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HOUSE BILL NO. 1740

Offered January 11, 2023

Prefiled January 9, 2023

A BILL to amend and reenact §§ 58.1-322.03, as it is currently effective and as it may become effective, and 58.1-402 of the Code of Virginia and to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:13, relating to taxation; contributions to Virginia College Savings Plan accounts.

Patrons—McQuinn, Bagby, Adams, D.M., Clark, Guzman, Helmer, Hope, Jenkins, Kory, LaRock, Maldonado, Mundon King, Murphy, Price, Roem, Shin, Simon and Simonds; Senator: Deeds

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-322.03, as it is currently effective and as it may become effective, 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 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:13 as follows:

§ 58.1-322.03. (Contingent expiration date) Virginia taxable income; deductions.

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

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

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

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

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

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

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

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 that the taxpayer can also claim the child as a personal exemption under § 151 of the Internal Revenue Code.

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

b. 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 shall be reduced by \$1 for every \$1 that the total combined adjusted federal adjusted gross income of both spouses exceeds \$75,000.

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 amended.

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

INTRODUCED

HB1740

58 7. a. (1) A deduction shall be allowed to the purchaser or contributor for the amount paid or
59 contributed during the taxable year for a prepaid tuition contract or college savings trust account entered
60 into with the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1.
61 Except as provided in subdivision b (2), the amount deducted on any individual income tax return in
62 any taxable year shall be limited to (i) for taxable years beginning before January 1, 2023, \$4,000 per
63 prepaid tuition contract or college savings trust account; (ii) for taxable years beginning on and after
64 January 1, 2023, but before January 1, 2024, \$7,500 per prepaid tuition contract or college savings
65 trust account; (iii) for taxable years beginning on and after January 1, 2024, but before January 1,
66 2025, \$11,000 per prepaid tuition contract or college savings trust account; and (iv) for taxable years
67 beginning on and after January 1, 2025, \$15,000 per prepaid tuition contract or college savings trust
68 account. For any taxable years beginning on and after January 1, 2023, such amount shall be adjusted
69 each year by the indexing ratio. However, the amount deducted on any individual income tax return in
70 any taxable year shall be limited to \$4,000 per prepaid tuition contract or college savings trust account
71 for individuals with federal adjusted gross income that is greater than \$100,000 for an individual or
72 \$200,000 for married persons filing a joint return. No deduction shall be allowed pursuant to this
73 subdivision 7 (1) if such payments or contributions are deducted on the purchaser's or contributor's
74 federal income tax return. If the purchase price or annual contribution to a college savings trust account
75 exceeds \$4,000 the amount of the deduction allowed by this subdivision (1) as adjusted by the indexing
76 ratio in a taxable year, the remainder may be carried forward and subtracted in future taxable years
77 until the purchase price or college savings trust contribution has been fully deducted; however, except as
78 provided in subdivision b (2), in no event shall the amount deducted in any taxable year exceed \$4,000
79 the amount of the deduction allowed by this subdivision (1) as adjusted by the indexing ratio per
80 contract or college savings trust account. Notwithstanding the statute of limitations on assessments
81 contained in § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year
82 or years in which distributions or refunds are made for any reason other than (i) (a) to pay qualified
83 higher education expenses, as defined in § 529 of the Internal Revenue Code or (ii) (b) the beneficiary's
84 death, disability, or receipt of a scholarship. For the purposes of this subdivision a, "purchaser" or
85 "contributor" means the person shown as such on the records of the Virginia College Savings Plan as of
86 December 31 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or
87 college savings trust account, the transferee shall succeed to the transferor's tax attributes associated with
88 a prepaid tuition contract or college savings trust account, including, but not limited to, carryover and
89 recapture of deductions.

90 b. (2) A purchaser of a prepaid tuition contract or contributor to a college savings trust account who
91 has attained age 70 shall not be subject to the ~~limitation that subdivision (1) limitations on the maximum~~
92 amount of the deduction ~~not exceed \$4,000 allowed~~ per prepaid tuition contract or college savings trust
93 account in any taxable year. Such taxpayer shall be allowed a deduction for the full amount paid for the
94 contract or contributed to a college savings trust account, less any amounts previously deducted.

