

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1971



ENROLLED

Committee Substitute For

HOUSE BILL No. 1078

Originating in the Committee on Finance

(By Mr. _____)



PASSED March 13 1971

In Effect April 1, 1971 Passage



1078

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COMMITTEE SUBSTITUTE
FOR
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AN ACT to amend and reenact sections two and three of article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to persons and rates therein; and to amend and reenact sections one, two, two-a, two-b, two-c, two-d, two-e, two-g, two-h, two-i, two-j, three, three-b and twenty-five, article thirteen of said chapter; and to further amend said article thirteen by adding thereto two new sections, designated sections two-k and twenty-six,

all relating to definitions; clarifications of taxable status; providing for tax on the severance and production of natural resources; providing for dressing and processing of food not to be considered as manufacturing but taxable on wholesale basis; increasing rates of taxpayers; inclusion of banking business and other financial business as taxable; making legislative findings; providing for the deletion of former exemptions for banks, building and loan associations, federal savings and loan associations, and business of industrial loans; permitting taxation by municipalities of banking businesses and financial organizations; and providing for the severability of any invalid provisions.

Be it enacted by the Legislature of West Virginia:

That sections two and three, article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that sections one, two, two-a, two-b, two-c, two-d, two-e, two-g, two-h, two-i, two-j, three, three-b and twenty-five, article thirteen of said chapter be amended and reenacted; and that said article thirteen be further amended by adding thereto

two new sections, designated sections two-k and twenty-six,
all to read as follows:

**ARTICLE 12A. ANNUAL TAX ON INCOMES OF CERTAIN
CARRIERS.**

**§11-12A-2. Imposition of annual tax on gross income of certain
carriers.**

1 Every motor vehicle carrier operating on the public
2 highways of this state and every railroad car carrier,
3 railroad carrier, express company, pipeline company, tele-
4 phone and telegraph company, airline company and any
5 person operating a steamboat or other watercraft, for
6 the transportation of passengers or freight, doing busi-
7 ness in the state shall pay to the state an annual tax
8 for each calendar year. This tax shall be equal to the
9 gross income from all business beginning and ending
10 within the state multiplied by the respective rates as
11 follows: Motor vehicle carriers, railroad car carrier,
12 railroad carrier, express companies, pipeline companies,
13 airline companies, any person operating a steamboat
14 or other watercraft and telegraph companies, three and
15 three-tenths percent and telephone companies, three and
16 seventy-four one hundredths percent: *Provided, That*

17 any motor vehicle carrier which is an urban or suburban
18 bus line shall be taxed at the rate of one and sixty-five
19 one hundredths percent of such gross income and any
20 motor vehicle carrier which is a taxi or cab company
21 or a company which hauls waste, refuse or garbage shall
22 be taxed at the rate of two and five-tenths percent of
23 such gross income.

§11-12A-3. Imposition of annual tax on net income of certain carriers.

1 In addition to the tax imposed in the preceding section,
2 every motor vehicle carrier operating on the public high-
3 ways of the state and every railroad carrier, railroad
4 car carrier, express company, pipeline company, tele-
5 phone and telegraph company, airline company and any
6 person operating a steamboat or other watercraft for
7 the transportation of passengers or freight, doing busi-
8 ness in this state shall pay an annual tax for each
9 calendar year on the net income earned within the state
10 equal to three and seventy-four one hundredths percent
11 of such net income for telephone companies and six and
12 six-tenths percent of such net income for all other car-

13 riers included in this section: *Provided*, That any motor
14 vehicle carrier which is an urban or suburban bus line
15 or a taxi or cab company or a company which hauls
16 waste, refuse or garbage, five percent of such net in-
17 come. Net income shall be determined as follows:

18 (a) The net income of motor vehicle carriers earned
19 within the state shall be determined by ascertaining a
20 sum bearing the proportion to the total net income of
21 the motor vehicle carrier that its business done in West
22 Virginia measured in motor vehicle miles of motor vehicle
23 carrier operation, bears to all business done, mea-
24 sured in like fashion;

25 (b) The net income of railroad carriers earned with-
26 in the state shall be determined by ascertaining a sum
27 bearing the proportion to total net income of the car-
28 riers that its business done in West Virginia, measured in
29 ton-miles, bears to all business done, measured in like
30 fashion;

