WEST VIRGINIA CODE: §11-21-9

§11-21-9. Meaning of terms.

(a) Any term used in this article has the same meaning as when used in a comparable context in the laws of the United States relating to income taxes, unless a different meaning is clearly required. Any reference in this article to the laws of the United States means the provisions of the Internal Revenue Code of 1986, as amended, and any other provisions of the laws of the United States that relate to the determination of income for federal income tax purposes. All amendments made to the laws of the United States after December 31, 2024, but prior to January 1, 2026, shall be given effect in determining the taxes imposed by this article to the same extent those changes are allowed for federal income tax purposes, whether the changes are retroactive or prospective, but no amendment to the laws of the United States made on or after January 1, 2026, may be given any effect.

(b) Medical savings accounts. — The term "taxable trust" does not include a medical savings account established pursuant to §33-15-20 or §33-16-15 of this code. Employer contributions to a medical savings account established pursuant to said sections are not wages for purposes of withholding under §11-21-71 of this code.

(c) Surtax. — The term "surtax" means the 20 percent additional tax imposed on taxable withdrawals from a medical savings account under §33-15-20 of this code and the 20 percent additional tax imposed on taxable withdrawals from a medical savings account under §33-16-15 of this code which are collected by the Tax Commissioner as tax collected under this article.

(d) Effective date. — The amendments to this section enacted in the year 2026 are retroactive to the extent allowable under federal income tax law. With respect to taxable years that began prior to January 1, 2026, the law in effect for each of those years shall be fully preserved as to that year, except as provided in this section.

(e) For purposes of the refundable credit allowed to a low-income senior citizen for property tax paid on his or her homestead in this state, the term "laws of the United States" as used in subsection (a) of this section means and includes the term "low income" as defined in §11-21-21(b) of this code and as reflected in the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. § 9902(2).

(f) For taxable years beginning on and after January 1, 2018, whenever this article refers to "each exemption for which he or she is entitled to a deduction for the taxable year for federal income tax purposes", this phrase means the exemption the person would have been allowed to claim for the taxable year had the federal income tax law not been amended to eliminate the personal exemption for federal tax years beginning on or after January 1, 2018.

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(g) For taxable years beginning on and after January 1, 2026, whenever this article refers to "additional modification reducing federal adjusted gross income related to gaming and gambling loses", this phrase means the modification the person would have been allowed to claim pursuant to §11-21-12n of this code for the taxable year had the federal income tax law not been amended to modify the modification reducing federal adjusted gross income related to gaming and gambling losses for federal tax years beginning on or after January 1, 2026.

WV Legislature