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SENATE BILL NO. 93

Offered January 8, 2020

Prefiled December 2, 2019

A BILL to amend and reenact §§ 58.1-322.02, 58.1-322.03, and 58.1-402 of the Code of Virginia and to amend the Code of Virginia by adding in Article 3 of Chapter 17 of Title 58.1 a section numbered 58.1-1718.01, relating to taxes on income, wills, and administrations; exemptions for victims of the Virginia Beach mass shooting and for payments to such victims; emergency.

Patrons—DeSteph, Chase, McClellan, Morrissey and Ruff; Delegates: Cole, J.G., Delaney and Hope

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-322.02, 58.1-322.03, and 58.1-402 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 3 of Chapter 17 of Title 58.1 a section numbered 58.1-1718.01 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 another state.

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

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

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

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

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

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

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

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

94 As used in this subdivision:

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

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

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

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

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

119 23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined
120 in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the

121 National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8,
122 and launched from an airport or spaceport in Virginia.

123 24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income
124 taxed as investment services partnership interest income (otherwise known as investment partnership
125 carried interest income) for federal income tax purposes. To qualify for a subtraction under this
126 subdivision, such income shall be attributable to an investment in a "qualified business," as defined in
127 § 58.1-339.4, or in any other technology business approved by the Secretary of Technology, provided
128 that the business has its principal office or facility in the Commonwealth and less than \$3 million in
129 annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this
130 subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2020. No
131 taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4
132 shall be eligible for the subtraction under this subdivision for an investment in the same business.

133 25. For taxable years beginning on and after January 1, 2014, any income of an account holder for
134 the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's
135 first-time home buyer savings account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36
136 and (ii) interest income or other income for federal income tax purposes attributable to such person's
137 first-time home buyer savings account.

138 Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction
139 taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys
140 or funds withdrawn from the first-time home buyer savings account were used for any purpose other
141 than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under
142 § 36-174. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable
143 year that was used for other than the payment of eligible costs, computed by multiplying the amount
144 withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in
145 the account at the time of the withdrawal to the total balance in the account at such time.

146 However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i)
147 withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the
148 account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101
149 through 1330; or (iii) transferred from an account established pursuant to Chapter 12 (§ 36-171 et seq.)
150 of Title 36 into another account established pursuant to such chapter for the benefit of another qualified
151 beneficiary.

152 For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings
153 account," and "qualified beneficiary" mean the same as those terms are defined in § 36-171.

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

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

165 b. As used in this subdivision 27:

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

171 "Virginia venture capital account" means an investment fund that has been certified by the
172 Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital
173 account, the operator of the investment fund shall register the investment fund with the Department prior
174 to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed
175 to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one
176 investor who has at least four years of professional experience in venture capital investment or
177 substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to,
178 an undergraduate degree from an accredited college or university in economics, finance, or a similar
179 field of study. The Department may require an investment fund to provide documentation of the
180 investor's training, education, or experience as deemed necessary by the Department to determine
181 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.

28. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed 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 27 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 28:

"Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of § 2.2-115.

"Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3 of § 2.2-115.

"Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C. § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If the Department determines that the trust satisfies the preceding criteria, the Department shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed.

29. For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of real property by condemnation proceedings.

30. a. *Any relief payment received by a victim of the Virginia Beach mass shooting.*

b. As used in this subdivision 30:

"Relief payment" means any amount paid, directly or indirectly, to a victim on account of the Virginia Beach mass shooting, provided that the payor (i) coordinates with the City of Virginia Beach to identify victims and distribute payments or (ii) pays such amount to a corporation that coordinates with the City of Virginia Beach to identify victims and distribute payments.

"Victim" means (i) an individual who died or was wounded as a result of the Virginia Beach mass shooting or (ii) the parent, guardian, child, or spouse of an individual described in clause (i).

"Virginia Beach mass shooting" means the mass shooting that occurred on May 31, 2019, at the Virginia Beach Municipal Center in the City of Virginia Beach.

§ 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13. The lesser of \$5,000 or the amount actually paid by a living donor of an organ or other living tissue for unreimbursed out-of-pocket expenses directly related to the donation that arose within 12 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. Any amount donated to an entity that provides relief payments, as defined in § 58.1-322.02, to the extent that the individual has not claimed a deduction for such relief payment on his federal income tax return.

§ 58.1-402. Virginia taxable income.

A. For purposes of this article, Virginia taxable income for a taxable year means the federal taxable income and any other income taxable to the corporation under federal law for such year of a corporation adjusted as provided in subsections B, C, D, E, and G.

