this chapter, whether by reason of excessive withholding, overestimating
689 and overpaying estimated tax, error on the part of the taxpayer, or an erroneous assessment of tax, the
690 Tax Commissioner shall order a refund of the amount of the overpayment to the taxpayer. The
691 overpayment shall be refunded out of the state treasury on the order of the Tax Commissioner upon the
692 Comptroller.

693 B. If a refund of an overpayment of individual income tax payments is made payable jointly to a
694 ~~husband and wife~~ *married individuals* who receive a final divorce decree after filing a joint income tax
695 return, separate income tax returns on a single form, an amendment thereto, or other claim resulting in
696 the issuance of a refund, the Tax Commissioner shall order the reissuance of the refund in separate
697 checks to the ~~husband and to the wife~~ *each spouse* if the unnegotiated joint refund check is returned to
698 Department with a certification, in a form satisfactory to the Department, made by one spouse that the
699 other spouse refuses to endorse the joint refund check or cannot be located. In making such certification,
700 the spouse returning the check shall agree to indemnify the Commonwealth for any amounts that the
701 Commonwealth may be required to pay to the other spouse with respect to such refund. A certified copy
702 of the final divorce decree, including any agreement with respect to the division of property between the
703 spouses, shall be provided with the certification. If the final divorce decree addresses the apportionment
704 or ownership of the refunded amount, the refund shall be apportioned and separate payments ordered as
705 provided therein. If the final divorce decree does not address the apportionment or ownership of the
706 refunded amount, the amount of the refund shall be divided equally between the ~~husband and wife~~
707 *spouses*. The reissuance of refund payments pursuant to this subsection shall not affect the joint and
708 several liability of the ~~husband and wife~~ *spouses* for tax liabilities for the period for which the return or
709 returns were filed.

710 C. Whenever the annual income tax return of an individual income taxpayer indicates in the place
711 provided thereon that the taxpayer has overpaid his tax for the taxable year by reason of excessive
712 withholding or overestimating and overpaying estimated tax, or both, the amount of the overpayment as
713 shown on his return, subject to correction for error, may be credited against the estimated income tax for
714 the ensuing year at the taxpayer's election and according to regulations prescribed by the Department
715 and such overpayments by either a ~~husband or wife~~ *spouse* on a separate return may be credited to the
716 tax for the ensuing year of either of them or may be credited to their joint tax at the election of the
717 person to whom the overpayment is payable; or otherwise such amount shall be refunded to him as soon
718 as practicable. Interest on such refund shall be allowed and computed in accordance with § 58.1-1833.
719 The making of any refund shall not absolve any taxpayer of any income tax liability which may in fact
720 exist and the Tax Commissioner may make an assessment for any deficiency in the manner provided by
721 law.

722 D. No refund under this section, however, shall be made for any overpayment of less than one dollar
723 except on special written application of the taxpayer, nor shall any refund of any amount under this
724 section be made, whether on discovery by the Department or on written application of the taxpayer, if
725 such discovery is not made or such written application is not received within three years from the last
726 day prescribed by law for the timely filing of the return, or within sixty days from the final
727 determination of any change or correction in the liability of the taxpayer for any federal tax upon which
728 the state tax is based, whichever is later.

729 E. Notwithstanding the provisions of the Setoff Debt Collection Act, Article 21 (§ 58.1-520 et seq.)
730 of this chapter, whenever any taxpayer is entitled to a refund under this section, or under § 58.1-309 or
731 §§ 58.1-1821 through 58.1-1830 and such taxpayer owes the Commonwealth a past due income tax, or
732 balance thereof, for any year, the amount of such refund may be credited on such past due income tax
733 or balance, to the extent indicated.

734 **§ 58.1-520. (Contingent expiration date) Definitions.**

735 As used in this article:

"Claimant agency" means any administrative unit of state, county, city or town government, including department, institution, commission, authority, or the office of Executive Secretary of the Supreme Court, any circuit or district court and the Internal Revenue Service. All state agencies and institutions shall participate in the setoff program.

