

No. 226

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SENATE BILL NO. 226

(By Mr. J. E. Law, Sr. President)

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PASSED March 1 1983

In Effect.....*from*.....Passage



# ENROLLED

## Senate Bill No. 226

(BY MR. MCGRAW, MR. PRESIDENT)

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[Passed March 1, 1983; 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  
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 federal  
10    income tax purposes. All amendments made to the laws  
11    of the United States prior to the first day of January,  
12    one thousand nine hundred eighty-three, shall be given  
13    effect in determining the taxes imposed by this article  
14    for the tax period beginning the first day of January,  
15    one thousand nine hundred eighty-two, and thereafter,  
16    but no amendment to laws of the United States made

17 on or after the first day of January, one thousand nine  
18 hundred eighty-three shall be given effect.

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

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

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

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

28 (4) The term “foreign corporation” means any corpora-  
29 tion other than a domestic corporation.

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

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

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

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

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

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

49 (11) The term “West Virginia taxable income” means  
50 the taxable income of a corporation as defined by the  
51 laws of the United States for federal income tax purposes,  
52 adjusted as provided in section six of this article:  
53 *Provided*, That in the case of a corporation having income

54 from business activity which is taxable without this  
55 state, its "West Virginia taxable income" shall be such  
56 portion of its taxable income as so defined and adjusted  
57 as is allocated or apportioned to this state under the  
58 provisions of section seven of this article.

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

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

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

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

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

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

James L. Davis  
Chairman Senate Committee

Armed Queller  
Chairman House Committee

Originated in the Senate.

To take effect from passage.

Todd C. Huth  
Clerk of the Senate

Donald L. Hopp  
Clerk of the House of Delegates

Warren R. McLean  
President of the Senate

W. M. Lee, Jr.  
Speaker House of Delegates

The within is approved this the 12  
day of March, 1983.

John A. Relyea  
Governor

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