

2019 SPECIAL SESSION I

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SENATE BILL NO. 4025

Offered July 9, 2019

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

Patrons—DeSteph; Delegates: Convirs-Fowler, Davis, Knight, Miyares, Stolle and Turpin

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

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

§ 58.1-322.02. (Effective October 1, 2019) Virginia taxable income; subtractions.

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

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

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

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

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

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

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

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

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

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

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

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

12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract

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

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

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

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

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

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

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

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

93 As used in this subdivision:

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

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

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

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

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

118 23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined
119 in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the
120 National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8,

and launched from an airport or spaceport in Virginia.

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

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

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

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

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

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

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

b. As used in this subdivision 27:

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

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

182 Virginia venture capital account at such time as the investment fund actually invests at least 50 percent
183 of the capital committed to its fund in qualified portfolio companies.

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

190 b. As used in this subdivision 28:

191 "Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of
192 § 2.2-115.

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

195 "Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C.
196 § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be
197 certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department
198 prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in
199 Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double
200 distressed. If the Department determines that the trust satisfies the preceding criteria, the Department
201 shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests
202 at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in
203 localities that are distressed or double distressed.

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

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

207 b. As used in this subdivision 30:

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

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

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

216 **§ 58.1-322.02. (Effective until October 1, 2019) Virginia taxable income; subtractions.**

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

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

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

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

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

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

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

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

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

240 9. Amounts received by an individual, not to exceed \$1,000 in any taxable year, as a reward for
241 information provided to a law-enforcement official or agency, or to a nonprofit corporation created
242 exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of
243 perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an

employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

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

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

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

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

14. For taxable years beginning before January 1, 2015, the gain derived from the sale or 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 that 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.

15. Fifteen thousand dollars 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 by 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.

16. 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.

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

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

19. 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.

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.

"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" also includes any individual forced into labor against his will, under the threat of death, during World War II and its prelude and

305 direct aftermath.

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

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

315 22. Any gain recognized from the sale of launch services to space flight participants, as defined in
316 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of
317 a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch
318 services must be performed in Virginia or originate from an airport or spaceport in Virginia.

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

323 24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income
324 taxed as investment services partnership interest income (otherwise known as investment partnership
325 carried interest income) for federal income tax purposes. To qualify for a subtraction under this
326 subdivision, such income shall be attributable to an investment in a "qualified business," as defined in
327 § 58.1-339.4, or in any other technology business approved by the Secretary of Technology, provided
328 that the business has its principal office or facility in the Commonwealth and less than \$3 million in
329 annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this
330 subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2020. No
331 taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4
332 shall be eligible for the subtraction under this subdivision for an investment in the same business.

333 25. For taxable years beginning on and after January 1, 2014, any income of an account holder for
334 the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's
335 first-time home buyer savings account established pursuant to Chapter 32 (§ 55-555 et seq.) of Title 55
336 and (ii) interest income or other income for federal income tax purposes attributable to such person's
337 first-time home buyer savings account.

338 Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction
339 taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys
340 or funds withdrawn from the first-time home buyer savings account were used for any purpose other
341 than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under
342 § 55-558. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable
343 year that was used for other than the payment of eligible costs, computed by multiplying the amount
344 withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in
345 the account at the time of the withdrawal to the total balance in the account at such time.

346 However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i)
347 withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the
348 account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101
349 through 1330; or (iii) transferred from an account established pursuant to Chapter 32 (§ 55-555 et seq.)
350 of Title 55 into another account established pursuant to such chapter for the benefit of another qualified
351 beneficiary.

352 For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings
353 account," and "qualified beneficiary" mean the same as those terms are defined in § 55-555.

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

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

365 b. As used in this subdivision 27:

366 "Qualified portfolio company" means a company that (i) has its principal place of business in the

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

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

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

b. As used in this subdivision 28:

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

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

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

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

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

b. As used in this subdivision 30:

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

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

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

§ 58.1-322.03. Virginia taxable income; deductions.

