

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1971

ENROLLED

SENATE BILL NO. 22

(By Mr. McCOURT)

PASSED JANUARY 28, 1971

In Effect FROM Passage



FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE

THIS DATE 2-2-71

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ENROLLED

Senate Bill No. 22

(By MR. McCOURT, MR. PRESIDENT)

[Passed January 28, 1971; in effect from passage.]

AN ACT to amend and reenact section nine, article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section three, article twenty-four of said chapter, all relating to the determination of the meaning of terms used in the West Virginia personal income tax and the West Virginia corporation net income tax act.

Be it enacted by the Legislature of West Virginia:

That section nine, article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section three,

article twenty-four of said chapter be amended and reenacted, all to read as follows:

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-9. Meaning of terms.

1 Any term used in this article shall have the same
2 meaning as when used in a comparable context in the
3 laws of the United States relating to income taxes, unless
4 a different meaning is clearly required. Any reference
5 in this article to the laws of the United States shall
6 mean the provisions of the Internal Revenue Code of
7 1954, as amended, and such other provisions of the laws
8 of the United States as relate to the determination of
9 income for federal income tax purposes. All amendments
10 made to the laws of the United States prior to the first
11 day of January, one thousand nine hundred seventy-one,
12 shall be given effect in determining the taxes imposed
13 by this article for the tax period beginning the first
14 day of January, one thousand nine hundred seventy-one,
15 and thereafter, but no amendment to laws of the United
16 States made on or after the first day of January, one
17 thousand nine hundred seventy-one, shall be given effect.

ARTICLE 24. CORPORATION NET INCOME TAX.**§11-24-3. Meaning of terms.**

1 (a) *General.*—Any term used in this article shall have
2 the same meaning as when used in a comparable context
3 in the laws of the United States relating to federal in-
4 come taxes, unless a different meaning is clearly re-
5 quired by the context or by definition in this article. Any
6 reference in this article to the laws of the United States
7 or to the Internal Revenue Code or to the federal income
8 tax law shall mean the provisions of the laws of the
9 United States as relate to the determination of income for
10 federal income tax purposes. All amendments made to
11 the laws of the United States prior to the first day of
12 January, one thousand nine hundred seventy-one, shall
13 be given effect in determining the taxes imposed by
14 this article for the tax period beginning the first day of
15 July, one thousand nine hundred seventy-one, and there-
16 after, but no amendment to laws of the United States
17 made on or after the first day of January, one thousand
18 nine hundred seventy-one, shall be given effect.

19 (b) *Certain terms defined.*—For purposes of this
20 article:

21 (1) The term “tax commissioner” means the tax com-
22 missioner of the state of West Virginia or his delegate.

23 (2) The term “corporation” means and includes a joint
24 stock company or any association which is taxable as a
25 corporation under the federal income tax law.

26 (3) The term “domestic corporation” means any cor-
27 poration organized under the laws of West Virginia.

28 (4) The term “foreign corporation” means any cor-
29 poration other than a domestic corporation.

30 (5) The term “state” means any state of the United
31 States, the District of Columbia, the Commonwealth of
32 Puerto Rico, any territory or possession of the United
33 States, and any foreign country or political subdivision
34 thereof.

35 (6) The term “taxable year” means the taxable year
36 for which the taxable income of the taxpayer is computed
37 under the federal income tax law.

38 (7) The term “taxpayer” means a corporation subject
39 to the tax imposed by this article.

40 (8) The term "tax" includes, within its meaning, in-
41 terest and penalties unless the intention to give it a
42 more limited meaning is disclosed by the context.

43 (9) The term "commercial domicile" means the prin-
44 cipal place from which the trade or business of the
45 taxpayer is directed or managed.

46 (10) The term "compensation" means wages, salaries,
47 commissions and any form of remuneration paid to em-
48 ployees for personal services.

49 (11) The term "West Virginia taxable income" means
50 the taxable income of a corporation as defined by the laws
51 of the United States for federal income tax purposes, ad-
52 justed as provided in section six: *Provided*, That in the
53 case of a corporation having income from business activity
54 which is taxable without this state, its "West Virginia
55 taxable income" shall be such portion of its taxable
56 income as so defined and adjusted as is allocated or
57 apportioned to this state under the provisions of section
58 seven.

59 (12) The term "business income" means income arising
60 from transactions and activity in the regular course of

61 the taxpayer's trade or business and includes income
62 from tangible and intangible property if the acquisition
63 and disposition of the property constitute integral parts
64 of the taxpayer's regular trade or business operations.

65 (13) "Nonbusiness income" means all income other
66 than business income.

67 (14) The term "public utility" means any business ac-
68 tivity to which the jurisdiction of the public service
69 commission of West Virginia extends under section one,
70 article two, chapter twenty-four of the code of West
71 Virginia, as amended.

72 (15) The term "this code" means the code of West
73 Virginia, one thousand nine hundred thirty-one, as
74 amended.

75 (16) The term "this state" means the state of West
76 Virginia.

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

Russell G. Bice
Chairman Senate Committee

Phyllis Rutledge
Chairman House Committee

Originated in the Senate.

To take effect from passage.

Howard Myer
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

Spencer
President of the Senate

Swartz
Speaker House of Delegates

The within *approved* this the *2nd* day of *February*, 1971.

Archd. Moore, Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 2/1/71

Time 11:22 a.m.

RECEIVED

FEB 2 3 17 PM '71

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA