

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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An Act to amend and reenact §§ 58.1-301, 58.1-322.02, 58.1-322.03, and 58.1-402 of the Code of Virginia, relating to conformity of the Commonwealth's taxation system with the Internal Revenue Code; emergency.

[H 1935]

Approved

Be it enacted by the General Assembly of Virginia:
1. That §§ 58.1-301, 58.1-322.02, 58.1-322.03, and 58.1-402 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-301. Conformity to Internal Revenue Code.

A. Any term used in this chapter shall have the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required.

B. Any reference in this chapter to the laws of the United States relating to federal income taxes shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, as they existed on December 31, 2019 2020, except for:

1. The special depreciation allowance for certain property provided for under §§ 168(k), 168(l), 168(m), 1400L, and 1400N of the Internal Revenue Code;

2. The carry-back of certain net operating losses for five years under § 172(b)(1)(H) of the Internal Revenue Code;

3. The original issue discount on applicable high yield discount obligations under § 163(e)(5)(F) of the Internal Revenue Code;

4. The deferral of certain income under § 108(i) of the Internal Revenue Code. For Virginia income tax purposes, income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument" (as defined under § 108(i) of the Internal Revenue Code) reacquired in the taxable year shall be fully included in the taxpayer's Virginia taxable income for the taxable year, unless the taxpayer elects to include such income in the taxpayer's Virginia taxable income ratably over a three-taxable-year period beginning with taxable year 2009 for transactions completed in taxable year 2009, or over a three-taxable-year period beginning with taxable year 2010 for transactions completed in taxable year 2010 on or before April 21, 2010. For purposes of such election, all other provisions of § 108(i) of the Internal Revenue Code shall apply mutatis mutandis. No other deferral shall be allowed for income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument";

5. For taxable years beginning on and after January 1, 2019, ~~the provisions of § 11046 of the federal Tax Cuts and Jobs Act, P.L. 115-97 (2017), related to the suspension of the overall limitation on itemized deductions under § 68(f) of the Internal Revenue Code; and~~

6. ~~The provisions of § 103 of Division Q of the federal Further Consolidated Appropriations Act, 2020, P.L. 116-94 (2019), related to the reduction in the medical expense deduction floor~~ For taxable years beginning on and after January 1, 2017, but before January 1, 2018, and for taxable years beginning on and after January 1, 2019, the 7.5 percent of federal adjusted gross income threshold set forth in § 213(a) of the Internal Revenue Code that is used for purposes of computing the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code. For such taxable years, the threshold utilized for Virginia income tax purposes to compute the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code shall be 10 percent of federal adjusted gross income;

7. The provisions of §§ 2303(a) and 2303(b) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the net operating loss limitation and carryback;

8. The provisions of § 2304(a) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to a loss limitation applicable to taxpayers other than corporations;

9. The provisions of § 2306 of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the limitation on business interest; and

10. The provisions of §§ 276(a), 276(b)(2), 276(b)(3), 278(a)(2), 278(a)(3), 278(b)(2), 278(b)(3), 278(c)(2), 278(c)(3), 278(d)(2), and 278(d)(3) of the federal Consolidated Appropriations Act, P.L. 116-260 (2020), related to deductions, tax attributes, and basis increases for certain loan forgiveness and other business financial assistance.

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

60 **§ 58.1-322.02. Virginia taxable income; subtractions.**

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

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

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

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

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

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

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

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

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

84 9. Amounts received by an individual, not to exceed \$1,000 for taxable years beginning on or before
85 December 31, 2019, and \$5,000 for taxable years beginning on or after January 1, 2020, as a reward for
86 information provided to a law-enforcement official or agency, or to a nonprofit corporation created
87 exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of
88 perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an
89 employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime
90 for which the reward was paid, or any person who is compensated for the investigation of crimes or
91 accidents.

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

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

104 12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract
105 or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7
106 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be
107 limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a
108 scholarship.

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

114 14. For taxable years beginning before January 1, 2015, the gain derived from the sale or exchange
115 of real property or the sale or exchange of an easement to real property which results in the real
116 property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230,
117 for a period of time not less than 30 years. To the extent that a subtraction is taken in accordance with

118 this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed
119 for three years following the year in which the subtraction is taken.

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

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

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

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

129 19. Items of income attributable to, derived from, or in any way related to (i) assets stolen from,
130 hidden from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii)
131 damages, reparations, or other consideration received by a victim or target of Nazi persecution to
132 compensate such individual for performing labor against his will under the threat of death, during World
133 War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such
134 items of income or with the proceeds from the sale of assets stolen from, hidden from, or otherwise lost
135 to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The
136 provisions of this subdivision shall only apply to an individual who was the first recipient of such items
137 of income and who was a victim or target of Nazi persecution, or a spouse, surviving spouse, or child
138 or stepchild of such victim.

