

# 2026 SESSION

INTRODUCED

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**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.*

7 Patron—Bennett-Parker

8 Committee Referral Pending

9 **Be it enacted by the General Assembly of Virginia:**

10 **1. That the Code of Virginia is amended by adding in Title 58.1 a chapter numbered 3.1, consisting of**

11 **sections numbered 58.1-541 and 58.1-542, as follows:**

12 **CHAPTER 3.1.**

13 **NET INVESTMENT INCOME TAX.**

14 **§ 58.1-541. Definitions.**

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

16 *"Federal modified adjusted gross income" means the same as that term is defined in § 1411(d) of the*

17 *Internal Revenue Code (i) excluding interest on United States obligations that the Commonwealth is*

18 *prohibited from taxing pursuant to federal law, (ii) including interest on obligations issued by other state and*

19 *local governments outside of the Commonwealth, (iii) including net gain excluded under § 1202 of the*

20 *Internal Revenue Code, and (iv) including net gain excluded under § 1400Z-2 of the Internal Revenue Code.*

21 *"Incomplete gift non-grantor trust" means a resident trust (i) that does not qualify as a grantor trust as*

22 *that term is defined in § 64.2-779.16, and (ii) whose grantor's transfer of assets to such trust is treated as an*

23 *incomplete gift under § 2511-2 of the Internal Revenue Code.*

24 *"Threshold amount" means \$500,000.*

25 *"Net investment income" means the same as such term is defined in § 1411(c) of the Internal Revenue*

26 *Code (i) excluding interest on United States obligations that the Commonwealth is prohibited from taxing*

27 *pursuant to federal law, (ii) including interest on obligations issued by other state and local governments*

28 *outside of the Commonwealth, (iii) including net gain excluded under § 1202 of the Internal Revenue Code,*

29 *(iv) including net gain excluded under § 1400Z-2 of the Internal Revenue Code, and (v) including, for a*

30 *taxpayer who transferred property to an incomplete gift non-grantor trust, the net investment income of such*

31 *trust, less any deductions, to the extent such net investment income and deductions would be taken into*

32 *account in computing the taxpayer's federal taxable income if such trust in its entirety was treated as a*

33 *grantor trust for federal tax purposes.*

34 *B. All references to the "Internal Revenue Code" shall mean the Internal Revenue Code of the United*

35 *States as it existed and was in effect on January 1, 2026.*

36 **§ 58.1-542. Net investment income tax imposed.**

37 *A. Notwithstanding any other provision of law, for taxable years beginning on and after January 1, 2027,*

38 *in addition to all other taxes imposed by law, there is hereby imposed a net investment income tax upon*

39 *taxpayers subject to Article 2 (§ 58.1-320 et seq.) and Article 6 (§ 58.1-360 et seq.) equal to 3.8 percent of*

40 *the lesser of (i) net investment income for the taxable year or (ii) federal modified adjusted gross income for*

41 *such taxable year reduced by the threshold amount.*

42 *B. For an individual who is not a Virginia resident for the entire taxable year, the net investment income*

43 *tax imposed under subsection A shall be calculated as if the individual were a Virginia resident for the entire*

44 *taxable year with such amount multiplied by a fraction for which (i) the numerator is the amount of net*

45 *investment income allocable to Virginia pursuant to Article 2 (§ 58.1-320 et seq.) and (ii) the denominator is*

46 *the total amount of net investment income for the taxable year.*

47 *C. For an estate or trust, the net investment income tax imposed under subsection A shall be calculated by*

48 *multiplying the net investment income tax liability by a fraction for which (i) the numerator is the amount of*

49 *net investment income allocable to Virginia pursuant to Article 6 (§ 58.1-360 et seq.) and (ii) the*

50 *denominator is the total amount of net investment income for the taxable year.*

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