

31 subdivision 5 of § 58.1-322.03 for such taxable year is less than \$11,950 for taxable years beginning on and
32 after January 1, 2012.

33 2. An individual and spouse if their combined Virginia adjusted gross income plus the modification
34 specified in subdivision 5 of § 58.1-322.03 is less than \$23,300 for taxable years beginning on and after
35 January 1, 2010 (or one-half of such amount in the case of a married individual filing a separate return) but
36 before January 1, 2012, and less than \$23,900 for taxable years beginning on and after January 1, 2012 (or
37 one-half of such amount in the case of a married individual filing a separate return).

38 For the purposes of this section, "Virginia adjusted gross income" means federal adjusted gross income
39 for the taxable years with the modifications specified in §§ 58.1-322.01 and 58.1-322.02.

40 B. Persons in the Armed Forces of the United States stationed on military or naval reservations within
41 Virginia who are not domiciled in Virginia shall not be held liable to income taxation for compensation
42 received from military or naval service.

43 C. For taxable years beginning on and after January 1, 2020, but before January 1, ~~2026~~ 2027, any amount
44 that is includible in the federal adjusted gross income of an eligible veteran by reason of the whole or partial
45 discharge of any loan described in § 108(f)(5)(B) of the Internal Revenue Code shall be excluded from
46 Virginia adjusted gross income. This exclusion shall apply only to those discharges that (i) are described in
47 clauses (i), (ii), and (iii) of § 108(f)(5)(A) of the Internal Revenue Code and (ii) occur after December 31,
48 2017. For the purposes of this subsection, "eligible veteran" means a veteran who has been rated by the U.S.
49 Department of Veterans Affairs, or its successor agency pursuant to federal law, to have a 100 percent
50 service-connected, permanent, and total disability.

51 **§ 58.1-322.03. Virginia taxable income; deductions.**

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

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

60 b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income tax
61 return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, ~~2026~~ 2027, \$3,000
62 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a married
63 individual filing a separate return); (ii) for taxable years beginning on and after January 1, 2019, but before
64 January 1, 2022, \$4,500 for single individuals and \$9,000 for married persons (one-half of such amounts in
65 the case of a married individual filing a separate return); (iii) for taxable years beginning on and after January
66 1, 2022, but before January 1, 2024, \$8,000 for single individuals and \$16,000 for married persons (one-half
67 of such amounts in the case of a married individual filing a separate return); and (iv) for taxable years
68 beginning on and after January 1, 2024, but before January 1, ~~2026~~ 2027, \$8,500 for single individuals and
69 \$17,000 for married persons (one-half of such amounts in the case of a married individual filing a separate
70 return). For purposes of this section, any person who may be claimed as a dependent on another taxpayer's
71 return for the taxable year may compute the deduction only with respect to earned income.

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

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

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

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

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

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

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

89 adjusted gross income of both spouses exceeds \$75,000.

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

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

96 7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed
97 during the taxable year for a prepaid tuition contract or college savings trust account entered into with the
98 Commonwealth Savers Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as provided in
99 subdivision b, the amount deducted on any individual income tax return in any taxable year shall be limited to
100 \$4,000 per prepaid tuition contract or college savings trust account. No deduction shall be allowed pursuant
101 to this subdivision 7 if such payments or contributions are deducted on the purchaser's or contributor's federal
102 income tax return. If the purchase price or annual contribution to a college savings trust account exceeds
103 \$4,000, the remainder may be carried forward and subtracted in future taxable years until the purchase price
104 or college savings trust contribution has been fully deducted; however, except as provided in subdivision b, in
105 no event shall the amount deducted in any taxable year exceed \$4,000 per contract or college savings trust
106 account. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction
107 taken hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are
108 made for any reason other than (i) to pay qualified higher education expenses, as defined in § 529 of the
109 Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes
110 of this subdivision, "purchaser" or "contributor" means the person shown as such on the records of the
111 Commonwealth Savers Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a
112 prepaid tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax
113 attributes associated with a prepaid tuition contract or college savings trust account, including, but not limited
114 to, carryover and recapture of deductions.

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

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

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

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

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

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

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

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

143 12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6 (§ 58.1-600 et
144 seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the following items of tangible
145 personal property: (i) any clothes washers, room air conditioners, dishwashers, and standard size refrigerators
146 that meet or exceed the applicable energy star efficiency requirements developed by the U.S. Environmental

147 Protection Agency and the U.S. Department of Energy; (ii) any fuel cell that (a) generates electricity using an
148 electrochemical process, (b) has an electricity-only generation efficiency greater than 35 percent, and (c) has
149 a generating capacity of at least two kilowatts; (iii) any gas heat pump that has a coefficient of performance
150 of at least 1.25 for heating and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that
151 yields an energy factor of at least 1.7; (v) any electric heat pump that has a heating system performance factor
152 of at least 8.0 and a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner
153 that has a cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater
154 that has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual
155 fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization rating
156 of 85; and (x) programmable thermostats.

157 13. The lesser of \$5,000 or the amount actually paid by a living donor of an organ or other living tissue
158 for unreimbursed out-of-pocket expenses directly related to the donation that arose within 12 months of such
159 donation, provided that the donor has not taken a medical deduction in accordance with the provisions of §
160 213 of the Internal Revenue Code for such expenses. The deduction may be taken in the taxable year in
161 which the donation is made or the taxable year in which the 12-month period expires.

162 14. For taxable years beginning on and after January 1, 2013, the amount an individual age 66 or older
163 with earned income of at least \$20,000 for the year and federal adjusted gross income not in excess of
164 \$30,000 for the year pays annually in premiums for (i) a prepaid funeral insurance policy covering the
165 individual or (ii) medical or dental insurance for any person for whom individual tax filers may claim a
166 deduction for such premiums under federal income tax laws. As used in this subdivision, "earned income"
167 means the same as that term is defined in § 32(c) of the Internal Revenue Code. The deduction shall not be
168 allowed for any portion of such premiums paid for which the individual has (a) been reimbursed, (b) claimed
169 a deduction for federal income tax purposes, (c) claimed a deduction or subtraction under another provision
170 of this section, or (d) claimed a federal income tax credit or any income tax credit pursuant to this chapter.

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

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

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

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

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

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

184 17. For taxable years beginning before January 1, 2021, up to \$100,000 of the amount that is not
185 deductible when computing federal adjusted gross income solely on account of the portion of subdivision B
186 10 of § 58.1-301 related to Paycheck Protection Program loans.

187 18. For taxable years beginning on and after January 1, 2022, but before January 1, ~~2025~~ 2027, the lesser
188 of \$500 or the actual amount paid or incurred for eligible educator qualifying expenses. For purposes of this
189 subdivision, "eligible educator" means an individual who for at least 900 hours during the taxable year in
190 which the credit under this section is claimed served as a teacher licensed pursuant to Chapter 15 (§
191 22.1-289.1 et seq.) of Title 22.1, instructor, student counselor, principal, special needs personnel, or student
192 aide serving accredited public or private primary and secondary school students in Virginia, and "qualifying
193 expenses" means 100 percent of the amount paid or incurred by an eligible educator during the taxable year
194 for participation in professional development courses and the purchase of books, supplies, computer
195 equipment (including related software and services), other educational and teaching equipment, and
196 supplementary materials used directly in that individual's service to students as an eligible educator, provided
197 that such purchases were neither reimbursed nor claimed as a deduction on the eligible educator's federal
198 income tax return for such taxable year.

199 **§ 58.1-332. Credits for taxes paid other states.**

200 A. Whenever a Virginia resident has become liable to another state for income tax on any earned or
201 business income or any gain on the sale of a capital asset (within the meaning of § 1221 of the Internal
202 Revenue Code), not including an asset used in a trade or business, to the extent that such gain is included in
203 federal adjusted gross income, for the taxable year, derived from sources outside the Commonwealth and
204 subject to taxation under this chapter, the amount of such tax payable by him shall, upon proof of such

205 payment, be credited on the taxpayer's return with the income tax so paid to the other state.

206 However, no franchise tax, license tax, excise tax, unincorporated business tax, occupation tax or any tax
207 characterized as such by the taxing jurisdiction, although applied to earned or business income, shall qualify
208 for a credit under this section, nor shall any tax which, if characterized as an income tax or a commuter tax,
209 would be illegal and unauthorized under such other state's controlling or enabling legislation qualify for a
210 credit under this section.

211 The credit allowable under this section shall not exceed: (i) such proportion of the income tax otherwise
212 payable by him under this chapter as his income upon which the tax imposed by the other state was computed
213 bears to his Virginia taxable income upon which the tax imposed by this Commonwealth was computed or
214 (ii) the income tax otherwise payable under this chapter in the event that the income upon which the tax
215 imposed by the other state is computed is less than the Virginia taxable income upon which the tax imposed
216 by this Commonwealth is computed and all income derived from sources outside the Commonwealth and
217 subject to taxation under this chapter is earned income or business income reported on federal form Schedule
218 C from a single state contiguous to Virginia. The credit provided for by this section shall not be granted to a
219 resident individual when the laws of another state, under which the income in question is subject to tax
220 assessment, provide a credit to such resident individual substantially similar to that granted by subsection B
221 of this section.

222 B. Whenever a nonresident individual of this Commonwealth has become liable to the state where he
223 resides for income tax upon his Virginia taxable income for the taxable year, derived from Virginia sources
224 and subject to taxation under this chapter, the amount of such tax payable under this chapter shall be credited
225 with such proportion of the tax so payable by him to the state where he resides, upon proof of such payment,
226 as his income subject to taxation under this chapter bears to his entire income upon which the tax so payable
227 to such other state was imposed. The credit, however, shall be allowed only if the laws of such state: (i) grant
228 a substantially similar credit to residents of Virginia subject to income tax under such laws or (ii) impose a
229 tax upon the income of its residents derived from Virginia sources and exempt from taxation the income of
230 residents of this Commonwealth. No credit shall be allowed against the amount of the tax on any income
231 taxable under this chapter which is exempt from taxation under the laws of such other state.

232 C. 1. For purposes of this section, the amount of any state income tax paid by an electing small business
233 corporation (S corporation) shall be deemed to have been paid by its individual shareholders in proportion to

234 their ownership of the stock of such corporation.

235 2. For taxable years beginning on and after January 1, 2021, but before January 1, ~~2026~~ 2027, for
236 purposes of this section, the amount of any state income tax paid by a pass-through entity under a law of
237 another state substantially similar to § 58.1-390.3 shall be deemed to have been paid by its individual owners
238 in proportion to their ownership.

239 **§ 58.1-339.8. Income tax credit for low-income taxpayers.**

240 A. As used in this section, unless the context requires otherwise:

241 "Family Virginia adjusted gross income" means the combined Virginia adjusted gross income of an
242 individual, the individual's spouse, and any person claimed as a dependent on the individual's or his spouse's
243 income tax return for the taxable year.

244 "Household" means an individual, or in the case of married persons, an individual and his spouse,
245 regardless of whether or not the individual and his spouse file combined or separate Virginia individual
246 income tax returns.

247 "Poverty guidelines" means the poverty guidelines for the 48 contiguous states and the District of
248 Columbia updated annually in the Federal Register by the U.S. Department of Health and Human Services
249 under the authority of § 673(2) of the Omnibus Budget Reconciliation Act of 1981.

250 "Virginia adjusted gross income" has the same meaning as the term is defined in § 58.1-321.