95 For purposes of this subdivision a, "indexing ratio" means the percentage, if any, by which the
96 Chained Consumer Price Index for All Urban Consumers (C-CPI-U) as published by the U.S.
97 Department of Labor, or any successor index, for the most recent calendar year exceeds the C-CPI-U
98 published at the close of the 12-month period ending on December 31, 2022. If the percentage is less
99 than zero, the indexing ratio shall be zero.

100 b. A deduction shall be allowed for a child day center or child day program, as such terms are
101 defined in § 22.1-289.02, for the amount paid or contributed to a customer's or client's prepaid tuition
102 contract or college savings trust account entered into with the Virginia College Savings Plan, pursuant
103 to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. The amount deducted on any individual income tax
104 return in any taxable year shall be limited to \$4,000 per customer's or client's prepaid tuition contract
105 or college savings trust account.

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

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

116 10. The amount an individual pays annually in premiums for long-term health care insurance,
117 provided that the individual has not claimed a deduction for federal income tax purposes, or, for taxable
118 years beginning before January 1, 2014, a credit under § 58.1-339.11. For taxable years beginning on
119 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, but before January 1, 2022, 20 percent of business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code. For taxable years beginning on and after January 1, 2022, 30 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. For taxable years beginning before January 1, 2021, up to \$100,000 of the amount that is not deductible when computing federal adjusted gross income solely on account of the portion of subdivision B 10 of § 58.1-301 related to Paycheck Protection Program loans.

§ 58.1-322.03. (Effective pursuant to Va. Const. Art. IV, § 13; contingent expiration date) 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

181 § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for
182 such purposes at a rate of 18 cents per mile; or

183 b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income
184 tax return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, 2026,
185 \$3,000 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a
186 married individual filing a separate return) and (ii) for taxable years beginning on and after January 1,
187 2019, but before January 1, 2026, \$4,500 for single individuals and \$9,000 for married persons (one-half
188 of such amounts in the case of a married individual filing a separate return). For purposes of this
189 section, any person who may be claimed as a dependent on another taxpayer's return for the taxable year
190 may compute the deduction only with respect to earned income.

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

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

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

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

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

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

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

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

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

216 7. a. (1) A deduction shall be allowed to the purchaser or contributor for the amount paid or
217 contributed during the taxable year for a prepaid tuition contract or college savings trust account entered
218 into with the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1.
219 Except as provided in subdivision b (2), the amount deducted on any individual income tax return in
220 any taxable year shall be limited to (i) for taxable years beginning before January 1, 2023, \$4,000 per
221 prepaid tuition contract or college savings trust account; (ii) for taxable years beginning on and after
222 January 1, 2023, but before January 1, 2024, \$7,500 per prepaid tuition contract or college savings
223 trust account; (iii) for taxable years beginning on and after January 1, 2024, but before January 1,
224 2025, \$11,000 per prepaid tuition contract or college savings trust account; and (iv) for taxable years
225 beginning on and after January 1, 2025, \$15,000 per prepaid tuition contract or college savings trust
226 account. For any taxable years beginning on and after January 1, 2023, such amount shall be adjusted
227 each year by the indexing ratio. However, the amount deducted on any individual income tax return in
228 any taxable year shall be limited to \$4,000 per prepaid tuition contract or college savings trust account
229 for individuals with federal adjusted gross income that is greater than \$100,000 for an individual or
230 \$200,000 for married persons filing a joint return. No deduction shall be allowed pursuant to this
231 subdivision 7 (1) if such payments or contributions are deducted on the purchaser's or contributor's
232 federal income tax return. If the purchase price or annual contribution to a college savings trust account
233 exceeds ~~\$4,000~~ the amount of the deduction allowed by this subdivision (1) as adjusted by the indexing
234 ratio in a taxable year, the remainder may be carried forward and subtracted in future taxable years
235 until the purchase price or college savings trust contribution has been fully deducted; however, except as
236 provided in subdivision b (2), in no event shall the amount deducted in any taxable year exceed ~~\$4,000~~
237 the amount of the deduction allowed by this subdivision (1) as adjusted by the indexing ratio per
238 contract or college savings trust account. Notwithstanding the statute of limitations on assessments
239 contained in § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year
240 or years in which distributions or refunds are made for any reason other than (i) (a) to pay qualified
241 higher education expenses, as defined in § 529 of the Internal Revenue Code or (ii) (b) the beneficiary's
242 death, disability, or receipt of a scholarship. For the purposes of this subdivision a, "purchaser" or

"contributor" means the person shown as such on the records of the Virginia College Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition contract or college savings trust account, including, but not limited to, carryover and recapture of deductions.

b. (2) A purchaser of a prepaid tuition contract or contributor to a college savings trust account who has attained age 70 shall not be subject to the ~~limitation that subdivision (1) limitations on the maximum amount of the deduction not exceed \$4,000~~ allowed per prepaid tuition contract or college 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 college savings trust account, less any amounts previously deducted.

For purposes of this subdivision a, "indexing ratio" means the percentage, if any, by which the Chained Consumer Price Index for All Urban Consumers (C-CPI-U) as published by the U.S. Department of Labor, or any successor index, for the most recent calendar year exceeds the C-CPI-U published at the close of the 12-month period ending on December 31, 2022. If the percentage is less than zero, the indexing ratio shall be zero.

b. A deduction shall be allowed for a child day center or child day program, as such terms are defined in § 22.1-289.02, for the amount paid or contributed to a customer's or client's prepaid tuition contract or college savings trust account entered into with the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. The amount deducted on any individual income tax return in any taxable year shall be limited to \$4,000 per customer's or client's prepaid tuition contract or college savings trust account to which amounts are contributed by the child day center or child day program.

8. 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 that the individual has not claimed a deduction for such amount on his federal income tax return.

9. 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 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.

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

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

320 15. For taxable years beginning on and after January 1, 2018, but before January 1, 2022, 20 percent
321 of business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code. For
322 taxable years beginning on and after January 1, 2022, 30 percent of business interest disallowed as a
323 deduction pursuant to § 163(j) of the Internal Revenue Code. For purposes of this subdivision, "business
324 interest" means the same as that term is defined under § 163(j) of the Internal Revenue Code.

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

329 17. For taxable years beginning before January 1, 2021, up to \$100,000 of the amount that is not
330 deductible when computing federal adjusted gross income solely on account of the portion of
331 subdivision B 10 of § 58.1-301 related to Paycheck Protection Program loans.

332 18. For taxable years beginning on and after January 1, 2022, but before January 1, 2025, the lesser
333 of \$500 or the actual amount paid or incurred for eligible educator qualifying expenses. For purposes of
334 this subdivision, "eligible educator" means an individual who for at least 900 hours during the taxable
335 year in which the credit under this section is claimed served as a teacher licensed pursuant to Chapter
336 15 (§ 22.1-289.1 et seq.) of Title 22.1, instructor, student counselor, principal, special needs personnel,
337 or student aide serving accredited public or private primary and secondary school students in Virginia,
338 and "qualifying expenses" means 100 percent of the amount paid or incurred by an eligible educator
339 during the taxable year for participation in professional development courses and the purchase of books,
340 supplies, computer equipment (including related software and services), other educational and teaching
341 equipment, and supplementary materials used directly in that individual's service to students as an
342 eligible educator, provided that such purchases were neither reimbursed nor claimed as a deduction on
343 the eligible educator's federal income tax return for such taxable year.

344 **§ 58.1-322.03. (Contingently effective pursuant to Acts 2022, Sp. Sess. I, c. 2, cl. 7) Virginia**
345 **taxable income; deductions.**

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

348 1. a. The amount allowable for itemized deductions for federal income tax purposes where the
349 taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the
350 amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted
351 on such federal return and increased by an amount that, when added to the amount deducted under
352 § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for
353 such purposes at a rate of 18 cents per mile; or

354 b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income
355 tax return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, 2026,
356 \$3,000 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a
357 married individual filing a separate return); (ii) for taxable years beginning on and after January 1, 2019,
358 but before January 1, 2022, \$4,500 for single individuals and \$9,000 for married persons (one-half of
359 such amounts in the case of a married individual filing a separate return); and (iii) for taxable years
360 beginning on and after January 1, 2022, but before January 1, 2026, \$8,000 for single individuals and
361 \$16,000 for married persons (one-half of such amounts in the case of a married individual filing a
362 separate return). For purposes of this section, any person who may be claimed as a dependent on
363 another taxpayer's return for the taxable year may compute the deduction only with respect to earned
364 income.