For a regulated investment company and a real estate investment trust, such term means the "investment company taxable income" and "real estate investment trust taxable income," respectively, to which shall be added in each case any amount of capital gains and any other income taxable to the corporation under federal law which shall be further adjusted as provided in subsections B, C, D, E, and G.

B. There shall be added to the extent excluded from federal taxable income:

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

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

3. [Repealed.]
4. The amount of any net income taxes and other taxes, including franchise and excise taxes, which are based on, measured by, or computed with reference to net income, imposed by the Commonwealth or any other taxing jurisdiction, to the extent deducted in determining federal taxable income;
5. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;
6. [Repealed.]
7. The amount required to be included in income for the purpose of computing the partial tax on an accumulation distribution pursuant to § 667 of the Internal Revenue Code;
8. a. For taxable years beginning on and after January 1, 2004, the amount of any intangible expenses and costs directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with one or more related members to the extent such expenses and costs were deductible or deducted in computing federal taxable income for Virginia purposes. This addition shall not be required for any portion of the intangible expenses and costs if one of the following applies:
- (1) The corresponding item of income received by the related member is subject to a tax based on or measured by net income or capital imposed by Virginia, another state, or a foreign government that has entered into a comprehensive tax treaty with the United States government;
 - (2) The related member derives at least one-third of its gross revenues from the licensing of intangible property to parties who are not related members, and the transaction giving rise to the expenses and costs between the corporation and the related member was made at rates and terms comparable to the rates and terms of agreements that the related member has entered into with parties who are not related members for the licensing of intangible property; or
 - (3) The corporation can establish to the satisfaction of the Tax Commissioner that the intangible expenses and costs meet both of the following: (i) the related member during the same taxable year directly or indirectly paid, accrued or incurred such portion to a person who is not a related member, and (ii) the transaction giving rise to the intangible expenses and costs between the corporation and the related member did not have as a principal purpose the avoidance of any portion of the tax due under this chapter.
- b. A corporation required to add to its federal taxable income intangible expenses and costs pursuant to subdivision a may petition the Tax Commissioner, after filing the related income tax return for the taxable year and remitting to the Tax Commissioner all taxes, penalties, and interest due under this article for such taxable year including tax upon any amount of intangible expenses and costs required to be added to federal taxable income pursuant to subdivision a, to consider evidence relating to the transaction or transactions between the corporation and a related member or members that resulted in the corporation's taxable income being increased, as required under subdivision a, for such intangible expenses and costs.
- If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and convincing evidence, that the transaction or transactions between the corporation and a related member or members resulting in such increase in taxable income pursuant to subdivision a had a valid business purpose other than the avoidance or reduction of the tax due under this chapter, the Tax Commissioner shall permit the corporation to file an amended return. For purposes of such amended return, the requirements of subdivision a shall not apply to any transaction for which the Tax Commissioner is satisfied (and has identified) that the transaction had a valid business purpose other than the avoidance or reduction of the tax due under this chapter. Such amended return shall be filed by the corporation within one year of the written permission granted by the Tax Commissioner and any refund of the tax imposed under this article shall include interest at a rate equal to the rate of interest established under § 58.1-15 and such interest shall accrue as provided under § 58.1-1833. However, upon the filing of such amended return, any related member of the corporation that subtracted from taxable income amounts received pursuant to subdivision C 21 shall be subject to the tax imposed under this article on that portion of such amounts for which the corporation has filed an amended return pursuant to this subdivision. In addition, for such transactions identified by the Tax Commissioner herein by which he has been satisfied by clear and convincing evidence, the Tax Commissioner may permit the corporation in filing income tax returns for subsequent taxable years to deduct the related intangible expenses and costs without making the adjustment under subdivision a.
- The Tax Commissioner may charge a fee for all direct and indirect costs relating to the review of any petition pursuant to this subdivision, to include costs necessary to secure outside experts in evaluating the petition. The Tax Commissioner may condition the review of any petition pursuant to this subdivision upon payment of such fee.
- No suit for the purpose of contesting any action of the Tax Commissioner under this subdivision shall be maintained in any court of this Commonwealth.
- c. Nothing in subdivision B 8 shall be construed to limit or negate the Department's authority under

428 § 58.1-446;

429 9. a. For taxable years beginning on and after January 1, 2004, the amount of any interest expenses
430 and costs directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with
431 one or more direct or indirect transactions with one or more related members to the extent such
432 expenses and costs were deductible or deducted in computing federal taxable income for Virginia
433 purposes. This addition shall not be required for any portion of the interest expenses and costs, if:

434 (1) The related member has substantial business operations relating to interest-generating activities, in
435 which the related member pays expenses for at least five full-time employees who maintain, manage,
436 defend or are otherwise responsible for operations or administration relating to the interest-generating
437 activities; and

438 (2) The interest expenses and costs are not directly or indirectly for, related to or in connection with
439 the direct or indirect acquisition, maintenance, management, sale, exchange, or disposition of intangible
440 property; and

441 (3) The transaction giving rise to the expenses and costs between the corporation and the related
442 member has a valid business purpose other than the avoidance or reduction of taxation and payments
443 between the parties are made at arm's length rates and terms; and

444 (4) One of the following applies:

445 (i) The corresponding item of income received by the related member is subject to a tax based on or
446 measured by net income or capital imposed by Virginia, another state, or a foreign government that has
447 entered into a comprehensive tax treaty with the United States government;

448 (ii) Payments arise pursuant to a pre-existing contract entered into when the parties were not related
449 members provided the payments continue to be made at arm's length rates and terms;

450 (iii) The related member engages in transactions with parties other than related members that
451 generate revenue in excess of \$2 million annually; or

452 (iv) The transaction giving rise to the interest payments between the corporation and a related
453 member was done at arm's length rates and terms and meets any of the following: (a) the related
454 member uses funds that are borrowed from a party other than a related member or that are paid,
455 incurred or passed-through to a person who is not a related member; (b) the debt is part of a regular and
456 systematic funds management or portfolio investment activity conducted by the related member, whereby
457 the funds of two or more related members are aggregated for the purpose of achieving economies of
458 scale, the internal financing of the active business operations of members, or the benefit of centralized
459 management of funds; (c) financing the expansion of the business operations; or (d) restructuring the
460 debt of related members, or the pass-through of acquisition-related indebtedness to related members.

461 b. A corporation required to add to its federal taxable income interest expenses and costs pursuant to
462 subdivision a may petition the Tax Commissioner, after filing the related income tax return for the
463 taxable year and remitting to the Tax Commissioner all taxes, penalties, and interest due under this
464 article for such taxable year including tax upon any amount of interest expenses and costs required to be
465 added to federal taxable income pursuant to subdivision a, to consider evidence relating to the
466 transaction or transactions between the corporation and a related member or members that resulted in the
467 corporation's taxable income being increased, as required under subdivision a, for such interest expenses
468 and costs.

469 If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and
470 convincing evidence, that the transaction or transactions between the corporation and a related member
471 or members resulting in such increase in taxable income pursuant to subdivision a had a valid business
472 purpose other than the avoidance or reduction of the tax due under this chapter and that the related
473 payments between the parties were made at arm's length rates and terms, the Tax Commissioner shall
474 permit the corporation to file an amended return. For purposes of such amended return, the requirements
475 of subdivision a shall not apply to any transaction for which the Tax Commissioner is satisfied (and has
476 identified) that the transaction had a valid business purpose other than the avoidance or reduction of the
477 tax due under this chapter and that the related payments between the parties were made at arm's length
478 rates and terms. Such amended return shall be filed by the corporation within one year of the written
479 permission granted by the Tax Commissioner and any refund of the tax imposed under this article shall
480 include interest at a rate equal to the rate of interest established under § 58.1-15 and such interest shall
481 accrue as provided under § 58.1-1833. However, upon the filing of such amended return, any related
482 member of the corporation that subtracted from taxable income amounts received pursuant to subdivision
483 C 21 shall be subject to the tax imposed under this article on that portion of such amounts for which the
484 corporation has filed an amended return pursuant to this subdivision. In addition, for such transactions
485 identified by the Tax Commissioner herein by which he has been satisfied by clear and convincing
486 evidence, the Tax Commissioner may permit the corporation in filing income tax returns for subsequent
487 taxable years to deduct the related interest expenses and costs without making the adjustment under
488 subdivision a.

489 The Tax Commissioner may charge a fee for all direct and indirect costs relating to the review of

any petition pursuant to this subdivision, to include costs necessary to secure outside experts in evaluating the petition. The Tax Commissioner may condition the review of any petition pursuant to this subdivision upon payment of such fee.

No suit for the purpose of contesting any action of the Tax Commissioner under this subdivision shall be maintained in any court of this Commonwealth.

c. Nothing in subdivision B 9 shall be construed to limit or negate the Department's authority under § 58.1-446.

d. For purposes of subdivision B 9:

"Arm's-length rates and terms" means that (i) two or more related members enter into a written agreement for the transaction, (ii) such agreement is of a duration and contains payment terms substantially similar to those that the related member would be able to obtain from an unrelated entity, (iii) the interest is at or below the applicable federal rate compounded annually for debt instruments under § 1274(d) of the Internal Revenue Code that was in effect at the time of the agreement, and (iv) the borrower or payor adheres to the payment terms of the agreement governing the transaction or any amendments thereto.