251 B. 1. For taxable years beginning on and after January 1, 2000, any individual or persons filing a joint
252 return whose family Virginia adjusted gross income does not exceed 100 percent of the poverty guideline
253 amount corresponding to a household of an equal number of persons as listed in the poverty guidelines
254 published during such taxable year, shall be allowed a nonrefundable credit against the tax levied pursuant to
255 § 58.1-320 in an amount equal to \$300 each for the individual, the individual's spouse, and any person
256 claimed as a dependent on the individual's or married individuals' income tax return for the taxable year. For
257 any taxable year in which married individuals file separate Virginia income tax returns, the credit provided
258 under this section shall be allowed against the tax for only one of such two tax returns. Additionally, the
259 credit provided under this section shall not be allowed against such tax of a dependent of the individual or of
260 married individuals.

261 2. For taxable years beginning on and after January 1, 2006, any individual or married individuals, eligible
262 for a tax credit pursuant to § 32 of the Internal Revenue Code, may for the taxable year, in lieu of the credit

263 authorized under subdivision 1, claim a nonrefundable credit against the tax imposed pursuant to § 58.1-320
264 in an amount equal to 20 percent of the credit claimed by the individual or married individuals for federal
265 individual income taxes pursuant to § 32 of the Internal Revenue Code for the taxable year. In no case shall a
266 household be allowed a credit pursuant to this subdivision and subdivision 1 or 3 for the same taxable year.

267 3. For taxable years beginning on and after January 1, 2022, but before January 1, ~~2026~~ 2027, any
268 individual or married persons, eligible for a tax credit pursuant to § 32 of the Internal Revenue Code, may for
269 the taxable year, in lieu of the credit authorized under subdivision 1 or 2, claim a refundable credit against the
270 tax imposed pursuant to § 58.1-320 in an amount equal to 15 percent of the credit claimed by the individual
271 or married persons for federal individual income taxes pursuant to § 32 of the Internal Revenue Code for the
272 taxable year. The refundable credit shall be claimed on the Virginia income tax return and redeemed by the
273 Tax Commissioner. In no case shall a household be allowed a credit pursuant to this subdivision and
274 subdivision 1 or 2 for the same taxable year.

275 C. The amount of the credit claimed pursuant to subdivision B 1 and B 2, or in the case of a nonresident or
276 a person to which § 58.1-303 applies, subdivision B 3, for any taxable year shall not exceed the individual's
277 or married individuals' Virginia income tax liability.

278 D. Notwithstanding any other provision of this section, no credit shall be allowed pursuant to subsection B
279 in any taxable year in which the individual, the individual's spouse, or both, or any person claimed as a
280 dependent on such individual's or married individuals' income tax return, claims one or any combination of
281 the following on his or their income tax return for such taxable year:

282 1. The subtraction under subdivision 8 of § 58.1-322.02;

283 2. The subtraction under subdivision 15 of § 58.1-322.02;

284 3. The subtraction under subdivision 16 of § 58.1-322.02;

285 4. The deduction for the additional personal exemption for blind or aged taxpayers under subdivision 2 b
286 of § 58.1-322.03; or

287 5. The deduction under subdivision 5 of § 58.1-322.03.

288 **§ 58.1-339.13. Reforestation and afforestation tax credit.**

289 A. For the purposes of this section, "eligible expenditures" means direct expenses incurred by a taxpayer
290 related to implementing beneficial hardwood management practices pursuant to best practices developed by
291 the Department of Forestry.

292 B. In order to encourage the planting and sustainable growth of hardwood trees, which take longer to
293 reach maturity and thus take a longer time for a taxpayer to recoup investment expenses, for taxable years
294 beginning on and after January 1, 2022, but before January 1, ~~2025~~ 2027, a taxpayer shall be allowed a
295 nonrefundable credit against the tax levied pursuant to § 58.1-320 for eligible expenditures. The credit shall
296 equal the lesser of the eligible expenditures incurred by the taxpayer or \$1,000.

297 C. The total amount of tax credits available under this section for a taxable year shall not exceed \$1
298 million. Approved applications for such credits shall be administered and credits shall be allocated by the
299 Department of Forestry on a first-come, first-served basis. In order to claim the credit, the taxpayer shall
300 submit a forest management plan to the Department of Forestry for review. After approval of the plan, and
301 completion of the implementation of the plan, the Department of Forestry shall certify the forest management
302 plan contains beneficial management practices as eligible for the credit. The taxpayer shall forward the
303 certification to the Department on forms provided by the Department. Approval and implementation of a
304 forest management plan shall be completed the same year in which the credit is claimed.

305 D. The amount of the credit that may be claimed in any single taxable year shall not exceed the taxpayer's
306 liability for taxes imposed by this chapter for that taxable year. If the amount of the credit allowed under this
307 section exceeds the taxpayer's tax liability for the taxable year in which the eligible expenditures occurred,
308 the amount that exceeds the tax liability may be carried over for credit against the income taxes of the
309 taxpayer in the next five taxable years or until the total amount of the tax credit has been taken, whichever is
310 sooner.

311 E. To the extent that a taxpayer participates in the Hardwood Habitat Incentive Program, the taxpayer may
312 claim the credit under this section for any remaining liability after such cost-share.

313 F. The Tax Commissioner, in coordination with the State Forester, shall develop guidelines for claiming
314 the credit provided by this section. Such guidelines shall be exempt from the provisions of the Administrative
315 Process Act (§ 2.2-4000 et seq.).

316 **§ 58.1-390.3. Elective income tax on pass-through entities.**

317 A. 1. For taxable years beginning on and after January 1, 2021, but before January 1, 2022, a pass-through
318 entity may make an election, in a format and according to such requirements and procedures to be established
319 by the Department, to pay the tax levied by this section at the entity level for the taxable year. Such election
320 shall be made on or before a date to be determined by the Department, which shall be set no earlier than one

321 year after the extended due date for filing the applicable return. Notwithstanding §§ 58.1-1812 and 58.1-1833
322 , no interest shall accrue on underpayments or overpayments solely attributable to such election.

323 2. For taxable years beginning on and after January 1, 2022, but before January 1, ~~2026~~ 2027, a
324 pass-through entity may make an annual election, on its timely filed return pursuant to § 58.1-392, to pay the
325 tax levied by this section at the entity level for the taxable period covered by such return. Such election shall
326 be made on or before the due date for filing the applicable return, including any extensions that have been
327 granted.

328 B. A tax at the rate of 5.75 percent is hereby annually imposed on the Virginia taxable income, as
329 calculated pursuant to § 58.1-391 but taking into account only the pro rata or distributive share of each item
330 of income, gain, loss, or deduction attributable to eligible owners, for each taxable year of every pass-through
331 entity that makes the election provided under subsection A.

332 C. In computing the tax imposed by this section, the pro rata or distributive share of the Virginia taxable
333 income of each nonresident eligible owner shall be limited to income that is attributable to Virginia sources
334 and shall be subject to the modifications to income as described in §§ 58.1-322.01 through 58.1-322.04.

335 D. A pass-through entity that elects to pay the tax levied by subsection B shall be eligible for all credits,
336 deductions, or other adjustments to taxable income under § 58.1-391, provided that a pass-through entity's
337 taxable income shall be adjusted to eliminate any federal deduction for state and local income taxes.

338 E. Any person that is subject to the tax imposed under § 58.1-320 or 58.1-360 and is an eligible owner of
339 a pass-through entity making the election pursuant to this section shall be entitled to a credit against the tax
340 imposed, provided that taxable income has been adjusted to add back any deduction for state and local
341 income taxes paid by the pass-through entity. Such credit shall be in an amount equal to such person's pro
342 rata share of the tax paid under this section by any pass-through entity of which such person is an owner. If
343 the amount of the credit allowed pursuant to this subsection exceeds such person's tax liability for the tax
344 imposed under § 58.1-320 or 58.1-360, as applicable, such excess shall be treated as an overpayment and
345 refundable pursuant to § 58.1-499.

346 F. If any pass-through entity makes an election pursuant to this section, the Department shall assess and
347 collect tax, interest, and penalties as if such tax is a corporate income tax imposed pursuant to the provisions
348 of Article 10 (§ 58.1-400 et seq.).

349 G. The Department shall develop and make publicly available guidelines implementing the provisions of

350 this section and the credit authorized by subdivision C 2 of § 58.1-332.

351 **§ 58.1-405.1. Eligibility of companies for apportionment modification; certification by the Virginia**
352 **Economic Development Partnership Authority.**

353 A. For purposes of this section:

354 "Authority" means the Virginia Economic Development Partnership Authority.

355 "Eligible company" means a corporation or pass-through entity, as defined in § 58.1-390.1, that does not
356 have any existing property or payroll in Virginia as of January 1, 2018, and on or after January 1, 2018, but
357 before January 1, ~~2025~~ 2027, (i) either (a) spends at least \$5 million on new capital investment in a qualified
358 locality or qualified localities and creates at least 10 new jobs in a qualified locality or qualified localities or
359 (b) creates at least 50 new jobs in a qualified locality or qualified localities; (ii) is a traded-sector company;
360 and (iii) is certified by the Authority as generating a positive fiscal impact pursuant to subsection B.

361 "New capital investment" means real property acquired in a qualified locality or qualified localities on or
362 after January 1, 2018, but before January 1, ~~2025~~ 2027, and any improvements to real property in a qualified
363 locality or qualified localities on or after January 1, 2018, but before January 1, ~~2025~~ 2027.

364 "New job" means a permanent, full-time position of indefinite duration that pays at least 150 percent of
365 the minimum wage, as defined in the Virginia Minimum Wage Act (§ 40.1-28.8 et seq.), and that requires a
366 minimum of (i) 35 hours of an employee's time a week for the entire normal year of the eligible company's
367 operations, which normal year shall consist of at least 48 weeks, or (ii) 1,680 hours per year.

368 "Qualified development site" means real property that is in a locality adjacent to a qualified locality and,
369 before January 1, 2018, either (i) was owned or partly owned by a qualified locality or an industrial
370 development authority of which a qualified locality is a member or (ii) was owned or partly owned by a
371 locality or industrial development authority, was leased to a private party, and was subject to a revenue-
372 sharing agreement providing that a portion of the revenues from the lease would be distributed to a qualified
373 locality. "Qualified development site" does not include real property that is not owned by the Commonwealth
374 or a political subdivision thereof.

375 "Qualified locality" means (i) the County of Alleghany, Bland, Buchanan, Carroll, Craig, Dickenson,
376 Giles, Grayson, Lee, Page, Russell, Scott, Smyth, Tazewell, Washington, Wise, or Wythe or the City of
377 Bristol, Galax, or Norton; (ii) the County of Amelia, Appomattox, Buckingham, Charlotte, Cumberland,
378 Halifax, Henry, Lunenburg, Mecklenburg, Nottoway, Patrick, Pittsylvania, or Prince Edward or the City of

379 Danville or Martinsville; (iii) the County of Accomack, Caroline, Essex, Gloucester, King and Queen, King
380 William, Lancaster, Mathews, Middlesex, Northampton, Northumberland, Richmond, or Westmoreland; or
381 (iv) the County of Brunswick or Dinwiddie or the City of Petersburg. "Qualified locality" includes a qualified
382 development site.

383 "Traded-sector company" means a company that directly or indirectly derives more than 50 percent of its
384 revenue from out-of-state sources.

