

APPROVED AND SIGNED BY THE GOVERNOR

Date 2-27-79

Time 2:30 p.m.

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1979

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# ENROLLED

HOUSE BILL No. 1046

(By Mr. Speaker, Mr Lee)

— ● —

Passed February 20, 1979

In Effect from Passage



No. 1046

**ENROLLED**

# **H. B. 1046**

(By MR. SPEAKER, MR. SEE)

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[Passed February 20, 1979; in effect from passage.]

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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 in  
3 the laws of the United States relating to federal income taxes,  
4 unless a different meaning is clearly required by the context  
5 or by definition in this article. Any reference in this article  
6 to the laws of the United States or to the Internal Revenue  
7 Code or to the federal income tax law shall mean the  
8 provisions of the laws of the United States as relate to the  
9 determination of income for federal income tax purposes.  
10 All amendments made to the laws of the United States prior  
11 to the first day of January, one thousand nine hundred  
12 seventy-nine, shall be given effect in determining the taxes

13 imposed by this article for the tax period beginning the first  
14 day of January, one thousand nine hundred seventy-nine,  
15 and thereafter, but no amendment to laws of the United  
16 States made on or after the first day of January, one thousand  
17 nine hundred seventy-nine, shall be given effect.

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

19 (1) The term “tax commissioner” means the tax commis-  
20 sioner of the state of West Virginia or his delegate.

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

24 (3) The term “domestic corporation” means any corpora-  
25 tion organized under the laws of West Virginia.

26 (4) The term “foreign corporation” means any corporation  
27 other than a domestic corporation.

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

32 (6) The term “taxable year” means the taxable year for  
33 which the taxable income of the taxpayer is computed under  
34 the federal income tax law.

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

37 (8) The term “tax” includes, within its meaning, interest  
38 and penalties unless the intention to give it a more limited  
39 meaning is disclosed by the context.

40 (9) The term “commercial domicile” means the principal  
41 place from which the trade or business of the taxpayer is  
42 directed or managed.

43 (10) The term “compensation” means wages, salaries,  
44 commissions and any form of remuneration paid to employees  
45 for personal services.

46 (11) The term "West Virginia taxable income" means the  
47 taxable income of a corporation as defined by the laws of  
48 the United States for federal income tax purposes, adjusted  
49 as provided in section six: *Provided*, That in the case of a  
50 corporation having income from business activity which is  
51 taxable without this state, its "West Virginia taxable income"  
52 shall be such portion of its taxable income as so defined and  
53 adjusted as is allocated or apportioned to this state under the  
54 provisions of section seven.

55 (12) The term "business income" means income arising  
56 from transactions and activity in the regular course of the  
57 taxpayer's trade or business and includes income from tangible  
58 and intangible property if the acquisition and disposition of  
59 the property constitute integral parts of the taxpayer's regular  
60 trade or business operations.

61 (13) The term "nonbusiness income" means all income  
62 other than business income.

63 (14) The term "public utility" means any business activity  
64 to which the jurisdiction of the public service commission  
65 of West Virginia extends under section one, article two,  
66 chapter twenty-four of the code of West Virginia.

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

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

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

*James L. Davis*  
Chairman Senate Committee

*Gloria C. Christian*  
Chairman House Committee

Originated in the House.

Takes effect from passage.

*J. Wilson, Jr.*  
Clerk of the Senate

*V. Blankenship*  
Clerk of the House of Delegates

*H. B. ...*  
President of the Senate

*Clayton M. Lee, Jr.*  
Speaker House of Delegates

The within *is approved* this the *27*  
day of *February*, 1979.

*John I. Rhoads*  
Governor

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