139 As used in this subdivision:

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

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

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

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

160 22. Any gain recognized from the sale of launch services to space flight participants, as defined in
161 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of
162 a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch
163 services must be performed in Virginia or originate from an airport or spaceport in Virginia.

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

168 24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income
169 taxed as investment services partnership interest income (otherwise known as investment partnership
170 carried interest income) for federal income tax purposes. To qualify for a subtraction under this
171 subdivision, such income shall be attributable to an investment in a "qualified business," as defined in
172 § 58.1-339.4, or in any other technology business approved by the Secretary of Administration, provided
173 that the business has its principal office or facility in the Commonwealth and less than \$3 million in
174 annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this
175 subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2020. No
176 taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4
177 shall be eligible for the subtraction under this subdivision for an investment in the same business.

178 25. For taxable years beginning on and after January 1, 2014, any income of an account holder for

179 the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's
 180 first-time home buyer savings account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36
 181 and (ii) interest income or other income for federal income tax purposes attributable to such person's
 182 first-time home buyer savings account.

183 Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction
 184 taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys
 185 or funds withdrawn from the first-time home buyer savings account were used for any purpose other
 186 than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under
 187 § 36-174. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable
 188 year that was used for other than the payment of eligible costs, computed by multiplying the amount
 189 withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in
 190 the account at the time of the withdrawal to the total balance in the account at such time.

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

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

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

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

210 b. As used in this subdivision 27:

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

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

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

236 b. As used in this subdivision 28:

237 "Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of
 238 § 2.2-115.

239 "Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3

240 of § 2.2-115.

241 "Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C.
 242 § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be
 243 certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department
 244 prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in
 245 Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double
 246 distressed. If the Department determines that the trust satisfies the preceding criteria, the Department
 247 shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests
 248 at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in
 249 localities that are distressed or double distressed.

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

252 30. *For taxable years beginning on and after January 1, 2020, but before January 1, 2021, up to*
 253 *\$100,000 of all grant funds received by the taxpayer under the Rebuild Virginia program established by*
 254 *the Governor and administered by the Department of Small Business and Supplier Diversity.*

255 **§ 58.1-322.03. Virginia taxable income; deductions.**

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

258 1. a. The amount allowable for itemized deductions for federal income tax purposes where the
 259 taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the
 260 amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted
 261 on such federal return and increased by an amount that, when added to the amount deducted under
 262 § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for
 263 such purposes at a rate of 18 cents per mile; or

264 b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income
 265 tax return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, 2026,
 266 \$3,000 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a
 267 married individual filing a separate return) and (ii) for taxable years beginning on and after January 1,
 268 2019, but before January 1, 2026, \$4,500 for single individuals and \$9,000 for married persons (one-half
 269 of such amounts in the case of a married individual filing a separate return). For purposes of this
 270 section, any person who may be claimed as a dependent on another taxpayer's return for the taxable year
 271 may compute the deduction only with respect to earned income.

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

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

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

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

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

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

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

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

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

297 7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed
 298 during the taxable year for a prepaid tuition contract or college savings trust account entered into with
 299 the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as
 300 provided in subdivision b, the amount deducted on any individual income tax return in any taxable year

301 shall be limited to \$4,000 per prepaid tuition contract or college savings trust account. No deduction
302 shall be allowed pursuant to this subdivision 7 if such payments or contributions are deducted on the
303 purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a
304 college savings trust account exceeds \$4,000, the remainder may be carried forward and subtracted in
305 future taxable years until the purchase price or college savings trust contribution has been fully
306 deducted; however, except as provided in subdivision b, in no event shall the amount deducted in any
307 taxable year exceed \$4,000 per contract or college savings trust account. Notwithstanding the statute of
308 limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to
309 recapture in the taxable year or years in which distributions or refunds are made for any reason other
310 than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or
311 (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision,
312 "purchaser" or "contributor" means the person shown as such on the records of the Virginia College
313 Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid
314 tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax
315 attributes associated with a prepaid tuition contract or college savings trust account, including, but not
316 limited to, carryover and recapture of deductions.

