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HOUSE BILL NO. 2261

Offered January 11, 2023

Prefiled January 11, 2023

A BILL to amend and reenact § 58.1-322.03, as it is currently effective and as it may become effective, of the Code of Virginia, relating to income tax; deduction for elderly and disabled individuals.

Patrons—Cordoza, Adams, D.M., Anderson, Clark, Guzman, Jenkins and Shin

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, of the Code of Virginia is amended and reenacted 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 taxable years beginning on and after January 1, 2023, the amount of the deduction provided by this subdivision shall be \$20,000 for an individual who is both at least 65 years of age and permanently and totally disabled.*

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. 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

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59 the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as
60 provided in subdivision b, the amount deducted on any individual income tax return in any taxable year
61 shall be limited to \$4,000 per prepaid tuition contract or college savings trust account. No deduction
62 shall be allowed pursuant to this subdivision 7 if such payments or contributions are deducted on the
63 purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a
64 college savings trust account exceeds \$4,000, the remainder may be carried forward and subtracted in
65 future taxable years until the purchase price or college savings trust contribution has been fully
66 deducted; however, except as provided in subdivision b, in no event shall the amount deducted in any
67 taxable year exceed \$4,000 per contract or college savings trust account. Notwithstanding the statute of
68 limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to
69 recapture in the taxable year or years in which distributions or refunds are made for any reason other
70 than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or
71 (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision,
72 "purchaser" or "contributor" means the person shown as such on the records of the Virginia College
73 Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid
74 tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax
75 attributes associated with a prepaid tuition contract or college savings trust account, including, but not
76 limited to, carryover and recapture of deductions.

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

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

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

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

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

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

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

106 12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6
107 (§ 58.1-600 et seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the
108 following items of tangible personal property: (i) any clothes washers, room air conditioners,
109 dishwashers, and standard size refrigerators that meet or exceed the applicable energy star efficiency
110 requirements developed by the U.S. Environmental Protection Agency and the U.S. Department of
111 Energy; (ii) any fuel cell that (a) generates electricity using an electrochemical process, (b) has an
112 electricity-only generation efficiency greater than 35 percent, and (c) has a generating capacity of at least
113 two kilowatts; (iii) any gas heat pump that has a coefficient of performance of at least 1.25 for heating
114 and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that yields an energy factor of
115 at least 1.7; (v) any electric heat pump that has a heating system performance factor of at least 8.0 and
116 a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner that has a
117 cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater that
118 has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual
119 fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization
120 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 § 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.

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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.

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b. A deduction in the amount of \$12,000 for individuals born after January 1, 1939, who have

182 attained the age of 65. This deduction shall be reduced by \$1 for every \$1 that the taxpayer's adjusted
183 federal adjusted gross income exceeds \$50,000 for single taxpayers or \$75,000 for married taxpayers.
184 For married taxpayers filing separately, the deduction shall be reduced by \$1 for every \$1 that the total
185 combined adjusted federal adjusted gross income of both spouses exceeds \$75,000. *For taxable years*
186 *beginning on and after January 1, 2023, the amount of the deduction provided by this subdivision shall*
187 *be \$20,000 for an individual who is both at least 65 years of age and permanently and totally disabled.*

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

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

194 7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed
195 during the taxable year for a prepaid tuition contract or college savings trust account entered into with
196 the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as
197 provided in subdivision b, the amount deducted on any individual income tax return in any taxable year
198 shall be limited to \$4,000 per prepaid tuition contract or college savings trust account. No deduction
199 shall be allowed pursuant to this subdivision 7 if such payments or contributions are deducted on the
200 purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a
201 college savings trust account exceeds \$4,000, the remainder may be carried forward and subtracted in
202 future taxable years until the purchase price or college savings trust contribution has been fully
203 deducted; however, except as provided in subdivision b, in no event shall the amount deducted in any
204 taxable year exceed \$4,000 per contract or college savings trust account. Notwithstanding the statute of
205 limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to
206 recapture in the taxable year or years in which distributions or refunds are made for any reason other
207 than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or
208 (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision,
209 "purchaser" or "contributor" means the person shown as such on the records of the Virginia College
210 Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid
211 tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax
212 attributes associated with a prepaid tuition contract or college savings trust account, including, but not
213 limited to, carryover and recapture of deductions.

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215 attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000
216 per prepaid tuition contract or college savings trust account in any taxable year. Such taxpayer shall be
217 allowed a deduction for the full amount paid for the contract or contributed to a college savings trust
218 account, less any amounts previously deducted.

219 8. The total amount an individual actually contributed in funds to the Virginia Public School
220 Construction Grants Program and Fund, established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1,
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224 primary or secondary school teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1
225 to attend continuing teacher education courses that are required as a condition of employment; however,
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228 costs on his federal income tax return.

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230 provided that the individual has not claimed a deduction for federal income tax purposes, or, for taxable
231 years beginning before January 1, 2014, a credit under § 58.1-339.11. For taxable years beginning on
232 and after January 1, 2014, no such deduction for long-term health care insurance premiums paid by the
233 individual during the taxable year shall be allowed if the individual has claimed a federal income tax
234 deduction for such taxable year for long-term health care insurance premiums paid by him.

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

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

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

243 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.

