

HOUSE BILL NO. 971

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations

on January 31, 2022)

(Patron Prior to Substitute--Delegate Byron)

A BILL 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 Commonwealth's taxation system with Internal Revenue Code; Rebuild Virginia grants and Paycheck Protection Program loans; emergency.

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, ~~2020~~ 2021, 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;

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

36 5. For taxable years beginning on and after January 1, 2019, the suspension of the overall limitation
37 on itemized deductions under § 68(f) of the Internal Revenue Code;

38 6. For taxable years beginning on and after January 1, 2017, but before January 1, 2018, and for
39 taxable years beginning on and after January 1, 2019, the 7.5 percent of federal adjusted gross income
40 threshold set forth in § 213(a) of the Internal Revenue Code that is used for purposes of computing the
41 deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code. For such
42 taxable years, the threshold utilized for Virginia income tax purposes to compute the deduction allowed
43 for expenses for medical care pursuant to § 213 of the Internal Revenue Code shall be 10 percent of federal
44 adjusted gross income;

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

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

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

51 10. ~~The~~ For taxable years beginning before January 1, 2021, the provisions of §§ 276(a), 276(b)(2),
52 276(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

53 federal Consolidated Appropriations Act, P.L. 116-260 (2020), and §§ 9672(2), 9672(3), 9673(2), and
54 9673(3) of the federal American Rescue Plan Act, P.L. 117-2 (2021), related to deductions, tax attributes,
55 and basis increases for certain loan forgiveness and other business financial assistance.

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

59 **§ 58.1-322.02. Virginia taxable income; subtractions.**

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

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

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

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

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

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

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

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

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

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

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

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

101 12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract
102 or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7 (§ 23.1-
103 700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be limited to income
104 attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

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

110 14. For taxable years beginning before January 1, 2015, the gain derived from the sale or exchange
111 of real property or the sale or exchange of an easement to real property which results in the real property
112 or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a
113 period of time not less than 30 years. To the extent that a subtraction is taken in accordance with this
114 subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for
115 three years following the year in which the subtraction is taken.

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

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

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

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

125 19. Items of income attributable to, derived from, or in any way related to (i) assets stolen from,
126 hidden from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii)
127 damages, reparations, or other consideration received by a victim or target of Nazi persecution to
128 compensate such individual for performing labor against his will under the threat of death, during World
129 War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such
130 items of income or with the proceeds from the sale of assets stolen from, hidden from, or otherwise lost
131 to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The

132 provisions of this subdivision shall only apply to an individual who was the first recipient of such items
133 of income and who was a victim or target of Nazi persecution, or a spouse, surviving spouse, or child or
134 stepchild of such victim.

135 As used in this subdivision:

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

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

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

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

156 22. Any gain recognized from the sale of launch services to space flight participants, as defined in
157 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of a

158 launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch
159 services must be performed in Virginia or originate from an airport or spaceport in Virginia.

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

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

174 25. For taxable years beginning on and after January 1, 2014, any income of an account holder for
175 the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's
176 first-time home buyer savings account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36
177 and (ii) interest income or other income for federal income tax purposes attributable to such person's first-
178 time home buyer savings account.

179 Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction
180 taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys or
181 funds withdrawn from the first-time home buyer savings account were used for any purpose other than
182 the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under § 36-174. The
183 amount subject to recapture shall be a portion of the amount withdrawn in the taxable year that was used
184 for other than the payment of eligible costs, computed by multiplying the amount withdrawn and used for

185 other than the payment of eligible costs by the ratio of the aggregate earnings in the account at the time of
186 the withdrawal to the total balance in the account at such time.

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

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

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

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

206 b. As used in this subdivision 27:

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

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

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

232 b. As used in this subdivision 28:

233 "Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of §
234 2.2-115.

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

237 "Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C.
238 § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be

239 certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department
240 prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia
241 and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If
242 the Department determines that the trust satisfies the preceding criteria, the Department shall certify the
243 trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent
244 of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed
245 or double distressed.

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

248 30. For taxable years beginning ~~on and after January 1, 2020, but before~~ January 1, 2021, up to
249 \$100,000 of all grant funds received by the taxpayer under the Rebuild Virginia program established by
250 the Governor and administered by the Department of Small Business and Supplier Diversity.

251 **§ 58.1-322.03. Virginia taxable income; deductions.**

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

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

260 b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income
261 tax return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, 2026, \$3,000
262 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a married
263 individual filing a separate return) and (ii) for taxable years beginning on and after January 1, 2019, but
264 before January 1, 2026, \$4,500 for single individuals and \$9,000 for married persons (one-half of such
265 amounts in the case of a married individual filing a separate return). For purposes of this section, any

266 person who may be claimed as a dependent on another taxpayer's return for the taxable year may compute
267 the deduction only with respect to earned income.

