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HOUSE BILL NO. 158

Offered January 8, 2020

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A BILL to amend and reenact § 58.1-322.03 of the Code of Virginia, relating to income tax deduction; primary and secondary school tuition or home instruction expenses.

Patrons—Cole, M.L., Freitas, LaRock and McGuire; Senator: Chase

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That § 58.1-322.03 of the Code of Virginia is amended and reenacted as follows:****§ 58.1-322.03. Virginia taxable income; deductions.**

In computing Virginia taxable income pursuant to § 58.1-322, there shall be deducted from Virginia adjusted gross income as defined in § 58.1-321:

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

b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income tax return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, 2026, \$3,000 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return) and (ii) for taxable years beginning on and after January 1, 2019, but before January 1, 2026, \$4,500 for single individuals and \$9,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return). For purposes of this section, any person who may be claimed as a dependent on another taxpayer's return for the taxable year may compute the deduction only with respect to earned income.

2. a. A deduction in the amount of \$930 for each personal exemption allowable to the taxpayer for federal income tax purposes.

b. Each blind or aged taxpayer as defined under § 63(f) of the Internal Revenue Code shall be entitled to an additional personal exemption in the amount of \$800.

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

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

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

5. a. A deduction in the amount of \$12,000 for individuals born on or before January 1, 1939.

b. A deduction in the amount of \$12,000 for individuals born after January 1, 1939, who have attained the age of 65. This deduction shall be reduced by \$1 for every \$1 that the taxpayer's adjusted federal adjusted gross income exceeds \$50,000 for single taxpayers or \$75,000 for married taxpayers. For married taxpayers filing separately, the deduction shall be reduced by \$1 for every \$1 that the total combined adjusted federal adjusted gross income of both spouses exceeds \$75,000.

For the purposes of this subdivision, "adjusted federal adjusted gross income" means federal adjusted gross income minus any 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, as amended.

6. The amount an individual pays as a fee for an initial screening to become a possible bone marrow donor, if (i) the individual is not reimbursed for such fee or (ii) the individual has not claimed a deduction for the payment of such fee on his federal income tax return.

7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed during the taxable year for a prepaid tuition contract or college savings trust account entered into with the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as provided in subdivision b, the amount deducted on any individual income tax return in any taxable year shall be limited to \$4,000 per prepaid tuition contract or college savings trust account. No deduction

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59 shall be allowed pursuant to this subdivision 7 if such payments or contributions are deducted on the
60 purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a
61 college savings trust account exceeds \$4,000, the remainder may be carried forward and subtracted in
62 future taxable years until the purchase price or college savings trust contribution has been fully
63 deducted; however, except as provided in subdivision b, in no event shall the amount deducted in any
64 taxable year exceed \$4,000 per contract or college savings trust account. Notwithstanding the statute of
65 limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to
66 recapture in the taxable year or years in which distributions or refunds are made for any reason other
67 than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or
68 (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision,
69 "purchaser" or "contributor" means the person shown as such on the records of the Virginia College
70 Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid
71 tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax
72 attributes associated with a prepaid tuition contract or college savings trust account, including, but not
73 limited to, carryover and recapture of deductions.

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

79 8. The total amount an individual actually contributed in funds to the Virginia Public School
80 Construction Grants Program and Fund, established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1,
81 provided that the individual has not claimed a deduction for such amount on his federal income tax
82 return.

83 9. An amount equal to 20 percent of the tuition costs incurred by an individual employed as a
84 primary or secondary school teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1
85 to attend continuing teacher education courses that are required as a condition of employment; however,
86 the deduction provided by this subdivision shall be available only if (i) the individual is not reimbursed
87 for such tuition costs and (ii) the individual has not claimed a deduction for the payment of such tuition
88 costs on his federal income tax return.

89 10. The amount an individual pays annually in premiums for long-term health care insurance,
90 provided that the individual has not claimed a deduction for federal income tax purposes, or, for taxable
91 years beginning before January 1, 2014, a credit under § 58.1-339.11. For taxable years beginning on
92 and after January 1, 2014, no such deduction for long-term health care insurance premiums paid by the
93 individual during the taxable year shall be allowed if the individual has claimed a federal income tax
94 deduction for such taxable year for long-term health care insurance premiums paid by him.

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

98 a. If the payment is received in installment payments, then the recognized gain may be subtracted in
99 the taxable year immediately following the year in which the installment payment is received.

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

103 12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6
104 (§ 58.1-600 et seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the
105 following items of tangible personal property: (i) any clothes washers, room air conditioners,
106 dishwashers, and standard size refrigerators that meet or exceed the applicable energy star efficiency
107 requirements developed by the U.S. Environmental Protection Agency and the U.S. Department of
108 Energy; (ii) any fuel cell that (a) generates electricity using an electrochemical process, (b) has an
109 electricity-only generation efficiency greater than 35 percent, and (c) has a generating capacity of at least
110 two kilowatts; (iii) any gas heat pump that has a coefficient of performance of at least 1.25 for heating
111 and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that yields an energy factor of
112 at least 1.7; (v) any electric heat pump that has a heating system performance factor of at least 8.0 and
113 a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner that has a
114 cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater that
115 has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual
116 fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization
117 rating of 85; and (x) programmable thermostats.

118 13. The lesser of \$5,000 or the amount actually paid by a living donor of an organ or other living
119 tissue for unreimbursed out-of-pocket expenses directly related to the donation that arose within 12
120 months of such donation, provided that the donor has not taken a medical deduction in accordance with

the provisions of § 213 of the Internal Revenue Code for such expenses. The deduction may be taken in the taxable year in which the donation is made or the taxable year in which the 12-month period expires.

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

15. For taxable years beginning on and after January 1, 2018, 20 percent of business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code. For purposes of this subdivision, "business interest" means the same as that term is defined under § 163(j) of the Internal Revenue Code.

16. For taxable years beginning on and after January 1, 2019, the actual amount of real and personal property taxes imposed by the Commonwealth or any other taxing jurisdiction not otherwise deducted solely on account of the dollar limitation imposed on individual deductions by § 164(b)(6)(B) of the Internal Revenue Code.

17. For taxable years beginning on and after January 1, 2020, the actual amount of education expenses incurred by a parent or guardian of a child under the age of 18. The deduction may be taken only for the taxable year in which such expenses were incurred. As used in this subdivision, "education expenses" means tuition for a primary or secondary school in the Commonwealth, or expenses directly related to the home instruction of children pursuant to § 22.1-254.1. The Department of Taxation shall develop guidelines setting forth the types of expenses and expenditures that may be deducted pursuant to this subdivision.