385 B. 1. The Authority shall determine whether a company will generate a positive fiscal impact based on the
386 following factors: (i) job creation; (ii) private capital investment; and (iii) anticipated additional state and
387 local tax revenue. The Authority also shall consider the additional revenue the Commonwealth likely would
388 expend in and for the localities if the economy in the localities continues to erode. In making its
389 determination, the Authority shall consult with the Department regarding the revenue impact of certifying
390 such company. The Authority shall certify a company only if it determines such company will generate a
391 positive fiscal impact.

392 2. The Authority shall deny certification to any company if it determines such taxpayer has engaged in a
393 merger, acquisition, similar business combination, name change, change in business form, or other
394 transaction the primary purpose of which is to obtain status as an eligible company.

395 3. The Authority shall make an annual re-certification according to subdivision B 1, and no company shall
396 remain an eligible company for any taxable year that the Authority does not grant re-certification.

397 C. Any eligible company may elect to apportion its income pursuant to the provisions of § 58.1-408,
398 58.1-417, 58.1-418, 58.1-419, 58.1-420, 58.1-422, 58.1-422.1, or 58.1-422.2, as applicable. However, if the
399 entire business of an eligible company is transacted or conducted within the Commonwealth, it shall not
400 apportion its income pursuant to this subsection but may elect to apportion its income pursuant to the
401 provisions of § 58.1-405.

402 **§ 58.1-408. What income apportioned and how.**

403 A. The Virginia taxable income of any corporation, except those subject to the provisions of § 58.1-417,
404 58.1-418, 58.1-419, 58.1-420, 58.1-422, 58.1-422.1, 58.1-422.2, or 58.1-422.3, excluding income allocable
405 under § 58.1-407, shall be apportioned to the Commonwealth by multiplying such income by a fraction, the
406 numerator of which is the property factor plus the payroll factor, plus twice the sales factor, and the
407 denominator of which is four; however, where the sales factor does not exist, the denominator of the fraction

408 shall be the number of existing factors and where the sales factor exists but the payroll factor or the property
409 factor does not exist, the denominator of the fraction shall be the number of existing factors plus one.

410 B. Any eligible company, as defined in § 58.1-405.1, may subtract from the numerator of the
411 corresponding factor the value of its (i) property acquired in any qualified locality or qualified localities, as
412 defined in § 58.1-405.1, on or after January 1, 2018, but before January 1, ~~2025~~ 2027; (ii) payroll attributable
413 to jobs created on or after January 1, 2018, but before January 1, ~~2025~~ 2027, in any qualified locality or
414 qualified localities; and (iii) sales in the Commonwealth during the taxable year. Such eligible company may
415 make such modification for the taxable year in which it first becomes eligible and for the six subsequent,
416 consecutive taxable years, except for any year in which the eligible company's (a) total, cumulative new
417 capital investment falls below the applicable initial threshold or (b) number of new jobs falls below the
418 applicable initial threshold.

419 **§ 58.1-439. Major business facility job tax credit.**

420 A. For taxable years beginning on and after January 1, 1995, but before ~~July 1, 2025~~ *January 1, 2027*, a
421 taxpayer shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360
422 et seq.), and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et
423 seq.) of Chapter 25; or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 as set forth in this section.

424 B. For purposes of this section, the amount of any credit attributable to a partnership, electing small
425 business corporation (S corporation), or limited liability company shall be allocated to the individual partners,
426 shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

427 C. A "major business facility" is a company that satisfies the following criteria:

428 1. Subject to the provisions of subsections K or L, the establishment or expansion of the company shall
429 result in the creation of at least 50 jobs for qualified full-time employees; the first such 50 jobs shall be
430 referred to as the "threshold amount"; and

431 2. The company is engaged in any business in the Commonwealth, except a retail trade business if such
432 trade is the principal activity of an individual facility in the Commonwealth. Examples of types of major
433 business facilities that are eligible for the credit provided under this section include, but are not limited to, a
434 headquarters, or portion of such a facility, where company employees are physically employed, and where the
435 majority of the company's financial, personnel, legal or planning functions are handled either on a regional or
436 national basis. A company primarily engaged in the Commonwealth in the business of manufacturing or

437 mining; agriculture, forestry or fishing; transportation or communications; or a public utility subject to the
438 corporation income tax shall be deemed to have established or expanded a major business facility in the
439 Commonwealth if it meets the requirements of subdivision 1 during a single taxable year and such facilities
440 are not retail establishments. A major business facility shall also include facilities that perform central
441 management or administrative activities, whether operated as a separate trade or business, or as a separate
442 support operation of another business. Central management or administrative activities include, but are not
443 limited to, general management; accounting; computing; tabulating; purchasing; transportation or shipping;
444 engineering and systems planning; advertising; technical sales and support operations; central administrative
445 offices and warehouses; research, development and testing laboratories; computer-programming, data-
446 processing and other computer-related services facilities; and legal, financial, insurance, and real estate
447 services. The terms used in this subdivision to refer to various types of businesses shall have the same
448 meanings as those terms are commonly defined in the Standard Industrial Classification Manual.

449 D. For purposes of this section, the "credit year" is the first taxable year following the taxable year in
450 which the major business facility commenced or expanded operations.

451 E. The Department of Taxation shall make all determinations as to the classification of a major business
452 facility in accordance with the provisions of this section.

453 F. A "qualified full-time employee" means an employee filling a new, permanent full-time position in a
454 major business facility in the Commonwealth. A "new, permanent full-time position" is a job of an indefinite
455 duration, created by the company as a result of the establishment or expansion of a major business facility in
456 the Commonwealth, requiring a minimum of 35 hours of an employee's time a week for the entire normal
457 year of the company's operations, which "normal year" shall consist of at least 48 weeks, or a position of
458 indefinite duration which requires a minimum of 35 hours of an employee's time a week for the portion of the
459 taxable year in which the employee was initially hired for, or transferred to, the major business facility in the
460 Commonwealth. Seasonal or temporary positions, or a job created when a job function is shifted from an
461 existing location in the Commonwealth to the new major business facility and positions in building and
462 grounds maintenance, security, and other such positions which are ancillary to the principal activities
463 performed by the employees at a major business facility shall not qualify as new, permanent full-time
464 positions.

465 G. For any major business facility, the amount of credit earned pursuant to this section shall be equal to

466 \$1,000 per qualified full-time employee, over the threshold amount, employed during the credit year. The
467 credit shall be allowed ratably, with one-third of the credit amount allowed annually for three years beginning
468 with the credit year. However, for taxable years beginning on or after January 1, 2009, one-half of the credit
469 amount shall be allowed each year for two years. The portion of the \$1,000 credit earned with respect to any
470 qualified full-time employee who is employed in the Commonwealth for less than 12 full months during the
471 credit year will be determined by multiplying the credit amount by a fraction, the numerator of which is the
472 number of full months that the qualified full-time employee worked for the major business facility in the
473 Commonwealth during the credit year, and the denominator of which is 12. A separate credit year and a
474 three-year allowance period shall exist for each distinct major business facility of a single taxpayer, except
475 for credits allowed for taxable years beginning on or after January 1, 2009, when a two-year allowance period
476 shall exist for each distinct major business facility of a single taxpayer.

477 H. The amount of credit allowed pursuant to this section shall not exceed the tax imposed for such taxable
478 year. Any credit not usable for the taxable year the credit was allowed may be, to the extent usable, carried
479 over for the next 10 succeeding taxable years. No credit shall be carried back to a preceding taxable year. In
480 the event that a taxpayer who is subject to the tax limitation imposed pursuant to this subsection is allowed
481 another credit pursuant to any other section of the Code of Virginia, or has a credit carryover from a
482 preceding taxable year, such taxpayer shall be considered to have first utilized any credit allowed which does
483 not have a carryover provision, and then any credit which is carried forward from a preceding taxable year,
484 prior to the utilization of any credit allowed pursuant to this section.

485 I. No credit shall be earned pursuant to this section for any employee (i) for whom a credit under this
486 section was previously earned by a related party as defined by Internal Revenue Code § 267(b) or a trade or
487 business under common control as defined by Internal Revenue Code § 52(b); (ii) who was previously
488 employed in the same job function in Virginia by a related party as defined by Internal Revenue Code §
489 267(b) or a trade or business under common control as defined by Internal Revenue Code § 52(b); (iii) whose
490 job function was previously performed at a different location in Virginia by an employee of the taxpayer, a
491 related party as defined by Internal Revenue Code § 267(b), or a trade or business under common control as
492 defined by Internal Revenue Code § 52(b); or (iv) whose job function previously qualified for a credit under
493 this section at a different major business facility on behalf of the taxpayer, a related party as defined by
494 Internal Revenue Code § 267(b), or a trade or business under common control as defined by Internal Revenue

495 Code § 52(b).

496 J. Subject to the provisions of subsections K or L, recapture of this credit, under the following
497 circumstances, shall be accomplished by increasing the tax in any of the five years succeeding the taxable
498 year in which a credit has been earned pursuant to this section if the number of qualified full-time employees
499 decreases below the average number of qualified full-time employees employed during the credit year. Such
500 tax increase amount shall be determined by (i) recomputing the credit which would have been earned for the
501 original credit year using the decreased number of qualified full-time employees and (ii) subtracting such
502 recomputed credit from the amount of credit previously earned. In the event that the average number of
503 qualifying full-time employees employed at a major business facility falls below the threshold amount in any
504 of the five taxable years succeeding the credit year, all credits earned with respect to such major business
505 facility shall be recaptured. No credit amount will be recaptured more than once pursuant to this subsection.
506 Any recapture pursuant to this section shall reduce credits earned but not yet allowed, and credits allowed but
507 carried forward, before the taxpayer's tax liability may be increased.

508 K. In the event that a major business facility is located in an economically distressed area or in an
509 enterprise zone as defined in Chapter 49 (§ 59.1-538 et seq.) of Title 59.1 during a credit year, the threshold
510 amount required to qualify for a credit pursuant to this section and to avoid full recapture shall be reduced
511 from 50 to 25 for purposes of subdivision C 1 and subsection J. An area shall qualify as economically
512 distressed if it is a city or county with an unemployment rate for the preceding year of at least 0.5 percent
513 higher than the average statewide unemployment rate for such year. The Virginia Economic Development
514 Partnership shall identify and publish a list of all economically distressed areas at least annually.

515 L. For taxable years beginning on or after January 1, 2004, but before January 1, 2006, in the event that a
516 major business facility is located in a severely economically distressed area, the threshold amount required to
517 qualify for a credit pursuant to this section and to avoid full recapture shall be reduced from 100 to 25 for
518 purposes of subdivision C 1 and subsection J. However, the total amount of credit allowable under this
519 subsection shall not exceed \$100,000 in aggregate. An area shall qualify as severely economically distressed
520 if it is a city or county with an unemployment rate for the preceding year of at least twice the average
521 statewide unemployment rate for such year. The Virginia Economic Development Partnership shall identify
522 and publish a list of all severely economically distressed areas at least annually.

523 M. The Tax Commissioner shall promulgate regulations, in accordance with the Administrative Process

524 Act (§ 2.2-4000 et seq.), relating to (i) the computation, carryover, and recapture of the credit provided under
525 this section; (ii) defining criteria for (a) a major business facility, (b) qualifying full-time employees at such
526 facility, and (c) economically distressed areas; and (iii) the computation, carryover, recapture, and redemption
527 of the credit by affiliated companies pursuant to subsection S.