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

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

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

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

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

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

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

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

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

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

314 b. A purchaser of a prepaid tuition contract or contributor to a college savings trust account who
315 has attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000
316 per prepaid tuition contract or college savings trust account in any taxable year. Such taxpayer shall be

317 allowed a deduction for the full amount paid for the contract or contributed to a college savings trust
318 account, less any amounts previously deducted.

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

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

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

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

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

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

342 12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6 (§ 58.1-
343 600 et seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the following items of

344 tangible personal property: (i) any clothes washers, room air conditioners, dishwashers, and standard size
345 refrigerators that meet or exceed the applicable energy star efficiency requirements developed by the U.S.
346 Environmental Protection Agency and the U.S. Department of Energy; (ii) any fuel cell that (a) generates
347 electricity using an electrochemical process, (b) has an electricity-only generation efficiency greater than
348 35 percent, and (c) has a generating capacity of at least two kilowatts; (iii) any gas heat pump that has a
349 coefficient of performance of at least 1.25 for heating and at least 0.70 for cooling; (iv) any electric heat
350 pump hot water heater that yields an energy factor of at least 1.7; (v) any electric heat pump that has a
351 heating system performance factor of at least 8.0 and a cooling seasonal energy efficiency ratio of at least
352 13.0; (vi) any central air conditioner that has a cooling seasonal energy efficiency ratio of at least 13.5;
353 (vii) any advanced gas or oil water heater that has an energy factor of at least 0.65; (viii) any advanced
354 oil-fired boiler with a minimum annual fuel-utilization rating of 85; (ix) any advanced oil-fired furnace
355 with a minimum annual fuel-utilization rating of 85; and (x) programmable thermostats.

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

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

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

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

379 17. For taxable years beginning ~~on and after January 1, 2020, but before~~ January 1, 2021, up to
380 \$100,000 of the amount that is not deductible when computing federal adjusted gross income solely on
381 account of the portion of subdivision B 10 of § 58.1-301 related to Paycheck Protection Program loans.

382 **§ 58.1-402. Virginia taxable income.**

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

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

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

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

395 2. Interest or dividends, less related expenses to the extent not deducted in determining federal
396 taxable income, on obligations or securities of any authority, commission or instrumentality of the United

397 States, which the laws of the United States exempt from federal income tax but not from state income
398 taxes;

399 3. [Repealed.]

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

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

404 6. [Repealed.]

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

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

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

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

421 (3) The corporation can establish to the satisfaction of the Tax Commissioner that the intangible
422 expenses and costs meet both of the following: (i) the related member during the same taxable year directly
423 or indirectly paid, accrued or incurred such portion to a person who is not a related member, and (ii) the

424 transaction giving rise to the intangible expenses and costs between the corporation and the related
425 member did not have as a principal purpose the avoidance of any portion of the tax due under this chapter.

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

434 If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and
435 convincing evidence, that the transaction or transactions between the corporation and a related member or
436 members resulting in such increase in taxable income pursuant to subdivision a had a valid business
437 purpose other than the avoidance or reduction of the tax due under this chapter, the Tax Commissioner
438 shall permit the corporation to file an amended return. For purposes of such amended return, the
439 requirements of subdivision a shall not apply to any transaction for which the Tax Commissioner is
440 satisfied (and has identified) that the transaction had a valid business purpose other than the avoidance or
441 reduction of the tax due under this chapter. Such amended return shall be filed by the corporation within
442 one year of the written permission granted by the Tax Commissioner and any refund of the tax imposed
443 under this article shall include interest at a rate equal to the rate of interest established under § 58.1-15
444 and such interest shall accrue as provided under § 58.1-1833. However, upon the filing of such amended
445 return, any related member of the corporation that subtracted from taxable income amounts received
446 pursuant to subdivision C 21 shall be subject to the tax imposed under this article on that portion of such
447 amounts for which the corporation has filed an amended return pursuant to this subdivision. In addition,
448 for such transactions identified by the Tax Commissioner herein by which he has been satisfied by clear
449 and convincing evidence, the Tax Commissioner may permit the corporation in filing income tax returns

450 for subsequent taxable years to deduct the related intangible expenses and costs without making the
451 adjustment under subdivision a.

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

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

458 c. Nothing in subdivision B 8 shall be construed to limit or negate the Department's authority under
459 § 58.1-446;

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

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

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

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

475 (4) One of the following applies:

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

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

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

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

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

499 If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and
500 convincing evidence, that the transaction or transactions between the corporation and a related member or
501 members resulting in such increase in taxable income pursuant to subdivision a had a valid business
502 purpose other than the avoidance or reduction of the tax due under this chapter and that the related

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

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

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

525 c. Nothing in subdivision B 9 shall be construed to limit or negate the Department's authority under
526 § 58.1-446.

