Date 3-24-80
Time 4:50 p.m.

WEST VIRGINIA LEGISLATURE

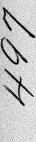
REGULAR SESSION, 1980

ENROLLED

SENATE BILL NO. 497

(By Mr. Miss Hundon)

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Senate Bill No. 497

(By Miss Herndon)

[Passed March 8, 1980; in effect from passage.]

AN ACT to amend and reenact sections two and three, article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to taxation of motor vehicle carriers; requiring taxation of two point transportation within this state in a continuation of interstate commerce on its net income.

Be it enacted by the Legislature of West Virginia:

That sections two and three, article twelve-a, 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 12A. ANNUAL TAX ON INCOMES OF CERTAIN CARRIERS.

§11-12A-2. Imposition of annual tax on gross income of certain carriers.

- 1 Every motor vehicle carrier operating on the public
- 2 highways of this state and every railroad car carrier,
- 3 railroad carrier, express company, pipeline company,
- 4 telephone and telegraph company, airline company and
- 5 any person operating a steamboat or other watercraft, for
- 6 the transportation of passengers or freight, doing business
- 7 in the state shall pay to the state an annual tax for each
- 8 calendar year. This tax shall be equal to the gross income
- 9 from all business beginning and ending within the state
- 10 multiplied by the respective rates as follows: Motor
- 11 vehicle carriers, railroad car carrier, railroad carrier,
- 12 express companies, pipeline companies, airline companies,
- 13 any person operating a steamboat or other watercraft and
- 14 telegraph companies, three and three-tenths percent, and

15 telephone companies, three and seventy-four one-hun-16 dredths percent: Provided. That any motor vehicle carrier 17 which is an urban or suburban bus line shall be taxed 18 at the rate of one and sixty-five one-hundredths percent 19 of such gross income and any motor vehicle carrier which 20 is a taxi or cab company or a company which hauls waste, refuse or garbage shall be taxed at the rate of 22 two and five-tenths percent of such gross income: Provided, however, That a motor vehicle carrier which 24 transports goods within the state of West Virginia and which received those goods as a connecting carrier in an 26 uninterrupted continuation of interstate transportation 27 done under the authority of a certificate of convenience and necessity issued by the interstate commerce commission, shall be taxed pursuant to subdivision (a) of section 30 three of this article. This provision shall apply only to the transportation of goods carried within the state without a container change or warehousing.

§11-12A-3. Imposition of annual tax on net income of certain carriers.

1 In addition to the tax imposed in the preceding section, 2 every motor vehicle carrier operating on the public high-3 ways of the state and every railroad carrier, railroad 4 car carrier, express company, pipeline company, telephone 5 and telegraph company, airline company and any person operating a steamboat or other watercraft for the trans-7 portation of passengers or freight, doing business in this state shall pay an annual tax for each calendar year 9 on the net income earned within the state equal to 10 three and seventy-four one-hundredths percent of such 11 net income for telephone companies and six and six-12 tenths percent of such net income for all other carriers 13 included in this section: Provided. That any motor vehicle 14 carrier which is an urban or suburban bus line or a 15 taxi or cab company or a company which hauls waste, 16 refuse or garbage, five percent of such net income. Net 17 income shall be determined as follows:

18 (a) The net income of motor vehicle carriers earned 19 within the state including two point business in a con-20 tinuation of interstate commerce without a container

change or warehousing shall be determined by ascertaining a sum bearing the proportion to the total net income of the motor vehicle carrier that its business done in West Virginia measured in motor vehicle miles of motor vehicle carrier operation, bears to all business done; 25

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- (b) The net income of railroad carriers earned within the state shall be determined by ascertaining a sum bearing the proportion to total net income of the carriers that its business done in West Virginia, measured in tonmiles, bears to all business done, measured in like fashion;
- 32 (c) The net income of railroad car carriers and express companies earned within the state shall be determined by ascertaining a sum bearing the proportion 34 to the total net income of the carriers or company that its business done in West Virginia, measured in car-miles of car operation, bears to all business done, measured in 38 like fashion: Provided, however, That nothing in this 39 article shall be construed as applying to railroad freight car carriers not owned by railroad carriers or their 41 subsidiaries:
- (d) The net income of pipeline companies earned within the state shall be determined by ascertaining a sum bearing the proportion to the total net income of the company that its business done in West Virginia, 46 measured in barrel-miles in the case of oil and liquid 47 coal or slurry and of thousand cubic feet-miles in the case of gas, bears to all business done, measured in like fashion;
- (e) The net income of airline companies and any person operating a steamboat or other watercraft for the transportation of passengers or freight earned within the state shall be determined by ascertaining a sum bearing 54 the proportion to the total net income of the corporation 55 that its business done in West Virginia, measured in 56 passenger-miles in the case of airline companies and ton-57 miles in the case of any person operating a steamboat or other watercraft, bears to all business done, measured in like fashion;
 - (f) The net income of telephone and telegraph com-

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61 panies shall be determined by ascertaining a sum bearing 62 the proportion to the total net income of the companies 63 that its business done in West Virginia, measured in 64 wire-miles, bears to all business done, measured in like fashion:

(g) In computing the tax imposed by this section, the 67 total net income of a taxpayer who shall have been taxed under the preceding section shall be reduced by an amount bearing the proportion to such total net income 70 that the gross income of the taxpayer which is the 71 measure of the tax under the preceding section bears to 72 its total gross income from all business done wherever conducted. No county, city, town, village or other politi-74 cal subdivision of the state shall levy a license, net income or any other kind of tax on the business taxed 76 under this article.

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

Chairman Senate Committee Chairman House Committee Originated in the Senate. To take effect from passage. Clerk of the Senate Clerk of the House of Delegates President Speaker House of Delegates The within in officers __this the_

day of . Nach 1980

Governor

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