365 2. a. A deduction in the amount of \$930 for each personal exemption allowable to the taxpayer for

federal income tax purposes.

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

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

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

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 that the taxpayer can also claim the child as a personal exemption under § 151 of the Internal Revenue Code.

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

b. 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 shall be reduced by \$1 for every \$1 that the total combined adjusted federal adjusted gross income of both spouses exceeds \$75,000.

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 amended.

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

7. a. (1) A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed during the taxable year for a prepaid tuition contract or college savings trust account entered into with the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as provided in subdivision b (2), the amount deducted on any individual income tax return in any taxable year shall be limited to (i) for taxable years beginning before January 1, 2023, \$4,000 per prepaid tuition contract or college savings trust account; (ii) for taxable years beginning on and after January 1, 2023, but before January 1, 2024, \$7,500 per prepaid tuition contract or college savings trust account; (iii) for taxable years beginning on and after January 1, 2024, but before January 1, 2025, \$11,000 per prepaid tuition contract or college savings trust account; and (iv) for taxable years beginning on and after January 1, 2025, \$15,000 per prepaid tuition contract or college savings trust account. For any taxable years beginning on and after January 1, 2023, such amount shall be adjusted each year by the indexing ratio. However, the amount deducted on any individual income tax return in any taxable year shall be limited to \$4,000 per prepaid tuition contract or college savings trust account for individuals with federal adjusted gross income that is greater than \$100,000 for an individual or \$200,000 for married persons filing a joint return. No deduction shall be allowed pursuant to this subdivision 7 (1) if such payments or contributions are deducted on the purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a college savings trust account exceeds ~~\$4,000~~ the amount of the deduction allowed by this subdivision (1) as adjusted by the indexing ratio in a taxable year, the remainder may be carried forward and subtracted in future taxable years until the purchase price or college savings trust contribution has been fully deducted; however, except as provided in subdivision b (2), in no event shall the amount deducted in any taxable year exceed ~~\$4,000~~ the amount of the deduction allowed by this subdivision (1) as adjusted by the indexing ratio per contract or college savings trust account. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are made for any reason other than (i) (a) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or (ii) (b) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision a, "purchaser" or "contributor" means the person shown as such on the records of the Virginia College Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition contract or college savings trust account, including, but not limited to, carryover and recapture of deductions.

b. (2) A purchaser of a prepaid tuition contract or contributor to a college savings trust account who has attained age 70 shall not be subject to the ~~limitation that~~ subdivision (1) limitations on the maximum amount of the deduction ~~not exceed~~ \$4,000 allowed per prepaid tuition contract or college 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 college savings trust account, less any amounts previously deducted.

427 For purposes of this subdivision a, "indexing ratio" means the percentage, if any, by which the
428 Chained Consumer Price Index for All Urban Consumers (C-CPI-U) as published by the U.S.
429 Department of Labor, or any successor index, for the most recent calendar year exceeds the C-CPI-U
430 published at the close of the 12-month period ending on December 31, 2022. If the percentage is less
431 than zero, the indexing ratio shall be zero.

432 b. A deduction shall be allowed for a child day center or child day program, as such terms are
433 defined in § 22.1-289.02, for the amount paid or contributed to a customer's or client's prepaid tuition
434 contract or college savings trust account entered into with the Virginia College Savings Plan, pursuant
435 to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. The amount deducted on any individual income tax
436 return in any taxable year shall be limited to \$4,000 per customer's or client's prepaid tuition contract
437 or college savings trust account to which amounts are contributed by the child day center or child day
438 program.

