

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-24-80

Time 1:00 p.m.

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1980

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ENROLLED

HOUSE BILL No. 1384

(By Mr. Polan)

— ● —

Passed March 8, 1980

In Effect July 1, 1980 ~~Passage~~



No. 1384

ENROLLED

H. B. 1384

(By MR. POLAN)

(Originating in the House Committee on Finance)

[Passed March 8, 1980; in effect July 1, 1980.]

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 and modifications which increase or reduce federal adjusted gross income thereunder in determination of the state adjusted gross income of resident individuals; providing a reduction modification which exempts retirement income received from any police or firemen's retirement system, including any survivorship annuities thereunder; providing a maximum exemption allowable to persons who attain the age of sixty-five during the taxable year of eight thousand dollars annually, with such exemption to be applicable to adjusted gross income from any source and with the surviving spouse of any such person being entitled to such exemption; providing a reduction modification granting a maximum exemption of eight thousand dollars annually to persons permanently and totally disabled, regardless of age, as certified by proper authority during the taxable year, with such exemption being applicable to adjusted gross income received from any source, and with the surviving spouse of such person being entitled to such exemption; providing a conforming adjustment in the reduction modification which exempts certain military pay and allowances income relating to active service in the armed forces

by West Virginia residents by limiting such exemption to persons under the age of sixty-five; and specifying effective dates.

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 in-
3 come 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 income.*
6 —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 state
9 unless created by compact or agreement to which this state
10 is a party;

11 (2) Interest or divided income on obligations or securities of
12 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
22 extent deductible in determining federal adjusted gross
23 income.

24 (c) *Modifications reducing federal adjusted gross income.*
25 —There shall be subtracted from federal adjusted gross 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 secur-
30 ities of any authority, commission or instrumentality of the
31 United States to the extent includible in gross income for
32 federal income tax purposes but exempt from state income
33 taxes 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 Jan-
36 uary, one thousand nine hundred sixty-one, than the adjusted
37 basis at said date for federal income tax purposes: *Provided*,
38 That the amount of this adjustment is limited to that portion
39 of any such gain which does not exceed the difference between
40 such fair market value and such adjusted basis: *Provided*,
41 *however*, That if such gain is considered a long-term capital
42 gain for federal income tax purposes, the modification shall
43 be limited to 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 retire-
52 ment 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 and
57 annuities after the thirty-first day of December, one thousand
58 nine hundred seventy-nine, under any police or firemen's retire-
59 ment system, including any survivorship annuities derived
60 therefrom, to the extent includible in gross income for federal
61 income tax purposes;

62 (7) Federal adjusted gross income in the amount of eight
63 thousand dollars received from any source after the thirty-first

64 day of December, one thousand nine hundred seventy-nine, by
65 any person who has attained the age of sixty-five on or be-
66 fore the last day of the taxable year, or by any person certi-
67 fied by proper authority as permanently and totally disabled,
68 regardless of age, on or before the last day of the taxable year,
69 to the extent includible in federal adjusted gross income for
70 federal tax purposes: *Provided*, That

71 (i) Where the total modification under subdivisions (1), (2),
72 (5) and (6) of this subsection is eight thousand dollars per
73 person or more, no deduction shall be allowed under this sub-
74 division, and

75 (ii) Where the total modification under subdivisions (1),
76 (2), (5) and (6) of this subsection is less than eight thousand
77 dollars per person, the total modification allowed under this
78 subdivision for all gross income received by such person shall
79 be limited to the difference between eight thousand dollars and
80 the sum of modifications under such subdivisions;

81 (8) Federal adjusted gross income in the amount of ~~ten~~^{eight}
82 thousand dollars received from any source after the thirty-first
83 day of December, one thousand nine hundred seventy-nine,
84 by the surviving spouse of any person who had attained the
85 age of sixty-five or who had been certified as permanently and
86 totally disabled, to the extent includible in federal adjusted
87 gross income for federal tax purposes: *Provided*, That

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88 (i) Where the total modification under subdivisions (1), (2),
89 (5), (6) and (7) of this subsection is eight thousand dollars or
90 more, no deduction shall be allowed under this subdivision,
91 and

92 (ii) Where the total modification under subdivisions (1),
93 (2), (5), (6) and (7) of this subsection is less than eight thou-
94 sand dollars per person the total modification allowed under
95 this subdivision for all gross income received by such person
96 shall be limited to the difference between eight thousand dol-
97 lars and the sum of such subdivision.

98 (9) Any pay or allowances received after the thirty-first
99 day of December, one thousand nine hundred seventy-nine, by
100 West Virginia residents who have not attained the age of sixty-

101 five as compensation for active service in the armed forces of
102 the United States: *Provided*, That such deduction shall be
103 limited to an amount not to exceed four thousand dollars.

104 (d) *Modification for West Virginia fiduciary adjustment.*—
105 There shall be added to or subtracted from federal adjusted
106 gross income, as the case may be, the taxpayer's share, as
107 beneficiary of an estate or trust, of the West Virginia fidu-
108 ciary adjustment determined under section nineteen.

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

113 (f) *Husband and wife.*—If husband and wife determine
114 their federal income tax on a joint return but determine their
115 West Virginia income taxes separately, they shall determine
116 their West Virginia adjusted gross incomes separately as if
117 their federal adjusted gross incomes had been determined
118 separately.

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

James L. Davis
Chairman Senate Committee

Clarence C. Christian Jr
Chairman House Committee

Originated in the House.

Takes effect July 1, 1980.

Isid C. Wilts
Clerk of the Senate

CA Blankenship
Clerk of the House of Delegates

H. T. Bortenton
President of the Senate

Clide N. Lee, Jr
Speaker House of Delegates

The within is approved this the 24
day of March, 1980.

John D. Rhyne W
Governor

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OFFICE OF THE GOVERNOR

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