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HOUSE BILL NO. 1965

Offered January 13, 2025

Prefiled January 6, 2025

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

Patron—Tata

Referred to Committee on Finance

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

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

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

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

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

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

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

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

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

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

118 13. The lesser of \$5,000 or the amount actually paid by a living donor of an organ or other living tissue  
119 for unreimbursed out-of-pocket expenses directly related to the donation that arose within 12 months of such

120 donation, provided that the donor has not taken a medical deduction in accordance with the provisions of §  
121 213 of the Internal Revenue Code for such expenses. The deduction may be taken in the taxable year in  
122 which the donation is made or the taxable year in which the 12-month period expires.

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

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

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

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

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

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

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

145 17. For taxable years beginning before January 1, 2021, up to \$100,000 of the amount that is not  
146 deductible when computing federal adjusted gross income solely on account of the portion of subdivision B  
147 10 of § 58.1-301 related to Paycheck Protection Program loans.

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

160 19. a. For taxable years beginning on and after January 1, 2026, an amount equal to the cash tips  
161 received during the taxable year that are included on statements furnished to the employer pursuant to §  
162 6053(a) of the Internal Revenue Code.

163 b. For taxable years beginning on and after January 1, 2026, any compensation received as overtime  
164 compensation pursuant to § 207 of the federal Fair Labor Standards Act, 29 U.S.C. § 201 et seq. For  
165 purposes of this subdivision, "overtime compensation" means an amount equal to the compensation received  
166 by a full-time employee for work performed in excess of 40 hours per week that includes amounts received at  
167 the employee's regular compensation rate and the additional one half times such rate required by § 207 for  
168 hours worked in excess of 40 hours per week. The provisions of this subdivision shall not apply to any  
169 employee who is exempt from maximum hour requirements pursuant to 29 U.S.C. § 213.