528 N. The provisions of this section shall apply only in instances where an announcement of intent to
529 establish or expand a major business facility is made on or after January 1, 1994. An announcement of intent
530 to establish or expand a major business facility includes, but is not limited to, a press conference or extensive
531 press coverage, providing information with respect to the impact of the project on the economy of the area
532 where the major business facility is to be established or expanded and the Commonwealth as a whole.

533 O. The credit allowed pursuant to this section shall be granted to the person who pays taxes for the
534 qualified full-time employees pursuant to Chapter 5 (§ 60.2-500 et seq.) of Title 60.2.

535 P. No person shall claim a credit allowed pursuant to this section and the credit allowed pursuant to §
536 58.1-439.2. Any qualified business firm receiving an enterprise zone job creation grant under § 59.1-547 shall
537 not be eligible to receive a major business facility job tax credit pursuant to this section for any job used to
538 qualify for the enterprise zone job creation grant.

539 Q. No person operating a business in the Commonwealth pursuant to Chapter 29 (§ 59.1-364 et seq.) of
540 Title 59.1 shall claim a credit pursuant to this section.

541 R. Notwithstanding subsection O, a taxpayer may, for the purpose of determining the number of qualified
542 full-time employees at a major business facility, include the employees of a contractor or a subcontractor if
543 such employees are permanently assigned to the taxpayer's major business facility. If the taxpayer includes
544 the employees of a contractor or subcontractor in its total of qualified full-time employees, it shall enter into a
545 contractual agreement with the contractor or subcontractor prohibiting the contractor or subcontractor from
546 also claiming these employees in order to receive a credit given under this section. The taxpayer shall provide
547 evidence satisfactory to the Department of Taxation that it has entered into such a contract.

548 S. For purposes of satisfying the criteria of subdivision C 1, two or more affiliated companies may elect to
549 aggregate the number of jobs created for qualified full-time employees as the result of the establishment or
550 expansion by the individual companies in order to qualify for the credit allowed pursuant to this section. For
551 purposes of this subsection, "affiliated companies" means two or more companies related to each other such
552 that (i) one company owns at least 80 percent of the voting power of the other or others or (ii) at least 80

553 percent of the voting power of two or more companies is owned by the same interests.

554 T. The General Assembly of Virginia finds that modern business infrastructure allows businesses to locate
555 their administrative or manufacturing facilities with minimal regard to the location of markets or the
556 transportation of raw materials and finished goods, and that the economic vitality of the Commonwealth
557 would be enhanced if such facilities were established in Virginia. Accordingly, the provisions of this section
558 targeting the credit to major business facilities and limiting the credit to those companies which establish a
559 major business facility in Virginia are integral to the purpose of the credit earned pursuant to this section and
560 shall not be deemed severable.

561 U. For taxable years beginning on and after January 1, 2019, and notwithstanding the provisions of §
562 58.1-3 or any other provision of law, the Department of Taxation, in consultation with the Virginia Economic
563 Development Partnership, shall publish the following information by November 1 of each year for the
564 12-month period ending on the preceding December 31:

- 565 1. The location of sites used for major business facilities for which a credit was claimed;
- 566 2. The North American Industry Classification System codes used for the major business facilities for
567 which a credit was claimed;
- 568 3. The number of qualified full time employees for whom a credit was claimed; and
- 569 4. The total cost to the Commonwealth's general fund of the credits claimed.

570 Such information shall be published by the Department, regardless of how few taxpayers claimed the tax
571 credit, in a manner that prevents the identification of particular taxpayers, reports, returns, or items.

572 **§ 58.1-439.6:1. Worker training tax credit.**

573 A. As used in this section, unless the context requires a different meaning:

574 "Eligible worker training" means the training of a qualified employee or non-highly compensated worker
575 in the form of (i) credit or noncredit courses at any institution recognized on the Eligible Training Provider
576 List or at any Virginia public institution of higher education, as such term is defined in § 23.1-100, or as
577 described in §§ 23.1-3111, 23.1-3115, 23.1-3120, and 23.1-3125, that results in the qualified employee or
578 non-highly compensated worker receiving a workforce credential or (ii) instruction or training that is part of
579 an apprenticeship agreement approved by the Commissioner of Labor and Industry.

580 "Industry-recognized" means demonstrating competency or proficiency in the technical and occupational
581 skills identified as necessary for performing functions of an occupation based on standards developed or

582 endorsed by employers or industry organizations.

583 "Manufacturing" means processing, manufacturing, refining, mining, or converting products for sale or
584 resale.

585 "Non-highly compensated worker" means a worker whose income is less than Virginia's median wage, as
586 reported by the Virginia Employment Commission, in the taxable year prior to applying for the credit. "Non-
587 highly compensated worker" does not include an owner or relative.

588 "Owner" means an individual who owns, directly or indirectly, more than a five percent interest in the
589 business claiming the credit.

590 "Qualified employee" means an employee of a business eligible for a credit under this section in a full-
591 time position requiring a minimum of 1,680 hours in the entire normal year of the business' operations if the
592 standard fringe benefits are paid by the business for the employee. Employees in seasonal or temporary
593 positions shall not qualify as qualified employees. "Qualified employee" does not include an owner or
594 relative.

595 "Relative" means a spouse, child, grandchild, parent, or sibling of an owner.

596 "Workforce credential" means an industry-recognized (i) certification, (ii) certificate, or (iii) degree.

597 B. 1. For taxable years beginning on and after January 1, 2019, but prior to ~~July 1, 2025~~ *January 1, 2027*,
598 a business shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360
599 et seq.), and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et
600 seq.) of Chapter 25; or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 in an amount equal to 35 percent of
601 expenses incurred by the business during the taxable year for eligible worker training. If the recipient of the
602 training is a qualified employee, the credit shall not exceed \$500 per qualified employee annually. If the
603 recipient of the training is a non-highly compensated worker, the credit shall not exceed \$1,000 per
604 non-highly compensated worker annually.

605 2. For taxable years beginning on and after January 1, 2019, but prior to January 1, ~~2025~~ *2027*, a business
606 primarily engaged in manufacturing shall be allowed a credit against the taxes imposed by Articles 2 (§
607 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.) in an amount equal to 35 percent of its direct costs incurred
608 during the taxable year in conducting orientation, instruction, and training in the Commonwealth relating to
609 the manufacturing activities undertaken by the business. In no event shall the credit allowed to a business
610 under this subdivision exceed \$2,000 for any taxable year. The Department shall allow credit only for

611 programs that (i) provide orientation, instruction, and training solely to students in grades six through 12; (ii)
612 are coordinated with the local school division; and (iii) are conducted either at a plant or facility owned,
613 leased, rented, or otherwise used by the business or at a public middle or high school in the Commonwealth.
614 The taxpayer shall include in its direct costs only the following expenditures: (a) salaries or wages paid to
615 instructors and trainers, prorated for the period of instruction or training; (b) costs for orientation, instruction,
616 and training materials; (c) amounts paid for machinery and equipment used primarily for such instruction and
617 training; and (d) the cost of leased or rented space used primarily for conducting the program.

618 3. The total amount of tax credits granted under this section for each fiscal year shall not exceed \$1
619 million.

620 C. For purposes of this section, the amount of any credit attributable to a partnership, electing small
621 business corporation (S corporation), or limited liability company shall be allocated to the individual partners,
622 shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

623 D. 1. A business shall be allowed a credit pursuant to subdivision B 1 only for those programs and
624 providers that have been approved for inclusion in the Commonwealth's Eligible Training Provider List. The
625 Workforce Innovation Opportunity Act Title 1 Administrator shall provide the Tax Commissioner with the
626 approved list annually.

627 2. A business shall be allowed the credit pursuant to subdivision B 2 only for an orientation, instruction,
628 and training program that has been approved by the local school division and certified as eligible by the
629 Department of Education. A business seeking a tax credit under subdivision B 2 shall include in its
630 application reviewed by the Department of Education an approval from the local school division. The
631 Department of Education shall review requests for certification submitted by businesses and shall advise the
632 Tax Commissioner whether an orientation, instruction, and training program qualifies as relating to the
633 manufacturing activities undertaken by the business and meets other applicable requirements.

634 3. The Tax Commissioner shall develop guidelines (i) establishing procedures for claiming the credit
635 provided by this section and (ii) providing for the allocation of credits among businesses requesting credits in
636 the event that the amount of credits for which requests are made exceeds the available amount of credits in
637 any year. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000
638 et seq.).

639 E. Any credit not usable for the taxable year may be carried over for the next three taxable years. The

640 amount of credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year. No
641 credit shall be carried back to a preceding taxable year. If a business that is subject to the tax limitation
642 imposed pursuant to this subsection is allowed another credit pursuant to any other section of this Code, or
643 has a credit carryover from a preceding taxable year, such business shall be considered to have first utilized
644 any credit allowed that does not have a carryover provision, and then any credit which is carried forward
645 from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.

646 F. No business shall be eligible to claim a credit under this section for eligible worker training or
647 manufacturing orientation, instruction, and training undertaken by any program operated, administered, or
648 paid for by the Commonwealth.

649 G. The Tax Commissioner shall report annually to the Chairmen of the House Committee on Finance and
650 the Senate Committee on Finance and Appropriations on the status and implementation of the credit
651 established by this section.

652 **§ 58.1-439.7. Tax credit for purchase of machinery and equipment used for advanced recycling and**
653 **processing recyclable materials.**

654 A. 1. For taxable years beginning on and after January 1, 1999, but before January 1, ~~2025~~ 2027, a
655 taxpayer shall be allowed a credit against the tax imposed pursuant to Articles 2 (§ 58.1-320 et seq.) and 10
656 (§ 58.1-400 et seq.) of Chapter 3 of this title, in an amount equal to 20 percent of the purchase price paid
657 during the taxable year for (i) machinery and equipment used predominantly in or on the premises of
658 manufacturing facilities or plant units which manufacture, process, compound, or produce items of tangible
659 personal property from recyclable materials, within the Commonwealth, for sale and (ii) machinery and
660 equipment used predominantly in or on the premises of facilities that are predominantly engaged in advanced
661 recycling. For purposes of determining "purchase price paid" under this section, the taxpayer may use the
662 original total capitalized cost of such machinery and equipment, less capitalized interest. For purposes of this
663 section, "advanced recycling" means the operation of a single-stream or multi-stream recycling plant that
664 converts waste materials into new materials for resale by processing them and breaking them down into their
665 raw constituents. "Advanced recycling" includes the operation of a materials recovery facility or materials
666 reclamation facility that receives, separates, and prepares recyclable materials for sale to end-user
667 manufacturers.

668 2. The Department of Environmental Quality shall certify that such machinery and equipment are integral

669 to the recycling process before the taxpayer shall be allowed the tax credit under this section. The taxpayer
670 shall also submit purchase receipts and invoices as may be necessary to confirm the taxpayer's statement of
671 purchase price paid, with the income tax return to verify the amount of purchase price paid for the recycling
672 machinery and equipment.

673 3. No taxpayer shall be denied the credit under this section based solely on another person's use of the
674 tangible personal property produced by the taxpayer, provided that the tangible personal property was sold by
675 the taxpayer to an unaffiliated person in an arm's-length sale.

676 4. No credit shall be allowed under this section for machinery and equipment unless the machinery and
677 equipment manufacture, process, compound, or produce items of tangible personal property from recyclable
678 materials.

679 B. The total credit allowed under this section in any taxable year shall not exceed 40 percent of the
680 Virginia income tax liability of such taxpayer.