"Valid business purpose" means one or more business purposes that alone or in combination constitute the motivation for some business activity or transaction, which activity or transaction improves, apart from tax effects, the economic position of the taxpayer, as further defined by regulation.

10. a. For taxable years beginning on and after January 1, 2009, the amount of dividends deductible under §§ 561 and 857 of the Internal Revenue Code by a Captive Real Estate Investment Trust (REIT). For purposes of this subdivision, a REIT is a Captive REIT if:

(1) It is not regularly traded on an established securities market;

(2) More than 50 percent of the voting power or value of beneficial interests or shares of which, at any time during the last half of the taxable year, is owned or controlled, directly or indirectly, by a single entity that is (i) a corporation or an association taxable as a corporation under the Internal Revenue Code; and (ii) not exempt from federal income tax pursuant to § 501(a) of the Internal Revenue Code; and

(3) More than 25 percent of its income consists of rents from real property as defined in § 856(d) of the Internal Revenue Code.

b. For purposes of applying the ownership test of subdivision 10 a (2), the following entities shall not be considered a corporation or an association taxable as a corporation:

(1) Any REIT that is not treated as a Captive REIT;

(2) Any REIT subsidiary under § 856 of the Internal Revenue Code other than a qualified REIT subsidiary of a Captive REIT;

(3) Any Listed Australian Property Trust, or an entity organized as a trust, provided that a Listed Australian Property Trust owns or controls, directly or indirectly, 75 percent or more of the voting or value of the beneficial interests or shares of such trust; and

(4) Any Qualified Foreign Entity.

c. For purposes of subdivision B 10, the constructive ownership rules prescribed under § 318(a) of the Internal Revenue Code, as modified by § 856(d)(5) of the Internal Revenue Code, shall apply in determining the ownership of stock, assets, or net profits of any person.

d. For purposes of subdivision B 10:

"Listed Australian Property Trust" means an Australian unit trust registered as a Management Investment Scheme, pursuant to the Australian Corporations Act, in which the principal class of units is listed on a recognized stock exchange in Australia and is regularly traded on an established securities market.

"Qualified Foreign Entity" means a corporation, trust, association or partnership organized outside the laws of the United States and that satisfies all of the following criteria:

(1) At least 75 percent of the entity's total asset value at the close of its taxable year is represented by real estate assets, as defined in § 856(c)(5)(B) of the Internal Revenue Code, thereby including shares or certificates of beneficial interest in any REIT, cash and cash equivalents, and U.S. Government securities;

(2) The entity is not subject to a tax on amounts distributed to its beneficial owners, or is exempt from entity level tax;

(3) The entity distributes, on an annual basis, at least 85 percent of its taxable income, as computed in the jurisdiction in which it is organized, to the holders of its shares or certificates of beneficial interest;

(4) The shares or certificates of beneficial interest of such entity are regularly traded on an established securities market or, if not so traded, not more than 10 percent of the voting power or value in such entity is held directly, indirectly, or constructively by a single entity or individual; and

(5) The entity is organized in a country that has a tax treaty with the United States.

551 e. For taxable years beginning on or after January 1, 2016, for purposes of subdivision B 10, any
552 voting power or value of the beneficial interests or shares in a REIT that is held in a segregated asset
553 account of a life insurance corporation as described in § 817 of the Internal Revenue Code shall not be
554 taken into consideration when determining if such REIT is a Captive REIT.

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

558 C. There shall be subtracted to the extent included in and not otherwise subtracted from federal
559 taxable income:

560 1. Income derived from obligations, or on the sale or exchange of obligations, of the United States
561 and on obligations or securities of any authority, commission or instrumentality of the United States to
562 the extent exempt from state income taxes under the laws of the United States including, but not limited
563 to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes,
564 interest on equipment purchase contracts, or interest on other normal business transactions.

565 2. Income derived from obligations, or on the sale or exchange of obligations of this Commonwealth
566 or of any political subdivision or instrumentality of this Commonwealth.

567 3. Dividends upon stock in any domestic international sales corporation, as defined by § 992 of the
568 Internal Revenue Code, 50 percent or more of the income of which was assessable for the preceding
569 year, or the last year in which such corporation has income, under the provisions of the income tax laws
570 of the Commonwealth.

571 4. The amount of any refund or credit for overpayment of income taxes imposed by this
572 Commonwealth or any other taxing jurisdiction.

573 5. Any amount included therein by the operation of the provisions of § 78 of the Internal Revenue
574 Code (foreign dividend gross-up).