31 (c) The net income of railroad car carriers and ex-
32 press companies earned within the state shall be deter-
33 mined by ascertaining a sum bearing the proportion

34 to the total net income of the carriers or company that
35 its business done in West Virginia, measured in car-miles
36 of car operation, bears to all business done, measured
37 in like fashion: *Provided, however,* That nothing in this
38 article shall be construed as applying to railroad freight
39 car carriers not owned by railroad carriers or their sub-
40 sidiaries;

41 (d) The net income of pipeline companies earned
42 within the state shall be determined by ascertaining a
43 sum bearing the proportion to the total net income of
44 the company that its business done in West Virginia,
45 measured in barrel-miles in the case of oil and liquid
46 coal or slurry and of thousand cubic feet-miles in the
47 case of gas, bears to all business done, measured in like
48 fashion;

49 (e) The net income of airline companies and any per-
50 son operating a steamboat or other watercraft for the
51 transportation of passengers or freight earned within the
52 the state shall be determined by ascertaining a sum
53 bearing the proportion to the total net income of the
54 corporation that its business done in West Virginia,

55 measured in passenger-miles in the case of airline com-
56 panies and ton-miles in the case of any person operating
57 a steamboat or other watercraft, bears to all business
58 done, measured in like fashion;

59 (f) The net income of telephone and telegraph com-
60 panies shall be determined by ascertaining a sum bear-
61 ing the proportion to the total net income of the com-
62 panies that its business done in West Virginia, measured
63 in wire-miles, bears to all business done, measured in
64 like fashion;

65 (g) In computing the tax imposed by this section, the
66 total net income of a taxpayer, who shall have been taxed
67 under the preceding section shall be reduced by an
68 amount bearing the proportion to such total net income
69 that the gross income of the taxpayer which is the
70 measure of the tax under the preceding section bears to
71 its total gross income from all business done wherever
72 conducted. No county, city, town, village or other political
73 subdivision of the state shall levy a license, net income
74 or any other kind of tax on the business taxed under
75 this article.

ARTICLE 13. BUSINESS AND OCCUPATION TAX.

§11-13-1. Definitions.

1 When used in this article, the term "person" or the
2 term "company," herein used interchangeably, includes
3 any individual, firm, copartnership, joint adventure, asso-
4 ciation, corporation, trust, or any other group or combi-
5 nation acting as a unit, and the plural as well as the
6 singular number, unless the intention to give a more
7 limited meaning is disclosed by the context.

8 "Tax year" or "taxable year" means either the calendar
9 year, or the taxpayer's fiscal year when permission is
10 obtained from the tax commissioner to use same as the
11 tax period in lieu of the calendar year.

12 "Sale," "sales" or "selling" includes any transfer of the
13 ownership of, or title to, property, whether for money or
14 in exchange for other property.

15 "Taxpayer" means any person liable for any tax hereunder.

16 "Gross income" means the gross receipts of the taxpayer,
17 other than a banking or financial business, received as com-
18 pensation for personal services and the gross receipts of the
19 taxpayer derived from trade, business, commerce or sales

20 and the value proceeding or accruing from the sale of tan-
21 gible property (real or personal), or service, or both, and
22 all receipts by reason of the investment of the capital of
23 the business engaged in, including rentals, royalties, fees,
24 reimbursed costs or expenses or other emoluments how-
25 ever designated and including all interest, carrying charges,
26 fees or other like income, however denominated, derived
27 by the taxpayer from repetitive carrying of accounts, in the
28 regular course and conduct of his business, and extension
29 of credit in connection with the sale of any tangible per-
30 sonal property or service, and without any deductions on
31 account of the cost of property sold, the cost of materials
32 used, labor costs, taxes, royalties paid in cash or in kind or
33 otherwise, interest or discount paid or any other expense
34 whatsoever. "Gross income" of a banking or financial
35 business is specified in section two-k of this article.
36 "Gross proceeds of sales" means the value, whether in
37 money or other property, actually proceeding from the
38 sale of tangible property without any deduction on ac-
39 count of the cost of property sold or expenses of any kind.
40 The terms "gross income" and "gross proceeds of sales"

41 shall not be construed to include (1) cash discounts al-
42 lowed and taken on sales; (2) the proceeds of sale of goods,
43 wares or merchandise returned by customers when the
44 sale price is refunded either in cash or by credit; (3) the
45 amount allowed as "trade-in value" for any article ac-
46 cepted as part payment for any article sold; (4) exise taxes
47 imposed by this state; or (5) money or other property
48 received or held by a professional person for the sole use
49 and benefit of a client or another person or money re-
50 ceived by the taxpayer on behalf of a bank or other
51 financial institution for the repayment of a debt of
52 another ~~person~~.

