WEST VIRGINIA CODE: §11-21-12n

§11-21-12n. Additional modification reducing federal adjusted gross income related to gaming and gambling losses.

(a) In addition to amounts authorized to be subtracted from federal adjusted gross income pursuant to §11-21-12, a modification reducing federal adjusted gross income is hereby authorized for taxable years beginning on and after January 1, 2020. When calculating income from West Virginia gaming activity and West Virginia gambling activity for the taxable year, the taxpayer may apply a decreasing modification against West Virginia adjusted gross income in the amount of West Virginia gaming and gambling losses allowable as an itemized deduction under the United States Internal Revenue Code, not to exceed the amount of West Virginia gaming and gambling winnings, for that year: *Provided*, That this decreasing modification may not include costs and expenses incurred in connection with the gaming or gambling activity: *Provided further*, That the taxpayer may amend previously filed returns for the 2020, 2021, and 2022 tax years to recognize this decreasing modification. Based on such amended returns as specified herein, any fines, assessments, penalties, or interest levied thereon are void, and returnable to the taxpayer.

(b) The following gaming and gambling losses are not subject to this decreasing modification:

(1) Gaming and gambling losses that have been applied as a deduction in determining the taxpayer's federal adjusted gross income; and

(2) Gaming and gambling losses incurred in any unlawful gambling activity.

(c) The taxpayer shall maintain detailed records substantiating losses if the taxpayer intends to apply the decreasing modification allowable under this section for those losses. The taxpayer shall have the burden of proving any loss.

WV Legislature