WEST VIRGINIA CODE: §11-21-23

§11-21-23. Refundable credit for real property taxes paid in excess of four percent of gross household income.

(a) For the tax years beginning on or after January 1, 2008, any homeowner living in his or her homestead shall be allowed a refundable credit against the taxes imposed by this article equal to the amount of real property taxes paid in excess of four percent of gross household income: Provided, That for the tax years beginning on or after January 1, 2012, any low income homeowner living in his or her homestead in this state shall be allowed a refundable credit against the taxes imposed by this article equal to the amount by which the difference between West Virginia real property taxes paid for the tax year, minus the amount of credit authorized in section twenty-one of this article, exceeds four percent of the taxpayer's gross household income for the tax year, as determined for purposes of this article. If the refundable credit provided in this section exceeds the amount of taxes imposed by this article, the state Tax Department shall refund that amount to the homeowner.

(b) Due to the administrative cost of processing, the refundable credit authorized by this section may not be refunded if less than $10.

(c) The credit for each property tax year shall be claimed by filing a claim for refund within twelve months after the real property taxes are paid on the homestead.

(d) For the purposes of this section:

(1) "Gross household income" is defined as federal adjusted gross income plus the sum of the following:

(A) Modifications in subsection (b), section twelve of this article increasing federal adjusted gross income;

(B) Federal tax-exempt interest reported on federal tax return;

(C) Workers' compensation and loss of earnings insurance; and

(D) Nontaxable Social Security benefits; and

(2) For the tax years beginning before January 1, 2008, "real property taxes paid" means the aggregate of regular levies, excess levies and bond levies extended against the homestead that are paid during the calendar year and determined after any application of any discount for early payment of taxes but before application of any penalty or interest for late payment of property taxes for property tax years that begin on or after January 1, 2008.

(e) A homeowner is eligible to benefit from this section or section twenty-one of this article, whichever section provides the most benefit as determined by the homeowner. No

WV Legislature

homeowner may receive benefits under both this section and section twenty-one of this article during the same taxable year: Provided, That for tax years beginning on or after January 1, 2012, a homeowner may take the credit provided in this section in addition to the credit provided in section twenty-one of this article, to be calculated as provided in subsection (a) of this section. For tax years beginning on and after January 1, 2009, any person who is required to pay the federal alternative minimum income tax in the current tax year is disqualified from receiving any tax credit provided under this section. Nothing in this section denies those entitled to the homestead exemption provided in section three, article six-b of this chapter.

(f) No homeowner may receive a refundable tax credit imposed by this article in excess of $1,000. This amount shall be reviewed annually by the Legislature to determine if an adjustment is necessary.

(g) For tax years commencing on or after January 1, 2012, no credit may be taken under this section for any homestead which is owned, in whole or in part, by any person who is not a low income person.

(h) Terms defined. -- For purposes of this section:

(1) The definitions set forth in section twenty-four of this article apply for purposes of this section.

(2) "Low income" means federal adjusted gross income for the tax year that is three hundred percent or less of the federal poverty guideline for the year in which property tax was paid, based upon the number of individuals in the family unit residing in the homestead, as determined annually by the United States Secretary of Health and Human Services.

(3) A "low income person" means a person whose federal adjusted gross income for the tax year meets the definition of "low income" as defined in this subsection.

WV Legislature