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53 "Business" shall include all activities engaged in or
54 caused to be engaged in with the object of gain or
55 economic benefit, either direct or indirect. "Business"
56 shall not include a casual sale by a person who is not
57 engaged in the business of selling the type of prop-
58 erty involved in such casual sale. "Business" shall
59 include the production of natural resources or manu-
60 factured products which are used or consumed by
61 the producer or manufacturer and shall include the

62 activities of a banking business or financial organiza-
63 tion.

64 The term "banking business" or "financial organization"
65 shall mean any bank, banking association, trust company,
66 industrial loan company, small loan company or licensee,
67 building and loan association, savings and loan associa-
68 tion, credit union, finance company, investment company,
69 investment broker or dealer, and any other similar busi-
70 ness organization at least ninety per centum of the assets
71 of which consists of intangible personal property and
72 at least ninety per centum of the gross receipts of which
73 consists of dividends, interest and other charges derived
74 from the use of money or credit.

75 "Service business or calling" shall include all activi-
76 ties engaged in by a person for other persons for a
77 consideration, which involve the rendering of a service as
78 distinguished from the sale of tangible property, but shall
79 not include the services rendered by an employee to his
80 employer. This term shall include, but not be limited to:

81 (a) Persons engaged in manufacturing, compounding
82 or preparing for sale, profit, or commercial use, articles,

83 substance, or commodities which are owned by another
84 or others;

85 (b) Persons engaged as independent contractors in
86 producing natural resource products which are owned by
87 another or others, as personal property, immediately after
88 the same are severed, extracted, reduced to possession
89 and produced;

90 (c) The repetitive carrying of accounts, in the regular
91 course and conduct of business, and extension of credit
92 in connection with the sale of any tangible personal
93 property or service, except as to persons taxed pursuant
94 to the provisions of section two-k of this article.

95 "Selling at wholesale" or "wholesale sales" shall mean
96 and include: (1) Sales of any tangible personal property
97 for the purpose of resale in the form of tangible personal
98 property; (2) sales of machinery, supplies or materials
99 which are to be directly consumed or used by the pur-
100 chaser in the conduct of any business or activity which
101 is subject to the tax imposed by this article or by article
102 twelve-a of this chapter; (3) sales of any tangible per-
103 sonal property to the United States of America, its
104 agencies and instrumentalities or to the state of West

105 Virginia, its institutions or political subdivisions.

106 "Contracting" shall include the furnishing of work, or
107 both materials and work, in the fulfillment of a contract
108 for the construction, alteration, repair, decoration or im-
109 provement of a new or existing building or structure,
110 or any part thereof, or for the alteration, improvement or
111 development of real property.

§11-13-2. Imposition of privilege tax.

1 There is hereby levied and shall be collected annual
2 privilege taxes against the persons, on account of the
3 business and other activities, and in the amounts to be
4 determined by the application of rates against values or
5 gross income as set forth in sections two-a to two-k,
6 inclusive, of this article.

7 If any person liable for any tax under sections two-a or
8 two-b shall ship or transport his products or any part
9 thereof out of the state without making sale of such
10 products, the value of the products in the condition or
11 form in which they exist immediately before transpor-
12 tation out of the state shall be the basis for the assess-
13 ment of the tax imposed in said sections, except in those

14 instances in which another measure of the tax is ex-
15 pressly provided. The tax commissioner shall prescribe
16 equitable and uniform rules for ascertaining such value.

17 In determining value, however, as regards sales from
18 one to another of affiliated companies or persons, or
19 under other circumstances where the relation between
20 the buyer and seller is such that the gross proceeds
21 from the sale are not indicative of the true value of the
22 subject matter of the sale, the tax commissioner shall
23 prescribe uniform and equitable rules for determining
24 the value upon which such privilege tax shall be levied,
25 corresponding as nearly as possible to the gross proceeds
26 from the sale of similar products of like quality or char-
27 acter where no common interest exists between the
28 buyer and seller but the circumstances and conditions
29 are otherwise similar.

