

SENATE BILL NO. 1210

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Finance  
on February 8, 2023)

(Patron Prior to Substitute--Senator Mason)

A BILL to amend and reenact § 58.1-322.02, as it is currently effective and as it shall become effective,  
of the Code of Virginia, relating to income tax subtraction; National Guard.

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

**1. That § 58.1-322.02, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-322.02. (Effective until date pursuant to Va. Const., Art. IV, § 13) Virginia taxable income; subtractions.**

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

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

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

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

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

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

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

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

32 8. The wages or salaries received by any person for active and inactive service in the National  
33 Guard of the Commonwealth of Virginia, (i) for taxable years beginning before January 1, 2023, not to  
34 exceed the amount of income derived from 39 calendar days of such service or \$3,000, whichever amount  
35 is less; however, only those persons in the ranks of O3 and below shall be entitled to the deductions  
36 specified in this clause, and (ii) for taxable years beginning on or after January 1, 2023, not to exceed the  
37 amount of income derived from 39 calendar days of such service or ~~\$3,000~~ \$5,000, whichever amount is  
38 less; however, only those persons in the ranks of ~~O3~~ O6 and below shall be entitled to the deductions  
39 specified in this ~~subdivision~~ clause.

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

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

52 11. Any income received during the taxable year derived from a qualified pension, profit-sharing,  
53 or stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account

54 or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as defined  
55 by § 457 of the Internal Revenue Code, or any federal government retirement program, the contributions  
56 to which were deductible from the taxpayer's federal adjusted gross income, but only to the extent the  
57 contributions to such plan or program were subject to taxation under the income tax in another state.

58 12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract  
59 or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7 (§ 23.1-  
60 700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be limited to income  
61 attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

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

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

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

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

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

80 18. a. Any amount received as military retirement income by an individual awarded the  
81 Congressional Medal of Honor.

82 b. For taxable years beginning on and after January 1, 2022, but before January 1, 2023, up to  
83 \$10,000 of military benefits; for taxable years beginning on and after January 1, 2023, but before January  
84 1, 2024, up to \$20,000 of military benefits; for taxable years beginning on and after January 1, 2024, but  
85 before January 1, 2025, up to \$30,000 of military benefits; and for taxable years beginning on and after  
86 January 1, 2025, up to \$40,000 of military benefits. For purposes of this subdivision b, "military benefits"  
87 means any (i) military retirement income received for service in the Armed Forces of the United States,  
88 (ii) qualified military benefits received pursuant to § 134 of the Internal Revenue Code, (iii) benefits paid  
89 to the surviving spouse of a veteran of the Armed Forces of the United States under the Survivor Benefit  
90 Plan program established by the U.S. Department of Defense, and (iv) military benefits paid to the  
91 surviving spouse of a veteran of the Armed Forces of the United States. The subtraction allowed by this  
92 subdivision b shall be allowed only for military benefits received by an individual age 55 or older. No  
93 subtraction shall be allowed pursuant to this subdivision b if a credit, exemption, subtraction, or deduction  
94 is claimed for the same income pursuant to subdivision a or any other provision of Virginia or federal law.

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

105 As used in this subdivision:

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

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

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

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

126 22. Any gain recognized from the sale of launch services to space flight participants, as defined in  
127 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of a  
128 launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch  
129 services must be performed in Virginia or originate from an airport or spaceport in Virginia.

130 23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined  
131 in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the

132 National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8,  
133 and launched from an airport or spaceport in Virginia.

134 24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income  
135 taxed as investment services partnership interest income (otherwise known as investment partnership  
136 carried interest income) for federal income tax purposes. To qualify for a subtraction under this  
137 subdivision, such income shall be attributable to an investment in a "qualified business," as defined in §  
138 58.1-339.4, or in any other technology business approved by the Secretary of Administration, provided  
139 that the business has its principal office or facility in the Commonwealth and less than \$3 million in annual  
140 revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the  
141 investment shall be made between the dates of April 1, 2010, and June 30, 2020. No taxpayer who has  
142 claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the  
143 subtraction under this subdivision for an investment in the same business.

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

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

157 However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i)  
158 withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the

159 account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101  
160 through 1330; or (iii) transferred from an account established pursuant to Chapter 12 (§ 36-171 et seq.) of  
161 Title 36 into another account established pursuant to such chapter for the benefit of another qualified  
162 beneficiary.

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

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

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

176 b. As used in this subdivision 27:

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

182 "Virginia venture capital account" means an investment fund that has been certified by the  
183 Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital  
184 account, the operator of the investment fund shall register the investment fund with the Department prior  
185 to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed

186 to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one  
187 investor who has at least four years of professional experience in venture capital investment or  
188 substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to,  
189 an undergraduate degree from an accredited college or university in economics, finance, or a similar field  
190 of study. The Department may require an investment fund to provide documentation of the investor's  
191 training, education, or experience as deemed necessary by the Department to determine substantial  
192 equivalency. If the Department determines that the investment fund employs at least one investor with the  
193 experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital  
194 account at such time as the investment fund actually invests at least 50 percent of the capital committed  
195 to its fund in qualified portfolio companies.

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

202 b. As used in this subdivision 28:

203 "Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of §  
204 2.2-115.

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

207 "Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C.  
208 § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be  
209 certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department  
210 prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia  
211 and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If  
212 the Department determines that the trust satisfies the preceding criteria, the Department shall certify the

213 trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent  
214 of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed  
215 or double distressed.