"Debtor" means any individual having a delinquent debt or account with any claimant agency which obligation has not been satisfied by court order, set aside by court order, or discharged in bankruptcy.

"Delinquent debt" means any liquidated sum due and owing any claimant agency, or any restitution ordered paid to a clerk of the court pursuant to Title 19.2, including any amount of court costs or fines which have accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum which is legally collectible and for which a collection effort has been or is being made.

"Mailing date of notice" means the date of notice appearing thereon.

"Refund" means any individual's Virginia state or local income tax refund payable pursuant to § 58.1-309. This term also includes any refund belonging to a debtor resulting from the filing of a joint income tax return or a refund belonging to a debtor resulting from the filing of a return where ~~husband and wife~~ *married individuals* have elected to file a combined return and separately state their Virginia taxable incomes under the provisions of § 58.1-324 B 2.

§ 58.1-520. (Contingent effective date) Definitions.

As used in this article:

"Claimant agency" means any administrative unit of state, county, city or town government, including department, institution, commission, authority, or the office of Executive Secretary of the Supreme Court, any circuit or district court and the Internal Revenue Service. All state agencies and institutions shall participate in the setoff program.

"Debtor" means any individual having a delinquent debt or account with any claimant agency which obligation has not been satisfied by court order, set aside by court order, or discharged in bankruptcy.

"Delinquent debt" means any liquidated sum due and owing any claimant agency, or any restitution ordered paid to a clerk of the court pursuant to Title 19.2, including any amount of court costs or fines which have accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum which is legally collectible and for which a collection effort has been or is being made.

"Mailing date of notice" means the date of notice appearing thereon.

"Refund" means any individual's (i) Virginia state or local income tax refund payable pursuant to § 58.1-309 or (ii) federal income tax refund payable pursuant to § 6402 of the Internal Revenue Code. This term also includes any refund belonging to a debtor resulting from the filing of a joint income tax return or a refund belonging to a debtor resulting from the filing of a return where ~~husband and wife~~ *married individuals* have elected to file a combined return and separately state their Virginia taxable incomes under the provisions of § 58.1-324 B 2.

§ 58.1-810. What other deeds not taxable.

When the tax has been paid at the time of the recordation of the original deed, no additional recordation tax shall be required for admitting to record:

1. A deed of confirmation;
2. A deed of correction;
3. A deed to which a ~~husband and wife~~ *married individuals* are the only parties;
4. A deed arising out of a contract to purchase real estate; if the tax already paid is less than a proper tax based upon the full amount of consideration or actual value of the property involved in the transaction, an additional tax shall be paid based on the difference between the full amount of such consideration or actual value and the amount on which the tax has been paid; or
5. A notice of assignment of a note secured by a deed of trust or mortgage.

§ 58.1-3210. Exemption or deferral of taxes on property of certain elderly and handicapped persons.

A. The governing body of any county, city or town may, by ordinance, provide for the exemption from, deferral of, or a combination program of exemptions from and deferrals of taxation of real estate and manufactured homes as defined in § 36-85.3, or any portion thereof, and upon such conditions and in such amount as the ordinance may prescribe. Such real estate shall be owned by, and be occupied as the sole dwelling of anyone at least 65 years of age or if provided in the ordinance, anyone found to be permanently and totally disabled as defined in § 58.1-3217. Such ordinance may provide for the exemption from or deferral of that portion of the tax which represents the increase in tax liability since the year such taxpayer reached the age of 65 or became disabled, or the year such ordinance became effective, whichever is later. A dwelling jointly held by a ~~husband and wife~~ *married individuals*, with no other joint owners, may qualify if either spouse is 65 or over or is permanently and totally disabled, and the proration of the exemption or deferral under § 58.1-3211.1 shall not apply for such dwelling.