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

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

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

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

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

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

463 12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6
464 (§ 58.1-600 et seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the
465 following items of tangible personal property: (i) any clothes washers, room air conditioners,
466 dishwashers, and standard size refrigerators that meet or exceed the applicable energy star efficiency
467 requirements developed by the U.S. Environmental Protection Agency and the U.S. Department of
468 Energy; (ii) any fuel cell that (a) generates electricity using an electrochemical process, (b) has an
469 electricity-only generation efficiency greater than 35 percent, and (c) has a generating capacity of at least
470 two kilowatts; (iii) any gas heat pump that has a coefficient of performance of at least 1.25 for heating
471 and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that yields an energy factor of
472 at least 1.7; (v) any electric heat pump that has a heating system performance factor of at least 8.0 and
473 a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner that has a
474 cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater that
475 has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual
476 fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization
477 rating of 85; and (x) programmable thermostats.

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

484 14. For taxable years beginning on and after January 1, 2013, the amount an individual age 66 or
485 older with earned income of at least \$20,000 for the year and federal adjusted gross income not in
486 excess of \$30,000 for the year pays annually in premiums for (i) a prepaid funeral insurance policy
487 covering the individual or (ii) medical or dental insurance for any person for whom individual tax filers
488 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, but before January 1, 2022, 20 percent of business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code. For taxable years beginning on and after January 1, 2022, 30 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. For taxable years beginning before January 1, 2021, up to \$100,000 of the amount that is not deductible when computing federal adjusted gross income solely on account of the portion of subdivision B 10 of § 58.1-301 related to Paycheck Protection Program loans.

18. For taxable years beginning on and after January 1, 2022, but before January 1, 2025, the lesser of \$500 or the actual amount paid or incurred for eligible educator qualifying expenses. For purposes of this subdivision, "eligible educator" means an individual who for at least 900 hours during the taxable year in which the credit under this section is claimed served as a teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1, instructor, student counselor, principal, special needs personnel, or student aide serving accredited public or private primary and secondary school students in Virginia, and "qualifying expenses" means 100 percent of the amount paid or incurred by an eligible educator during the taxable year for participation in professional development courses and the purchase of books, supplies, computer equipment (including related software and services), other educational and teaching equipment, and supplementary materials used directly in that individual's service to students as an eligible educator, provided that such purchases were neither reimbursed nor claimed as a deduction on the eligible educator's federal income tax return for such taxable year.

§ 58.1-322.03. (Contingently effective pursuant to Acts 2022, Sp. Sess. I, c. 2, cl. 8) Virginia taxable income; deductions.

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

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

b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income tax return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, 2026, \$3,000 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return); (ii) for taxable years beginning on and after January 1, 2019, but before January 1, 2022, \$4,500 for single individuals and \$9,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return); and (iii) for taxable years beginning on and after January 1, 2022, but before January 1, 2026, \$8,000 for single individuals and \$16,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return). For purposes of this section, any person who may be claimed as a dependent on another taxpayer's return for the taxable year may compute the deduction only with respect to earned income.

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

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

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

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

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 that the taxpayer can also claim the child as a personal exemption under § 151 of the Internal Revenue Code.

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

b. 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 shall be reduced by \$1 for every \$1 that the total combined adjusted federal adjusted gross income of both spouses exceeds \$75,000.

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 amended.

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

7. a. (1) A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed during the taxable year for a prepaid tuition contract or college savings trust account entered into with the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as provided in subdivision b (2), the amount deducted on any individual income tax return in any taxable year shall be limited to (i) for taxable years beginning before January 1, 2023, \$4,000 per prepaid tuition contract or college savings trust account; (ii) for taxable years beginning on and after January 1, 2023, but before January 1, 2024, \$7,500 per prepaid tuition contract or college savings trust account; (iii) for taxable years beginning on and after January 1, 2024, but before January 1, 2025, \$11,000 per prepaid tuition contract or college savings trust account; and (iv) for taxable years beginning on and after January 1, 2025, \$15,000 per prepaid tuition contract or college savings trust account. For any taxable years beginning on and after January 1, 2023, such amount shall be adjusted each year by the indexing ratio. However, the amount deducted on any individual income tax return in any taxable year shall be limited to \$4,000 per prepaid tuition contract or college savings trust account for individuals with federal adjusted gross income that is greater than \$100,000 for an individual or \$200,000 for married persons filing a joint return. No deduction shall be allowed pursuant to this subdivision 7 (1) if such payments or contributions are deducted on the purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a college savings trust account exceeds ~~\$4,000~~ the amount of the deduction allowed by this subdivision (1) as adjusted by the indexing ratio in a taxable year, the remainder may be carried forward and subtracted in future taxable years until the purchase price or college savings trust contribution has been fully deducted; however, except as provided in subdivision b (2), in no event shall the amount deducted in any taxable year exceed \$4,000 the amount of the deduction allowed by this subdivision (1) as adjusted by the indexing ratio per contract or college savings trust account. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are made for any reason other than (i) (a) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or (ii) (b) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision a, "purchaser" or "contributor" means the person shown as such on the records of the Virginia College Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition contract or college savings trust account, including, but not limited to, carryover and recapture of deductions.