681 C. Any tax credit not used for the taxable year in which the purchase price on recycling machinery and
682 equipment was paid may be carried over for credit against the taxpayer's income taxes in the 10 succeeding
683 taxable years until the total credit amount is used.

684 D. The Department of Taxation shall administer the tax credits under this section. Beginning with credits
685 allowable for taxable year 2015, in no case shall the Department issue more than \$2 million in tax credits
686 pursuant to this section in any fiscal year of the Commonwealth. A taxpayer shall not be allowed to claim any
687 tax credit unless it has applied to the Department of Environmental Quality for certification as described in
688 subdivision A 2 and the Department of Environmental Quality has issued a written certification stating that
689 the machinery and equipment purchased are integral to the recycling process. If the amount of tax credits
690 approved under this section by the Department of Taxation for any taxable year exceeds \$2 million, the
691 Department shall apportion the credits by dividing \$2 million by the total amount of tax credits so approved,
692 to determine the percentage of otherwise allowed tax credits each taxpayer shall receive.

693 E. In the event a corporation converts to a partnership, limited liability company, or electing small
694 business corporation (S corporation), such business entity shall be entitled to any unused credits of the
695 corporation. Credits earned by a partnership, limited liability company, electing small business corporation (S
696 corporation), or a predecessor corporation entitled to such credits, shall be allocated to the individual
697 partners, members, or shareholders, respectively, in proportion to their ownership or interest in such business

698 entities.

699 **§ 58.1-439.12:04. Tax credit for participating landlords.**

700 A. As used in this section, unless the context clearly shows otherwise, the term or phrase:

701 "Dwelling unit" means an individual housing unit in an apartment building, an individual housing unit in
702 multifamily residential housing, a single-family residence, or any similar individual housing unit.

703 "Eligible census tract" means a census tract in Virginia in which less than 10 percent of the residents live
704 below the poverty level, as defined by the United States government and determined by the most recent
705 United States census.

706 "Eligible non-metropolitan census tract" means a census tract in Virginia that (i) is not in the Richmond
707 Metropolitan Statistical Area, the Washington-Arlington-Alexandria Metropolitan Statistical Area, or the
708 Virginia Beach-Norfolk-Newport News Metropolitan Area and (ii) in which less than 40 percent of the
709 residents live below the poverty level, as defined by the United States government and determined by the
710 most recent United States census.

711 "Housing authority" means a housing authority created under Article 1 (§ 36-1 et seq.) of Chapter 1 of
712 Title 36 or other government agency that is authorized by the United States government under the United
713 States Housing Act of 1937 (42 U.S.C. § 1437 et seq.) to administer a housing choice voucher program, or
714 the authorized agent of such a housing authority that is authorized to act upon that authority's behalf. The
715 term shall also include the Virginia Housing Development Authority.

716 "Housing choice voucher" means tenant-based assistance by a housing authority pursuant to 42 U.S.C. §
717 1437f et seq.

718 "Participating landlord" means any person engaged in the business of the rental of dwelling units who is
719 (i) subject to the Virginia Residential Landlord and Tenant Act (§ 55.1-1200 et seq.) and (ii) performing
720 obligations under a contract with a housing authority relating to the rental of qualified housing units.

721 "Qualified housing unit" means a dwelling unit that is located in either an eligible census tract or, for
722 purposes of subdivision B 2, an eligible non-metropolitan census tract for which a portion of the rent is paid
723 by a housing authority, which payment is pursuant to a housing choice voucher program.

724 B. 1. For taxable years beginning on or after January 1, 2010, but before January 1, ~~2026~~ 2027, a
725 participating landlord renting a qualified housing unit in an eligible census tract shall be eligible for a credit
726 against the tax levied pursuant to § 58.1-320 or 58.1-400 in an amount equal to 10 percent of the fair market

727 value of the rent for the unit, computed for that portion of the taxable year in which the unit was rented by
728 such landlord to a tenant participating in a housing choice voucher program. The Department of Housing and
729 Community Development shall administer and issue the tax credit under this section. If (i) the same parcel of
730 real property contains four or more dwelling units and (ii) the total number of qualified housing units on the
731 parcel in the relevant taxable year exceeds 25 percent of the total dwelling units on the parcel, then the tax
732 credit under this section shall apply only to a limited number of qualified housing units with regard to such
733 parcel of real property, with the limited number being equal to 25 percent of the total dwelling units on such
734 parcel of real property in the taxable year.

735 2. For taxable years beginning on or after January 1, 2024, but before January 1, ~~2026~~ 2027, a
736 participating landlord renting a qualified housing unit in an eligible non-metropolitan census tract shall be
737 eligible for a credit against the tax levied pursuant to § 58.1-320 or 58.1-400 in an amount equal to 10 percent
738 of the fair market value of the rent for the unit, computed for that portion of the taxable year in which the unit
739 was rented by such landlord to a tenant participating in a housing choice voucher program. The Department
740 of Housing and Community Development shall administer and issue the tax credit under this section. If (i) the
741 same parcel of real property contains four or more dwelling units and (ii) the total number of qualified
742 housing units on the parcel in the relevant taxable year exceeds 25 percent of the total dwelling units on the
743 parcel, then the tax credit under this section shall apply only to a limited number of qualified housing units
744 with regard to such parcel of real property, with the limited number being equal to 25 percent of the total
745 dwelling units on such parcel of real property in the taxable year.

746 C. The Department of Housing and Community Development shall issue tax credits under this section on
747 a fiscal year basis. For fiscal years beginning before July 1, 2024, the maximum amount of tax credits that
748 may be issued under this section in each fiscal year shall be \$250,000. For fiscal years beginning on and after
749 July 1, 2024, (i) the maximum amount of tax credits that may be issued under subdivision B 1 in each fiscal
750 year shall be \$400,000 and (ii) the maximum amount of tax credits that may be issued under subdivision B 2
751 in each fiscal year shall be \$100,000.

752 D. Participating landlords shall apply to the Department of Housing and Community Development for tax
753 credits under this section. The Department of Housing and Community Development shall determine the
754 credit amount allowable to the participating landlord for the taxable year and shall also determine the fair
755 market value of the rent for the qualified housing unit based on the fair market rent approved by the United

756 States Department of Housing and Urban Development as the basis for the tenant-based assistance provided
757 through the housing choice voucher program for the qualified housing unit. In issuing tax credits under this
758 section, the Department of Housing and Community Development shall provide a written certification to the
759 participating landlord, which certification shall report the amount of the tax credit approved by the
760 Department. The participating landlord shall attach the certification to the applicable income tax return.

761 E. The Board of Housing and Community Development shall establish and issue guidelines for purposes
762 of implementing the provisions of this section. The guidelines shall provide for the allocation of tax credits
763 among participating landlords requesting credits. The guidelines shall be exempt from the Administrative
764 Process Act (§ 2.2-4000 et seq.).

765 F. In no case shall the amount of credit taken by a participating landlord for any taxable year exceed the
766 total amount of tax imposed by this chapter for the taxable year. If the amount of credit issued by the
767 Department of Housing and Community Development for a taxable year exceeds the landlord's tax liability
768 imposed by this chapter for such taxable year, then the amount that exceeds the tax liability may be carried
769 over for credit against the income taxes of the participating landlord in the next five taxable years or until the
770 total amount of the tax credit issued has been taken, whichever is sooner. Credits granted to a partnership,
771 limited liability company, or electing small business corporation (S corporation) shall be allocated to the
772 individual partners, members, or shareholders, respectively, in proportion to their ownership or interest in
773 such business entities.

774 G. 1. For fiscal years beginning before July 1, 2024, in the event that the amount of the qualified requests
775 for tax credits for participating landlords in the fiscal year exceeds \$250,000, the Department of Housing and
776 Community Development shall prorate the tax credits among the qualified applicants.

777 2. For fiscal years beginning on and after July 1, 2024, in the event that the amount of the qualified
778 requests for tax credits for participating landlords in the fiscal year exceeds \$500,000, the Department of
779 Housing and Community Development shall prorate the tax credits among the qualified applicants.

780 **§ 58.1-439.12:05. Green and alternative energy job creation tax credit.**

781 A. For taxable years beginning on or after January 1, 2010, but before January 1, ~~2025~~ 2027, a taxpayer
782 shall be allowed a credit against the tax levied pursuant to § 58.1-320 or 58.1-400 for each new green job
783 created within the Commonwealth by the taxpayer. The amount of the annual credit for each new green job
784 shall be \$500 for each annual salary that is \$50,000 or more. The credit shall be first allowed for the taxable

785 year in which the job has been filled for at least one year and for each of the four succeeding taxable years
786 provided the job is continuously filled during the respective taxable year. Each taxpayer qualifying under this
787 section shall be allowed the credit for up to 350 green jobs.

788 B. As used in this section:

789 "Green job" means employment in industries relating to the field of renewable, alternative energies,
790 including the manufacture and operation of products used to generate electricity and other forms of energy
791 from alternative sources that include hydrogen and fuel cell technology, landfill gas, methane extracted in
792 Planning District 2, geothermal heating systems, solar heating systems, hydropower systems, wind systems,
793 and biomass and biofuel systems. The Secretary of Commerce and Trade shall develop a detailed definition
794 and list of jobs that qualify for the credit provided in this section and shall post them on his website.

795 "Job" means employment of an indefinite duration of an individual whose primary work activity is related
796 directly to the field of renewable, alternative energies and for which the standard fringe benefits are paid by
797 the taxpayer, requiring a minimum of either (i) 35 hours of an employee's time per week for the entire normal
798 year of such taxpayer's operations, which "normal year" must consist of at least 48 weeks, or (ii) 1,680 hours
799 per year. Positions created when a job function is shifted from an existing location in the Commonwealth
800 shall not qualify as a job under this section.

801 C. To qualify for the tax credit provided in subsection A, a taxpayer shall demonstrate that the green job
802 was created by the taxpayer, and that such job was continuously filled in the Commonwealth during the
803 respective taxable year.

804 D. The amount of the credit that may be claimed in any single taxable year shall not exceed the taxpayer's
805 liability for taxes imposed by this chapter for that taxable year. If the amount of credit allowed under this
806 section exceeds the taxpayer's tax liability for the taxable year in which the green job was continuously filled,
807 the amount that exceeds the tax liability may be carried over for credit against the income taxes of the
808 taxpayer in the next five taxable years or until the total amount of the tax credit has been taken, whichever is
809 sooner.

810 E. Credits granted to a partnership, limited liability company, or electing small business corporation (S
811 corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in
812 proportion to their ownership or interest in such business entities.

813 F. If the taxpayer is eligible for the tax credits under this section and creates green jobs in an enterprise

814 zone, as defined in § 59.1-539, such taxpayer may also qualify for the benefits under the Enterprise Zone
815 Grant Program (§ 59.1-538 et seq.).

816 G. A taxpayer shall not be allowed a tax credit pursuant to this section for any green job for which the
817 taxpayer is allowed (i) a major business facility job tax credit pursuant to § 58.1-439 or (ii) a federal tax
818 credit for investments in manufacturing facilities for clean energy technologies that would foster investment
819 and job creation in clean energy manufacturing.

