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HOUSE BILL NO. 1313

Offered January 9, 2013

Prefiled October 3, 2012

A BILL to amend and reenact § 58.1-301 of the Code of Virginia, relating to income taxes.

Patrons—Marshall, R.G. and Cole

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That § 58.1-301 of the Code of Virginia is 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, 2011, 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) 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. The amount of the deduction allowed for domestic production activities pursuant to § 199 of the Internal Revenue Code for taxable years beginning on or after January 1, 2010. For Virginia income tax purposes, two-thirds of the amount deducted pursuant to § 199 of the Internal Revenue Code for federal income tax purposes during the taxable year may be deducted for Virginia income tax purposes for taxable years beginning on and after January 1, 2010. For taxable years beginning on and after January 1, 2013, the entire amount of the deduction allowed for domestic production activities pursuant to § 199 of the Internal Revenue Code may be deducted for Virginia income tax purposes; and

6. For taxable years beginning on or after January 1, 2012, the provisions of § 32(b)(3) of the Internal Revenue Code relating to the earned income tax credit.

7. For taxable years beginning on or after January 1, 2013, the increase for tax years beginning after December 31, 2012, in the threshold for the deduction for unreimbursed medical expenses from 7.5 percent to 10 percent of adjusted gross income pursuant to Section 9013 of Subtitle A of Title IX of the Patient Protection and Affordable Care Act, as carried out in the conforming amendment to (i) § 213(a) of the Internal Revenue Code and (ii) § 56(b)(1)(B) of the Internal Revenue Code and as carried out by the addition of § 213(f) of the Internal Revenue Code.

8. For taxable years beginning on or after January 1, 2013, the decrease for tax years beginning after December 31, 2012, in the maximum amount of a flexible spending account from \$5,000 to \$2,500 (and as adjusted for inflation) pursuant to Section 9005 of Subtitle A of Title IX of the Patient Protection and Affordable Care Act, as implemented by § 125(i) of the Internal Revenue Code.

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

INTRODUCED

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