527 d. For purposes of subdivision B 9:

528 "Arm's-length rates and terms" means that (i) two or more related members enter into a written
529 agreement for the transaction, (ii) such agreement is of a duration and contains payment terms substantially

530 similar to those that the related member would be able to obtain from an unrelated entity, (iii) the interest
531 is at or below the applicable federal rate compounded annually for debt instruments under § 1274(d) of
532 the Internal Revenue Code that was in effect at the time of the agreement, and (iv) the borrower or payor
533 adheres to the payment terms of the agreement governing the transaction or any amendments thereto.

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

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

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

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

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

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

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

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

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

555 (4) Any Qualified Foreign Entity.

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

559 d. For purposes of subdivision B 10:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

608 9. [Repealed.]

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

611 11. [Repealed.]

612 12, 13. [Expired.]

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

616 15. For taxable years beginning on or after January 1, 2000, the total amount actually contributed
617 in funds to the Virginia Public School Construction Grants Program and Fund established in Chapter 11.1
618 (§ 22.1-175.1 et seq.) of Title 22.1.

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

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

627 18. For taxable years beginning on and after January 1, 1999, income received as a result of (i) the
628 "Master Settlement Agreement," as defined in § 3.2-3100; and (ii) the National Tobacco Grower
629 Settlement Trust dated July 19, 1999, by (a) tobacco farming businesses; (b) any business holding a
630 tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of
631 1938; or (c) any business having the right to grow tobacco pursuant to such a quota allotment.

632 19, 20. [Repealed.]

633 21. For taxable years beginning on and after January 1, 2004, any amount of intangible expenses
634 and costs or interest expenses and costs added to the federal taxable income of a corporation pursuant to

635 subdivision B 8 or B 9 shall be subtracted from the federal taxable income of the related member that
636 received such amount if such related member is subject to Virginia income tax on the same amount.

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

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

647 24. For taxable years beginning on or after January 1, 2011, any income taxed as a long-term
648 capital gain for federal income tax purposes, or any income taxed as investment services partnership
649 interest income (otherwise known as investment partnership carried interest income) for federal income
650 tax purposes. To qualify for a subtraction under this subdivision, such income must be attributable to an
651 investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business
652 approved by the Secretary of Administration, provided the business has its principal office or facility in
653 the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the investment.
654 To qualify for a subtraction under this subdivision, the investment must be made between the dates of
655 April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an investment in a
656 "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an
657 investment in the same business.

658 25. a. Income, including investment services partnership interest income (otherwise known as
659 investment partnership carried interest income), attributable to an investment in a Virginia venture capital
660 account. To qualify for a subtraction under this subdivision, the investment shall be made on or after
661 January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this subdivision

662 for an investment in a company that is owned or operated by an affiliate of the taxpayer. No subtraction
663 shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision C
664 24 for the same investment.

665 b. As used in this subdivision 25:

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

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

685 26. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for
686 a subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before
687 December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by an

688 affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has
689 claimed a subtraction under subdivision C 24 or 25 for the same investment.

690 b. As used in this subdivision 26:

691 "Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of §
692 2.2-115.

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

695 "Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C.
696 § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be
697 certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department
698 prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia
699 and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If
700 the Department determines that the trust satisfies the preceding criteria, the Department shall certify the
701 trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent
702 of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed
703 or double distressed.

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

706 28. For taxable years beginning ~~on and after January 1, 2020, but~~ before January 1, 2021, up to
707 \$100,000 of all grant funds received by the taxpayer under the Rebuild Virginia program established by
708 the Governor and administered by the Department of Small Business and Supplier Diversity.

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

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

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

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

720 F. Notwithstanding any other provision of law, the income from any disposition of real property
721 which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or
722 business, as defined in § 453(l)(1)(B) of the Internal Revenue Code, of property made on or after January
723 1, 2009, may, at the election of the taxpayer, be recognized under the installment method described under
724 § 453 of the Internal Revenue Code, provided that (i) the election relating to the dealer disposition of the
725 property has been made on or before the due date prescribed by law (including extensions) for filing the
726 taxpayer's return of the tax imposed under this chapter for the taxable year in which the disposition occurs,
727 and (ii) the dealer disposition is in accordance with restrictions or conditions established by the
728 Department, which shall be set forth in guidelines developed by the Department. Along with such
729 restrictions or conditions, the guidelines shall also address the recapture of such income under certain
730 circumstances. The development of the guidelines shall be exempt from the Administrative Process Act
731 (§ 2.2-4000 et seq.).

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

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

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

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