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

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

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

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

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

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

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

346 12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6
347 (§ 58.1-600 et seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the
348 following items of tangible personal property: (i) any clothes washers, room air conditioners,
349 dishwashers, and standard size refrigerators that meet or exceed the applicable energy star efficiency
350 requirements developed by the U.S. Environmental Protection Agency and the U.S. Department of
351 Energy; (ii) any fuel cell that (a) generates electricity using an electrochemical process, (b) has an
352 electricity-only generation efficiency greater than 35 percent, and (c) has a generating capacity of at least
353 two kilowatts; (iii) any gas heat pump that has a coefficient of performance of at least 1.25 for heating
354 and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that yields an energy factor of
355 at least 1.7; (v) any electric heat pump that has a heating system performance factor of at least 8.0 and
356 a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner that has a
357 cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater that
358 has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual
359 fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization
360 rating of 85; and (x) programmable thermostats.

361 13. The lesser of \$5,000 or the amount actually paid by a living donor of an organ or other living

362 tissue for unreimbursed out-of-pocket expenses directly related to the donation that arose within 12
 363 months of such donation, provided that the donor has not taken a medical deduction in accordance with
 364 the provisions of § 213 of the Internal Revenue Code for such expenses. The deduction may be taken in
 365 the taxable year in which the donation is made or the taxable year in which the 12-month period
 366 expires.

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

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

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

385 17. *For taxable years beginning on and after January 1, 2020, but before January 1, 2021, up to*
 386 *\$100,000 of the amount that is not deductible when computing federal adjusted gross income solely on*
 387 *account of the portion of subdivision B 10 of § 58.1-301 related to Paycheck Protection Program loans.*

388 **§ 58.1-402. Virginia taxable income.**

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

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

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

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

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

405 3. [Repealed.]

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

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

410 6. [Repealed.]

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

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

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

422 (2) The related member derives at least one-third of its gross revenues from the licensing of

423 intangible property to parties who are not related members, and the transaction giving rise to the
424 expenses and costs between the corporation and the related member was made at rates and terms
425 comparable to the rates and terms of agreements that the related member has entered into with parties
426 who are not related members for the licensing of intangible property; or

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

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

441 If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and
442 convincing evidence, that the transaction or transactions between the corporation and a related member
443 or members resulting in such increase in taxable income pursuant to subdivision a had a valid business
444 purpose other than the avoidance or reduction of the tax due under this chapter, the Tax Commissioner
445 shall permit the corporation to file an amended return. For purposes of such amended return, the
446 requirements of subdivision a shall not apply to any transaction for which the Tax Commissioner is
447 satisfied (and has identified) that the transaction had a valid business purpose other than the avoidance
448 or reduction of the tax due under this chapter. Such amended return shall be filed by the corporation
449 within one year of the written permission granted by the Tax Commissioner and any refund of the tax
450 imposed under this article shall include interest at a rate equal to the rate of interest established under
451 § 58.1-15 and such interest shall accrue as provided under § 58.1-1833. However, upon the filing of
452 such amended return, any related member of the corporation that subtracted from taxable income
453 amounts received pursuant to subdivision C 21 shall be subject to the tax imposed under this article on
454 that portion of such amounts for which the corporation has filed an amended return pursuant to this
455 subdivision. In addition, for such transactions identified by the Tax Commissioner herein by which he
456 has been satisfied by clear and convincing evidence, the Tax Commissioner may permit the corporation
457 in filing income tax returns for subsequent taxable years to deduct the related intangible expenses and
458 costs without making the adjustment under subdivision a.

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

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

465 c. Nothing in subdivision B 8 shall be construed to limit or negate the Department's authority under
466 § 58.1-446;

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

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

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

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

482 (4) One of the following applies:

483 (i) The corresponding item of income received by the related member is subject to a tax based on or

484 measured by net income or capital imposed by Virginia, another state, or a foreign government that has
485 entered into a comprehensive tax treaty with the United States government;

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

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

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

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

507 If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and
508 convincing evidence, that the transaction or transactions between the corporation and a related member
509 or members resulting in such increase in taxable income pursuant to subdivision a had a valid business
510 purpose other than the avoidance or reduction of the tax due under this chapter and that the related
511 payments between the parties were made at arm's length rates and terms, the Tax Commissioner shall
512 permit the corporation to file an amended return. For purposes of such amended return, the requirements
513 of subdivision a shall not apply to any transaction for which the Tax Commissioner is satisfied (and has
514 identified) that the transaction had a valid business purpose other than the avoidance or reduction of the
515 tax due under this chapter and that the related payments between the parties were made at arm's length
516 rates and terms. Such amended return shall be filed by the corporation within one year of the written
517 permission granted by the Tax Commissioner and any refund of the tax imposed under this article shall
518 include interest at a rate equal to the rate of interest established under § 58.1-15 and such interest shall
519 accrue as provided under § 58.1-1833. However, upon the filing of such amended return, any related
520 member of the corporation that subtracted from taxable income amounts received pursuant to subdivision
521 C 21 shall be subject to the tax imposed under this article on that portion of such amounts for which the
522 corporation has filed an amended return pursuant to this subdivision. In addition, for such transactions
523 identified by the Tax Commissioner herein by which he has been satisfied by clear and convincing
524 evidence, the Tax Commissioner may permit the corporation in filing income tax returns for subsequent
525 taxable years to deduct the related interest expenses and costs without making the adjustment under
526 subdivision a.

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

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

533 c. Nothing in subdivision B 9 shall be construed to limit or negate the Department's authority under
534 § 58.1-446.

535 d. For purposes of subdivision B 9:

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

543 "Valid business purpose" means one or more business purposes that alone or in combination
544 constitute the motivation for some business activity or transaction, which activity or transaction

545 improves, apart from tax effects, the economic position of the taxpayer, as further defined by regulation.
 546 10. a. For taxable years beginning on and after January 1, 2009, the amount of dividends deductible
 547 under §§ 561 and 857 of the Internal Revenue Code by a Captive Real Estate Investment Trust (REIT).
 548 For purposes of this subdivision, a REIT is a Captive REIT if:

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

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

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

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

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

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

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

565 (4) Any Qualified Foreign Entity.

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

569 d. For purposes of subdivision B 10:

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

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

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

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

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

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

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

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

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

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

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

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

605 3. Dividends upon stock in any domestic international sales corporation, as defined by § 992 of the

606 Internal Revenue Code, 50 percent or more of the income of which was assessable for the preceding
 607 year, or the last year in which such corporation has income, under the provisions of the income tax laws
 608 of the Commonwealth.

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

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

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

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

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

619 9. [Repealed.]

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

622 11. [Repealed.]

623 12, 13. [Expired.]

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

627 15. For taxable years beginning on or after January 1, 2000, the total amount actually contributed in
 628 funds to the Virginia Public School Construction Grants Program and Fund established in Chapter 11.1
 629 (§ 22.1-175.1 et seq.) of Title 22.1.

630 16. For taxable years beginning on or after January 1, 2000, but before January 1, 2015, the gain
 631 derived from the sale or exchange of real property or the sale or exchange of an easement to real
 632 property which results in the real property or the easement thereto being devoted to open-space use, as
 633 that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent a
 634 subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating
 635 land for its preservation shall be allowed for three years following the year in which the subtraction is
 636 taken.

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

639 18. For taxable years beginning on and after January 1, 1999, income received as a result of (i) the
 640 "Master Settlement Agreement," as defined in § 3.2-3100; and (ii) the National Tobacco Grower
 641 Settlement Trust dated July 19, 1999, by (a) tobacco farming businesses; (b) any business holding a
 642 tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of
 643 1938; or (c) any business having the right to grow tobacco pursuant to such a quota allotment.

644 19, 20. [Repealed.]

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

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

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

659 24. For taxable years beginning on or after January 1, 2011, any income taxed as a long-term capital
 660 gain for federal income tax purposes, or any income taxed as investment services partnership interest
 661 income (otherwise known as investment partnership carried interest income) for federal income tax
 662 purposes. To qualify for a subtraction under this subdivision, such income must be attributable to an
 663 investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business
 664 approved by the Secretary of Administration, provided the business has its principal office or facility in
 665 the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the
 666 investment. To qualify for a subtraction under this subdivision, the investment must be made between

667 the dates of April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an
668 investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this
669 subdivision for an investment in the same business.

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

677 b. As used in this subdivision 25:

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

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

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

702 b. As used in this subdivision 26:

703 "Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of
704 § 2.2-115.

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

707 "Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C.
708 § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be
709 certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department
710 prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in
711 Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double
712 distressed. If the Department determines that the trust satisfies the preceding criteria, the Department
713 shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests
714 at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in
715 localities that are distressed or double distressed.

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

718 28. *For taxable years beginning on and after January 1, 2020, but before January 1, 2021, up to*
719 *\$100,000 of all grant funds received by the taxpayer under the Rebuild Virginia program established by*
720 *the Governor and administered by the Department of Small Business and Supplier Diversity.*

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

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

727 2. If the payment is received in a single payment, then 10 percent of the recognized gain may be

728 subtracted in the taxable year immediately following the year in which the single payment is received.
729 The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

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

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

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

749 *H. For taxable years beginning on and after January 1, 2020, but before January 1, 2021, there*
750 *shall be deducted to the extent not otherwise subtracted from federal taxable income up to \$100,000 of*
751 *the amount that is not deductible when computing federal taxable income solely on account of the*
752 *portion of subdivision B 10 of § 58.1-301 related to Paycheck Protection Program loans.*

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