WEST VIRGINIA CODE: §11-21-3

§11-21-3. Imposition of tax; persons subject to tax.

(a) Imposition of tax. — A tax determined in accordance with the rates hereinafter set forth in this article is hereby imposed for each taxable year on the West Virginia taxable income of every individual, estate, electing pass-through entity, and trust: *Provided*, That, for tax years beginning on or after January 1, 2024, the income of a non-grantor trust administered by a licensed private trust company created pursuant to the provisions of §31I-1-1 *et seq*. of this code shall have no tax imposed upon it by this section.

(b) Partners and partnerships. — A partnership or other pass-through entity as such shall not be subject to tax under this article, unless the partnership or other pass-through entity elects to be subject to the tax levied under this section for a taxable year pursuant to §11-21-3a of this code. Persons carrying on business as partners or owners of a pass-through entity shall be liable for tax under this article only in their separate or individual capacities, unless the partnership or other pass-through entity elects to be subject to the tax levied under this section for a taxable year pursuant to §11-21-3a of this code. However, partnerships and other pass-through entities are subject to the tax imposed by this article to the extent they elect to pay additional West Virginia income taxes owed that are attributable to final federal partnership audit adjustments under §11-21A-3 of this code.

(c) Associations taxable as corporations. — An association, trust, or other unincorporated organization which is taxable as a corporation for federal income tax purposes, shall not be subject to tax under this article.

(d) Exempt trusts and organizations. — A trust or other unincorporated organization which by reason of its purposes or activities is exempt from federal income tax shall be exempt from tax under this article (regardless of whether subject to federal income tax on unrelated business taxable income).

(e) Cross references. — For definitions of West Virginia taxable income of:

(1) Resident individual, see §11-21-11 of this code.

(2) Resident estate or trust, see §11-21-18 of this code.

(3) Nonresident individual, see §11-21-30 of this code.

(4) Nonresident estate or trust, see §11-21-38 of this code.

(f) Effective date. — This section as amended in 2023 shall apply to taxable years beginning on and after January 1, 2022.

WVLegislature