b. (2) A purchaser of a prepaid tuition contract or contributor to a college savings trust account who has attained age 70 shall not be subject to the ~~limitation that~~ subdivision (1) limitations on the maximum amount of the deduction ~~not exceed~~ \$4,000 allowed per prepaid tuition contract or college 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 college savings trust account, less any amounts previously deducted.

For purposes of this subdivision a, "indexing ratio" means the percentage, if any, by which the Chained Consumer Price Index for All Urban Consumers (C-CPI-U) as published by the U.S. Department of Labor, or any successor index, for the most recent calendar year exceeds the C-CPI-U published at the close of the 12-month period ending on December 31, 2022. If the percentage is less than zero, the indexing ratio shall be zero.

b. A deduction shall be allowed for a child day center or child day program, as such terms are defined in § 22.1-289.02, for the amount paid or contributed to a customer's or client's prepaid tuition contract or college savings trust account entered into with the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. The amount deducted on any individual income tax return in any taxable year shall be limited to \$4,000 per customer's or client's prepaid tuition contract or college savings trust account to which amounts are contributed by the child day center or child day

program.

8. 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 that the individual has not claimed a deduction for such amount on his federal income tax return.

9. 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 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, but before January 1, 2022, 20 percent of business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code. For taxable years beginning on and after January 1, 2022, 30 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. For taxable years beginning before January 1, 2021, up to \$100,000 of the amount that is not deductible when computing federal adjusted gross income solely on account of the portion of subdivision B 10 of § 58.1-301 related to Paycheck Protection Program loans.

18. For taxable years beginning on and after January 1, 2022, but before January 1, 2025, the lesser of \$500 or the actual amount paid or incurred for eligible educator qualifying expenses. For purposes of this subdivision, "eligible educator" means an individual who for at least 900 hours during the taxable year in which the credit under this section is claimed served as a teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1, instructor, student counselor, principal, special needs personnel, or student aide serving accredited public or private primary and secondary school students in Virginia, and "qualifying expenses" means 100 percent of the amount paid or incurred by an eligible educator during the taxable year for participation in professional development courses and the purchase of books, supplies, computer equipment (including related software and services), other educational and teaching equipment, and supplementary materials used directly in that individual's service to students as an eligible educator, provided that such purchases were neither reimbursed nor claimed as a deduction on the eligible educator's federal income tax return for such taxable year.

§ 58.1-439.12:13. Tax credit for employer contributions to Virginia College Savings Plan accounts; report.

A. As used in this section:

"Not highly compensated" means a qualified employee whose income is less than Virginia's median wage, as reported by the Virginia Employment Commission, in the taxable year prior to a business's applying for the credit.

"Owner" means an individual who owns, directly or indirectly, more than a five percent interest in the business claiming the credit.

"Qualified employee" means an employee of a business eligible for a credit under this section in a full-time position requiring a minimum of 1,680 hours in a normal fiscal year of the business's operations if the standard fringe benefits are paid by the business for the employee and the employee currently resides in the Commonwealth. "Qualified employee" does not include an employee in a seasonal or temporary position and does not include an owner or relative.

"Relative" means a spouse, child, grandchild, parent, or sibling of an owner.

