WEST VIRGINIA CODE: §11-21-19

§11-21-19. Share of resident estate, trust or beneficiary in West Virginia fiduciary adjustment.

(a) General. -- An adjustment shall be made in determining West Virginia taxable income of a resident estate or trust under section eighteen, or West Virginia adjusted gross income of a resident beneficiary of any estate or trust under section twelve (d), in the amount of the share of each in the West Virginia fiduciary adjustment as determined in this section.

(b) Definition. -- The West Virginia fiduciary adjustment shall be the net amount of the modifications described in section twelve (b), (c) and (d), and section fifteen (c) which relate to items of income, gain, loss or deduction of an estate or trust. Such net amount shall not include any modification described in section twelve (c) (3), with respect to gains from the sale or other disposition of property, to the extent such gains are excluded from distributable net income of the estate or trust for federal income tax purposes.

(c) Shares of West Virginia fiduciary adjustment. -- (1) The respective shares of an estate or trust and its beneficiaries (including, solely for the purpose of this allocation, nonresident beneficiaries) in the West Virginia fiduciary adjustment shall be in proportion to their respective shares of distributable net income of the estate or trust for federal income tax purposes.

(2) If the distributable net income for the taxable year of the estate or trust is zero, the share of each beneficiary in the West Virginia fiduciary adjustment shall be in proportion to his share of the estate or trust income for such year, under local law or the governing instrument, which is distributed within such year, or is required to be distributed currently. Any balance of the West Virginia fiduciary adjustment shall be allocated to the estate or trust.

(d) Alternate attribution of modifications. -- The Tax Commissioner may, on application, authorize the use of such other methods of determining to whom the items comprising the fiduciary adjustment shall be attributed, as may be appropriate and equitable, on such terms and conditions as he may require.

WV Legislature