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

218 30. For taxable years beginning before January 1, 2021, up to \$100,000 of all grant funds received  
219 by the taxpayer under the Rebuild Virginia program established by the Governor and administered by the  
220 Department of Small Business and Supplier Diversity.

221 31. For taxable years beginning on and after January 1, 2022, any compensation for wrongful  
222 incarceration awarded pursuant to the procedures established under Article 18.2 (§ 8.01-195.10 et seq.) of  
223 Chapter 3 of Title 8.01.

224 **§ 58.1-322.02. (Effective pursuant to Va. Const., Art. IV, § 13) Virginia taxable income;**  
225 **subtractions.**

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

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

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

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

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

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

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

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

245 8. The wages or salaries received by any person for active and inactive service in the National  
246 Guard of the Commonwealth of Virginia, (i) for taxable years beginning before January 1, 2023, not to  
247 exceed the amount of income derived from 39 calendar days of such service or \$3,000, whichever amount  
248 is less; however, only those persons in the ranks of O3 and below shall be entitled to the deductions  
249 specified in this clause, and (ii) for taxable years beginning on or after January 1, 2023, not to exceed the  
250 amount of income derived from 39 calendar days of such service or ~~\$3,000~~ \$5,000, whichever amount is  
251 less; however, only those persons in the ranks of ~~O3~~ O6 and below shall be entitled to the deductions  
252 specified in this ~~subdivision~~ clause.

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

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

265 11. Any income received during the taxable year derived from a qualified pension, profit-sharing,  
266 or stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account

267 or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as defined  
268 by § 457 of the Internal Revenue Code, or any federal government retirement program, the contributions  
269 to which were deductible from the taxpayer's federal adjusted gross income, but only to the extent the  
270 contributions to such plan or program were subject to taxation under the income tax in another state.

271 12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract  
272 or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7 (§ 23.1-  
273 700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be limited to income  
274 attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

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

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

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

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

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

293 18. a. Any amount received as military retirement income by an individual awarded the  
294 Congressional Medal of Honor.

295 b. For taxable years beginning on and after January 1, 2022, but before January 1, 2023, up to  
296 \$10,000 of military benefits; for taxable years beginning on and after January 1, 2023, but before January  
297 1, 2024, up to \$20,000 of military benefits; for taxable years beginning on and after January 1, 2024, but  
298 before January 1, 2025, up to \$30,000 of military benefits; and for taxable years beginning on and after  
299 January 1, 2025, up to \$40,000 of military benefits. For purposes of this subdivision b, "military benefits"  
300 means any (i) military retirement income received for service in the Armed Forces of the United States,  
301 (ii) qualified military benefits received pursuant to § 134 of the Internal Revenue Code, (iii) benefits paid  
302 to the surviving spouse of a veteran of the Armed Forces of the United States under the Survivor Benefit  
303 Plan program established by the U.S. Department of Defense, and (iv) military benefits paid to the  
304 surviving spouse of a veteran of the Armed Forces of the United States. The subtraction allowed by this  
305 subdivision b shall be allowed only for military benefits received by an individual age 55 or older. No  
306 subtraction shall be allowed pursuant to this subdivision b if a credit, exemption, subtraction, or deduction  
307 is claimed for the same income pursuant to subdivision a or any other provision of Virginia or federal law.

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

318 As used in this subdivision:

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

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

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

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

339 22. Any gain recognized from the sale of launch services to space flight participants, as defined in  
340 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of a  
341 launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch  
342 services must be performed in Virginia or originate from an airport or spaceport in Virginia.

343 23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined  
344 in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the

345 National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8,  
346 and launched from an airport or spaceport in Virginia.

347           24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income  
348 taxed as investment services partnership interest income (otherwise known as investment partnership  
349 carried interest income) for federal income tax purposes. To qualify for a subtraction under this  
350 subdivision, such income shall be attributable to an investment in a "qualified business," as defined in §  
351 58.1-339.4, or in any other technology business approved by the Secretary of Administration, provided  
352 that the business has its principal office or facility in the Commonwealth and less than \$3 million in annual  
353 revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the  
354 investment shall be made between the dates of April 1, 2010, and June 30, 2020. No taxpayer who has  
355 claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the  
356 subtraction under this subdivision for an investment in the same business.

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

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

370           However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i)  
371 withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the

372 account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101  
373 through 1330; or (iii) transferred from an account established pursuant to Chapter 12 (§ 36-171 et seq.) of  
374 Title 36 into another account established pursuant to such chapter for the benefit of another qualified  
375 beneficiary.

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

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

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

389 b. As used in this subdivision 27:

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

395 "Virginia venture capital account" means an investment fund that has been certified by the  
396 Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital  
397 account, the operator of the investment fund shall register the investment fund with the Department prior  
398 to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed

399 to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one  
400 investor who has at least four years of professional experience in venture capital investment or  
401 substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to,  
402 an undergraduate degree from an accredited college or university in economics, finance, or a similar field  
403 of study. The Department may require an investment fund to provide documentation of the investor's  
404 training, education, or experience as deemed necessary by the Department to determine substantial  
405 equivalency. If the Department determines that the investment fund employs at least one investor with the  
406 experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital  
407 account at such time as the investment fund actually invests at least 50 percent of the capital committed  
408 to its fund in qualified portfolio companies.

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

415         b. As used in this subdivision 28:

416         "Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of §  
417 2.2-115.

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

420         "Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C.  
421 § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be  
422 certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department  
423 prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia  
424 and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If  
425 the Department determines that the trust satisfies the preceding criteria, the Department shall certify the

