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SENATE BILL NO. 583

Offered January 12, 2022

Prefiled January 12, 2022

A BILL to amend and reenact §§ 58.1-301, 58.1-322.02, 58.1-322.03, and 58.1-402 of the Code of Virginia, relating to conformity of Commonwealth's taxation system with Internal Revenue Code; Rebuild Virginia grants and Paycheck Protection Program loans; emergency.

Patrons—Newman and Ruff

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-301, 58.1-322.02, 58.1-322.03, and 58.1-402 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-301. Conformity to Internal Revenue Code.

A. Any term used in this chapter shall have the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required.

B. Any reference in this chapter to the laws of the United States relating to federal income taxes shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, as they existed on December 31, 2020 2021, except for:

1. The special depreciation allowance for certain property provided for under §§ 168(k), 168(l), 168(m), 1400L, and 1400N of the Internal Revenue Code;

2. The carry-back of certain net operating losses for five years under § 172(b)(1)(H) of the Internal Revenue Code;

3. The original issue discount on applicable high yield discount obligations under § 163(e)(5)(F) of the Internal Revenue Code;

4. The deferral of certain income under § 108(i) of the Internal Revenue Code. For Virginia income tax purposes, income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument" (as defined under § 108(i) of the Internal Revenue Code) reacquired in the taxable year shall be fully included in the taxpayer's Virginia taxable income for the taxable year, unless the taxpayer elects to include such income in the taxpayer's Virginia taxable income ratably over a three-taxable-year period beginning with taxable year 2009 for transactions completed in taxable year 2009, or over a three-taxable-year period beginning with taxable year 2010 for transactions completed in taxable year 2010 on or before April 21, 2010. For purposes of such election, all other provisions of § 108(i) of the Internal Revenue Code shall apply mutatis mutandis. No other deferral shall be allowed for income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument";

5. For taxable years beginning on and after January 1, 2019, the suspension of the overall limitation on itemized deductions under § 68(f) of the Internal Revenue Code;

6. For taxable years beginning on and after January 1, 2017, but before January 1, 2018, and for taxable years beginning on and after January 1, 2019, the 7.5 percent of federal adjusted gross income threshold set forth in § 213(a) of the Internal Revenue Code that is used for purposes of computing the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code. For such taxable years, the threshold utilized for Virginia income tax purposes to compute the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code shall be 10 percent of federal adjusted gross income;

7. The provisions of §§ 2303(a) and 2303(b) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the net operating loss limitation and carryback;

8. The provisions of § 2304(a) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to a loss limitation applicable to taxpayers other than corporations;

9. The provisions of § 2306 of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the limitation on business interest; and

10. ~~The~~ For taxable years beginning before January 1, 2021, the provisions of §§ 276(a), 276(b)(2), 276(b)(3), 278(a)(2), 278(a)(3), 278(b)(2), 278(b)(3), 278(c)(2), 278(c)(3), 278(d)(2), and 278(d)(3) of the federal Consolidated Appropriations Act, P.L. 116-260 (2020), and §§ 9672(2), 9672(3), 9673(2), and 9673(3) of the federal American Rescue Plan Act, P.L. 117-2 (2021), related to deductions, tax attributes, and basis increases for certain loan forgiveness and other business financial assistance.

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59 The Department of Taxation is hereby authorized to develop procedures or guidelines for
60 implementation of the provisions of this section, which procedures or guidelines shall be exempt from
61 the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

62 **§ 58.1-322.02. Virginia taxable income; subtractions.**

63 In computing Virginia taxable income pursuant to § 58.1-322, to the extent included in federal
64 adjusted gross income, there shall be subtracted:

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

70 2. Income derived from obligations, or on the sale or exchange of obligations, of the Commonwealth
71 or of any political subdivision or instrumentality of the Commonwealth.

72 3. Benefits received under Title II of the Social Security Act and other benefits subject to federal
73 income taxation solely pursuant to § 86 of the Internal Revenue Code.

74 4. Up to \$20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code;
75 however, any person who claims a deduction under subdivision 5 of § 58.1-322.03 may not also claim a
76 subtraction under this subdivision.

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

79 6. The amount of wages or salaries eligible for the federal Work Opportunity Credit which was not
80 deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

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

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

86 9. Amounts received by an individual, not to exceed \$1,000 for taxable years beginning on or before
87 December 31, 2019, and \$5,000 for taxable years beginning on or after January 1, 2020, as a reward for
88 information provided to a law-enforcement official or agency, or to a nonprofit corporation created
89 exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of
90 perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an
91 employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime
92 for which the reward was paid, or any person who is compensated for the investigation of crimes or
93 accidents.

94 10. The amount of "qualified research expenses" or "basic research expenses" eligible for deduction
95 for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the
96 Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and
97 members of limited liability companies to the extent and in the same manner as other deductions may
98 pass through to such partners, shareholders, and members.

99 11. Any income received during the taxable year derived from a qualified pension, profit-sharing, or
100 stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account
101 or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as
102 defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the
103 contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the
104 extent the contributions to such plan or program were subject to taxation under the income tax in
105 another state.

106 12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract
107 or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7
108 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be
109 limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a
110 scholarship.

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

116 14. For taxable years beginning before January 1, 2015, the gain derived from the sale or exchange
117 of real property or the sale or exchange of an easement to real property which results in the real
118 property or the easement thereto being devoted to open-space use, as that term is defined in §
119 58.1-3230, for a period of time not less than 30 years. To the extent that a subtraction is taken in
120 accordance with this subdivision, no tax credit under this chapter for donating land for its preservation

121 shall be allowed for three years following the year in which the subtraction is taken.

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

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

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

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

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

141 As used in this subdivision:

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

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

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

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

162 22. Any gain recognized from the sale of launch services to space flight participants, as defined in
163 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of
164 a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch
165 services must be performed in Virginia or originate from an airport or spaceport in Virginia.

166 23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined
167 in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the
168 National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8,
169 and launched from an airport or spaceport in Virginia.

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

180 25. For taxable years beginning on and after January 1, 2014, any income of an account holder for
181 the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's

182 first-time home buyer savings account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36
183 and (ii) interest income or other income for federal income tax purposes attributable to such person's
184 first-time home buyer savings account.

185 Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction
186 taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys
187 or funds withdrawn from the first-time home buyer savings account were used for any purpose other
188 than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under
189 § 36-174. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable
190 year that was used for other than the payment of eligible costs, computed by multiplying the amount
191 withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in
192 the account at the time of the withdrawal to the total balance in the account at such time.

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

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

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

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

212 b. As used in this subdivision 27:

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

218 "Virginia venture capital account" means an investment fund that has been certified by the
219 Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital
220 account, the operator of the investment fund shall register the investment fund with the Department prior
221 to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed
222 to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one
223 investor who has at least four years of professional experience in venture capital investment or
224 substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to,
225 an undergraduate degree from an accredited college or university in economics, finance, or a similar
226 field of study. The Department may require an investment fund to provide documentation of the
227 investor's training, education, or experience as deemed necessary by the Department to determine
228 substantial equivalency. If the Department determines that the investment fund employs at least one
229 investor with the experience set forth herein, the Department shall certify the investment fund as a
230 Virginia venture capital account at such time as the investment fund actually invests at least 50 percent
231 of the capital committed to its fund in qualified portfolio companies.

232 28. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a
233 subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before
234 December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by a
235 family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for
236 a taxpayer who has claimed a subtraction under subdivision 24 or 27 or a tax credit under § 58.1-339.4
237 for the same investment.

238 b. As used in this subdivision 28:

239 "Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of
240 § 2.2-115.

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

243 "Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C.

244 § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be
 245 certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department
 246 prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in
 247 Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double
 248 distressed. If the Department determines that the trust satisfies the preceding criteria, the Department
 249 shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests
 250 at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in
 251 localities that are distressed or double distressed.

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

254 30. For taxable years beginning on and after January 1, 2020, but before January 1, 2021, up to
 255 ~~\$100,000~~ *\$1 million* of all grant funds received by the taxpayer under the Rebuild Virginia program
 256 established by the Governor and administered by the Department of Small Business and Supplier
 257 Diversity.

258 **§ 58.1-322.03. Virginia taxable income; deductions.**

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

261 1. a. The amount allowable for itemized deductions for federal income tax purposes where the
 262 taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the
 263 amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted
 264 on such federal return and increased by an amount that, when added to the amount deducted under
 265 § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for
 266 such purposes at a rate of 18 cents per mile; or

267 b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income
 268 tax return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, 2026,
 269 \$3,000 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a
 270 married individual filing a separate return) and (ii) for taxable years beginning on and after January 1,
 271 2019, but before January 1, 2026, \$4,500 for single individuals and \$9,000 for married persons (one-half
 272 of such amounts in the case of a married individual filing a separate return). For purposes of this
 273 section, any person who may be claimed as a dependent on another taxpayer's return for the taxable year
 274 may compute the deduction only with respect to earned income.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

349 12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6
350 (§ 58.1-600 et seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the
351 following items of tangible personal property: (i) any clothes washers, room air conditioners,
352 dishwashers, and standard size refrigerators that meet or exceed the applicable energy star efficiency
353 requirements developed by the U.S. Environmental Protection Agency and the U.S. Department of
354 Energy; (ii) any fuel cell that (a) generates electricity using an electrochemical process, (b) has an
355 electricity-only generation efficiency greater than 35 percent, and (c) has a generating capacity of at least
356 two kilowatts; (iii) any gas heat pump that has a coefficient of performance of at least 1.25 for heating
357 and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that yields an energy factor of
358 at least 1.7; (v) any electric heat pump that has a heating system performance factor of at least 8.0 and
359 a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner that has a
360 cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater that
361 has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual
362 fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization
363 rating of 85; and (x) programmable thermostats.

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

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

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

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

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

388 17. For taxable years beginning on and after January 1, 2020, but before January 1, 2021, up to
 389 ~~\$100,000~~ *\$1 million* of the amount that is not deductible when computing federal adjusted gross income
 390 solely on account of the portion of subdivision B 10 of § 58.1-301 related to Paycheck Protection
 391 Program loans.

392 **§ 58.1-402. Virginia taxable income.**

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

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

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

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

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

409 3. [Repealed.]

410 4. The amount of any net income taxes and other taxes, including franchise and excise taxes, which
 411 are based on, measured by, or computed with reference to net income, imposed by the Commonwealth
 412 or any other taxing jurisdiction, to the extent deducted in determining federal taxable income;

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

414 6. [Repealed.]

415 7. The amount required to be included in income for the purpose of computing the partial tax on an
 416 accumulation distribution pursuant to § 667 of the Internal Revenue Code;

417 8. a. For taxable years beginning on and after January 1, 2004, the amount of any intangible
 418 expenses and costs directly or indirectly paid, accrued, or incurred to, or in connection directly or
 419 indirectly with one or more direct or indirect transactions with one or more related members to the
 420 extent such expenses and costs were deductible or deducted in computing federal taxable income for
 421 Virginia purposes. This addition shall not be required for any portion of the intangible expenses and
 422 costs if one of the following applies:

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

426 (2) The related member derives at least one-third of its gross revenues from the licensing of
 427 intangible property to parties who are not related members, and the transaction giving rise to the

428 expenses and costs between the corporation and the related member was made at rates and terms
429 comparable to the rates and terms of agreements that the related member has entered into with parties
430 who are not related members for the licensing of intangible property; or

431 (3) The corporation can establish to the satisfaction of the Tax Commissioner that the intangible
432 expenses and costs meet both of the following: (i) the related member during the same taxable year
433 directly or indirectly paid, accrued or incurred such portion to a person who is not a related member,
434 and (ii) the transaction giving rise to the intangible expenses and costs between the corporation and the
435 related member did not have as a principal purpose the avoidance of any portion of the tax due under
436 this chapter.

437 b. A corporation required to add to its federal taxable income intangible expenses and costs pursuant
438 to subdivision a may petition the Tax Commissioner, after filing the related income tax return for the
439 taxable year and remitting to the Tax Commissioner all taxes, penalties, and interest due under this
440 article for such taxable year including tax upon any amount of intangible expenses and costs required to
441 be added to federal taxable income pursuant to subdivision a, to consider evidence relating to the
442 transaction or transactions between the corporation and a related member or members that resulted in the
443 corporation's taxable income being increased, as required under subdivision a, for such intangible
444 expenses and costs.

445 If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and
446 convincing evidence, that the transaction or transactions between the corporation and a related member
447 or members resulting in such increase in taxable income pursuant to subdivision a had a valid business
448 purpose other than the avoidance or reduction of the tax due under this chapter, the Tax Commissioner
449 shall permit the corporation to file an amended return. For purposes of such amended return, the
450 requirements of subdivision a shall not apply to any transaction for which the Tax Commissioner is
451 satisfied (and has identified) that the transaction had a valid business purpose other than the avoidance
452 or reduction of the tax due under this chapter. Such amended return shall be filed by the corporation
453 within one year of the written permission granted by the Tax Commissioner and any refund of the tax
454 imposed under this article shall include interest at a rate equal to the rate of interest established under
455 § 58.1-15 and such interest shall accrue as provided under § 58.1-1833. However, upon the filing of
456 such amended return, any related member of the corporation that subtracted from taxable income
457 amounts received pursuant to subdivision C 21 shall be subject to the tax imposed under this article on
458 that portion of such amounts for which the corporation has filed an amended return pursuant to this
459 subdivision. In addition, for such transactions identified by the Tax Commissioner herein by which he
460 has been satisfied by clear and convincing evidence, the Tax Commissioner may permit the corporation
461 in filing income tax returns for subsequent taxable years to deduct the related intangible expenses and
462 costs without making the adjustment under subdivision a.

463 The Tax Commissioner may charge a fee for all direct and indirect costs relating to the review of
464 any petition pursuant to this subdivision, to include costs necessary to secure outside experts in
465 evaluating the petition. The Tax Commissioner may condition the review of any petition pursuant to this
466 subdivision upon payment of such fee.

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

469 c. Nothing in subdivision B 8 shall be construed to limit or negate the Department's authority under
470 § 58.1-446;

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

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

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

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

486 (4) One of the following applies:

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

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

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

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

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

511 If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and
512 convincing evidence, that the transaction or transactions between the corporation and a related member
513 or members resulting in such increase in taxable income pursuant to subdivision a had a valid business
514 purpose other than the avoidance or reduction of the tax due under this chapter and that the related
515 payments between the parties were made at arm's length rates and terms, the Tax Commissioner shall
516 permit the corporation to file an amended return. For purposes of such amended return, the requirements
517 of subdivision a shall not apply to any transaction for which the Tax Commissioner is satisfied (and has
518 identified) that the transaction had a valid business purpose other than the avoidance or reduction of the
519 tax due under this chapter and that the related payments between the parties were made at arm's length
520 rates and terms. Such amended return shall be filed by the corporation within one year of the written
521 permission granted by the Tax Commissioner and any refund of the tax imposed under this article shall
522 include interest at a rate equal to the rate of interest established under § 58.1-15 and such interest shall
523 accrue as provided under § 58.1-1833. However, upon the filing of such amended return, any related
524 member of the corporation that subtracted from taxable income amounts received pursuant to subdivision
525 C 21 shall be subject to the tax imposed under this article on that portion of such amounts for which the
526 corporation has filed an amended return pursuant to this subdivision. In addition, for such transactions
527 identified by the Tax Commissioner herein by which he has been satisfied by clear and convincing
528 evidence, the Tax Commissioner may permit the corporation in filing income tax returns for subsequent
529 taxable years to deduct the related interest expenses and costs without making the adjustment under
530 subdivision a.

531 The Tax Commissioner may charge a fee for all direct and indirect costs relating to the review of
532 any petition pursuant to this subdivision, to include costs necessary to secure outside experts in
533 evaluating the petition. The Tax Commissioner may condition the review of any petition pursuant to this
534 subdivision upon payment of such fee.

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

537 c. Nothing in subdivision B 9 shall be construed to limit or negate the Department's authority under
538 § 58.1-446.

539 d. For purposes of subdivision B 9:

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

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

550 10. a. For taxable years beginning on and after January 1, 2009, the amount of dividends deductible

551 under §§ 561 and 857 of the Internal Revenue Code by a Captive Real Estate Investment Trust (REIT).
552 For purposes of this subdivision, a REIT is a Captive REIT if:

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

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

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

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

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

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

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

569 (4) Any Qualified Foreign Entity.

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

573 d. For purposes of subdivision B 10:

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

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

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

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

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

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

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

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

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

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

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

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

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

- 613 4. The amount of any refund or credit for overpayment of income taxes imposed by this
614 Commonwealth or any other taxing jurisdiction.
- 615 5. Any amount included therein by the operation of the provisions of § 78 of the Internal Revenue
616 Code (foreign dividend gross-up).
- 617 6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not
618 deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.
- 619 7. Any amount included therein by the operation of § 951 of the Internal Revenue Code (subpart F
620 income) or, for taxable years beginning on and after January 1, 2018, § 951A of the Internal Revenue
621 Code (Global Intangible Low-Taxed Income).
- 622 8. Any amount included therein which is foreign source income as defined in § 58.1-302.
- 623 9. [Repealed.]
- 624 10. The amount of any dividends received from corporations in which the taxpaying corporation
625 owns 50 percent or more of the voting stock.
- 626 11. [Repealed.]
- 627 12, 13. [Expired.]
- 628 14. For taxable years beginning on or after January 1, 1995, the amount for "qualified research
629 expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not
630 deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code.
- 631 15. For taxable years beginning on or after January 1, 2000, the total amount actually contributed in
632 funds to the Virginia Public School Construction Grants Program and Fund established in Chapter 11.1
633 (§ 22.1-175.1 et seq.) of Title 22.1.
- 634 16. For taxable years beginning on or after January 1, 2000, but before January 1, 2015, the gain
635 derived from the sale or exchange of real property or the sale or exchange of an easement to real
636 property which results in the real property or the easement thereto being devoted to open-space use, as
637 that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent a
638 subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating
639 land for its preservation shall be allowed for three years following the year in which the subtraction is
640 taken.
- 641 17. For taxable years beginning on and after January 1, 2001, any amount included therein with
642 respect to § 58.1-440.1.
- 643 18. For taxable years beginning on and after January 1, 1999, income received as a result of (i) the
644 "Master Settlement Agreement," as defined in § 3.2-3100; and (ii) the National Tobacco Grower
645 Settlement Trust dated July 19, 1999, by (a) tobacco farming businesses; (b) any business holding a
646 tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of
647 1938; or (c) any business having the right to grow tobacco pursuant to such a quota allotment.
- 648 19, 20. [Repealed.]
- 649 21. For taxable years beginning on and after January 1, 2004, any amount of intangible expenses and
650 costs or interest expenses and costs added to the federal taxable income of a corporation pursuant to
651 subdivision B 8 or B 9 shall be subtracted from the federal taxable income of the related member that
652 received such amount if such related member is subject to Virginia income tax on the same amount.
- 653 22. For taxable years beginning on and after January 1, 2009, any gain recognized from the sale of
654 launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended
655 to provide individuals the training or experience of a launch, without performing an actual launch. To
656 qualify for a deduction under this subdivision, launch services must be performed in Virginia or
657 originate from an airport or spaceport in Virginia.
- 658 23. For taxable years beginning on and after January 1, 2009, any gain recognized as a result of
659 resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the
660 Commercial Orbital Transportation Services division of the National Aeronautics and Space
661 Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or
662 spaceport in Virginia.
- 663 24. For taxable years beginning on or after January 1, 2011, any income taxed as a long-term capital
664 gain for federal income tax purposes, or any income taxed as investment services partnership interest
665 income (otherwise known as investment partnership carried interest income) for federal income tax
666 purposes. To qualify for a subtraction under this subdivision, such income must be attributable to an
667 investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business
668 approved by the Secretary of Administration, provided the business has its principal office or facility in
669 the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the
670 investment. To qualify for a subtraction under this subdivision, the investment must be made between
671 the dates of April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an
672 investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this
673 subdivision for an investment in the same business.

674 25. a. Income, including investment services partnership interest income (otherwise known as
675 investment partnership carried interest income), attributable to an investment in a Virginia venture
676 capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or
677 after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this
678 subdivision for an investment in a company that is owned or operated by an affiliate of the taxpayer. No
679 subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under
680 subdivision C 24 for the same investment.

681 b. As used in this subdivision 25:

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

687 "Virginia venture capital account" means an investment fund that has been certified by the
688 Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital
689 account, the operator of the investment fund shall register the investment fund with the Department prior
690 to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed
691 to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one
692 investor who has at least four years of professional experience in venture capital investment or
693 substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to,
694 an undergraduate degree from an accredited college or university in economics, finance, or a similar
695 field of study. The Department may require an investment fund to provide documentation of the
696 investor's training, education, or experience as deemed necessary by the Department to determine
697 substantial equivalency. If the Department determines that the investment fund employs at least one
698 investor with the experience set forth herein, the Department shall certify the investment fund as a
699 Virginia venture capital account at such time as the investment fund actually invests at least 50 percent
700 of the capital committed to its fund in qualified portfolio companies.

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

706 b. As used in this subdivision 26:

707 "Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of
708 § 2.2-115.

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

711 "Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C.
712 § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be
713 certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department
714 prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in
715 Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double
716 distressed. If the Department determines that the trust satisfies the preceding criteria, the Department
717 shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests
718 at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in
719 localities that are distressed or double distressed.

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

722 28. For taxable years beginning on and after January 1, 2020, but before January 1, 2021, up to
723 ~~\$100,000~~ *\$1 million* of all grant funds received by the taxpayer under the Rebuild Virginia program
724 established by the Governor and administered by the Department of Small Business and Supplier
725 Diversity.

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

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

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

735 E. Adjustments to federal taxable income shall be made to reflect the transitional modifications

736 provided in § 58.1-315.

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

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

754 H. For taxable years beginning on and after January 1, 2020, but before January 1, 2021, there shall
755 be deducted to the extent not otherwise subtracted from federal taxable income up to ~~\$100,000~~ *\$1*
756 *million* of the amount that is not deductible when computing federal taxable income solely on account of
757 the portion of subdivision B 10 of § 58.1-301 related to Paycheck Protection Program loans.

758 **2. That an emergency exists and this act is in force from its passage.**