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

577 7. Any amount included therein by the operation of § 951 of the Internal Revenue Code (subpart F
578 income) or, for taxable years beginning on and after January 1, 2018, § 951A of the Internal Revenue
579 Code (Global Intangible Low-Taxed Income).

580 8. Any amount included therein which is foreign source income as defined in § 58.1-302.

581 9. [Repealed.]

582 10. The amount of any dividends received from corporations in which the taxpaying corporation
583 owns 50 percent or more of the voting stock.

584 11. [Repealed.]

585 12, 13. [Expired.]

586 14. For taxable years beginning on or after January 1, 1995, the amount for "qualified research
587 expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not
588 deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code.

589 15. For taxable years beginning on or after January 1, 2000, the total amount actually contributed in
590 funds to the Virginia Public School Construction Grants Program and Fund established in Chapter 11.1
591 (§ 22.1-175.1 et seq.) of Title 22.1.

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

599 17. For taxable years beginning on and after January 1, 2001, any amount included therein with
600 respect to § 58.1-440.1.

601 18. For taxable years beginning on and after January 1, 1999, income received as a result of (i) the
602 "Master Settlement Agreement," as defined in § 3.2-3100; and (ii) the National Tobacco Grower
603 Settlement Trust dated July 19, 1999, by (a) tobacco farming businesses; (b) any business holding a
604 tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of
605 1938; or (c) any business having the right to grow tobacco pursuant to such a quota allotment.

606 19, 20. [Repealed.]

607 21. For taxable years beginning on and after January 1, 2004, any amount of intangible expenses and
608 costs or interest expenses and costs added to the federal taxable income of a corporation pursuant to
609 subdivision B 8 or B 9 shall be subtracted from the federal taxable income of the related member that
610 received such amount if such related member is subject to Virginia income tax on the same amount.

611 22. For taxable years beginning on and after January 1, 2009, any gain recognized from the sale of
612 launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended

to provide individuals the training or experience of a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

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

24. For taxable years beginning on or after January 1, 2011, any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income must be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the Secretary of Technology, provided the business has its principal office or facility in the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the investment must 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. 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 an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision C 24 for the same investment.

b. As used in this subdivision 25:

"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.

26. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision C 24 or 25 for the same investment.

b. As used in this subdivision 26:

"Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of § 2.2-115.

"Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3 of § 2.2-115.

"Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C. § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double

distressed. If the Department determines that the trust satisfies the preceding criteria, the Department shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed.

27. For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of real property by condemnation proceedings.

28. *Any amount donated to an entity that provides relief payments, as defined in § 58.1-322.02, to the extent that the individual has not claimed a deduction for such relief payment on his federal income tax return.*

D. For taxable years beginning on and after January 1, 2006, there shall be subtracted from federal taxable income contract payments to a producer of quota tobacco or a tobacco quota holder as provided under the American Jobs Creation Act of 2004 (P.L. 108-357) as follows:

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

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

E. Adjustments to federal taxable income shall be made to reflect the transitional modifications provided in § 58.1-315.

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

G. For taxable years beginning on and after January 1, 2018, there shall be deducted to the extent included in and not otherwise subtracted from federal taxable income 20 percent of business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code. For purposes of this subsection, "business interest" means the same as that term is defined under § 163(j) of the Internal Revenue Code.

§ 58.1-1718.01. Exemption for victims of the Virginia Beach mass shooting.

No tax shall be imposed under this article on the probate of a will or grant of administration of the estate of an individual who died as a result of the Virginia Beach mass shooting, as defined in § 58.1-322.02.

2. That if, prior to the enactment of this act, the Commonwealth or a locality imposed a tax pursuant to Article 3 (§ 58.1-1711 et seq.) of Chapter 17 of Title 58.1 of the Code of Virginia or Article 2 (§ 58.1-3805 et seq.) of Chapter 38 of Title 58.1 of the Code of Virginia on the probate of a will or grant of administration of the estate of an individual who died or was wounded as a result of the Virginia Beach mass shooting, as defined in § 58.1-322.02 of the Code of Virginia, as amended by this act, and such tax was paid, the Commonwealth or such locality, as applicable, shall refund such tax paid.

3. That if, prior to the enactment of this act, a person made a payment that would have been eligible for deduction pursuant to the provisions of either subdivision 17 of § 58.1-322.03 of the Code of Virginia, as amended by this act, or subdivision C 28 of § 58.1-402 of the Code of Virginia, as amended by this act, such payment shall be deductible for the taxable year in which it was made.

4. That an emergency exists and this act is in force from its passage.