B. For taxable years beginning on or after January 1, 2023, but before January 1, 2028, a business shall be eligible for a nonrefundable credit against the tax levied pursuant to § 58.1-320 or 58.1-400 in an amount equal to 35 percent of expenses incurred by the business during the taxable year for contributions into a Virginia College Savings Plan account established under Chapter 7 (§ 23.1-700 et seq.) of Title 23.1, owned by a qualified employee of the business. If the employee receiving the contributions is a qualified employee, the credit shall not exceed \$500 annually per such qualified employee. If the employee receiving the contributions is a qualified employee who is not highly compensated, the credit shall not exceed \$1,000 annually per such qualified employee who is not highly compensated.

C. The total amount of tax credits available under this section for a calendar year shall not exceed \$5 million. In the event that applications for such credits exceed \$5 million for any taxable year, the Department shall allocate the credits on a pro rata basis.

D. The amount of the credit that may be claimed in any single taxable year shall not exceed the total amount of tax imposed by this chapter for that taxable year. If the amount of the credit allowed under this section exceeds the taxpayer's tax liability for the taxable year in which the contributions were made, the amount that exceeds the tax liability may be carried over for credit against the income taxes of the taxpayer in the next three taxable years or until the total amount of the tax credit has been taken, whichever is sooner. No credit under this section shall be applied retroactively to taxable years prior to the taxable year in which the contributions were made.

E. For purposes of this section, the amount of any credit granted to a partnership, limited liability company, or electing small business corporation (S corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership or interest in such business entities.

F. The Tax Commissioner, in consultation with the Virginia College Savings Plan, shall develop guidelines for claiming the credit provided by this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). The Tax Commissioner shall provide an annual report to the Chairmen of the House Committee on Finance and the Senate Committee on Finance and Appropriations on the status and implementation of the credit established by this section.

§ 58.1-402. Virginia taxable income.

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

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

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

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

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

3. [Repealed.]

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

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

6. [Repealed.]

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

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

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

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

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

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

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

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

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

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

c. Nothing in subdivision B 8 shall be construed to limit or negate the Department's authority under § 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: (i) 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; (ii) 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; (iii) financing the expansion of the business operations; or (iv) 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 permit the corporation to file an amended return. For purposes of such amended return, the requirements of subdivision a shall not apply to any transaction for which the Tax Commissioner is satisfied (and has identified) that the transaction had a valid business purpose other than the avoidance or reduction of the tax due under this chapter and that the related payments between the parties were made at arm's length rates and terms. Such amended return shall be filed by the corporation within one year of the written permission granted by the Tax Commissioner and any refund of the tax imposed under this article shall include interest at a rate equal to the rate of interest established under § 58.1-15 and such interest shall accrue as provided under § 58.1-1833. However, upon the filing of such amended return, any related member of the corporation that subtracted from taxable income amounts received pursuant to subdivision C 21 shall be subject to the tax imposed under this article on that portion of such amounts for which the corporation has filed an amended return pursuant to this subdivision. In addition, for such transactions identified by the Tax Commissioner herein by which he has been satisfied by clear and convincing evidence, the Tax Commissioner may permit the corporation in filing income tax returns for subsequent taxable years to deduct the related interest 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 9 shall be construed to limit or negate the Department's authority under § 58.1-446.

d. For purposes of subdivision B 9:

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

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

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

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

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

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

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

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

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

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

(4) Any Qualified Foreign Entity.

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

d. For purposes of subdivision B 10:

"Listed Australian Property Trust" means an Australian unit trust registered as a Management Investment Scheme, pursuant to the Australian Corporations Act, in which the principal class of units is

919 listed on a recognized stock exchange in Australia and is regularly traded on an established securities
920 market.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

966 9. [Repealed.]

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

969 11. [Repealed.]

970 12, 13. [Expired.]

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

974 15. For taxable years beginning on or after January 1, 2000, the total amount actually contributed in
975 funds to the Virginia Public School Construction Grants Program and Fund established in Chapter 11.1
976 (§ 22.1-175.1 et seq.) of Title 22.1.

977 16. For taxable years beginning on or after January 1, 2000, but before January 1, 2015, the gain
978 derived from the sale or exchange of real property or the sale or exchange of an easement to real
979 property which results in the real property or the easement thereto being devoted to open-space use, as
980 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 Administration, 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

1042 Virginia venture capital account at such time as the investment fund actually invests at least 50 percent
1043 of the capital committed to its fund in qualified portfolio companies.

