

26103780D

HOUSE BILL NO. 378

Offered January 14, 2026

Prefiled January 12, 2026

A BILL to amend the Code of Virginia by adding in Title 58.1 a chapter numbered 3.1, consisting of sections numbered 58.1-541 and 58.1-542, relating to net investment income tax.

Patron—Bennett-Parker

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:
1. That the Code of Virginia is amended by adding in Title 58.1 a chapter numbered 3.1, consisting of sections numbered 58.1-541 and 58.1-542, as follows:

CHAPTER 3.1.**NET INVESTMENT INCOME TAX.****§ 58.1-541. Definitions.**

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

"Federal modified adjusted gross income" means the same as that term is defined in § 1411(d) of the Internal Revenue Code (i) excluding interest on United States obligations that the Commonwealth is prohibited from taxing pursuant to federal law, (ii) including interest on obligations issued by other state and local governments outside of the Commonwealth, (iii) including net gain excluded under § 1202 of the Internal Revenue Code, and (iv) including net gain excluded under § 1400Z-2 of the Internal Revenue Code.

"Incomplete gift non-grantor trust" means a resident trust (i) that does not qualify as a grantor trust as that term is defined in § 64.2-779.16, and (ii) whose grantor's transfer of assets to such trust is treated as an incomplete gift under § 2511-2 of the Internal Revenue Code.

"Threshold amount" means \$500,000.

"Net investment income" means the same as such term is defined in § 1411(c) of the Internal Revenue Code (i) excluding interest on United States obligations that the Commonwealth is prohibited from taxing pursuant to federal law, (ii) including interest on obligations issued by other state and local governments outside of the Commonwealth, (iii) including net gain excluded under § 1202 of the Internal Revenue Code, (iv) including net gain excluded under § 1400Z-2 of the Internal Revenue Code, and (v) including, for a taxpayer who transferred property to an incomplete gift non-grantor trust, the net investment income of such trust, less any deductions, to the extent such net investment income and deductions would be taken into account in computing the taxpayer's federal taxable income if such trust in its entirety was treated as a grantor trust for federal tax purposes.

B. All references to the "Internal Revenue Code" shall mean the Internal Revenue Code of the United States as it existed and was in effect on January 1, 2026.

§ 58.1-542. Net investment income tax imposed.

A. Notwithstanding any other provision of law, for taxable years beginning on and after January 1, 2027, in addition to all other taxes imposed by law, there is hereby imposed a net investment income tax upon taxpayers subject to Article 2 (§ 58.1-320 et seq.) and Article 6 (§ 58.1-360 et seq.) equal to 3.8 percent of the lesser of (i) net investment income for the taxable year or (ii) federal modified adjusted gross income for such taxable year reduced by the threshold amount.

B. For an individual who is not a Virginia resident for the entire taxable year, the net investment income tax imposed under subsection A shall be calculated as if the individual were a Virginia resident for the entire taxable year with such amount multiplied by a fraction for which (i) the numerator is the amount of net investment income allocable to Virginia pursuant to Article 2 (§ 58.1-320 et seq.) and (ii) the denominator is the total amount of net investment income for the taxable year.

C. For an estate or trust, the net investment income tax imposed under subsection A shall be calculated by multiplying the net investment income tax liability by a fraction for which (i) the numerator is the amount of net investment income allocable to Virginia pursuant to Article 6 (§ 58.1-360 et seq.) and (ii) the denominator is the total amount of net investment income for the taxable year.