

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1974

— • —

ENROLLED

Committee Substitute for
HOUSE BILL NO. 1073

(By Mr. Zankovich and Mr. Scop)

— • —

PASSED March 5, 1974

In Effect July 1, 1974 Passage

 C 641

STATE OF WEST VIRGINIA
EDWARD F. DAVIS 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 income.*—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 includable 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 includable 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 includable 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 includable 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. Daniel Darby

Chairman Senate Committee

James C. Crumley

Chairman House Committee

Originated in the House.

Takes effect July 1, 1974.

Howard W. Hanson

Clerk of the Senate

O. Blankenship

Clerk of the House of Delegates

H. T. Brotherton, Jr.

President of the Senate

Lewis F. B. Klemm

Speaker House of Delegates

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

Arch A. Brauer, Jr.

Governor

PRESNTED TO THE
GOVERNOR

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