

RECEIVED

MAY 3 11 49 PM '73

OFFICE OF  
SECRETARY OF STATE  
STATE OF WEST VIRGINIA

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1973



# ENROLLED

HOUSE BILL No. 658

(By Miss Herndon)



PASSED April 14, 1973

In Effect Ninety days from Passage



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

658

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

# **House Bill No. 658**

(By MISS HERNDON)

(Originating in the House Committee on Finance.)

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

AN ACT to amend and reenact section twelve, article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to West Virginia adjusted gross income of resident individual; relating to definition of federal adjusted gross income, providing for modifications increasing federal adjusted gross income; providing for modifications reducing federal adjusted gross income; providing a new modification reducing federal adjusted gross income for persons above the age of sixty-five; providing a new modification reducing federal adjusted gross income for persons serving in the armed forces of the United States; providing for modification for West Virginia fiduciary adjustment; providing for modifications for partners and for husband and wife filing separately.

*Be it enacted by the Legislature of West Virginia:*

That section twelve, article twenty-one, 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 21. PERSONAL INCOME TAX.**

**§11-21-12. West Virginia adjusted gross income of resident individual.**

1 (a) *General.*—The West Virginia adjusted gross income  
2 of a resident individual means his federal adjusted gross  
3 income as defined in the laws of the United States for the  
4 taxable year with the modifications specified in this section.

5 (b) *Modifications increasing federal adjusted gross in-*  
6 *come.*—There shall be added to federal adjusted gross in-  
7 come:

8 (1) Interest income on obligations of any state other  
9 than this state, or of a political subdivision of any such other  
10 state unless created by compact or agreement to which this  
11 state is a party;

12 (2) Interest or dividend income on obligations or secur-  
13 ities of any authority, commission or instrumentality of the  
14 United States, which the laws of the United States exempt  
15 from federal income tax but not from state income taxes;

16 (3) Income taxes imposed by this state or any other  
17 taxing jurisdiction, to the extent deductible in determining  
18 federal adjusted gross income and not credited against federal  
19 income tax; and

20 (4) Interest on indebtedness incurred or continued to  
21 purchase or carry obligations or securities the income from  
22 which is exempt from tax under this article, to the extent  
23 deductible in determining federal adjusted gross income.

24 (c) *Modifications reducing federal adjusted gross income.*  
25 —There shall be subtracted from federal adjusted gross  
26 income:

27 (1) Interest income on obligations of the United States  
28 and its possessions to the extent includible in gross income  
29 for federal income tax purposes;

30 (2) Interest or dividend income on obligations or securi-  
31 ties of any authority, commission or instrumentality of the  
32 United States to the extent includible in gross income for  
33 federal income tax purposes but exempt from state income  
34 taxes under the laws of the United States;

35 (3) Any gain from the sale or other disposition of prop-  
36 erty having a higher fair market value on the first day of

37 January, one thousand nine hundred sixty-one, than the  
38 adjusted basis at said date for federal income tax purposes:  
39 *Provided*, That the amount of this adjustment is limited to  
40 that portion of any such gain which does not exceed the  
41 difference between such fair market value and such adjusted  
42 basis: *Provided, however*, That if such gain is considered a  
43 long-term capital gain for federal income tax purposes, the  
44 modification shall be limited to fifty per centum of such  
45 portion of the gain; and

46 (4) The amount of any refund or credit for overpayment  
47 of income taxes imposed by this state, or any other taxing  
48 jurisdiction, to the extent properly included in gross income  
49 for federal income tax purposes.

50 (5) Retirement benefits received from any source pay-  
51 able to persons above the age of sixty-five: *Provided*, That such  
52 deduction for retirement benefits received from such source  
53 shall be limited to an amount not to exceed four thousand  
54 dollars.

55 (6) Any pay or allowances received after the thirty-first  
56 day of December, one thousand nine hundred seventy-three, by  
57 West Virginia residents as compensation for active service in  
58 the armed forces of the United States: *Provided*, That such  
59 deduction shall be limited to an amount not to exceed four  
60 thousand dollars.

61 (d) *Modification for West Virginia fiduciary adjustment.*  
62 —There shall be added to or subtracted from federal ad-  
63 justed gross income, as the case may be, the taxpayer's share,  
64 as beneficiary of an estate or trust, of the West Virginia  
65 fiduciary adjustment determined under section nineteen.

66 (e) *Partners.*—The amounts of modifications required to  
67 be made under this section by a partner, which relate to  
68 items of income, gain, loss or deduction of a partnership,  
69 shall be determined under section seventeen.

70 (f) *Husband and wife.*—If husband and wife determine  
71 their federal income tax on a joint return but determine their  
72 West Virginia income taxes separately, they shall determine  
73 their West Virginia adjusted gross incomes separately as if  
74 their federal adjusted gross incomes had been determined  
75 separately.

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

H. Darrel Darby  
Chairman Senate Committee

Clarence C. Christian, Jr.  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Harold McCason  
Clerk of the Senate

C. A. Blankenship  
Clerk of the House of Delegates

H. B. Brotherton, Jr.  
President of the Senate

Lewis G. McPherson  
Speaker House of Delegates

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

Arch A. Shreve, Jr.  
Governor

PRESENTED TO THE  
GOVERNOR

Date 4/24/73

Time 2:34 p.m.