WEST VIRGINIA CODE: §11-21-12G

§11-21-12g. Additional modification increasing federal adjusted gross income; disallowance of deduction taken under Internal Revenue Code Section 199.

(a) In addition to amounts added to federal taxable income pursuant to subsection (b), section twelve of this article, unless already included therein, there shall be added to federal taxable income the amount deducted under Section 199 of the Internal Revenue Code of 1986, as amended, when determining federal adjusted gross income for the taxable year for federal income tax purposes.

(b) When taxpayer's federal adjusted gross income includes distributive share of income, gain or loss of a partnership, limited liability company, electing small business corporation, or other entity treated as a partnership for federal income tax purposes, and when taxpayer's distributive share for the taxable year includes a deduction, or portion of a deduction computed under Section 199 of the Internal Revenue Code, as amended, for the taxable year, then in addition to amounts added to federal taxable income pursuant to subsection (b), section twelve of this article, unless already included therein, taxpayer shall add the amount computed under Section 199 of the Internal Revenue Code of 1986, as amended, that flows through to the taxpayer for federal income tax purposes for the taxable year. Taxpayer shall file with its annual return under this article a copy of all schedules K-1 it received showing allocation of a Section 199 deduction and such other information as the Tax Commissioner may require.

(c) Failure to attach required schedules. -– When taxpayer fails to include with the annual return due under this article the schedule or schedules required by this section, the return shall be treated as an incomplete return until the day the required schedule or schedules are filed with the Tax Commissioner. An incomplete return showing an overpayment of tax may not be treated as a claim for refund until the day the defect is cured. The filing of an incomplete return shall not start the running of the period of time during which the Tax Commissioner may issue an assessment or take other action to enforce compliance of this article for the taxable year.

(d) Audit adjustment to federal taxable income. -– When auditing for compliance with this article, the Tax Commissioner may change a taxpayer's computation of federal taxable income or pro forma taxable income to comply with the laws of the United States as in effect for the taxable year and incorporated by reference into this article.

WV Legislature