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HOUSE BILL NO. 1247

Offered January 9, 2008

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A BILL to amend and reenact §§ 58.1-320, 58.1-321, and 58.1-322 of the Code of Virginia, relating to income tax; indexing to inflation the income brackets for rates, filing thresholds, personal exemptions, and standard deduction.

 Patron—Hugo

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-320, 58.1-321, and 58.1-322 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-320. Imposition of tax.

A. A tax is hereby annually imposed on the Virginia taxable income for each taxable year of every individual as follows:

Two percent on income not exceeding \$3,000;

Three percent on income in excess of \$3,000, but not in excess of \$5,000;

Five percent on income in excess of \$5,000, but not in excess of \$12,000 for taxable years beginning before January 1, 1987;

Five percent on income in excess of \$5,000 but not in excess of \$14,000 for taxable years beginning January 1, 1987, through December 31, 1987;

Five percent on income in excess of \$5,000 but not in excess of \$15,000 for taxable years beginning January 1, 1988, through December 31, 1988;

Five percent on income in excess of \$5,000 but not in excess of \$16,000 for taxable years beginning January 1, 1989, through December 31, 1989;

Five percent on income in excess of \$5,000 but not in excess of \$17,000 for taxable years beginning January 1, 1990;

Five and three-quarters percent on income in excess of \$12,000 for taxable years beginning before January 1, 1987;

Five and three-quarters percent on income in excess of \$14,000 for taxable years beginning January 1, 1987, through December 31, 1987;

Five and three-quarters percent on income in excess of \$15,000 for taxable years beginning January 1, 1988, through December 31, 1988;

Five and three-quarters percent on income in excess of \$16,000 for taxable years beginning January 1, 1989, through December 31, 1989; and

Five and three-quarters percent on income in excess of \$17,000 for taxable years beginning on and after January 1, 1990.

B. For taxable years beginning on and after January 1, 2009, all amounts of income in this section shall be indexed annually by an amount equal to the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U), for all items, from October 1 through September 30 for the year immediately preceding the affected taxable year.

§ 58.1-321. Exemptions and exclusions.

A. No tax levied pursuant to § 58.1-320 is imposed, nor any return required to be filed by:

1. A single individual where the Virginia adjusted gross income for such taxable year is less than \$5,000 for taxable years beginning on and after January 1, 1987, but before January 1, 2004.

A single individual where the Virginia adjusted gross income plus the modification specified in subdivision D 5 of § 58.1-322 for such taxable year is less than \$5,000 for taxable years beginning on and after January 1, 2004, but before January 1, 2005.

A single individual where the Virginia adjusted gross income plus the modification specified in subdivision D 5 of § 58.1-322 for such taxable year is less than \$7,000 for taxable years beginning on and after January 1, 2005, but before January 1, 2008.

A single individual where the Virginia adjusted gross income plus the modification specified in subdivision D 5 of § 58.1-322 for such taxable year is less than \$11,250 for taxable years beginning on and after January 1, 2008, but before January 1, 2010.

A single individual where the Virginia adjusted gross income plus the modification specified in subdivision D 5 of § 58.1-322 for such taxable year is less than \$11,650 for taxable years beginning on and after January 1, 2010, but before January 1, 2012.

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59 A single individual where the Virginia adjusted gross income plus the modification specified in
60 subdivision D 5 of § 58.1-322 for such taxable year is less than \$11,950 for taxable years beginning on
61 and after January 1, 2012.

62 2. An individual and spouse if their combined Virginia adjusted gross income for such taxable year
63 is less than \$8,000 for taxable years beginning on and after January 1, 1987, (or one-half of such
64 amount in the case of a married individual filing a separate return) but before January 1, 2004.

65 An individual and spouse if their combined Virginia adjusted gross income plus the modification
66 specified in subdivision D 5 of § 58.1-322 is less than \$8,000 for taxable years beginning on and after
67 January 1, 2004, (or one-half of such amount in the case of a married individual filing a separate return)
68 but before January 1, 2005; less than \$14,000 for taxable years beginning on and after January 1, 2005,
69 (or one-half of such amount in the case of a married individual filing a separate return) but before
70 January 1, 2008; less than \$22,500 for taxable years beginning on and after January 1, 2008, (or
71 one-half of such amount in the case of a married individual filing a separate return) but before January
72 1, 2010; less than \$23,300 for taxable years beginning on and after January 1, 2010, (or one-half of
73 such amount in the case of a married individual filing a separate return) but before January 1, 2012; and
74 less than \$23,900 for taxable years beginning on and after January 1, 2012, (or one-half of such amount
75 in the case of a married individual filing a separate return).