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

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

b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income tax return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, 2026,

428 \$3,000 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a
429 married individual filing a separate return) and (ii) for taxable years beginning on and after January 1,
430 2019, but before January 1, 2026, \$4,500 for single individuals and \$9,000 for married persons (one-half
431 of such amounts in the case of a married individual filing a separate return). For purposes of this
432 section, any person who may be claimed as a dependent on another taxpayer's return for the taxable year
433 may compute the deduction only with respect to earned income.

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

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

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

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

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

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

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

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

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

459 7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed
460 during the taxable year for a prepaid tuition contract or college savings trust account entered into with
461 the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as
462 provided in subdivision b, the amount deducted on any individual income tax return in any taxable year
463 shall be limited to \$4,000 per prepaid tuition contract or college savings trust account. No deduction
464 shall be allowed pursuant to this subdivision 7 if such payments or contributions are deducted on the
465 purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a
466 college savings trust account exceeds \$4,000, the remainder may be carried forward and subtracted in
467 future taxable years until the purchase price or college savings trust contribution has been fully
468 deducted; however, except as provided in subdivision b, in no event shall the amount deducted in any
469 taxable year exceed \$4,000 per contract or college savings trust account. Notwithstanding the statute of
470 limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to
471 recapture in the taxable year or years in which distributions or refunds are made for any reason other
472 than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or
473 (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision,
474 "purchaser" or "contributor" means the person shown as such on the records of the Virginia College
475 Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid
476 tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax
477 attributes associated with a prepaid tuition contract or college savings trust account, including, but not
478 limited to, carryover and recapture of deductions.

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

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

488 9. An amount equal to 20 percent of the tuition costs incurred by an individual employed as a
489 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 subdivision 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. The amount an individual pays annually in premiums for long-term health care insurance, provided that the individual has not claimed a deduction for federal income tax purposes, or, for taxable years beginning before January 1, 2014, a credit under § 58.1-339.11. For taxable years beginning on and after January 1, 2014, no such deduction for long-term health care insurance premiums paid by the individual during the taxable year shall be allowed if the individual has claimed a federal income tax deduction for such taxable year for long-term health care insurance premiums paid by him.

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

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

13. The lesser of \$5,000 or the amount actually paid by a living donor of an organ or other living tissue for unreimbursed out-of-pocket expenses directly related to the donation that arose within 12 months of such donation, provided that the donor has not taken a medical deduction in accordance with the provisions of § 213 of the Internal Revenue Code for such expenses. The deduction may be taken in the taxable year in which the donation is made or the taxable year in which the 12-month period expires.

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

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

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

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

§ 58.1-402. Virginia taxable income.

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

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

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

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

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

567 3. [Repealed.]

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

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

572 6. [Repealed.]

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

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

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

584 (2) The related member derives at least one-third of its gross revenues from the licensing of
585 intangible property to parties who are not related members, and the transaction giving rise to the
586 expenses and costs between the corporation and the related member was made at rates and terms
587 comparable to the rates and terms of agreements that the related member has entered into with parties
588 who are not related members for the licensing of intangible property; or

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

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

603 If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and
604 convincing evidence, that the transaction or transactions between the corporation and a related member
605 or members resulting in such increase in taxable income pursuant to subdivision a had a valid business
606 purpose other than the avoidance or reduction of the tax due under this chapter, the Tax Commissioner
607 shall permit the corporation to file an amended return. For purposes of such amended return, the
608 requirements of subdivision a shall not apply to any transaction for which the Tax Commissioner is
609 satisfied (and has identified) that the transaction had a valid business purpose other than the avoidance
610 or reduction of the tax due under this chapter. Such amended return shall be filed by the corporation
611 within one year of the written permission granted by the Tax Commissioner and any refund of the tax
612 imposed under this article shall include interest at a rate equal to the rate of interest established under

§ 58.1-15 and such interest shall accrue as provided under § 58.1-1833. However, upon the filing of such amended return, any related member of the corporation that subtracted from taxable income amounts received pursuant to subdivision C 21 shall be subject to the tax imposed under this article on that portion of such amounts for which the corporation has filed an amended return pursuant to this subdivision. In addition, for such transactions identified by the Tax Commissioner herein by which he has been satisfied by clear and convincing evidence, the Tax Commissioner may permit the corporation in filing income tax returns for subsequent taxable years to deduct the related intangible expenses and costs without making the adjustment under subdivision a.

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

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

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

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

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

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

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

(4) One of the following applies:

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

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

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

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

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

If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and convincing evidence, that the transaction or transactions between the corporation and a related member or members resulting in such increase in taxable income pursuant to subdivision a had a valid business purpose other than the avoidance or reduction of the tax due under this chapter and that the related payments between the parties were made at arm's length rates and terms, the Tax Commissioner shall

674 permit the corporation to file an amended return. For purposes of such amended return, the requirements
675 of subdivision a shall not apply to any transaction for which the Tax Commissioner is satisfied (and has
676 identified) that the transaction had a valid business purpose other than the avoidance or reduction of the
677 tax due under this chapter and that the related payments between the parties were made at arm's length
678 rates and terms. Such amended return shall be filed by the corporation within one year of the written
679 permission granted by the Tax Commissioner and any refund of the tax imposed under this article shall
680 include interest at a rate equal to the rate of interest established under § 58.1-15 and such interest shall
681 accrue as provided under § 58.1-1833. However, upon the filing of such amended return, any related
682 member of the corporation that subtracted from taxable income amounts received pursuant to subdivision
683 C 21 shall be subject to the tax imposed under this article on that portion of such amounts for which the
684 corporation has filed an amended return pursuant to this subdivision. In addition, for such transactions
685 identified by the Tax Commissioner herein by which he has been satisfied by clear and convincing
686 evidence, the Tax Commissioner may permit the corporation in filing income tax returns for subsequent
687 taxable years to deduct the related interest expenses and costs without making the adjustment under
688 subdivision a.

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

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

695 c. Nothing in subdivision B 9 shall be construed to limit or negate the Department's authority under
696 § 58.1-446.

697 d. For purposes of subdivision B 9:

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

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

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

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

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

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

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

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

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

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

727 (4) Any Qualified Foreign Entity.

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

731 d. For purposes of subdivision B 10:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. [Repealed.]

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

11. [Repealed.]

12, 13. [Expired.]

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

15. For taxable years beginning on or after January 1, 2000, the total amount 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.

16. For taxable years beginning on or after January 1, 2000, but before January 1, 2015, the gain derived from the sale or 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.

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

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

19, 20. [Repealed.]

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

22. For taxable years beginning on and after January 1, 2009, any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals the training or experience of a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

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

24. For taxable years beginning on or after January 1, 2011, any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income must be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the Secretary of Technology, provided the business has its principal office or facility in the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the investment must be made between the dates of April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.

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

b. As used in this subdivision 25:

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

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

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

b. As used in this subdivision 26:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. That if, prior to the enactment of this act, the Commonwealth or a locality imposed a tax pursuant to Article 3 (§ 58.1-1711 et seq.) of Chapter 17 of Title 58.1 of the Code of Virginia or Article 2 (§ 58.1-3805 et seq.) of Chapter 38 of Title 58.1 of the Code of Virginia on the probate of a will or grant of administration of the estate of an individual who died or was wounded as a

920 result of the Virginia Beach mass shooting, as defined in § 58.1-322.02 of the Code of Virginia, as
921 amended by this act, and such tax was paid, the Commonwealth or such locality, as applicable,
922 shall refund such tax paid.
923 4. That if, prior to the enactment of this act, a person made a payment that would have been
924 eligible for deduction pursuant to the provisions of either § 58.1-322.03 of the Code of Virginia, as
925 amended by this act, or § 58.1-402 of the Code of Virginia, as amended by this act, such payment
926 shall be deductible for taxable years beginning on and after January 1, 2019, but before January
927 1, 2020.