WEST VIRGINIA CODE: §11-21-38

§11-21-38. West Virginia source income of nonresident estate or trust.

(a) General. -- The West Virginia source income of a nonresident estate or trust shall be determined as follows:

(1) Items in distributable net income. -- There shall be determined its share of income, gain, loss and deduction from West Virginia sources under section thirty-nine of this article (relating to items entering into the definition of distributable net income).

(2) Items not in distributable net income. -- There shall be added to or subtracted (as the case may be) the amount derived from or connected with West Virginia sources of any income, gain, loss and deduction which would be included in the determination of federal adjusted gross income if the estate or trust were an individual and which is recognized for federal income tax purposes, but excluded from the definition of federal distributable net income of the estate or trust. The source of such income, gain, loss and deduction shall be determined in accordance with the applicable rules of section thirty-two of this article as in the case of a nonresident individual.

(b) Special West Virginia source rules. -- Deductions with respect to capital losses and net operating losses shall be based solely on income, gains, losses and deductions derived from or connected with West Virginia sources, under regulations of the Tax Commissioner, but otherwise determined in the same manner as the corresponding federal deductions.

(c) Effective date. -- The provisions of this section as amended and reenacted in the year 1992 shall apply to taxable years beginning after December 31, 1991. As to prior taxable years this section, as then in effect, is fully and completely preserved.

WV Legislature