797 B. For purposes of this section, "eligible person" means a person who is at least age 65 or, if
798 provided in the ordinance pursuant to subsection A, permanently and totally disabled. Under subsection
799 A, real property owned and occupied as the sole dwelling of an eligible person includes real property (i)
800 held by the eligible person alone or in conjunction with his spouse as tenant or tenants for life or joint
801 lives, (ii) held in a revocable inter vivos trust over which the eligible person or the eligible person and
802 his spouse hold the power of revocation, or (iii) held in an irrevocable trust under which an eligible
803 person alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or
804 enjoys a continuing right of use or support. The term "eligible person" does not include any interest held
805 under a leasehold or term of years.

806 C. For purposes of this article, any reference to real estate shall include manufactured homes.

807 **§ 58.1-3211.1. Prorated tax exemption or deferral of tax.**

808 A. The governing body of the county, city, or town may, by ordinance, also provide for an
809 exemption from or deferral of (or combination program thereof) real estate taxes for dwellings jointly
810 held by two or more individuals not all of whom are at least age 65 or (if provided in the ordinance)
811 permanently and totally disabled, provided that the dwelling is occupied as the sole dwelling by all such
812 joint owners.

813 The tax exemption or deferral for the dwelling that otherwise would have been provided under the
814 local ordinance shall be prorated by multiplying the amount of the exemption or deferral by a fraction
815 that has as a numerator the percentage of ownership interest in the dwelling held by all such joint
816 owners who are at least age 65 or (if provided in the ordinance) permanently and totally disabled, and
817 as a denominator, 100%. As a condition of eligibility for such tax exemption or deferral, the joint
818 owners of the dwelling shall be required to furnish to the relevant local officer sufficient evidence of
819 each joint owner's ownership interest in the dwelling.

820 B. For purposes of this subsection, "eligible person" means a person who is at least age 65 or, if
821 provided in the ordinance pursuant to subsection A, permanently and totally disabled. For purposes of
822 the tax exemption pursuant to subsection A, real property that is a dwelling jointly held by two or more
823 individuals includes real property (i) held by an eligible person in conjunction with one or more other
824 people as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which an
825 eligible person with one or more other people hold the power of revocation, or (iii) held in an
826 irrevocable trust under which an eligible person in conjunction with one or more other people possesses
827 a life estate or an estate for joint lives or enjoys a continuing right of use or support. The term "eligible
828 person" does not include any interest held under a leasehold or term of years.

829 C. The provisions of this section shall not apply to dwellings jointly held by a husband and wife
830 married individuals, with no other joint owners.

831 D. Nothing in this section shall be interpreted or construed to provide for an exemption from or
832 deferral of tax for any dwelling jointly held by nonindividuals.

833 **§ 58.1-3219.5. Exemption from taxes on property for disabled veterans.**

834 A. Pursuant to subdivision (a) of Section 6-A of Article X of the Constitution of Virginia, and for
835 tax years beginning on or after January 1, 2011, the General Assembly hereby exempts from taxation
836 the real property, including the joint real property of husband and wife married individuals, of any
837 veteran who has been rated by the U.S. Department of Veterans Affairs or its successor agency pursuant
838 to federal law to have a 100 percent service-connected, permanent, and total disability, and who
839 occupies the real property as his principal place of residence. If the veteran's disability rating occurs
840 after January 1, 2011, and he has a qualified primary residence on the date of the rating, then the
841 exemption for him under this section begins on the date of such rating. However, no county, city, or
842 town shall be liable for any interest on any refund due to the veteran for taxes paid prior to the veteran's
843 filing of the affidavit or written statement required by § 58.1-3219.6. If the qualified veteran acquires
844 the property after January 1, 2011, then the exemption shall begin on the date of acquisition, and the
845 previous owner may be entitled to a refund for a pro rata portion of real property taxes paid pursuant to
846 § 58.1-3360.