30 Gross income included in the measure of the tax un-
31 der sections two-a two-b of this article shall neither be
32 added nor deducted in computing the tax levied under the
33 other sections of this article.

34 A person exercising any privilege taxable under sec-

35 tions two-a or two-b of this article and engaging in the
36 business of selling his natural resources or manufactured
37 products at retail in this state shall be required to make
38 returns of the gross proceeds of such retail sales and
39 pay the tax imposed in section two-c of this article for
40 the privilege of engaging in the business of selling such
41 natural resources or manufactured products at retail in
42 this state. But any person exercising any privilege tax-
43 able under sections two-a or two-b of this article and
44 engaging in the business of selling his natural resources
45 or manufactured products to producers of natural re-
46 sources, manufacturers, wholesalers, jobbers, re-
47 tailers or commercial consumers for use or con-
48 sumption in the purchaser's business shall not be
49 required to pay the tax imposed in section two-c
50 of this article.

51 Manufacturers exercising any privilege taxable under
52 section two-b of this article shall not be required to pay
53 the tax imposed in section two-c of this article for the
54 privilege of selling their manufactured products for de-
55 livery outside of this state, but the gross income derived

56 from the sale of such manufactured products outside of
57 this state shall be included in determining the measure
58 of the tax imposed on such manufacturer in section two-b.

59 A person exercising privileges taxable under the other
60 sections of this article, producing coal, oil, natural gas,
61 minerals, timber or other natural resource products the
62 production of which is taxable under section two-a, and
63 using or consuming the same in his business or transfer-
64 ring or delivering the same as any royalty payment, in
65 kind, or the like, shall be deemed to be engaged in the
66 business of mining and producing coal, oil, natural gas,
67 minerals, timber or other natural resource products for
68 sale, profit or commercial use, and shall be required to
69 make returns on account of the production of the business
70 showing the gross proceeds or equivalent in accordance
71 with uniform and equitable rules for determining the
72 value upon which such privilege tax shall be levied,
73 corresponding as nearly as possible to the gross proceeds
74 from the sale of similar products of like quality or char-
75 acter by other taxpayers, which rules the tax commis-
76 sioner shall prescribe.

§11-13-2a. Severance, extraction and production of coal and other natural resource products.

1 Upon every person exercising the privilege of en-
2 gaging or continuing within this state in the business of
3 severing, extracting, reducing to possession and producing
4 for sale, profit or commercial use any natural resource
5 products, the amount of such tax to be equal to the
6 value of the articles produced as shown by the gross
7 proceeds derived from the sale thereof by the producer,
8 except as otherwise provided, multiplied by the respec-
9 tive rates as follows: Coal, three and five-tenths percent;
10 limestone or sandstone, quarried or mined, two and two-
11 tenths percent; oil, four and thirty-four one-hundredths
12 percent; natural gas, in excess of the value of five thou-
13 sand dollars, eight and sixty-three one-hundredths per-
14 cent; blast furnace slag, four and thirty-four one-
15 hundredths percent; sand, gravel or other mineral prod-
16 uct not quarried or mined, four and thirty-four one-
17 hundredths percent; timber, two and two-tenths per-
18 cent; other natural resource products, two and eighty-six
19 one-hundredths percent. The measure of this tax is the

20 value of the entire production in this state, regardless
21 of the place of sale or the fact that the delivery may be
22 made to points outside the state: *Provided, however,*
23 That for the purposes of the production of oil classifica-
24 tion, and the production of natural gas classification, as
25 set forth in this section, multiple co-owners of oil or
26 natural gas, in place, lessees thereof, or others being
27 vested with title and ownership to part or all of
28 the oil and gas, as personal property, immediately after
29 severance, extraction, reduction to possession and pro-
30 duction, except royalty recipients, in kind, shall be
31 deemed to be a "group or combination acting as a unit"
32 and one "person", as defined in section one of this article,
33 if not otherwise defined therein, whenever engaged in
34 the business of producing oil or natural gas through
35 common use, by joint or separately executed contracts,
36 of the same independent contractor driller or operator's
37 services; and notwithstanding provisions of private con-
38 tracts for separate deposit of gross receipts in separate
39 members' accounts or for members of such group or

40 combination to take in kind any proportionate part of such
41 natural resources.

