

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1978



ENROLLED

SENATE BILL NO. 144

(By Mr. Brotherton, Mr. President)



PASSED March 2, 1978

In Effect from Passage



ENROLLED

Senate Bill No. 144

(By MR. BROTHERTON, MR. PRESIDENT)

[Passed March 3, 1978; in effect 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 updating meaning of terms used in the West Virginia corporation net income tax act.

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.

§11-24-3. Meaning of terms.

1 (a) *General.*—Any term used in this article shall have
2 the same meaning as when used in a comparable context
3 in the laws of the United States relating to federal income
4 taxes, unless a different meaning is clearly required by
5 the context or by definition in this article. Any reference
6 in this article to the laws of the United States or to the
7 Internal Revenue Code or to the federal income tax law
8 shall mean the provisions of the laws of the United
9 States as relate to the determination of income for
10 federal income tax purposes. All amendments made
11 to the laws of the United States prior to the first
12 day of January, one thousand nine hundred seventy-
13 eight, shall be given effect in determining the taxes im-
14 posed by this article for the tax period beginning the first
15 day of January, one thousand nine hundred seventy-
16 eight, and thereafter, but no amendment to laws of the
17 United States made on or after the first day of January,
18 one thousand nine hundred seventy-eight, shall be given
19 effect.

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

22 (1) The term “tax commissioner” means the tax com-
23 missioner of the state of West Virginia or his delegate.

24 (2) The term “corporation” means and includes a
25 joint-stock company or any association which is taxable
26 as a corporation under the federal income tax law.

27 (3) The term “domestic corporation” means any cor-
28 poration organized under the laws of West Virginia.

29 (4) The term “foreign corporation” means any cor-
30 poration other than a domestic corporation.

31 (5) The term “state” means any state of the United
32 States, the District of Columbia, the Commonwealth of
33 Puerto Rico, any territory or possession of the United
34 States, and any foreign country or political subdivision
35 thereof.

36 (6) The term “taxable year” means the taxable year for
37 which the taxable income of the taxpayer is computed
38 under the federal income tax law.

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

41 (8) The term “tax” includes, within its meaning, inter-
42 est and penalties unless the intention to give it a more
43 limited meaning is disclosed by the context.

44 (9) The term “commercial domicile” means the prin-
45 cipal place from which the trade or business of the tax-
46 payer is directed or managed.

47 (10) The term “compensation” means wages, salaries,
48 commissions and any form of remuneration paid to em-
49 ployees for personal services.

50 (11) The term “West Virginia taxable income” means
51 the taxable income of a corporation as defined by the
52 laws of the United States for federal income tax purposes,
53 adjusted as provided in section six: *Provided*, That in the
54 case of a corporation having income from business activ-
55 ity which is taxable without this state, its “West Vir-
56 ginia taxable income” shall be such portion of its taxable
57 income as so defined and adjusted as is allocated or ap-
58 portioned to this state under the provisions of section
59 seven.

60 (12) The term "business income" means income aris-
61 ing from transactions and activity in the regular course
62 of the taxpayer's trade or business and includes income
63 from tangible and intangible property if the acquisition
64 and disposition of the property constitute integral parts
65 of the taxpayer's regular trade or business operations.

66 (13) The term "nonbusiness income" means all income
67 other than business income.

68 (14) The term "public utility" means any business
69 activity to which the jurisdiction of the public service
70 commission of West Virginia extends under section one,
71 article two, chapter twenty-four of the code of West
72 Virginia.

73 (15) The term "this code" means the code of West
74 Virginia, one thousand nine hundred thirty-one, as
75 amended.

76 (16) The term "this state" means the state of West
77 Virginia.

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

James L. Davis
Chairman Senate Committee

Lawrence R. Christian
Chairman House Committee

Originated in the Senate.

To take effect from passage.

J. C. Dillon Jr
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

W. T. Bullock
President of the Senate

Donald L. Topp
Speaker House of Delegates

The within is approved this the 12
day of March, 1978.

John D. Rorhyll
Governor



APPROVED AND SIGNED BY THE GOVERNOR

RECEIVED

MAR 7 3 47 PM '78

OFFICE OF THE GOVERNOR

Date March 12, 1978

Time 2:00 p.m.

RECEIVED

'78 MAR 15 4 9:42

OFFICE
ECY. OF STATE