1044 26. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a
1045 subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before
1046 December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by an
1047 affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has
1048 claimed a subtraction under subdivision C 24 or 25 for the same investment.

1049 b. As used in this subdivision 26:

1050 "Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of
1051 § 2.2-115.

1052 "Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3
1053 of § 2.2-115.

1054 "Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C.
1055 § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be
1056 certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department
1057 prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in
1058 Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double
1059 distressed. If the Department determines that the trust satisfies the preceding criteria, the Department
1060 shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests
1061 at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in
1062 localities that are distressed or double distressed.

1063 27. For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of
1064 real property by condemnation proceedings.

1065 28. For taxable years beginning before January 1, 2021, up to \$100,000 of all grant funds received
1066 by the taxpayer under the Rebuild Virginia program established by the Governor and administered by
1067 the Department of Small Business and Supplier Diversity.

1068 D. For taxable years beginning on and after January 1, 2006, there shall be subtracted from federal
1069 taxable income contract payments to a producer of quota tobacco or a tobacco quota holder as provided
1070 under the American Jobs Creation Act of 2004 (P.L. 108-357) as follows:

1071 1. If the payment is received in installment payments, then the recognized gain, including any gain
1072 recognized in taxable year 2005, may be subtracted in the taxable year immediately following the year
1073 in which the installment payment is received.

1074 2. If the payment is received in a single payment, then 10 percent of the recognized gain may be
1075 subtracted in the taxable year immediately following the year in which the single payment is received.
1076 The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

1077 E. Adjustments to federal taxable income shall be made to reflect the transitional modifications
1078 provided in § 58.1-315.

1079 F. Notwithstanding any other provision of law, the income from any disposition of real property
1080 which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or
1081 business, as defined in § 453(l)(1)(B) of the Internal Revenue Code, of property made on or after
1082 January 1, 2009, may, at the election of the taxpayer, be recognized under the installment method
1083 described under § 453 of the Internal Revenue Code, provided that (i) the election relating to the dealer
1084 disposition of the property has been made on or before the due date prescribed by law (including
1085 extensions) for filing the taxpayer's return of the tax imposed under this chapter for the taxable year in
1086 which the disposition occurs, and (ii) the dealer disposition is in accordance with restrictions or
1087 conditions established by the Department, which shall be set forth in guidelines developed by the
1088 Department. Along with such restrictions or conditions, the guidelines shall also address the recapture of
1089 such income under certain circumstances. The development of the guidelines shall be exempt from the
1090 Administrative Process Act (§ 2.2-4000 et seq.).

1091 G. For taxable years beginning on and after January 1, 2018, but before January 1, 2022, there shall
1092 be deducted to the extent included in and not otherwise subtracted from federal taxable income 20
1093 percent of business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code.
1094 For taxable years beginning on and after January 1, 2022, there shall be deducted to the extent included
1095 in and not otherwise subtracted from federal taxable income 30 percent of business interest disallowed
1096 as a deduction pursuant to § 163(j) of the Internal Revenue Code. For purposes of this subsection,
1097 "business interest" means the same as that term is defined under § 163(j) of the Internal Revenue Code.

1098 H. For taxable years beginning before January 1, 2021, there shall be deducted to the extent not
1099 otherwise subtracted from federal taxable income up to \$100,000 of the amount that is not deductible
1100 when computing federal taxable income solely on account of the portion of subdivision B 10 of
1101 § 58.1-301 related to Paycheck Protection Program loans.

1102 I. For taxable years beginning on and after January 1, 2023, there shall be deducted for a child day
1103 center or child day program, as such terms are defined in § 22.1-289.02, the amount paid or

1104 *contributed to a customer's or client's prepaid tuition contract or college savings trust account entered*
1105 *into with the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1.*
1106 *The amount deducted on any income tax return in any taxable year shall be limited to \$4,000 per*
1107 *customer's or client's prepaid tuition contract or college savings trust account to which amounts are*
1108 *contributed by such child day center or child day program taxpayer.*

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