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OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1976



ENROLLED

Committee Substitute for

HOUSE BILL No. 904

(By Mr. Ponkovich & Mr. Medeburn)



PASSED March 13, 1976

In Effect ninety days from Passage



FILED IN THE OFFICE
JAMES R. MCCARTNEY
SECRETARY OF STATE

THIS DATE 3/26/76

904

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ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 904

(By MR. TONKOVICH and MR. WIEDEBUSCH)

(Originating in the House Committee on Finance)

[Passed March 13, 1976; 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 the West Virginia personal income tax exemption of retirement income; exempting survivorship annuities derived from all forms of military retirement income; increasing the exemption of retirement income received by persons over sixty-five, and providing such exemption shall apply to retirement income received by the surviving spouse of such person regardless of age.

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 income:

7 (1) Interest income on obligations of any state other
8 than this state, or of a political subdivision of any such
9 other state unless created by compact or agreement to which
10 this 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 in-
25 come:

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 property
35 having a higher fair market value on the first day of January,
36 one thousand nine hundred sixty-one, than the adjusted basis
37 at said date for federal income tax purposes: *Provided*, That
38 the amount of this adjustment is limited to that portion of any

39 such gain which does not exceed the difference between such
40 fair market value and such adjusted basis: *Provided, however,*
41 That if such gain is considered a long-term capital gain for
42 federal income tax purposes, the modification shall be limited to
43 fifty per centum of such portion of the gain;

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

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

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

67 (7) Any pay or allowances received after the thirty-first
68 day of December, one thousand nine hundred seventy-three,
69 by West Virginia residents as compensation for active service
70 in the armed forces of the United States: *Provided,* That such
71 deduction shall be limited to an amount not to exceed four
72 thousand dollars.

73 (d) *Modification for West Virginia fiduciary adjustment.*
74 —There shall be added to or subtracted from federal adjusted
75 gross income, as the case may be, the taxpayer's share, as

76 beneficiary of an estate or trust, of the West Virginia fiduciary
77 adjustment determined under section nineteen.

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

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

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

James L. Davis

Chairman Senate Committee

Clarence C. Chastain

Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

J. C. Willard, Jr.

Clerk of the Senate

C. A. Blankenship

Clerk of the House of Delegates

H. J. Beall

President of the Senate

Lewis J. McManus

Speaker House of Delegates

The within *approved* this the *24th* day of *March*, 1976.

Anda Musey, Jr.

Governor



PRESENTED TO THE
GOVERNOR

Date 3/19/76
Time 4:40 p.m.