820 **§ 58.1-439.12:08. Research and development expenses tax credit.**

821 A. As used in this section, unless the context requires a different meaning:

822 "Virginia base amount" means the base amount as defined in § 41(c) of the Internal Revenue Code, as
823 amended, that is attributable to Virginia, determined by (i) substituting "Virginia qualified research and
824 development expense" for "qualified research expense"; (ii) substituting "Virginia qualified research" for
825 "qualified research"; and (iii) instead of "fixed base percentage," using:

826 1. The percentage that the Virginia qualified research and development expense for the three taxable years
827 immediately preceding the current taxable year in which the expense is incurred is of the taxpayer's total
828 gross receipts for such years; or

829 2. The percentage that the Virginia qualified research and development expense for the applicable number
830 of taxable years immediately preceding the current taxable year in which the expense is incurred is of the
831 taxpayer's total gross receipts for such years, for the taxpayer that has fewer than three but at least one prior
832 taxable year.

833 "Virginia gross receipts" means the same as "gross receipts" as defined in § 58.1-3700.1.

834 "Virginia qualified research" means qualified research, as defined in § 41(d) of the Internal Revenue
835 Code, as amended, that is conducted in the Commonwealth.

836 "Virginia qualified research and development expenses" means qualified research expenses, as defined in
837 § 41(b) of the Internal Revenue Code, as amended, incurred for Virginia qualified research.

838 B. 1. For taxable years beginning on or after January 1, 2011, but before January 1, 2021, a taxpayer shall
839 be allowed a credit against the tax levied pursuant to § 58.1-320 or 58.1-400 in an amount equal to (i) 15
840 percent of the first \$300,000 in Virginia qualified research and development expenses paid or incurred by the
841 taxpayer during the taxable year or (ii) 20 percent of the first \$300,000 in Virginia qualified research and
842 development expenses paid or incurred by the taxpayer during the taxable year if the Virginia qualified

843 research was conducted in conjunction with a public or private institution of higher education in the
844 Commonwealth, to the extent the expenses exceed the Virginia base amount for the taxpayer.

845 2. For taxable years beginning on or after January 1, 2021, but before January 1, ~~2025~~ 2027, a taxpayer
846 shall be allowed a credit against the tax levied pursuant to § 58.1-320, 58.1-400, or 58.1-1202 in an amount
847 equal to (i) 15 percent of the first \$300,000 in Virginia qualified research and development expenses paid or
848 incurred by the taxpayer during the taxable year or (ii) 20 percent of the first \$300,000 in Virginia qualified
849 research and development expenses paid or incurred by the taxpayer during the taxable year if the Virginia
850 qualified research was conducted in conjunction with a public or private institution of higher education in the
851 Commonwealth, to the extent the expenses exceed the Virginia base amount for the taxpayer.

852 C. 1. Effective for taxable years beginning on or after January 1, 2016, at the election of the taxpayer, the
853 credit otherwise allowed under this section shall be computed under this subsection and shall equal 10
854 percent of the difference of (i) the Virginia qualified research and development expenses paid or incurred by
855 the taxpayer during the taxable year and (ii) 50 percent of the average Virginia qualified research and
856 development expenses paid or incurred by the taxpayer for the three taxable years immediately preceding the
857 taxable year for which the credit is being determined. If the taxpayer did not pay or incur Virginia qualified
858 research and development expenses in any one of the three taxable years immediately preceding the taxable
859 year for which the credit is being determined, the tax credit shall equal five percent of the Virginia qualified
860 research and development expenses paid or incurred by the taxpayer during the relevant taxable year.

861 2. The aggregate amount of credits allowed to each taxpayer under this subsection shall not exceed
862 \$45,000 for the taxable year, except that the aggregate amount of credits allowed to each taxpayer shall not
863 exceed \$60,000 for the taxable year if the Virginia qualified research was conducted in conjunction with a
864 public institution of higher education in the Commonwealth or a private institution of higher education in the
865 Commonwealth.

866 D. The aggregate amount of credits available under this section for each fiscal year of the Commonwealth
867 shall be as follows:

868 1. For taxable years beginning on and after January 1, 2014, but before January 1, 2016, the total amount
869 of credits granted for each of fiscal years 2015 and 2016 shall not exceed \$6 million.

870 2. For taxable years beginning on and after January 1, 2016, but before January 1, 2021, the total amount
871 of credits granted for each fiscal year of the Commonwealth beginning with fiscal year 2017 shall not exceed

872 \$7 million.

873 3. For taxable years beginning on and after January 1, 2021, but before January 1, 2023, the total amount
874 of credits granted for each fiscal year of the Commonwealth beginning with fiscal year 2022 shall not exceed
875 \$7.77 million.

876 4. For taxable years beginning on and after January 1, 2023, the total amount of credits granted for each
877 fiscal year of the Commonwealth beginning with fiscal year 2024 shall not exceed \$15.77 million.

878 E. A taxpayer meeting the requirements of this section shall be eligible to receive a tax credit as provided
879 herein. The Department shall develop and publish guidelines for applications and such guidelines shall be
880 exempt from the Administrative Process Act (§ 2.2-4000 et seq.). Applications must be received by the
881 Department no later than September 1 of the calendar year following the close of the taxable year in which
882 the expenses were paid or incurred. In the event that approved applications for the tax credits allowed under
883 this section exceed the amount of credits specified in subsection D for the taxable year, the Department shall
884 apportion the credits by dividing the amount of credits specified in subsection D by the total amount of tax
885 credits approved, to determine the percentage of allowed tax credits each taxpayer shall receive. In the event
886 that the total amount of approved tax credits under this section for all applications for any taxable year is less
887 than the maximum amount of credits for the year as specified in subsection D, the Department shall allocate
888 credits up to the maximum amount as specified in subsection D, on a pro rata basis, to taxpayers who are
889 already approved for the tax credit for the taxable year, in the following amounts:

890 1. If the taxpayer computed the credit pursuant to subsection B, in an amount equal to 15 percent of the
891 second \$300,000 in qualified research expenses during the taxable year or 20 percent of the second \$300,000
892 in qualified research expenses if the Virginia qualified research was conducted in conjunction with a public
893 institution of higher education in the Commonwealth or a private institution of higher education in the
894 Commonwealth; or

895 2. If the taxpayer computed the credit under subdivision C 1, in an amount equal to the excess of the
896 limitation set forth in subdivision C 2, up to an additional \$45,000 per taxpayer, or \$60,000 per taxpayer if
897 the Virginia qualified research was conducted in conjunction with a public institution of higher education in
898 the Commonwealth or a private institution of higher education in the Commonwealth.

899 F. If the amount of the credit allowed exceeds the taxpayer's tax liability for the taxable year, the amount
900 that exceeds the tax liability shall be refunded to the taxpayer, subject to the limitations set forth in the

901 guidelines developed by the Department.

902 G. Any taxpayer who claims the tax credit for Virginia qualified research and development expenses
903 pursuant to this section shall not use such expenses as the basis for claiming any other credit provided under
904 the Code of Virginia.

905 H. Effective for taxable years beginning on or after January 1, 2016, no taxpayer with Virginia qualified
906 research and development expenses in excess of \$5 million for the taxable year shall claim both the credit
907 allowed pursuant to this section and the credit allowed under § 58.1-439.12:11 for such year.

908 I. Credits granted to a partnership, limited liability company, or electing small business corporation (S
909 corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in
910 proportion to their ownership interests in such entities or in accordance with a written agreement entered into
911 by such individual partners, members, or shareholders, unless the partnership, limited liability company, or
912 electing small business corporation (S corporation) elects for such credits not to be so allocated but to be
913 received and claimed at the entity level by the partnership, limited liability company, or electing small
914 business corporation (S corporation) pursuant to guidelines that shall be issued by the Department for
915 purposes of such election.

916 J. The Department shall adopt guidelines to prescribe standards for determining when research and
917 development is considered conducted in the Commonwealth for purposes of allowing the credit under this
918 section. In adopting guidelines, the Department may consider (i) the location where the research and
919 development is performed; (ii) the residence or business location of the taxpayer or taxpayers conducting the
920 research and development; (iii) the location where supplies used in the research and development are
921 consumed; and (iv) any other factors that the Department deems to be relevant.

922 K. The Tax Commissioner's annual report to the Governor on revenue collections by tax source shall
923 include (i) the total number of applicants approved for tax credits pursuant to this section for the applicable
924 tax year and (ii) the total amount of such tax credits approved for the applicable tax year.

925 L. The Department shall require taxpayers applying for the credit to provide information including (i) the
926 number of full-time employees employed by the taxpayer in the Commonwealth during the taxable year for
927 which the credit is sought; (ii) the taxpayer's sector or sectors according to the 2012 edition of the North
928 American Industry Classification System (NAICS) as published by the United States Census Bureau; (iii) a
929 brief description of the area, discipline, or field of Virginia qualified research performed by the taxpayer; (iv)

930 the total gross receipts or anticipated total gross receipts of the taxpayer for the taxable year for which the
931 credit is sought; and (v) whether the Virginia qualified research was conducted in conjunction with a Virginia
932 public or private college or university. The Department shall aggregate and summarize the information
933 collected and make it available to the Governor and any member of the General Assembly upon request,
934 regardless of the number of taxpayers applying for the credit.

935 M. No tax credit shall be allowed pursuant to this section if the otherwise qualified research and
936 development expenses are paid for or incurred by a taxpayer for research conducted in the Commonwealth on
937 human cells or tissue derived from induced abortions or from stem cells obtained from human embryos. The
938 foregoing provision shall not apply to research conducted using stem cells other than embryonic stem cells.

939 **§ 58.1-439.12:11. Major research and development expenses tax credit.**

940 A. As used in this section, unless the context requires a different meaning:

941 "Virginia qualified research" means qualified research, as defined in § 41(d) of the Internal Revenue
942 Code, as amended, that is conducted in the Commonwealth.

943 "Virginia qualified research and development expenses" means qualified research expenses, as defined in
944 § 41(b) of the Internal Revenue Code, as amended, incurred for Virginia qualified research.

945 B. 1. For taxable years beginning on or after January 1, 2016, but before January 1, 2021, a taxpayer with
946 Virginia qualified research and development expenses for the taxable year in excess of \$5 million shall be
947 allowed a credit against the tax levied pursuant to § 58.1-320 or 58.1-400 in an amount equal to 10 percent of
948 the difference between (i) the Virginia qualified research and development expenses paid or incurred by the
949 taxpayer during the taxable year and (ii) 50 percent of the average Virginia qualified research and
950 development expenses paid or incurred by the taxpayer for the three taxable years immediately preceding the
951 taxable year for which the credit is being determined. If the taxpayer did not pay or incur Virginia qualified
952 research and development expenses in any one of the three taxable years immediately preceding the taxable
953 year for which the credit is being determined, the tax credit shall equal five percent of the Virginia qualified
954 research and development expenses paid or incurred by the taxpayer during the relevant taxable year.

955 2. For taxable years beginning on or after January 1, 2021, but before January 1, 2023, a taxpayer with
956 Virginia qualified research and development expenses for the taxable year in excess of \$5 million shall be
957 allowed a credit against the tax levied pursuant to § 58.1-320, 58.1-400, or 58.1-1202 in an amount equal to
958 10 percent of the difference between (i) the Virginia qualified research and development expenses paid or

959 incurred by the taxpayer during the taxable year and (ii) 50 percent of the average Virginia qualified research
960 and development expenses paid or incurred by the taxpayer for the three taxable years immediately preceding
961 the taxable year for which the credit is being determined. If the taxpayer did not pay or incur Virginia
962 qualified research and development expenses in any one of the three taxable years immediately preceding the
963 taxable year for which the credit is being determined, the tax credit shall equal five percent of the Virginia
964 qualified research and development expenses paid or incurred by the taxpayer during the relevant taxable
965 year.

966 3. For taxable years beginning on or after January 1, 2023, but before January 1, ~~2025~~ 2027, a taxpayer
967 with Virginia qualified research and development expenses for the taxable year in excess of \$5 million shall
968 be allowed a credit against the tax levied pursuant to § 58.1-320, 58.1-400, or 58.1-1202 in an amount equal
969 to:

970 a. Ten percent, up to the first \$1 million, of the difference between (i) Virginia qualified research and
971 development expenses paid or incurred by the taxpayer during the taxable year and (ii) 50 percent of the
972 average Virginia qualified research and development expenses paid or incurred by the taxpayer for the three
973 taxable years immediately preceding the taxable year for which the credit is being determined.

974 b. Five percent of the difference in excess of \$1 million between (i) any Virginia qualified research and
975 development expenses paid or incurred by the taxpayer during the taxable year and (ii) 50 percent of the
976 average Virginia qualified research and development expenses paid or incurred by the taxpayer for the three
977 taxable years immediately preceding the taxable year for which the credit is being determined.

978 If the taxpayer did not pay or incur Virginia qualified research and development expenses in any one of
979 the three taxable years immediately preceding the taxable year for which the credit is being determined, the
980 tax credit shall equal five percent of the Virginia qualified research and development expenses paid or
981 incurred by the taxpayer during the relevant taxable year.

982 The aggregate amount of credits allowed to each taxpayer under this subdivision 3 shall not exceed
983 \$300,000 for the taxable year, except that the aggregate amount of credits allowed to each taxpayer shall not
984 exceed \$400,000 for the taxable year if the Virginia qualified research was conducted in conjunction with a
985 public institution of higher education in the Commonwealth or a private institution of higher education in the
986 Commonwealth.

987 C. 1. For taxable years beginning before January 1, 2021, the aggregate amount of credits granted for each

988 fiscal year of the Commonwealth pursuant to this section shall not exceed \$20 million.

989 2. For taxable years beginning on and after January 1, 2021, but before January 1, 2023, the aggregate
990 amount of credits granted for each fiscal year of the Commonwealth pursuant to this section shall not exceed
991 \$24 million.

992 3. For taxable years beginning on or after January 1, 2023, the aggregate amount of credits granted for
993 each fiscal year of the Commonwealth pursuant to this section shall not exceed \$16 million.

994 D. In the event that approved applications for the tax credits allowed under this section exceed the limit
995 described in subsection C for any taxable year, the Department shall apportion the credits by dividing such
996 limit by the total amount of tax credits approved, to determine the percentage of allowed tax credits each
997 taxpayer shall receive.

998 E. The amount of the credit claimed for the taxable year shall not exceed 75 percent of the total amount of
999 tax imposed by this chapter upon the taxpayer for the taxable year. Any credit not usable for the taxable year
1000 for which the credit was first allowed may be carried over for credit against the income taxes of the taxpayer
1001 in the next 10 succeeding taxable years or until the total amount of the tax credit has been taken, whichever is
1002 sooner.

1003 F. Any taxpayer who claims the tax credit for Virginia qualified research and development expenses
1004 pursuant to this section shall not use such expenses as the basis for claiming any other credit provided under
1005 the Code of Virginia.

1006 G. Credits granted to a partnership, limited liability company, or electing small business corporation (S
1007 corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in
1008 proportion to their ownership interests in such entities or in accordance with a written agreement entered into
1009 by such individual partners, members, or shareholders.

1010 H. The Department shall develop and publish guidelines under this section including guidelines for
1011 applying for the tax credit. Such guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000
1012 et seq.). Applications for the tax credit must be received by the Department no later than September 1 of the
1013 calendar year following the close of the taxable year in which the expenses were paid or incurred.

1014 The Department shall also adopt guidelines to prescribe standards for determining when research and
1015 development is considered conducted in the Commonwealth for purposes of allowing the credit under this
1016 section. In adopting guidelines, the Department may consider (i) the location where the research and

1017 development is performed; (ii) the residence or business location of the taxpayer or taxpayers conducting the
1018 research and development; (iii) the location where supplies used in the research and development are
1019 consumed; and (iv) any other factors that the Department deems to be relevant.

1020 I. No tax credit shall be allowed pursuant to this section, if the otherwise qualified research and
1021 development expenses are paid for or incurred by a taxpayer for research conducted in the Commonwealth on
1022 human cells or tissue derived from induced abortions or from stem cells obtained from human embryos. The
1023 foregoing provision shall not apply to research conducted using stem cells other than embryonic stem cells.

1024 **§ 58.1-609.1. Governmental and commodities exemptions.**

1025 The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not
1026 apply to the following:

1027 1. Fuels which are subject to the tax imposed by Chapter 22 (§ 58.1-2200 et seq.). Persons who are
1028 refunded any such fuel tax shall, however, be subject to the tax imposed by this chapter, unless such taxes
1029 would be specifically exempted pursuant to any provision of this section.

1030 2. Motor vehicles, trailers, semitrailers, mobile homes and travel trailers.

1031 3. Gas, electricity, or water when delivered to consumers through mains, lines, or pipes.

1032 4. Tangible personal property for use or consumption by the Commonwealth, any political subdivision of
1033 the Commonwealth, or the United States. This exclusion shall not apply to sales and leases to privately
1034 owned financial and other privately owned corporations chartered by the United States. Further, this
1035 exemption shall not apply to tangible personal property which is acquired by the Commonwealth or any of its
1036 political subdivisions and then transferred to private businesses for their use in a facility or real property
1037 improvement to be used by a private entity or for nongovernmental purposes other than tangible personal
1038 property acquired by the Herbert H. Bateman Advanced Shipbuilding and Carrier Integration Center and
1039 transferred to a Qualified Shipbuilder as defined in the third enactment of Chapter 790 of the 1998 Acts of the
1040 General Assembly.

1041 5. Aircraft subject to tax under Chapter 15 (§ 58.1-1500 et seq.).

1042 6. a. Motor fuels and alternative fuels for use in a commercial watercraft, as defined in § 58.1-2201, upon
1043 which a fuel tax is refunded pursuant to § 58.1-2259.

1044 b. Fuels transactions upon which a fuel tax is refunded pursuant to subdivision A 22 of § 58.1-2259.

1045 7. Sales by a government agency of the official flags of the United States, the Commonwealth of Virginia,

1046 or of any county, city or town.

1047 8. Materials furnished by the State Board of Elections pursuant to §§ 24.2-404 through 24.2-407.

1048 9. Watercraft as defined in § 58.1-1401.

1049 10. Tangible personal property used in and about a marine terminal under the supervision of the Virginia
1050 Port Authority for handling cargo, merchandise, freight and equipment. This exemption shall apply to agents,
1051 lessees, sublessees or users of tangible personal property owned by or leased to the Virginia Port Authority
1052 and to property acquired or used by the Authority or by a nonstock, nonprofit corporation that operates a
1053 marine terminal or terminals on behalf of the Authority.

1054 11. Sales by prisoners confined in state correctional facilities of artistic products personally made by the
1055 prisoners as authorized by § 53.1-46.

1056 12. Tangible personal property for use or consumption by the Virginia Department for the Blind and
1057 Vision Impaired or any nominee, as defined in § 51.5-60, of such Department.

1058 13. [Expired.]

1059 14. Tangible personal property sold to residents and patients of the Virginia Veterans Care Center at a
1060 canteen operated by the Department of Veterans Services.

1061 15. Tangible personal property for use or consumption by any nonprofit organization whose members
1062 include the Commonwealth and other states and which is organized for the purpose of fostering interstate
1063 cooperation and excellence in government.

1064 16. Tangible personal property purchased for use or consumption by any soil and conservation district
1065 which is organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title
1066 10.1.

1067 17. Tangible personal property sold or leased to Alexandria Transit Company, Greater Lynchburg Transit
1068 Company, GRTC Transit System, or Greater Roanoke Transit Company, or to any other transit company that
1069 is owned, operated, or controlled by any county, city, or town, or any combination thereof, that provides
1070 public transportation services, and/or tangible personal property sold or leased to any county, city, or town, or
1071 any combination thereof, that is transferred to any of the companies set forth in this subdivision owned,
1072 operated, or controlled by any county, city, or town, or any combination thereof, that provides public
1073 transportation services.

1074 18. [Expired.]

1075 19. Effective through ~~June 30, 2025~~ *January 1, 2027*, gold, silver, or platinum bullion or legal tender
1076 coins. "Gold, silver, or platinum bullion" means gold, silver, or platinum, and any combination thereof, that
1077 has gone through a refining process and is in a state or condition such that its value depends on its mass and
1078 purity and not on its form, numismatic value, or other value. Gold, silver, or platinum bullion may contain
1079 other metals or substances, provided that the other substances by themselves have minimal value compared
1080 with the value of the gold, silver, or platinum. "Legal tender coins" means coins of any metal content issued
1081 by a government as a medium of exchange or payment of debts. "Gold, silver, or platinum bullion" and "legal
1082 tender coins" do not include jewelry or works of art.

1083 20. Tangible personal property sold by a sheriff at a correctional facility pursuant to § 53.1-127.1 and
1084 sales of prepared food within such correctional facility.

1085 **§ 58.1-609.6. Media-related exemptions.**

1086 The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not
1087 apply to the following:

1088 1. Leasing, renting or licensing of copyright audio or video tapes, and films for public exhibition at
1089 motion picture theaters or by licensed radio and television stations.

1090 2. (i) Broadcasting equipment and parts and accessories thereto and towers used or to be used by
1091 commercial radio and television companies, wired or land-based wireless cable television systems, common
1092 carriers or video programmers using an open video system or other video platform provided by telephone
1093 common carriers, or concerns that are under the regulation and supervision of the Federal Communications
1094 Commission and (ii) amplification, transmission, distribution, and network equipment used or to be used by
1095 wired or land-based wireless (a) cable television systems, (b) open video systems, or (c) telephone common
1096 carriers.

1097 3. Any publication issued daily, or regularly at average intervals not exceeding three months, and
1098 advertising supplements and any other printed matter ultimately distributed with or as part of such
1099 publications; however, newsstand sales of the same are taxable. As used in this subdivision, the term
1100 "newsstand sales" shall not include sales of back copies of publications by the publisher or his agent.

1101 4. Catalogs, letters, brochures, reports, and similar printed materials, except administrative supplies, the
1102 envelopes, containers, and labels used for packaging and mailing same, and paper furnished to a printer for
1103 fabrication into such printed materials, when stored for 12 months or less in the Commonwealth and

1104 distributed for use without the Commonwealth. As used in this subdivision, "administrative supplies"
1105 includes, but is not limited to, letterhead, envelopes, and other stationery; and invoices, billing forms, payroll
1106 forms, price lists, time cards, computer cards, and similar supplies. Notwithstanding the provisions of
1107 subdivision 5 or the definition of "advertising" contained in § 58.1-602, (i) any advertising business located
1108 outside the Commonwealth which purchases printing from a printer within the Commonwealth shall not be
1109 deemed the user or consumer of the printed materials when such purchases would have been exempt under
1110 this subdivision, and (ii) from July 1, 1995, through June 30, 2002, and beginning July 1, 2002, and ending
1111 ~~July 1, 2025~~ *January 1, 2027*, any advertising business which purchases printing from a printer within the
1112 Commonwealth shall not be deemed the user or consumer of the printed materials when such purchases
1113 would have been exempt under subdivision 3 or this subdivision, provided that the advertising agency shall
1114 certify to the Tax Commissioner, upon request, that such printed material was distributed outside the
1115 Commonwealth and such certification shall be retained as a part of the transaction record and shall be subject
1116 to further review by the Tax Commissioner.

