

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1973



ENROLLED

HOUSE BILL No. 1318

(By Mr. McNamee)

Mr. Leibert



PASSED April 14, 1973

In Effect Ninety days from Passage



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FILED IN THE OFFICE
EDGAR F. NEISHELL III
SECRETARY OF STATE
THIS DATE 5/3/73

1318

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House Bill No. 1318

(By MR. SPEAKER, MR. McMANUS, and MR. SEIBERT)

[Passed April 14, 1973; in effect ninety days from passage.]

AN ACT to amend and reenact section three, article twenty-four, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to meaning of terms for corporation net income tax purposes.

Be it enacted by the Legislature of West Virginia:

That section three, article twenty-four, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 24. CORPORATION NET INCOME TAX.

**PART I. DEFINITIONS,
IMPOSITION OF TAX AND RATE, AND EXEMPTIONS.**

§11-24-3. Meaning of terms.

- 1 (a) *General.*—Any term used in this article shall have the
- 2 same meaning as when used in a comparable context in the
- 3 laws of the United States relating to federal income taxes, un-
- 4 less a different meaning is clearly required by the context or
- 5 by definition in this article. Any reference in this article to the
- 6 laws of the United States or to the Internal Revenue Code or
- 7 to the federal income tax law shall mean the provisions of the
- 8 laws of the United States as relate to the determination of in-
- 9 come for federal income tax purposes. All amendments made

10 to the laws of the United States prior to the first day of Jan-
11 uary, one thousand nine hundred seventy-three, shall be given
12 effect in determining the taxes imposed by this article for the
13 tax period beginning the first day of July, one thousand nine
14 hundred seventy-three, and thereafter, but no amendment to
15 laws of the United States made on or after the first day of
16 January, one thousand nine hundred seventy-three, shall be
17 given effect.

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

19 (1) The term “tax commissioner” means the tax commis-
20 sioner of the state of West Virginia or his delegate.

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

24 (3) The term “domestic corporation” means any corpora-
25 tion organized under the laws of West Virginia.

26 (4) The term “foreign corporation” means any corporation
27 other than a domestic corporation.

28 (5) The term “state” means any state of the United States,
29 the District of Columbia, the Commonwealth of Puerto Rico,
30 any territory or possession of the United States, and any for-
31 eign country or political subdivision thereof.

32 (6) The term “taxable year” means the taxable year for
33 which the taxable income of the taxpayer is computed under
34 the federal income tax law.

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

37 (8) The term “tax” includes, within its meaning, interest
38 and penalties unless the intention to give it a more limited
39 meaning is disclosed by the context.

40 (9) The term “commercial domicile” means the principal
41 place from which the trade or business of the taxpayer is di-
42 rected or managed.

43 (10) The term “compensation” means wages, salaries, com-
44 missions and any form of remuneration paid to employees for
45 personal services.

46 (11) The term “West Virginia taxable income” means the
47 taxable income of a corporation as defined by the laws of the
48 United States for federal income tax purposes, adjusted as
49 provided in section six: *Provided*, That in the case of a cor-

50 poration having income from business activity which is taxable
51 without this state, its "West Virginia taxable income" shall be
52 such portion of its taxable income as so defined and adjusted
53 as is allocated or apportioned to this state under the provisions
54 of section seven.

55 (12) The term "business income" means income arising
56 from transactions and activity in the regular course of the tax-
57 payer's trade or business and includes income from tangible
58 and intangible property if the acquisition and disposition of
59 the property constitute integral parts of the taxpayer's regular
60 trade or business operations.

61 (13) "Nonbusiness income" means all income other than
62 business income.

63 (14) The term "public utility" means any business activity
64 to which the jurisdiction of the public service commission of
65 West Virginia extends under section one, article two, chapter
66 twenty-four of the code of West Virginia.

67 (15) The term "this code" means the code of West Vir-
68 ginia, one thousand nine hundred thirty-one, as amended.

69 (16) The term "this state" means the state of West Vir-
70 ginia.

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

H. Darrel Darby
Chairman Senate Committee

Charles C. Christian, Jr.
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard W. Cannon
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

W. T. Brotherton, Jr.
President of the Senate

Lewis J. McNamee
Speaker House of Delegates

The within approved this the 24th
April day of _____, 1973.

Arch A. Shaeffer, Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 4/24/73

Time 2:34 p.m.

RECEIVED

MAY 3 9 36 PM '73

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA