

HOUSE BILL NO. 291

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Finance  
on January 26, 2022)

(Patron Prior to Substitute--Delegate Rasoul)

A BILL to amend and reenact § 58.1-322.03 of the Code of Virginia, relating to family caregiver tax deduction.

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-322.03 of the Code of Virginia is amended and reenacted as follows:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

98 b. If the payment is received in a single payment, then 10 percent of the recognized gain may be  
99 subtracted in the taxable year immediately following the year in which the single payment is received.

100 The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

101 12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6 (§ 58.1-  
102 600 et seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the following items of  
103 tangible personal property: (i) any clothes washers, room air conditioners, dishwashers, and standard size  
104 refrigerators that meet or exceed the applicable energy star efficiency requirements developed by the U.S.

105 Environmental Protection Agency and the U.S. Department of Energy; (ii) any fuel cell that (a) generates  
106 electricity using an electrochemical process, (b) has an electricity-only generation efficiency greater than  
107 35 percent, and (c) has a generating capacity of at least two kilowatts; (iii) any gas heat pump that has a  
108 coefficient of performance of at least 1.25 for heating and at least 0.70 for cooling; (iv) any electric heat  
109 pump hot water heater that yields an energy factor of at least 1.7; (v) any electric heat pump that has a  
110 heating system performance factor of at least 8.0 and a cooling seasonal energy efficiency ratio of at least  
111 13.0; (vi) any central air conditioner that has a cooling seasonal energy efficiency ratio of at least 13.5;  
112 (vii) any advanced gas or oil water heater that has an energy factor of at least 0.65; (viii) any advanced  
113 oil-fired boiler with a minimum annual fuel-utilization rating of 85; (ix) any advanced oil-fired furnace  
114 with a minimum annual fuel-utilization rating of 85; and (x) programmable thermostats.

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

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

130 15. For taxable years beginning on and after January 1, 2018, 20 percent of business interest  
131 disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code. For purposes of this

132 subdivision, "business interest" means the same as that term is defined under § 163(j) of the Internal  
133 Revenue Code.

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

138 17. For taxable years beginning on and after January 1, 2020, but before January 1, 2021, up to  
139 \$100,000 of the amount that is not deductible when computing federal adjusted gross income solely on  
140 account of the portion of subdivision B 10 of § 58.1-301 related to Paycheck Protection Program loans.

141 18. For taxable years beginning on and after January 1, 2022, but before January 1, 2027, 50  
142 percent of the eligible expenditures incurred by the family caregiver not to exceed \$1,000. In order to  
143 qualify for the deduction, the family caregiver shall not have received any compensation or reimbursement  
144 for the eligible expenditures and shall not have claimed the deduction under subdivision 3 for the same  
145 expenditures.

146 For the purposes of this subdivision:

147 "Activities of daily living" or "ADLs" means bathing, dressing, toileting, transferring or moving,  
148 bowel control, bladder control, and eating or feeding.

149 "Eligible expenditures" means expenses incurred by a family caregiver that are directly related to  
150 the care of an eligible family member, including (i) improvements or alterations to the family caregiver's  
151 primary residence to permit the eligible family member to remain mobile, safe, and independent; (ii) the  
152 purchase or lease of equipment or technology that assists the eligible family member in carrying out one  
153 or more activities of daily living; or (iii) expenditures related to hiring a home care aide or personal care  
154 attendant, respite care, adult day care, transportation, and legal or financial services. "Eligible  
155 expenditures" does not include expenses incurred in carrying out general household maintenance,  
156 including painting, plumbing, electrical repairs, or exterior maintenance.

157 "Eligible family member" means an individual who (i) is at least 18 years of age during the taxable  
158 year; (ii) requires assistance with one or more ADLs, as certified by a licensed physician, physician

159 assistant, nurse practitioner, or registered nurse; and (iii) qualifies as a dependent of the family caregiver,  
160 is related by blood, marriage, or adoption to the family caregiver, or is in the care of the family caregiver  
161 as a legally appointed guardian.

162 "Family caregiver" means an individual or, in the case of married persons, an individual and his  
163 spouse, who (i) provides care to one or more eligible family members during the taxable year and (ii) has  
164 federal adjusted gross income that is no greater than \$100,000 for an individual or \$200,000 for married  
165 persons.

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