WEST VIRGINIA CODE: §11-11-2

§11-11-2. Definitions.

(a) General. -- When used in this article, or in the administration of this article, terms defined in subsection (b) shall have the meanings ascribed to them by this section, unless a different meaning is clearly required by either the context in which the term is used, or by specific definition.

(b) Terms defined.

(1) Alien. -- The term "alien" means a decedent who, at the time of his or her death, was not domiciled in this state or any other state of the United States and was not a citizen of the United States.

(2) Decedent or transferor. -- The terms "decedent" or "transferor" are used herein interchangeably and mean a deceased natural person by or from whom a transfer is made; and include any testator, intestate grantor, bargainor, vendor, assignor, donor, joint tenant or insured.

(3) Delegate. -- The term "delegate" in the phrase "or his or her delegate," when used in reference to the Tax Commissioner, means any officer or employee of the State Tax Department duly authorized by the Tax Commissioner directly, or indirectly by one or more redelegations of authority, to perform the function or functions mentioned or described in the context.

(4) Estate or property. -- The terms "estate" or "property" mean the real or personal property or interest therein of a decedent or transferor and includes all the following:

(A) All intangible personal property of a resident decedent within or without this state or subject to the jurisdiction of this state.

(B) All intangible personal property in this state belonging to a deceased nonresident of the United States, including all stock of a corporation organized under the laws of this state, or which has its principal place of business or does the major part of its business in this state, or of a federal corporation or national bank which has its principal place of business or does the major part of its business in this state, excluding, however, savings accounts and savings and loan associations operating under the authority of the state banking commissioner or the federal home loan bank board, and bank deposits, unless those deposits are held and used in connection with a business conducted or operated, in whole or in part, in this state.

(5) Federal credit. -- The term "federal credit" means the maximum amount of the credit for state death taxes allowable by Section 2011, credit against federal estate tax (or Section 2102 in the case of an alien) and Section 2602, credit against the federal tax on generation-

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skipping transfers of the United States Internal Revenue Code of 1954, as amended or renumbered, or in successor provisions of the laws of the United States, in respect to a decedent's taxable estate. The term "maximum amount" shall be construed so as to take full advantage of such credit as the laws of the United States may allow: Provided, That in no event shall such amount be less than the federal credit allowable by Sections 2011, 2102 and 2602 of the Internal Revenue Code, as it existed on January 1, 1985: Provided, however, That for estates of decedents dying after December 31, 2001, such amount may in no event be less than the federal credit allowable by Sections 2011, 2102, and 2604 of the Internal Revenue Code, as amended by the estate, gift and generation - skipping transfer tax provisions of Public Law 107-16, the Economic Growth and Tax Relief Reconciliation Act of 2001.

(6) Gross estate. -- The term "gross estate" means the gross estate of the decedent as defined in Section 2031 (or Section 2103 in the case of an alien) of the United States Internal Revenue Code of 1954, as amended or renumbered, or in successor provisions of the laws of the United States.

(7) Includes and including. -- The words "includes" and "including" when used in a definition contained in this article shall not be deemed to exclude other things otherwise within the meaning of the term being defined.

(8) Intangible personal property. -- The term "intangible personal property" means incorporeal personal property including deposits in banks, negotiable instruments, mortgages, debts, receivables, shares of stock, bonds, notes, credits, evidences of an interest in personal property, evidences of debt and chooses in action generally.

(9) Internal revenue code. -- The term "Internal Revenue Code" means the United States Internal Revenue Code of 1954, as amended and in effect on January 1, 1985, including all changes to such code enacted subsequent to such date, that are similar to or a replacement of the section cited or referred to.

(10) Net estate. -- The term "net estate" means the net estate of the decedent as defined in Section 2051 of the United States Internal Revenue Code of 1954, as amended or renumbered, or in successor provisions of the laws of the United States.

(11) Nonresident. -- The term "nonresident" means a decedent who was a citizen of the United States, but was domiciled outside the State of West Virginia at the time of his or her death.

(12) Notice. -- The term "notice" means a written notice sent to the last known address of the addressee and shall be effective upon mailing.

(13) Other state. -- The term "other state" means any state of the fifty states in the United States (other than this state) and includes the District of Columbia and any possession or territory of the United States.

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(14) Person. -- The term "person" includes natural person, corporation, society, association, partnership, joint venture, syndicate, estate, trust or other entity under which business or other activities may be conducted.

(15) Person required to file. -- The phrase "person required to file" means any person, including a personal representative, qualified heir, distributee or trustee required or permitted to file a federal estate tax return, or a West Virginia estate tax return, pursuant to the provisions of the Internal Revenue Code or this article.

(16) Personal representative. -- The terms "personal representative" and "fiduciary" are used interchangeably and mean:

(A) The personal representative of the estate of the decedent, appointed, qualified and acting within this state; or

(B) If there is no personal representative appointed, qualified and acting within this state, then any person in actual or constructive possession of the West Virginia gross estate of the decedent. The term "personal representative" includes the executor of a will, the administrator of the estate of a deceased person, the administrator of such estate with the will annexed, the administrator de bonis non of such estate, whether there be a will or not, the sheriff or other officer lawfully charged with the administration of the estate of a deceased person, and every other curator or committee of a decedent's estate for or against whom suits may be brought for causes of action which accrued to or against such decedent.

(17) Real property situated in this state. -- The phrase "real property situated in this state" means any and all interests in real property located in this state, including leasehold interests, royalty interests, production payments and working interests in coal, oil, gas and other natural resources.

(18) Resident. -- The term "resident" means a decedent who was domiciled in the State of West Virginia at the time of his or her death.

(19) State. -- The term "state" means any state, territory or possession of the United States and the District of Columbia.

(20) Tangible personal property. -- The term "tangible personal property" means corporeal personal property including money.

(21) Tax. -- The term "tax" means the tax imposed by this article, and includes any additions to tax, penalties and interest imposed by this article or article ten of this chapter.

(22) Tax commissioner. -- The term "Tax Commissioner" means the Tax Commissioner of the State of West Virginia or his or her delegate.

(23) Taxable estate. -- The term "taxable estate" means the taxable estate of the decedent as defined in Section 2051 (or Section 2106 in the case of an alien) of the United States

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Internal Revenue Code of 1954, as amended or renumbered, or in successor provisions of the laws of the United States.

(24) Taxpayer. -- The term "taxpayer" means any person required to file a return for the tax imposed by this article and any person liable for payment of the tax imposed by this article.

(25) This code. -- The term "this code" means the Code of West Virginia, 1931, as amended.

(26) This state. -- The term "this state" means the State of West Virginia.

(27) Transfer. -- The term "transfer" means "transfer" as defined in Sections 2001, 2101, 2601 of the United States Internal Revenue Code of 1954, as amended or renumbered, or in successor provisions of the laws of the United States. It includes the passage of any property, or any interest therein, or income therefrom, in possession or enjoyment, present or future, in trust or otherwise, whether by inheritance, descent, devise, succession, bequest, grant, deed, bargain, sale, gift or appointment.

(28) Transferee. -- The term "transferee" means any person to whom a transfer is made and includes any legatee, devisee, heir, next of kin, grantee, donee, vendee, assignee, successor, survivor or beneficiary.

(29) United States. -- The term "United States", when used in a geographical sense, includes only the fifty states and the District of Columbia.

(30) Value. -- The term "value" means the value of property, the value of the gross estate or the value of the taxable estate as finally determined for federal estate tax purposes under the laws of the United States relating to federal estate taxes.

(c) Any term used in this article shall have the same meaning as when used in a comparable context in the laws of the United States relative to estate taxes, unless a different meaning is clearly required by the provisions of this article. Any reference in this article to the laws of the United States relating to federal estate taxes shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal estate taxes, as the same may be or become effective at any time or from time to time.

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