

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-24-80

Time 4:50 p.m.

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1980

ENROLLED

SENATE BILL NO. 497

(By ~~Mr.~~ Miss Turney)

PASSED March 8, 1980

In Effect from Passage

No. 497

ENROLLED

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
21 waste, refuse or garbage shall be taxed at the rate of
22 two and five-tenths percent of such gross income:
23 *Provided, however*, That a motor vehicle carrier which
24 transports goods within the state of West Virginia and
25 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
28 and necessity issued by the interstate commerce commis-
29 sion, shall be taxed pursuant to subdivision (a) of section
30 three of this article. This provision shall apply only to
31 the transportation of goods carried within the state with-
32 out 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
6 operating a steamboat or other watercraft for the trans-
7 portation of passengers or freight, doing business in this
8 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

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

26 (b) The net income of railroad carriers earned within
27 the state shall be determined by ascertaining a sum bear-
28 ing the proportion to total net income of the carriers
29 that its business done in West Virginia, measured in ton-
30 miles, bears to all business done, measured in like
31 fashion;

32 (c) The net income of railroad car carriers and ex-
33 press companies earned within the state shall be de-
34 termined by ascertaining a sum bearing the proportion
35 to the total net income of the carriers or company that
36 its business done in West Virginia, measured in car-miles
37 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
40 car carriers not owned by railroad carriers or their
41 subsidiaries;

42 (d) The net income of pipeline companies earned
43 within the state shall be determined by ascertaining a
44 sum bearing the proportion to the total net income of
45 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
48 case of gas, bears to all business done, measured in like
49 fashion;

50 (e) The net income of airline companies and any
51 person operating a steamboat or other watercraft for the
52 transportation of passengers or freight earned within the
53 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
58 other watercraft, bears to all business done, measured in
59 like fashion;

60 (f) The net income of telephone and telegraph com-

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

(g) In computing the tax imposed by this section, the 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 that the gross income of the taxpayer which is the measure of the tax under the preceding section bears to its total gross income from all business done wherever conducted. No county, city, town, village or other political subdivision of the state shall levy a license, net income or any other kind of tax on the business taxed under this article.

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

James L. Davis
Chairman Senate Committee

Clarence C. Chudler Jr.
Chairman House Committee

Originated in the Senate.

To take effect from passage.

Todd C. Willis
Clerk of the Senate

Q. Blankenship
Clerk of the House of Delegates

W. T. Bricker
President of the Senate

Clayton M. Lee Jr.
Speaker House of Delegates

The within is approved this the 24th
day of March 1980

John P. Rhyne
Governor

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