

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1974

— ● —

# ENROLLED

*Committee Substitute for*  
HOUSE BILL No. 1073

(By Mr. Lukovich and Mr. Scott)

— ● —

PASSED March 5, 1974

In Effect July 1, 1974 Passage



C 641

FILED IN THE OFFICE  
EDGAR F. BISHOP III  
SECRETARY OF STATE  
THIS DATE 3-18-74

1073

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 1073**  
(By MR. TONKOVICH and MR. SCOTT)

[Passed March 5, 1974; in effect July 1, 1974.]

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 a modification reducing federal adjusted gross income for persons receiving annuities, benefits and other amounts under the public employees retirement system, the department of public safety death, disability and retirement fund, the state teachers retirement system, and all forms of military retirement, including regular armed forces, reserves, and national guard; providing a modification reducing federal adjusted gross income for persons above the age of sixty-five; providing for modification for West Virginia fiduciary adjustment; providing modification 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 22. PERSONAL INCOME TAX.**

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

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

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

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

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

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

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

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

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

34 (3) Any gain from the sale or other disposition of prop-  
 35 erty having a higher fair market value on the first day of  
 36 January, one thousand nine hundred sixty-one, than the  
 37 adjusted basis at said date for federal income tax purposes:  
 38 *Provided*, That the amount of this adjustment is limited to  
 39 that portion of any such gain which does not exceed the  
 40 difference between such fair market value and such adjusted  
 41 basis: *Provided, however*, That if such gain is considered a  
 42 long-term capital gain for federal income tax purposes, the  
 43 modification shall be limited to fifty per centum of such  
 44 portion of the gain;

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

49 (5) Annuities, retirement allowances, returns of contri-  
 50 butions and any other benefit received under the public em-  
 51 ployees retirement system, the department of public safety  
 52 death, disability and retirement fund, the state teachers retire-  
 53 ment system, and all forms of military retirement, including  
 54 regular armed forces, reserves and national guard, to the extent  
 55 includible in gross income for federal income tax purposes;  
 56 and

57 (6) Retirement income received in the form of pensions  
 58 and annuities after the thirty-first day of December, one  
 59 thousand nine hundred seventy-two, by any person who has  
 60 attained the age of sixty-five from any source other than  
 61 those enumerated in paragraph five of this subsection to the  
 62 extent includible in gross income for federal tax purposes:  
 63 *Provided*, That the total modification for all retirement in-  
 64 come received from such sources other than those enumerated  
 65 in paragraph five of this subsection shall be limited to an  
 66 amount in the aggregate not to exceed four thousand dollars  
 67 per person.

68 (7) Any pay or allowances received after the thirty-first  
 69 day of December, one thousand nine hundred seventy-three, by  
 70 West Virginia residents as compensation for active service in  
 71 the armed forces of the United States: *Provided*, That such

72 deduction shall be limited to an amount not to exceed four  
73 thousand dollars.

74 (d) *Modification for West Virginia fiduciary adjustment.*  
75 —There shall be added to or subtracted from federal adjusted  
76 gross income, as the case may be, the taxpayer's share, as  
77 beneficiary of an estate or trust, of the West Virginia fiduciary  
78 adjustment determined under section nineteen.

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

83 (f) *Husband and wife.*—If husband and wife determine  
84 their federal income tax on a joint return but determine their  
85 West Virginia income taxes separately, they shall determine  
86 their West Virginia adjusted gross incomes separately as if  
87 their federal adjusted gross incomes had been determined  
88 separately.

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

H. David Darby  
Chairman Senate Committee

Lawrence C. Thurston  
Chairman House Committee

Originated in the House.

Takes effect July 1, 1974.

Howard W. Carson  
Clerk of the Senate

W. Blankenship  
Clerk of the House of Delegates

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

Lewis F. Thomas  
Speaker House of Delegates

The within approved this the 18th  
March  
day of \_\_\_\_\_, 1974.

Andrew J. Thane, Jr.  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/12/74  
Time 4:55 p.m.