76 For the purposes of this section "Virginia adjusted gross income" means federal adjusted gross
77 income for the taxable years with the modifications specified in § 58.1-322 B, § 58.1-322 C and the
78 additional deductions allowed under § 58.1-322 D 2 b and D 5 for taxable years beginning before
79 January 1, 2004. For taxable years beginning on and after January 1, 2004, Virginia adjusted gross
80 income means federal adjusted gross income with the modifications specified in subsections B and C of
81 § 58.1-322.

82 *For taxable years beginning on and after January 1, 2009, the income amounts in this section shall*
83 *be indexed annually by an amount equal to the percentage change in the Consumer Price Index for All*
84 *Urban Consumers (CPI-U), for all items, from October 1 through September 30 for the year*
85 *immediately preceding the affected taxable year.*

86 B. Persons in the armed forces of the United States stationed on military or naval reservations within
87 Virginia who are not domiciled in Virginia shall not be held liable to income taxation for compensation
88 received from military or naval service.

89 § 58.1-322. Virginia taxable income of residents.

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

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

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

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

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

103 4. The amount of a lump sum distribution from a qualified retirement plan, less the minimum
104 distribution allowance and any amount excludable for federal income tax purposes that is excluded from
105 federal adjusted gross income solely by virtue of an individual's election to use the averaging provisions
106 under § 402 of the Internal Revenue Code; and

107 5 through 8. —Repealed.]

108 9. The amount required to be included in income for the purpose of computing the partial tax on an
109 accumulation distribution pursuant to § 667 of the Internal Revenue Code.

110 C. To the extent included in federal adjusted gross income, there shall be subtracted:

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

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

118 3. —Repealed.]

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

121 4a. Through December 31, 2000, the same amount used in computing the federal credit allowed
122 under § 22 of the Internal Revenue Code by a retiree under age 65 who qualified for such retirement on
123 the basis of permanent and total disability and who is a qualified individual as defined in § 22 (b) (2) of
124 the Internal Revenue Code; however, any person who claims a deduction under subdivision 5 of
125 subsection D of this section may not also claim a subtraction under this subdivision.

126 4b. For taxable years beginning on or after January 1, 2001, up to \$20,000 of disability income, as
127 defined in § 22 (c) (2) (B) (iii) of the Internal Revenue Code; however, any person who claims a
128 deduction under subdivision 5 of subsection D of this section may not also claim a subtraction under
129 this subdivision.

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

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

134 7, 8. —Repealed.]

135 9. —Expired.]

136 10. Any amount included therein less than \$600 from a prize awarded by the State Lottery
137 Department.

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

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

148 13. —Repealed.]

149 14. —Expired.]

150 15, 16. —Repealed.]

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

157 18. For taxable years beginning on or after January 1, 1995, all military pay and allowances, not
158 otherwise subtracted under this subsection, earned for any month during any part of which such member
159 performed military service in any part of the former Yugoslavia, including the air space above such
160 location or any waters subject to related naval operations, in support of Operation JOINT ENDEAVOR
161 as part of the NATO Peace Keeping Force. Such subtraction shall be available until the taxpayer
162 completes such service.

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

170 20. For taxable years beginning on and after January 1, 1997, any income attributable to a
171 distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the
172 Virginia College Savings Plan, created pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. The
173 subtraction for any income attributable to a refund shall be limited to income attributable to a refund in
174 the event of a beneficiary's death, disability, or receipt of a scholarship.

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

180 22. For taxable years beginning on or after January 1, 2000, the gain derived from the sale or
181 exchange of real property or the sale or exchange of an easement to real property which results in the

real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

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

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

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

26. For taxable years beginning on and after January 1, 2001, any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

27. Effective for all taxable years beginning on and after January 1, 1999, income received as a result of (i) the "Master Settlement Agreement," as defined in § 3.1-1106; (ii) the National Tobacco Grower Settlement Trust dated July 19, 1999; and (iii) the Tobacco Loss Assistance Program, pursuant to 7 C.F.R. Part 1464 (Subpart C, §§ 1464.201 through 1464.205), by (a) tobacco farmers; (b) any person holding a tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of 1938; or (c) any person having the right to grow tobacco pursuant to such a quota or allotment, but only to the extent that such income has not been subtracted pursuant to subdivision C 18 of § 58.1-402.

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

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

29. For taxable years beginning on and after January 1, 2002, any gain recognized as a result of the Peanut Quota Buyout Program of the Farm Security and Rural Investment Act of 2002 pursuant to 7 C.F.R. Part 1412 (Subpart H, §§ 1412.801 through 1412.811) as follows:

a. If the payment is received in installment payments pursuant to 7 C.F.R. § 1412.807(a) (2), then the entire gain recognized may be subtracted.

b. If the payment is received in a single payment pursuant to 7 C.F.R. § 1412.807(a) (3), then 20 percent of the recognized gain may be subtracted. The taxpayer may then deduct an equal amount in each of the four succeeding taxable years.

