WEST VIRGINIA CODE: §11-21-5

§11-21-5. Optional tax for certain resident individuals.

(a) General. -- The Tax Commissioner may promulgate tables enabling resident individuals who meet the conditions of this section to compute their taxes under section three of this article on the basis of their federal adjusted gross incomes.

(b) Tables. -- The tables promulgated under this section shall show the amounts of tax due under section three of this article to the nearest $2 (or such smaller amount as the Tax Commissioner may establish).

(c) Conditions for optional computation. -- The optional tax computation under this section may be elected only if all the following conditions are satisfied by the taxpayer, or by both husband and wife whose federal income tax is determined on a joint return:

(1) The taxpayer has elected to take the standard deduction for federal income tax purposes or to pay the federal optional tax.

(2) The taxpayer has no items of income or deduction described in section twelve (b) or (d) as an individual, as a partner, or as a beneficiary of an estate or trust.

(3) The taxpayer's federal income tax is not reduced by operation of:

(a) The federal alternative tax on long term capital gains, or

(b) A federal provision which has the effect of taxing income of the taxable year as if it were partly or wholly income of a prior taxable year.

(4) The taxpayer satisfies such other conditions, not inconsistent with the purposes of this section, as may be specified by the Tax Commissioner.

(d) Manner of election. -- The election by a taxpayer to compute his tax under this section shall be made under regulations of the Tax Commissioner.

(e) Husband and wife computing West Virginia taxes separately. -- (1) A husband or wife who files a separate federal return may elect the optional tax computation under this section only if the other spouse's tax under this article, if any, is determined under this section.

(2) A husband and wife who file a joint federal return may not elect the optional tax computation under this section if they elect to determine their West Virginia taxes separately.

WV Legislature