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SENATE BILL NO. 763

Offered January 8, 2025

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A BILL to amend and reenact § 58.1-322.03 of the Code of Virginia, relating to income tax deduction; tips.

Patrons—McDougle, Craig and Obenshain

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

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

§ 58.1-322.03. Virginia taxable income; deductions.

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

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

b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income tax return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, 2026, \$3,000 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return); (ii) for taxable years beginning on and after January 1, 2019, but before January 1, 2022, \$4,500 for single individuals and \$9,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return); (iii) for taxable years beginning on and after January 1, 2022, but before January 1, 2024, \$8,000 for single individuals and \$16,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return); and (iv) for taxable years beginning on and after January 1, 2024, but before January 1, 2026, \$8,500 for single individuals and \$17,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return). For purposes of this section, any person who may be claimed as a dependent on another taxpayer's return for the taxable year may compute the deduction only with respect to earned income.

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

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

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

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

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

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

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

For the purposes of this subdivision, "adjusted federal adjusted gross income" means federal adjusted gross income minus any 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, as amended.

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

7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed during the taxable year for a prepaid tuition contract or college savings trust account entered into with the Commonwealth Savers Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as provided in

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SB763

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

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

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

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

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

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

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

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

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

117 13. The lesser of \$5,000 or the amount actually paid by a living donor of an organ or other living tissue  
118 for unreimbursed out-of-pocket expenses directly related to the donation that arose within 12 months of such  
119 donation, provided that the donor has not taken a medical deduction in accordance with the provisions of §

120 213 of the Internal Revenue Code for such expenses. The deduction may be taken in the taxable year in  
121 which the donation is made or the taxable year in which the 12-month period expires.

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

131 15. Business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code:

132 a. For taxable years beginning on and after January 1, 2018, but before January 1, 2022, 20 percent of  
133 such disallowed business interest;

134 b. For taxable years beginning on and after January 1, 2022, but before January 1, 2024, 30 percent of  
135 such disallowed business interest;

136 c. For taxable years beginning on and after January 2, 2024, 50 percent of such disallowed business  
137 interest.

138 For purposes of subdivision 15, "business interest" means the same as that term is defined under § 163(j)  
139 of the Internal Revenue Code.

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

144 17. For taxable years beginning before January 1, 2021, up to \$100,000 of the amount that is not  
145 deductible when computing federal adjusted gross income solely on account of the portion of subdivision B  
146 10 of § 58.1-301 related to Paycheck Protection Program loans.

147 18. For taxable years beginning on and after January 1, 2022, but before January 1, 2025, the lesser of  
148 \$500 or the actual amount paid or incurred for eligible educator qualifying expenses. For purposes of this  
149 subdivision, "eligible educator" means an individual who for at least 900 hours during the taxable year in  
150 which the credit under this section is claimed served as a teacher licensed pursuant to Chapter 15 (§  
151 22.1-289.1 et seq.) of Title 22.1, instructor, student counselor, principal, special needs personnel, or student  
152 aide serving accredited public or private primary and secondary school students in Virginia, and "qualifying  
153 expenses" means 100 percent of the amount paid or incurred by an eligible educator during the taxable year  
154 for participation in professional development courses and the purchase of books, supplies, computer  
155 equipment (including related software and services), other educational and teaching equipment, and  
156 supplementary materials used directly in that individual's service to students as an eligible educator, provided  
157 that such purchases were neither reimbursed nor claimed as a deduction on the eligible educator's federal  
158 income tax return for such taxable year.

159 19. *For taxable years beginning on and after January 1, 2026, an amount equal to the cash tips received*  
160 *during the taxable year that are included on statements furnished to the employer pursuant to § 6053(a) of*  
161 *the Internal Revenue Code.*