42 Lessees, sublessees or other denominated lessees are
43 considered to be producers of all of the oil or natural gas
44 produced, regardless of any payment, in kind, to lessors,
45 sublessors or other denominated lessors of a part of such
46 natural resources as rents or royalties. Recipients of
47 royalties or rents, in kind, in cash or otherwise are tax-
48 able on their gross income pursuant to the provisions of
49 section two-i of this article.

**§11-13-2b. Manufacturing, compounding or preparing prod-
ucts; processing of food excepted.**

1 Upon every person engaging or continuing within this
2 state in the business of manufacturing, compounding or
3 preparing for sale, profit, or commercial use, either di-
4 rectly or through the activity of others in whole or part,
5 any article or articles, substance or substances, com-
6 modity or commodities, or electric power produced by
7 public utilities or others and not taxed under other provi-
8 sions of this article, the amount of the tax to be equal to
9 the value of the article, substance, commodity or electric
10 power manufactured, compounded or prepared for sale, as

11 shown by the gross proceeds derived from the sale there-
12 of by the manufacturer or person compounding or pre-
13 paring the same, except as otherwise provided, multi-
14 plied by a rate of eighty-eight one-hundredths of one
15 percent. The measure of this tax is the value of the
16 entire product manufactured, compounded or prepared
17 in this state for sale, profit or commercial use, regard-
18 less of the place of sale or the fact that deliveries may
19 be made to points outside the state. However, the
20 dressing and processing of food by a person, firm or
21 corporation, which food is to be sold on a wholesale
22 basis by such person, firm or corporation shall not be
23 considered as manufacturing or compounding, but the
24 sale of these products on a wholesale basis shall be sub-
25 ject to the same tax as is imposed on the business of
26 selling at wholesale as provided in section two-c.

27 It is further provided, however, that in those instances
28 in which the same person partially manufactures, com-
29 pounds or prepares products within this state and parti-
30 ally manufactures, compounds or prepares such products
31 outside of this state the measure of his tax under this

32 section shall be that proportion of the sale price of the
33 product that the payroll cost of manufacturing within
34 this state bears to the entire payroll cost of manufacturing
35 the product; or, at the option of the taxpayer, the mea-
36 sure of his tax under this section shall be the proportion
37 of the sales value of the articles that the cost of oper-
38 ations in West Virginia bears to the full cost of manu-
39 facture of the articles.

§11-13-2c. Business of selling tangible property; sales exempt.

1 Upon every person engaging or continuing within this
2 state in the business of selling any tangible property
3 whatsoever, real or personal, including the sale of food,
4 and the services incident to the sale of food in hotels,
5 restaurants, cafeterias, confectioneries, and other public
6 eating houses, except sales by any person engaging or
7 continuing in the business of horticulture, agriculture
8 or grazing, or of selling stocks, bonds or other evidences
9 of indebtedness, there is likewise hereby levied, and shall
10 be collected, a tax equivalent to fifty-five one-hundredths
11 of one percent of the gross income of the business, ex-
12 cept that in the business of selling at wholesale the tax

13 shall be equal to twenty-seven one-hundredths of one
14 percent of the gross income of the business.

§11-13-2d. Public service or utility business.

1 Upon any person engaging or continuing within this
2 state in any public service or utility business, except
3 railroad, railroad car, express, pipeline, telephone and
4 telegraph companies, water carriers by steamboat or
5 steamship and motor carriers, there is likewise hereby
6 levied and shall be collected taxes on account of the
7 business engaged in equal to the gross income of the
8 business multiplied by the respective rates as follows:
9 Street and interurban and electric railways, one and four-
10 tenths percent; water companies, four and four-tenths
11 percent except as to income received by municipally-
12 owned water plants; electric light and power companies,
13 five and seventy-two hundredths percent on sales and
14 demand charges for domestic purposes and commercial
15 lighting and four and twenty-nine hundredths percent
16 on sales and demand charges for all other purposes,
17 except as to income received by municipally-owned
18 plants producing or purchasing electricity and distributing

19 same; natural gas companies, four and twenty-nine
20 hundredths per cent on the gross income; toll bridge
21 companies, four and twenty-nine hundredths percent;
22 and upon all other public service or utility business, two
23 and eighty-six hundredths percent. The measure of this
24 tax shall not include gross income derived from com-
25 merce between this state and other states of the United
26 States or between this state and foreign countries. The
27 measure of the tax under this section shall include only
28 gross income received from the supplying of public ser-
29 vices. The gross income of the taxpayer from any other
30 activity shall be included in the measure of the tax im-
31 posed upon the appropriate section or sections of this
32 article.

§11-13-2e. Business of contracting.

1 Upon every person engaging or continuing within this
2 state in the business of contracting, the tax shall be equal
3 to: (a) Two and six-tenths percent of the gross income
4 of the business derived from contracts entered into prior
5 to the first day of July, one thousand nine hundred sixty-
6 five; (b) two percent of the gross income of the business

7 derived from contracts entered into on or after the first
8 day of July, one thousand nine hundred sixty-five and
9 prior to the first day of April, one thousand nine hundred
10 seventy-one; and (c) two and two-tenths percent of
11 the gross income of the business derived from contracts
12 entered into on or after the first day of April, one
13 thousand nine hundred seventy-one.

§11-13-2g. Business of operating amusements.

1 Upon every person engaging or continuing within this
2 state in the business of operating a theatre, opera house,
3 moving picture show, vaudeville, amusement park, dance
4 hall, skating rink, race track, radio broadcasting station
5 or any other place at which amusements are offered to
6 the public, the tax shall be equal to seventy-one one-
7 hundredths of one percent of the gross income of the
8 business.

§11-13-2h. Service business or calling not otherwise specifically taxed.

1 Upon every person engaging or continuing within this
2 state in any service business or calling not otherwise
3 specifically taxed under this law, there is likewise here-

4 by levied and shall be collected a tax equal to one and
5 fifteen one-hundredths percent of the gross income of
6 any such business.

§11-13-2i. Business of furnishing property for hire.

1 Upon every person engaging or continuing within this
2 state in the business of furnishing any real or tangible
3 personal property, which has a tax situs in this state, or
4 any interest therein for hire, loan, lease or otherwise,
5 whether the return be in the form of rentals, royalties,
6 fees or otherwise, the tax shall be one and fifteen one-
7 hundredths percent of the gross income of any such
8 activity.

9 The term "tangible personal property," as used herein,
10 shall not include money or public securities.

§11-13-2j. Small loan and industrial loan businesses.

1 Upon every person engaging or continuing within this
2 state in the business of making loans or money, credit
3 goods, or things in action, who because of such activity
4 is required under the provisions of article seven-a, chap-
5 ter forty-seven of the code of West Virginia, one thou-
6 sand nine hundred thirty-one, as amended, to obtain a

7 license from the commissioner of banking of the state
8 of West Virginia, and upon each and every industrial
9 loan company, the tax shall be one and five one-hun-
10 dredths percent of the gross income of any activity, not-
11 withstanding any other provisions of this article: *Pro-*
12 *vided*, That such tax shall apply only to gross income
13 received prior to the first day of April, one thousand nine
14 hundred seventy-one. Persons subject to the provisions
15 of this section shall, on and after the first day of April,
16 one thousand nine hundred seventy-one, be subject to
17 the provisions of section two-k of this article.

§11-13-2k. Banking and other financial business; legislative findings.

1 Upon every person engaging or continuing within
2 this state in the business of banking or financial busi-
3 ness, from and after the first day of April, one thousand
4 nine hundred seventy-one, the tax shall be equal to one
5 and fifteen one-hundredths per cent of the gross income
6 received from interest, premiums, discounts, dividends,
7 service fees or charges, commissions, fines, rents from
8 real or tangible personal property, however denominated,

9 royalties, charges for bookkeeping or data processing,
10 receipts from check sales, charges or fees, and receipts
11 from the sale of tangible personal property: *Provided*,
12 however, That gross income shall not include (a) inter-
13 est received on the obligations of the United States, its
14 agencies and instrumentalities, (b) interest received on
15 the obligations of this or any other state, territory or
16 possession of the United States, or any political sub-
17 division of any of the foregoing or of the District of
18 Columbia, or (c) interest received on investments or
19 loans primarily secured by first mortgages or deeds
20 of trust on residential property occupied by non-trans-
21 sients; *Provided, however*, That all interest derived on
22 activities exempt under (c) above, shall be reported, as to
23 amounts, on the return of a person taxable under the
24 provisions of this section.

25 Persons taxed pursuant to the provisions of this sec-
26 tion shall not be taxed under sections two-a to two-j,
27 inclusive, of this article.

