WEST VIRGINIA CODE: §11-21-17

§11-21-17. Resident partners.

(a) Partner's modifications. — In determining West Virginia adjusted gross income and West Virginia taxable income of a resident partner, any modification described in §11-21-12(b), §11-21-12(c), §11-21-12(d), or §11-21-12j of this code, which relates to an item of partnership income, gain, loss or deduction shall be made in accordance with the partner's distributive share, for federal income tax purposes, of the items to which the modifications relate. Where a partner's distributive share of any such item is not required to be taken into account separately for federal income tax purposes, the partner's distributive share of such item shall be his or her distributive share for federal income tax purposes of partnership taxable income or loss generally.

(b) Character of items. — Each item of partnership income, gain, loss, or deduction shall have the same character for a partner under this article as for federal income tax purposes. Where an item is not characterized for federal income tax purposes, it shall have the same character for a partner as if realized directly from the source from which realized by the partnership, or incurred in the same manner as incurred by the partnership.

(c) West Virginia tax avoidance or evasion. — Where a partner's distributive share of an item of partnership income, gain, loss or deduction is determined for federal income tax purposes by special provision in the partnership agreement with respect to such item, and where the principal purpose of such provision is the avoidance or evasion of tax under this article, the partner's distributive share of such item, and any modification required with respect thereto shall be determined as if the partnership agreement made no special provision with respect to such item.

(d) Partnership defined. – For purposes of this article, "partnership" means a partnership as defined in §11-21A-1 of this code.

WV Legislature