1117 5. Advertising as defined in § 58.1-602.

1118 6. Beginning July 1, 1995, and ending July 1, 2027:

1119 a. (i) The lease, rental, license, sale, other transfer, or use of any audio or video tape, film or other
1120 audiovisual work where the transferee or user acquires or has acquired the work for the purpose of licensing,
1121 distributing, broadcasting, commercially exhibiting or reproducing the work or using or incorporating the
1122 work into another such work; (ii) the provision of production services or fabrication in connection with the
1123 production of any portion of such audiovisual work, including, but not limited to, scriptwriting, photography,
1124 sound, musical composition, special effects, animation, adaptation, dubbing, mixing, editing, cutting and
1125 provision of production facilities or equipment; or (iii) the transfer or use of tangible personal property,
1126 including, but not limited to, scripts, musical scores, storyboards, artwork, film, tapes and other media,
1127 incident to the performance of such services or fabrication; however, audiovisual works and incidental
1128 tangible personal property described in clauses (i) and (iii) shall be subject to tax as otherwise provided in
1129 this chapter to the extent of the value of their tangible components prior to their use in the production of any
1130 audiovisual work and prior to their enhancement by any production service; and

1131 b. Equipment and parts and accessories thereto used or to be used in the production of such audiovisual
1132 works.

1133 7. Beginning July 1, 1998, and ending July 1, 2022, textbooks and other educational materials withdrawn
1134 from inventory at book-publishing distribution facilities for free distribution to professors and other
1135 individuals who have an educational focus.

1136 **§ 58.1-609.10. Miscellaneous exemptions.**

1137 The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not
1138 apply to the following:

1139 1. Artificial or propane gas, firewood, coal or home heating oil used for domestic consumption. "Domestic
1140 consumption" means the use of artificial or propane gas, firewood, coal or home heating oil by an individual
1141 purchaser for other than business, commercial or industrial purposes. The Tax Commissioner shall establish
1142 by regulation a system for use by dealers in classifying individual purchases for domestic or nondomestic use
1143 based on the principal usage of such gas, wood, coal or oil. Any person making a nondomestic purchase and
1144 paying the tax pursuant to this chapter who uses any portion of such purchase for domestic use may, between
1145 the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply
1146 for a refund of the tax paid on the domestic use portion.

1147 2. An occasional sale, as defined in § 58.1-602. A nonprofit organization that is eligible to be granted an
1148 exemption on its purchases pursuant to § 58.1-609.11, and that is otherwise eligible for the exemption
1149 pursuant to this subdivision, shall be exempt pursuant to this subdivision on its sales of (i) food, prepared
1150 food and meals and (ii) tickets to events that include the provision of food, prepared food and meals, so long
1151 as such sales take place on fewer than 24 occasions in a calendar year.

1152 3. Tangible personal property for future use by a person for taxable lease or rental as an established
1153 business or part of an established business, or incidental or germane to such business, including a
1154 simultaneous purchase and taxable leaseback.

1155 4. Delivery of tangible personal property outside the Commonwealth for use or consumption outside of
1156 the Commonwealth. Delivery of goods destined for foreign export to a factor or export agent shall be deemed
1157 to be delivery of goods for use or consumption outside of the Commonwealth.

1158 5. Tangible personal property purchased with food coupons issued by the U.S. Department of Agriculture
1159 under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for
1160 Women, Infants, and Children.

1161 6. Tangible personal property purchased for use or consumption in the performance of maintenance and

1162 repair services at Nuclear Regulatory Commission-licensed nuclear power plants located outside the
1163 Commonwealth.

1164 7. Beginning July 1, 1997, and ending July 1, 2006, a professional's provision of original, revised, edited,
1165 reformatted or copied documents, including but not limited to documents stored on or transmitted by
1166 electronic media, to its client or to third parties in the course of the professional's rendition of services to its
1167 clientele.

1168 8. School lunches sold and served to pupils and employees of schools and subsidized by government;
1169 school textbooks sold by a local board or authorized agency thereof; and school textbooks sold for use by
1170 students attending a college or other institution of learning, when sold (i) by such institution of learning or (ii)
1171 by any other dealer, when such textbooks have been certified by a department or instructor of such institution
1172 of learning as required textbooks for students attending courses at such institution.

1173 9. Medicines, drugs, hypodermic syringes, artificial eyes, contact lenses, eyeglasses, eyeglass cases, and
1174 contact lens storage containers when distributed free of charge, all solutions or sterilization kits or other
1175 devices applicable to the wearing or maintenance of contact lenses or eyeglasses when distributed free of
1176 charge, and hearing aids dispensed by or sold on prescriptions or work orders of licensed physicians, dentists,
1177 optometrists, ophthalmologists, opticians, audiologists, hearing aid dealers and fitters, advanced practice
1178 registered nurses, physician assistants, and veterinarians; controlled drugs purchased for use by a licensed
1179 physician, optometrist, licensed advanced practice registered nurse, or licensed physician assistant in his
1180 professional practice, regardless of whether such practice is organized as a sole proprietorship, partnership, or
1181 professional corporation, or any other type of corporation in which the shareholders and operators are all
1182 licensed physicians, optometrists, licensed advanced practice registered nurses, or licensed physician
1183 assistants engaged in the practice of medicine, optometry, or nursing; medicines and drugs purchased for use
1184 or consumption by a licensed hospital, nursing home, clinic, or similar corporation not otherwise exempt
1185 under this section; and samples of prescription drugs and medicines and their packaging distributed free of
1186 charge to authorized recipients in accordance with the federal Food, Drug, and Cosmetic Act (21 U.S.C.A. §
1187 301 et seq., as amended).

1188 10. Wheelchairs and parts therefor, braces, crutches, prosthetic devices, orthopedic appliances, catheters,
1189 urinary accessories, other durable medical equipment and devices, and related parts and supplies specifically
1190 designed for those products; and insulin and insulin syringes, and equipment, devices or chemical reagents

1191 that may be used by a diabetic to test or monitor blood or urine, when such items or parts are purchased by or
1192 on behalf of an individual for use by such individual. Durable medical equipment is equipment that (i) can
1193 withstand repeated use, (ii) is primarily and customarily used to serve a medical purpose, (iii) generally is not
1194 useful to a person in the absence of illness or injury, and (iv) is appropriate for use in the home.

1195 11. Drugs and supplies used in hemodialysis and peritoneal dialysis.

1196 12. Special equipment installed on a motor vehicle when purchased by an individual with a disability to
1197 enable such individual to operate the motor vehicle.

1198 13. Special typewriters and computers and related parts and supplies specifically designed for those
1199 products used by individuals with disabilities to communicate when such equipment is prescribed by a
1200 licensed physician.

1201 14. a. (i) Any nonprescription drugs and proprietary medicines purchased for the cure, mitigation,
1202 treatment, or prevention of disease in human beings and (ii) any samples of nonprescription drugs and
1203 proprietary medicines distributed free of charge by the manufacturer, including packaging materials and
1204 constituent elements and ingredients.

1205 b. The terms "nonprescription drugs" and "proprietary medicines" shall be defined pursuant to regulations
1206 promulgated by the Department of Taxation. The exemption authorized in this subdivision shall not apply to
1207 cosmetics.

1208 15. Tangible personal property withdrawn from inventory and donated to (i) an organization exempt from
1209 taxation under § 501(c)(3) of the Internal Revenue Code or (ii) the Commonwealth, any political subdivision
1210 of the Commonwealth, or any school, agency, or instrumentality thereof.

1211 16. Tangible personal property purchased by nonprofit churches that are exempt from taxation under §
1212 501(c)(3) of the Internal Revenue Code, or whose real property is exempt from local taxation pursuant to the
1213 provisions of § 58.1-3606, for use (i) in religious worship services by a congregation or church membership
1214 while meeting together in a single location and (ii) in the libraries, offices, meeting or counseling rooms or
1215 other rooms in the public church buildings used in carrying out the work of the church and its related
1216 ministries, including kindergarten, elementary and secondary schools. The exemption for such churches shall
1217 also include baptistries; bulletins, programs, newspapers and newsletters that do not contain paid advertising
1218 and are used in carrying out the work of the church; gifts including food for distribution outside the public
1219 church building; food, disposable serving items, cleaning supplies and teaching materials used in the

1220 operation of camps or conference centers by the church or an organization composed of churches that are
1221 exempt under this subdivision and which are used in carrying out the work of the church or churches; and
1222 property used in caring for or maintaining property owned by the church including, but not limited to,
1223 mowing equipment; and building materials installed by the church, and for which the church does not
1224 contract with a person or entity to have installed, in the public church buildings used in carrying out the work
1225 of the church and its related ministries, including, but not limited to worship services; administrative rooms;
1226 and kindergarten, elementary, and secondary schools.

1227 17. Medical products and supplies, which are otherwise taxable, such as bandages, gauze dressings,
1228 incontinence products and wound-care products, when purchased by a Medicaid recipient through a
1229 Department of Medical Assistance Services provider agreement.

1230 18. Beginning July 1, 2007, and ending July 1, 2012, multifuel heating stoves used for heating an
1231 individual purchaser's residence. "Multifuel heating stoves" are stoves that are capable of burning a wide
1232 variety of alternative fuels, including, but not limited to, shelled corn, wood pellets, cherry pits, and olive
1233 pits.

1234 19. Fabrication of animal meat, grains, vegetables, or other foodstuffs when the purchaser (i) supplies the
1235 foodstuffs and they are consumed by the purchaser or his family, (ii) is an organization exempt from taxation
1236 under § 501(c)(3) or (c)(4) of the Internal Revenue Code, or (iii) donates the foodstuffs to an organization
1237 exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code.

1238 20. Beginning July 1, 2018, and ending ~~July 1, 2025~~ *January 1, 2027*, parts, engines, and supplies used for
1239 maintaining, repairing, or reconditioning aircraft or any aircraft's avionics system, engine, or component
1240 parts. This exemption shall not apply to tools and other equipment not attached to or that does not become a
1241 part of the aircraft. For purposes of this subdivision, "aircraft" shall include both manned and unmanned
1242 systems. However, for manned systems, "aircraft" shall include only aircraft with a maximum takeoff weight
1243 of at least 2,400 pounds.

1244 21. A gun safe with a selling price of \$1,500 or less. For purposes of this subdivision, "gun safe" means a
1245 safe or vault that is (i) commercially available, (ii) secured with a digital or dial combination locking
1246 mechanism or biometric locking mechanism, and (iii) designed for the storage of a firearm or of ammunition
1247 for use in a firearm. "Gun safe" does not include a glass-faced cabinet. Any discount, coupon, or other credit
1248 offered by the retailer or a vendor of the retailer to reduce the final price to the customer shall be taken into

1249 account in determining the selling price for purposes of this exemption.

1250 22. Beginning July 1, 2022, and ending ~~July 1, 2025~~ *January 1, 2027*, prescription medicines and drugs

1251 purchased by veterinarians and administered or dispensed to patients within a veterinarian-client-patient

1252 relationship as defined in § 54.1-3303.