30. Effective for all taxable years beginning on and after January 1, 2002, but before January 1, 2005, the indemnification payments received by contract poultry growers and table egg producers from the U.S. Department of Agriculture as a result of the depopulation of poultry flocks because of low pathogenic avian influenza in 2002. In no event shall indemnification payments made to owners of poultry who contract with poultry growers qualify for this subtraction.

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

32. Effective for all taxable years beginning on or after January 1, 2007, the death benefit payments from an annuity contract that are received by a beneficiary of such contract and are subject to federal income taxation.

D. In computing Virginia taxable income 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 which, 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. Three thousand dollars for single individuals for taxable years beginning on and after January 1, 1989; \$5,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return) for taxable years beginning on and after January 1, 1989, but before January 1, 2005; and \$6,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return) for taxable years beginning on and after January 1, 2005; provided that the taxpayer has not itemized deductions for the taxable year on his federal income tax 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.

For taxable years beginning on and after January 1, 2009, the \$3,000 and \$6,000 deduction amounts in this subdivision shall be indexed annually by an amount equal to the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U), for all items, from October 1 through September 30 for the year immediately preceding the affected taxable year.

2. a. A deduction in the amount of \$800 for taxable years beginning on and after January 1, 1988, but before January 1, 2005; \$900 for taxable years beginning on and after January 1, 2005, but before January 1, 2008; and \$930 for taxable years beginning on and after January 1, 2008, for each personal exemption allowable to the taxpayer for federal income tax purposes.

b. For taxable years beginning on and after January 1, 1987, 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.

For taxable years beginning on and after January 1, 2009, the \$800 and \$930 deduction amounts in this subdivision shall be indexed annually by an amount equal to the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U), for all items, from October 1 through September 30 for the year immediately preceding the affected taxable year.

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

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

5. a. Effective for all taxable years beginning on or after January 1, 1996, but before January 1, 2004, a deduction in the amount of \$12,000 for taxpayers age 65 or older, or \$6,000 for taxpayers age 62 through 64.

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

c. For taxable years beginning January 1, 2004, but before January 1, 2005, a deduction in the amount of \$6,000 for individuals born on or between January 2, 1940, and January 1, 1942.

d. For taxable years beginning January 1, 2005, but before January 1, 2006, a deduction in the amount of \$6,000 for individuals born on or between January 2, 1941, and January 1, 1942.

e. For taxable years beginning on and after January 1, 2004, a deduction in the amount of \$12,000 for individuals born after January 1, 1939, who have attained the age of 65. This deduction shall be reduced by \$1 for every \$1 that the taxpayer's adjusted federal adjusted gross income exceeds \$50,000 for single taxpayers or \$75,000 for married taxpayers. For married taxpayers filing separately, the deduction will be reduced by \$1 for every \$1 the total combined adjusted federal adjusted gross income of both spouses exceeds \$75,000.

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

305 amended.

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

310 7. a. (Applicable to taxable years beginning before January 1, 2009) A deduction shall be allowed to
311 the purchaser or contributor for the amount paid or contributed during the taxable year for a prepaid
312 tuition contract or savings trust account entered into with the Virginia College Savings Plan, pursuant to
313 Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. Except as provided in subdivision 7 c, the amount deducted
314 on any individual income tax return in any taxable year shall be limited to \$2,000 per prepaid tuition
315 contract or savings trust account. No deduction shall be allowed pursuant to this section if such
316 payments or contributions are deducted on the purchaser's or contributor's federal income tax return. If
317 the purchase price or annual contribution to a savings trust account exceeds \$2,000, the remainder may
318 be carried forward and subtracted in future taxable years until the purchase price or savings trust
319 contribution has been fully deducted; however, except as provided in subdivision 7 c, in no event shall
320 the amount deducted in any taxable year exceed \$2,000 per contract or savings trust account.
321 Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction taken
322 hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are
323 made for any reason other than (i) to pay qualified higher education expenses, as defined in § 529 of the
324 Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the
325 purposes of this subdivision, the term "purchaser" or "contributor" means the person shown as such on
326 the records of the Virginia College Savings Plan as of December 31 of the taxable year. In the case of a
327 transfer of ownership of a prepaid tuition contract or savings trust account, the transferee shall succeed
328 to the transferor's tax attributes associated with a prepaid tuition contract or savings trust account,
329 including, but not limited to, carryover and recapture of deductions.

330 b. The amount paid for a prepaid tuition contract during taxable years beginning on or after January
331 1, 1996, but before January 1, 1998, shall be deducted in taxable years beginning on or after January 1,
332 1998, and shall be subject to the limitations set out in subdivision 7 a.

333 c. A purchaser of a prepaid tuition contract or contributor to a savings trust account who has attained
334 age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$2,000 per
335 prepaid tuition contract or savings trust account in any taxable year. Such taxpayer shall be allowed a
336 deduction for the full amount paid for the contract or contributed to a savings trust account, less any
337 amounts previously deducted. If a prepaid tuition contract was purchased by such taxpayer during
338 taxable years beginning on or after January 1, 1996, but before January 1, 1998, such taxpayer may take
339 the deduction for the full amount paid during such years, less any amounts previously deducted with
340 respect to such payments, in taxable year 1999 or by filing an amended return for taxable year 1998.

341 7. a. (Applicable to taxable years beginning on or after January 1, 2009) A deduction shall be
342 allowed to the purchaser or contributor for the amount paid or contributed during the taxable year for a
343 prepaid tuition contract or savings trust account entered into with the Virginia College Savings Plan,
344 pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. Except as provided in subdivision 7 c, the
345 amount deducted on any individual income tax return in any taxable year shall be limited to \$4,000 per
346 prepaid tuition contract or savings trust account. No deduction shall be allowed pursuant to this section
347 if such payments or contributions are deducted on the purchaser's or contributor's federal income tax
348 return. If the purchase price or annual contribution to a savings trust account exceeds \$4,000, the
349 remainder may be carried forward and subtracted in future taxable years until the purchase price or
350 savings trust contribution has been fully deducted; however, except as provided in subdivision 7 c, in no
351 event shall the amount deducted in any taxable year exceed \$4,000 per contract or savings trust account.
352 Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction taken
353 hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are
354 made for any reason other than (i) to pay qualified higher education expenses, as defined in § 529 of the
355 Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the
356 purposes of this subdivision, the term "purchaser" or "contributor" means the person shown as such on
357 the records of the Virginia College Savings Plan as of December 31 of the taxable year. In the case of a
358 transfer of ownership of a prepaid tuition contract or savings trust account, the transferee shall succeed
359 to the transferor's tax attributes associated with a prepaid tuition contract or savings trust account,
360 including, but not limited to, carryover and recapture of deductions.

361 b. The amount paid for a prepaid tuition contract during taxable years beginning on or after January
362 1, 1996, but before January 1, 1998, shall be deducted in taxable years beginning on or after January 1,
363 1998, and shall be subject to the limitations set out in subdivision 7 a.

364 c. A purchaser of a prepaid tuition contract or contributor to a savings trust account who has attained
365 age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000 per
366 prepaid tuition contract or savings trust account in any taxable year. Such taxpayer shall be allowed a

deduction for the full amount paid for the contract or contributed to a savings trust account, less any amounts previously deducted. If a prepaid tuition contract was purchased by such taxpayer during taxable years beginning on or after January 1, 1996, but before January 1, 1998, such taxpayer may take the deduction for the full amount paid during such years, less any amounts previously deducted with respect to such payments, in taxable year 1999 or by filing an amended return for taxable year 1998.

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

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

10. For taxable years beginning on and after January 1, 2000, the amount an individual pays annually in premiums for long-term health care insurance, provided the individual has not claimed a deduction for federal income tax purposes, or a credit under § 58.1-339.11.

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

a. 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.

b. If the payment is received in a single payment, then 10% 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. For taxable years beginning on and after January 1, 2007, an amount equal to 20% of the sum paid by an individual pursuant to Chapter 6 (§ 58.1-600 et seq.) of this title, 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 United States Environmental Protection Agency and the United States 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%, 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. For taxable years beginning on or after January 1, 2007, 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 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.

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

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

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

428 corporation) that is subject to the bank franchise tax imposed under Chapter 12 (§ 58.1-1200 et seq.) for
429 the calendar year in which such taxable year begins, the shareholder's allocable share of the losses or
430 deductions of such electing small business corporation (S corporation).
431 Effective for all taxable years beginning on or after January 1, 2007, to the extent excluded from
432 federal adjusted gross income, there shall be added to federal adjusted gross income by a shareholder of
433 an electing small business corporation (S corporation) that is subject to the bank franchise tax imposed
434 under Chapter 12 (§ 58.1-1200 et seq.) for the calendar year in which such taxable year begins, the
435 value of any distribution paid or distributed to the shareholder by such electing small business
436 corporation (S corporation).