847 B. The surviving spouse of a veteran eligible for the exemption set forth in this article shall also
848 qualify for the exemption, so long as the death of the veteran occurs on or after January 1, 2011, the
849 surviving spouse does not remarry, and the surviving spouse continues to occupy the real property as his
850 principal place of residence.

851 C. A county, city, or town shall provide for the exemption from real property taxes the qualifying
852 dwelling pursuant to this section and shall provide for the exemption from real property taxes the land,
853 not exceeding one acre, upon which it is situated. However, if a county, city, or town provides for an
854 exemption from or deferral of real property taxes of more than one acre of land pursuant to Article 2
855 (§ 58.1-3210 et seq.), then the county, city, or town shall also provide an exemption for the same
856 number of acres pursuant to this section. If the veteran owns a house that is his residence, including a
857 manufactured home as defined in § 46.2-100 whether or not the wheels and other equipment previously
858 used for mobility have been removed, such house or manufactured home shall be exempt even if the

veteran does not own the land on which the house or manufactured home is located. If such land is not owned by the veteran, then the land is not exempt. A real property improvement other than a dwelling, including the land upon which such improvement is situated, made to such one acre or greater number of acres exempt from taxation pursuant to this subsection shall also be exempt from taxation so long as the principal use of the improvement is (i) to house or cover motor vehicles or household goods and personal effects as classified in subdivision A 14 of § 58.1-3503 and as listed in § 58.1-3504 and (ii) for other than a business purpose.

D. For purposes of this exemption, real property of any veteran includes real property (i) held by a veteran alone or in conjunction with the veteran's spouse as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which the veteran or the veteran and his spouse hold the power of revocation, or (iii) held in an irrevocable trust under which a veteran alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support. The term does not include any interest held under a leasehold or term of years.

The exemption for a surviving spouse under subsection B includes real property (a) held by the veteran's spouse as tenant for life, (b) held in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (c) held in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys a continuing right of use or support. The exemption does not apply to any interest held under a leasehold or term of years.

E. 1. In the event that (i) a person is entitled to an exemption under this section by virtue of holding the property in any of the three ways set forth in subsection D and (ii) one or more other persons have an ownership interest in the property that permits them to occupy the property, then the tax exemption for the property that otherwise would have been provided shall be prorated by multiplying the amount of the exemption by a fraction that has as a numerator the number of people who are qualified for the exemption pursuant to this section and has as a denominator the total number of all people having an ownership interest that permits them to occupy the property.

2. In the event that the primary residence is jointly owned by two or more individuals, not all of whom qualify for the exemption pursuant to subsection A or B, and no person is entitled to the exemption under this section by virtue of holding the property in any of the three ways set forth in subsection D, then the exemption shall be prorated by multiplying the amount of the exemption or deferral by a fraction that has as a numerator the percentage of ownership interest in the dwelling held by all such joint owners who qualify for the exemption pursuant to subsections A and B, and as a denominator, 100 percent.

§ 58.1-3219.6. Application for exemption.

The veteran or surviving spouse claiming the exemption under this article shall file with the commissioner of the revenue of the county, city, or town or such other officer as may be designated by the governing body in which the real property is located, on forms to be supplied by the county, city, or town, an affidavit or written statement (i) setting forth the name of the disabled veteran and the name of the spouse, if any, also occupying the real property, (ii) indicating whether the real property is jointly owned by a ~~husband and wife~~ *married individuals*, and (iii) certifying that the real property is occupied as the veteran's principal place of residence. The veteran shall also provide documentation from the U.S. Department of Veterans Affairs or its successor agency indicating that the veteran has a 100 percent service-connected, permanent, and total disability. The veteran shall be required to refile the information required by this section only if the veteran's principal place of residence changes. In the event of a surviving spouse of a veteran claiming the exemption, the surviving spouse shall also provide documentation that the veteran's death occurred on or after January 1, 2011.

§ 58.1-3343. Effect of lien on certain real estate jointly owned.