28 The Legislature hereby finds and declares that it is
29 the intent of the Legislature to subject national bank-

30 ing associations and other financial organizations to the
31 tax imposed by this article, in accordance with the
32 authorization contained in section five thousand two hun-
33 dred nineteen of the Revised Statutes of the United
34 States as amended by Public Law 91-156 enacted the
35 twenty-fourth day of December, one thousand nine hun-
36 dred sixty-nine.

§11-13-3. Exemptions.

1 There shall be an exemption in every case of fifty
2 dollars in amount of tax computed under the provi-
3 sions of this article. A person exercising a privilege
4 taxable hereunder for a fractional part of a tax year
5 shall be entitled to an exemption of the sum bearing
6 the proportion to fifty dollars that the period of time
7 the privilege is exercised bears to a whole year. Only
8 one exemption shall be allowed to any one person,
9 whether he exercises one or more privileges taxable here-
10 under.

11 The provisions of the article shall not apply to: (a) In-
12 surance companies which pay the state of West Virginia
13 a tax upon premiums: *Provided*, That said exemption

14 shall not extend to that part of the gross income of in-
15 surance companies which is received for the use of real
16 property, other than property in which any such com-
17 pany maintains its office or offices, in this state, whether
18 such income be in the form of rentals or royalties;

19 (b) nonprofit cemetery companies organized and oper-
20 ated for the exclusive benefit of their members; (c) fra-
21 ternal societies, organizations and associations organ-
22 ized and operated for the exclusive benefit of their mem-
23 bers and not for profit: *Provided, however,* That said
24 exemption shall not extend to that part of the gross
25 income arising from the sale of alcoholic liquor, food
26 and related services, of such fraternal societies, organi-
27 zations and associations which are licensed as private
28 clubs under the provisions of article seven, chapter sixty
29 of this code; (d) corporations, associations and societies
30 organized and operated exclusively for religious or chari-
31 table purposes; (e) production credit association, organ-
32 ized under the provisions of the federal "Farm Credit
33 Act of one thousand nine hundred thirty-three": *Pro-*

34 *vided, however*, That the exemptions of this section shall
35 not apply to corporations or cooperative associations
36 organized under the provisions of article four, chapter
37 nineteen of the code of West Virginia, one thousand
38 nine hundred thirty-one, as amended.

**§11-13-3b. Definitions; reduction allowed in tax due; how
computed.**

1 When used in this section, the phrase "normal tax"
2 shall mean the tax computed by the application of rates
3 against values or gross income as set forth in sections
4 two-a to two-k, inclusive, of this article, less exemption
5 at the rate of fifty dollars annually or at the rate of
6 four dollars and sixteen cents per month for the period
7 actually engaged in business.

8 The normal tax shall be computed by the application
9 of rates against values or gross income as set forth in
10 sections two-a to two-k, inclusive, of this article.

**§11-13-25. Cities, towns or villages restricted from imposing
additional tax.**

1 Notwithstanding the provisions of section five, article
2 thirteen, chapter eight of this code, no city, town, or
3 village shall impose a business and occupation tax or

4 privilege^e tax upon occupations or privileges taxed under
5 sections two-a, two-b, two-c, two-d, two-e, two-g, two-h,
6 two-i and two-j of this article, in excess of rates, in effect
7 under this article on January ^{one} thousand nine hundred
8 fifty-nine, or in excess of one percent of gross income
9 under section two-k of this article.

*OK
As per [unclear]
by
[unclear]*

§11-13-26. Severability.

1 If any provision of this article or the application
2 thereof shall for any reason be adjudged by any court
3 of competent jurisdiction to be invalid, such judgment
4 shall not affect, impair or invalidate the remainder of
5 said article, but shall be confined in its operation to the
6 provision thereof directly involved in the controversy
7 in which such judgment shall have been rendered,
8 and the applicability of such provision to other persons
9 or circumstances shall not be affected thereby.

*OK
As per [unclear]
by
[unclear]*

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Russell G. Beach
Chairman Senate Committee

Phyllis J. Rutledge
Chairman House Committee

Originated in the House.

Takes effect April 1, 1971.

Thomas Stuper
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

E. Hans McCourt
President of the Senate

Lewis N. McManus
Speaker House of Delegates

The within approved this the 31st
day of March, 1971.

Arch A. Shaver, Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 3/22/71

Time 12 noon