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SENATE BILL NO. 1451

Offered January 12, 2023

A *BILL to amend and reenact §§ 58.1-320 and 58.1-322.03, as it is currently effective and as it shall become effective, of the Code of Virginia and to repeal the eighth enactment of Chapter 2 of the Acts of Assembly of 2022, Special Session I, relating to individual income tax; rates and deductions.*

Patrons—Norment, Suetterlein, Cosgrove, DeSteph, Dunnavant, Hackworth, McDougale, Newman, Obenshain, Peake, Pillion, Reeves, Ruff, Stanley, Stuart and Vogel

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-320 and 58.1-322.03, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted as follows:

§ 58.1-320. Imposition of tax.

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

~~Two percent on~~ *On income not exceeding \$3,000, two percent;*

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

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

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

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

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

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

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

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

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

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

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

On income in excess of \$5,000, but not in excess of \$17,000, five percent; and

On income in excess of \$17,000, (i) 5.75 percent, for taxable years beginning before January 1, 2024, and (ii) 5.5 percent, for taxable years beginning on and after January 1, 2024.

§ 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 2024, \$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, 2024, but before January 1, 2026, \$9,000 for single individuals and \$18,000 for married persons (one-half of such amounts in the case of a married*

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58 *individual filing a separate return*). For purposes of this section, any person who may be claimed as a
59 dependent on another taxpayer's return for the taxable year may compute the deduction only with respect
60 to earned income.

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

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

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

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

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

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

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

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

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

86 7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed
87 during the taxable year for a prepaid tuition contract or college savings trust account entered into with
88 the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as
89 provided in subdivision b, the amount deducted on any individual income tax return in any taxable year
90 shall be limited to \$4,000 per prepaid tuition contract or college savings trust account. No deduction
91 shall be allowed pursuant to this subdivision 7 if such payments or contributions are deducted on the
92 purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a
93 college savings trust account exceeds \$4,000, the remainder may be carried forward and subtracted in
94 future taxable years until the purchase price or college savings trust contribution has been fully
95 deducted; however, except as provided in subdivision b, in no event shall the amount deducted in any
96 taxable year exceed \$4,000 per contract or college savings trust account. Notwithstanding the statute of
97 limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to
98 recapture in the taxable year or years in which distributions or refunds are made for any reason other
99 than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or
100 (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision,
101 "purchaser" or "contributor" means the person shown as such on the records of the Virginia College
102 Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid
103 tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax
104 attributes associated with a prepaid tuition contract or college savings trust account, including, but not
105 limited to, carryover and recapture of deductions.

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

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

115 9. An amount equal to 20 percent of the tuition costs incurred by an individual employed as a
116 primary or secondary school teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1
117 to attend continuing teacher education courses that are required as a condition of employment; however,
118 the deduction provided by this subdivision shall be available only if (i) the individual is not reimbursed
119 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.

§ 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

181 adjusted gross income as defined in § 58.1-321:

182 1. a. The amount allowable for itemized deductions for federal income tax purposes where the
183 taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the
184 amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted
185 on such federal return and increased by an amount that, when added to the amount deducted under
186 § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for
187 such purposes at a rate of 18 cents per mile; or

188 b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income
189 tax return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, 2026,
190 \$3,000 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a
191 married individual filing a separate return) ~~and~~; (ii) for taxable years beginning on and after January 1,
192 2019, but before January 1, 2026 2024, \$4,500 for single individuals and \$9,000 for married persons
193 (one-half of such amounts in the case of a married individual filing a separate return); *and (iii) for*
194 *taxable years beginning on and after January 1, 2024, but before January 1, 2026, \$9,000 for single*
195 *individuals and \$18,000 for married persons (one-half of such amounts in the case of a married*
196 *individual filing a separate return).* For purposes of this section, any person who may be claimed as a
197 dependent on another taxpayer's return for the taxable year may compute the deduction only with respect
198 to earned income.

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

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

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

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

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

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

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

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

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

224 7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed
225 during the taxable year for a prepaid tuition contract or college savings trust account entered into with
226 the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as
227 provided in subdivision b, the amount deducted on any individual income tax return in any taxable year
228 shall be limited to \$4,000 per prepaid tuition contract or college savings trust account. No deduction
229 shall be allowed pursuant to this subdivision 7 if such payments or contributions are deducted on the
230 purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a
231 college savings trust account exceeds \$4,000, the remainder may be carried forward and subtracted in
232 future taxable years until the purchase price or college savings trust contribution has been fully
233 deducted; however, except as provided in subdivision b, in no event shall the amount deducted in any
234 taxable year exceed \$4,000 per contract or college savings trust account. Notwithstanding the statute of
235 limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to
236 recapture in the taxable year or years in which distributions or refunds are made for any reason other
237 than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or
238 (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision,
239 "purchaser" or "contributor" means the person shown as such on the records of the Virginia College
240 Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid
241 tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax
242 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.

§ 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:

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~~ 2024, \$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); *and (iv) for taxable years beginning on and after January 1, 2024, but before January 1, 2026, \$9,000 for single individuals and \$18,000 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. 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

427 following items of tangible personal property: (i) any clothes washers, room air conditioners,
428 dishwashers, and standard size refrigerators that meet or exceed the applicable energy star efficiency
429 requirements developed by the U.S. Environmental Protection Agency and the U.S. Department of
430 Energy; (ii) any fuel cell that (a) generates electricity using an electrochemical process, (b) has an
431 electricity-only generation efficiency greater than 35 percent, and (c) has a generating capacity of at least
432 two kilowatts; (iii) any gas heat pump that has a coefficient of performance of at least 1.25 for heating
433 and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that yields an energy factor of
434 at least 1.7; (v) any electric heat pump that has a heating system performance factor of at least 8.0 and
435 a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner that has a
436 cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater that
437 has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual
438 fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization
439 rating of 85; and (x) programmable thermostats.

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

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

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

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

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

468 18. For taxable years beginning on and after January 1, 2022, but before January 1, 2025, the lesser
469 of \$500 or the actual amount paid or incurred for eligible educator qualifying expenses. For purposes of
470 this subdivision, "eligible educator" means an individual who for at least 900 hours during the taxable
471 year in which the credit under this section is claimed served as a teacher licensed pursuant to Chapter
472 15 (§ 22.1-289.1 et seq.) of Title 22.1, instructor, student counselor, principal, special needs personnel,
473 or student aide serving accredited public or private primary and secondary school students in Virginia,
474 and "qualifying expenses" means 100 percent of the amount paid or incurred by an eligible educator
475 during the taxable year for participation in professional development courses and the purchase of books,
476 supplies, computer equipment (including related software and services), other educational and teaching
477 equipment, and supplementary materials used directly in that individual's service to students as an
478 eligible educator, provided that such purchases were neither reimbursed nor claimed as a deduction on
479 the eligible educator's federal income tax return for such taxable year.

480 **§ 58.1-322.03. (Contingently effective pursuant to Acts 2022, Sp. Sess. I, c. 2, cl. 8) Virginia**
481 **taxable income; deductions.**

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

484 1. a. The amount allowable for itemized deductions for federal income tax purposes where the
485 taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the
486 amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted
487 on such federal return and increased by an amount that, when added to the amount deducted under
488 § 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 2024, 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); *and (iv) for taxable years beginning on and after January 1, 2024, but before January 1, 2026, \$9,000 for single individuals and \$18,000 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. 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.

2. That the eighth enactment of Chapter 2 of the Acts of Assembly of 2022, Special Session I, is repealed.