The lien on real estate owned by more than one person as tenants in common, joint tenants or otherwise for the payment of all prior, present and subsequent taxes and levies or assessments thereof, including any tax, levy, or assessment authorized under § 58.1-3712, 58.1-3713, 58.1-3713.4, or 58.1-3741, shall not be impaired if such real estate was or is assessed in the name of one of such owners with the notation, "and another," or "and others," or "and wife," or "and husband," or "*and spouse*," or the appropriate abbreviations of such words, or their legal equivalents, so as to indicate that the real estate was or is owned by more than one person.

§ 58.1-3506.1. Other classification for taxation of certain tangible personal property owned by certain elderly and handicapped persons.

The governing body of any county, city or town may, by ordinance, levy a tax on one motor vehicle owned and used primarily by or for anyone at least 65 years of age or anyone found to be permanently and totally disabled, as defined in § 58.1-3506.3, at a different rate from the tax levied on other tangible personal property, upon such conditions as the ordinance may prescribe. Such rate shall not exceed the tangible personal property tax on the general class of tangible personal property. For purposes of this article, the term motor vehicle shall include only automobiles and pickup trucks. Any such motor

920 vehicle owned by a ~~husband and wife~~ *married individuals* may qualify if either spouse is 65 or over or
921 if either spouse is permanently and totally disabled. Notwithstanding any other provision of this section
922 or article, for any automobile or pickup truck that is (i) a qualifying vehicle, as such term is defined in
923 § 58.1-3523, and (ii) assessed for tangible personal property taxes by a county, city, or town receiving a
924 payment from the Commonwealth under Chapter 35.1 of this title for providing tangible personal
925 property tax relief, the rate of tax levied pursuant to this article shall not exceed the rates of tax and
926 rates of assessment required under such chapter.

927 **§ 58.1-3506.2. Restrictions and conditions.**

928 Any difference in the rates for purposes of this section shall be subject to the following restrictions
929 and conditions:

930 1. The total combined income received, excluding the first \$7,500 of income, at the option of the
931 local government, from all sources during the preceding calendar year by the owner of the motor vehicle
932 shall not exceed the greater of \$30,000 or the income limits based on family size for the respective
933 metropolitan statistical area, annually published by the Department of Housing and Urban Development
934 for qualifying for federal housing assistance pursuant to § 235 of the National Housing Act (12 U.S.C.
935 § 1715z).

936 2. The owner's net financial worth, including the present value of all equitable interests, as of
937 December 31 of the immediately preceding calendar year, excluding the value of the principal residence
938 and the land, not exceeding one acre, upon which it is situated, shall not exceed \$75,000. The local
939 government may also exclude such furnishings as furniture, household appliances and other items
940 typically used in a home.

941 3. Notwithstanding the provisions of subdivisions 1 and 2 of this section, in Fairfax County and any
942 town adjacent thereto, Arlington County, Chesterfield County, Loudoun County, and Prince William
943 County, or the Cities of Alexandria, Chesapeake, Fairfax, Falls Church, Manassas, Manassas Park,
944 Portsmouth, Suffolk or Virginia Beach, or the Town of Leesburg, the board of supervisors or council
945 may, by ordinance, raise the income and financial worth limitations for any reductions under this article
946 to a maximum of the greater of \$52,000 or the income limits based upon family size for the respective
947 metropolitan statistical area, published annually by the Department of Housing and Urban Development
948 for qualifying for federal housing assistance pursuant to § 235 of the National Housing Act (12 U.S.C.
949 § 1715z), for the total combined income amount, and \$195,000 for the maximum net financial worth
950 amount which shall exclude the value of the principal residence and the land, not exceeding one acre,
951 upon which it is located.

952 4. All income and net worth limitations shall be computed by aggregating the income and assets, as
953 the case may be, of a ~~husband and wife~~ *married individuals* who reside in the same dwelling and shall
954 be applied to any owner of the motor vehicle who seeks the benefit of the preferential tax rate permitted
955 under this article, irrespective of how such motor vehicle may be titled.