

HOUSE BILL NO. 2373

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations

on February 14, 2023)

(Patron Prior to Substitute--Delegate Wyatt)

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 of the Commonwealth of Virginia.

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.

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

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

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

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

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

38 b. For taxable years beginning on and after January 1, 2023, the wages or salaries received by any
39 person for active and inactive service in the National Guard of the Commonwealth of Virginia, not to
40 exceed the amount of income derived from 39 calendar days of such service or \$6,000, whichever amount
41 is less; however, only those persons in the ranks of O5 and below shall be entitled to the subtractions
42 specified in this subdivision.

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

50 10. The amount of "qualified research expenses" or "basic research expenses" eligible for
51 deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C(c)

52 of the Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and
53 members of limited liability companies to the extent and in the same manner as other deductions may pass
54 through to such partners, shareholders, and members.

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

61 12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract
62 or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7 (§ 23.1-
63 700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be limited to income
64 attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

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

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

76 15. Fifteen thousand dollars of military basic pay for military service personnel on extended active
77 duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar

78 by the amount by which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero if
79 such military basic pay amount is equal to or exceeds \$30,000.

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

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

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

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

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

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

108 As used in this subdivision:

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

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

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

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

129 22. Any gain recognized from the sale of launch services to space flight participants, as defined in
130 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of a

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

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

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

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

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

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

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

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

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

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

179 b. As used in this subdivision 27:

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

185 "Virginia venture capital account" means an investment fund that has been certified by the
186 Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital
187 account, the operator of the investment fund shall register the investment fund with the Department prior
188 to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed
189 to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one
190 investor who has at least four years of professional experience in venture capital investment or
191 substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to,
192 an undergraduate degree from an accredited college or university in economics, finance, or a similar field
193 of study. The Department may require an investment fund to provide documentation of the investor's
194 training, education, or experience as deemed necessary by the Department to determine substantial
195 equivalency. If the Department determines that the investment fund employs at least one investor with the
196 experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital
197 account at such time as the investment fund actually invests at least 50 percent of the capital committed
198 to its fund in qualified portfolio companies.

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

205 b. As used in this subdivision 28:

206 "Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of §
207 2.2-115.

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

210 "Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C.
211 § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be

212 certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department
213 prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia
214 and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If
215 the Department determines that the trust satisfies the preceding criteria, the Department shall certify the
216 trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent
217 of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed
218 or double distressed.

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

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

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

227 **§ 58.1-322.02. (Effective pursuant to Va. Const., Art. IV, § 13) Virginia taxable income;**
228 **subtractions.**

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

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

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

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

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

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

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

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

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

253 b. For taxable years beginning on and after January 1, 2023, the wages or salaries received by any
254 person for active and inactive service in the National Guard of the Commonwealth of Virginia, not to
255 exceed the amount of income derived from 39 calendar days of such service or \$6,000, whichever amount
256 is less; however, only those persons in the ranks of O5 and below shall be entitled to the subtractions
257 specified in this subdivision.

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

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

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

276 12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract
277 or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7 (§ 23.1-
278 700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be limited to income
279 attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

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

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

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

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

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

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

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

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

318 items of income or with the proceeds from the sale of assets stolen from, hidden from, or otherwise lost
319 to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The
320 provisions of this subdivision shall only apply to an individual who was the first recipient of such items
321 of income and who was a victim or target of Nazi persecution, or a spouse, surviving spouse, or child or
322 stepchild of such victim.

323 As used in this subdivision:

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

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

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

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

344 22. Any gain recognized from the sale of launch services to space flight participants, as defined in
345 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of a
346 launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch
347 services must be performed in Virginia or originate from an airport or spaceport in Virginia.

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

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

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

367 Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction
368 taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys or
369 funds withdrawn from the first-time home buyer savings account were used for any purpose other than
370 the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under § 36-174. The

371 amount subject to recapture shall be a portion of the amount withdrawn in the taxable year that was used
372 for other than the payment of eligible costs, computed by multiplying the amount withdrawn and used for
373 other than the payment of eligible costs by the ratio of the aggregate earnings in the account at the time of
374 the withdrawal to the total balance in the account at such time.

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

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

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

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

394 b. As used in this subdivision 27:

395 "Qualified portfolio company" means a company that (i) has its principal place of business in the
396 Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or
397 service other than the management or investment of capital; and (iii) provides equity in the company to

398 the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company"
399 does not include a company that is an individual or sole proprietorship.

400 "Virginia venture capital account" means an investment fund that has been certified by the
401 Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital
402 account, the operator of the investment fund shall register the investment fund with the Department prior
403 to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed
404 to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one
405 investor who has at least four years of professional experience in venture capital investment or
406 substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to,
407 an undergraduate degree from an accredited college or university in economics, finance, or a similar field
408 of study. The Department may require an investment fund to provide documentation of the investor's
409 training, education, or experience as deemed necessary by the Department to determine substantial
410 equivalency. If the Department determines that the investment fund employs at least one investor with the
411 experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital
412 account at such time as the investment fund actually invests at least 50 percent of the capital committed
413 to its fund in qualified portfolio companies.

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

420 b. As used in this subdivision 28:

421 "Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of §
422 2.2-115.

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

425 "Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C.
426 § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be
427 certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department
428 prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia
429 and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If
430 the Department determines that the trust satisfies the preceding criteria, the Department shall certify the
431 trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent
432 of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed
433 or double distressed.

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

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

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

442 #