§ 58.1-322.03. (Contingently effective pursuant to Acts 2022, Sp. Sess. I, c. 2, cl. 7) 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:

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305 on such federal return and increased by an amount that, when added to the amount deducted under
306 § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for
307 such purposes at a rate of 18 cents per mile; or

308 b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income
309 tax return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, 2026,
310 \$3,000 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a
311 married individual filing a separate return); (ii) for taxable years beginning on and after January 1, 2019,
312 but before January 1, 2022, \$4,500 for single individuals and \$9,000 for married persons (one-half of
313 such amounts in the case of a married individual filing a separate return); and (iii) for taxable years
314 beginning on and after January 1, 2022, but before January 1, 2026, \$8,000 for single individuals and
315 \$16,000 for married persons (one-half of such amounts in the case of a married individual filing a
316 separate return). For purposes of this section, any person who may be claimed as a dependent on
317 another taxpayer's return for the taxable year may compute the deduction only with respect to earned
318 income.

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

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

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

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

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

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

333 b. A deduction in the amount of \$12,000 for individuals born after January 1, 1939, who have
334 attained the age of 65. This deduction shall be reduced by \$1 for every \$1 that the taxpayer's adjusted
335 federal adjusted gross income exceeds \$50,000 for single taxpayers or \$75,000 for married taxpayers.
336 For married taxpayers filing separately, the deduction shall be reduced by \$1 for every \$1 that the total
337 combined adjusted federal adjusted gross income of both spouses exceeds \$75,000. *For taxable years*
338 *beginning on and after January 1, 2023, the amount of the deduction provided by this subdivision shall*
339 *be \$20,000 for an individual who is both at least 65 years of age and permanently and totally disabled.*

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

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

346 7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed
347 during the taxable year for a prepaid tuition contract or college savings trust account entered into with
348 the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as
349 provided in subdivision b, the amount deducted on any individual income tax return in any taxable year
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351 shall be allowed pursuant to this subdivision 7 if such payments or contributions are deducted on the
352 purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a
353 college savings trust account exceeds \$4,000, the remainder may be carried forward and subtracted in
354 future taxable years until the purchase price or college savings trust contribution has been fully
355 deducted; however, except as provided in subdivision b, in no event shall the amount deducted in any
356 taxable year exceed \$4,000 per contract or college savings trust account. Notwithstanding the statute of
357 limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to
358 recapture in the taxable year or years in which distributions or refunds are made for any reason other
359 than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or
360 (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision,
361 "purchaser" or "contributor" means the person shown as such on the records of the Virginia College
362 Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid
363 tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax
364 attributes associated with a prepaid tuition contract or college savings trust account, including, but not
365 limited to, carryover and recapture of deductions.

366 b. 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 the amount of the deduction not exceed \$4,000 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.

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.

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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

428 taxable years beginning on and after January 1, 2022, 30 percent of business interest disallowed as a
429 deduction pursuant to § 163(j) of the Internal Revenue Code. For purposes of this subdivision, "business
430 interest" means the same as that term is defined under § 163(j) of the Internal Revenue Code.

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

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

438 18. For taxable years beginning on and after January 1, 2022, but before January 1, 2025, the lesser
439 of \$500 or the actual amount paid or incurred for eligible educator qualifying expenses. For purposes of
440 this subdivision, "eligible educator" means an individual who for at least 900 hours during the taxable
441 year in which the credit under this section is claimed served as a teacher licensed pursuant to Chapter
442 15 (§ 22.1-289.1 et seq.) of Title 22.1, instructor, student counselor, principal, special needs personnel,
443 or student aide serving accredited public or private primary and secondary school students in Virginia,
444 and "qualifying expenses" means 100 percent of the amount paid or incurred by an eligible educator
445 during the taxable year for participation in professional development courses and the purchase of books,
446 supplies, computer equipment (including related software and services), other educational and teaching
447 equipment, and supplementary materials used directly in that individual's service to students as an
448 eligible educator, provided that such purchases were neither reimbursed nor claimed as a deduction on
449 the eligible educator's federal income tax return for such taxable year.

450 **§ 58.1-322.03. (Contingently effective pursuant to Acts 2022, Sp. Sess. I, c. 2, cl. 8) Virginia**
451 **taxable income; deductions.**

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

454 1. a. The amount allowable for itemized deductions for federal income tax purposes where the
455 taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the
456 amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted
457 on such federal return and increased by an amount that, when added to the amount deducted under
458 § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for
459 such purposes at a rate of 18 cents per mile; or

460 b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income
461 tax return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, 2026,
462 \$3,000 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a
463 married individual filing a separate return); (ii) for taxable years beginning on and after January 1, 2019,
464 but before January 1, 2022, \$4,500 for single individuals and \$9,000 for married persons (one-half of
465 such amounts in the case of a married individual filing a separate return); and (iii) for taxable years
466 beginning on and after January 1, 2022, but before January 1, 2026, \$8,000 for single individuals and
467 \$16,000 for married persons (one-half of such amounts in the case of a married individual filing a
468 separate return). For purposes of this section, any person who may be claimed as a dependent on
469 another taxpayer's return for the taxable year may compute the deduction only with respect to earned
470 income.

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

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

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

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

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

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

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

beginning on and after January 1, 2023, the amount of the deduction provided by this subdivision shall be \$20,000 for an individual who is both at least 65 years of age and permanently and totally disabled.

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. 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, 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. No deduction shall be allowed pursuant to this subdivision 7 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 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, in no event shall the amount deducted in any taxable year exceed \$4,000 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) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision, "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. 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 the amount of the deduction not exceed \$4,000 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.

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.