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WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1983

—•—
ENROLLED

SENATE BILL NO. 484

(By Mr. Gilson)

—•—
PASSED March 4, 1983

In Effect ninty days from Passage



ENROLLED
Senate Bill No. 484
(BY MR. NELSON)

[Passed March 4, 1983; in effect ninety days from passage.]

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 personal income tax exclusions; and medical certificates filed as proof of permanent and total disability.

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
3 income as defined in the laws of the United States for
4 the taxable year with the modifications specified in this
5 section.

6 (b) *Modifications increasing federal adjusted gross*
7 *income.*—There shall be added to federal adjusted gross
8 income the following items, except that modifications
9 (5), (6) and (7) shall be required only with respect to
10 tax periods ending on or after the first day of January,
11 one thousand nine hundred eighty-two:

12 (1) Interest income on obligations of any state other
13 than this state, or of a political subdivision of any such

14 other state unless created by compact or agreement to
15 which this state is a party;

16 (2) Interest or dividend income on obligations or
17 securities of any authority, commission or instrumentality
18 of the United States, which the laws of the United States
19 exempt from federal income tax but not from state in-
20 come taxes;

21 (3) Income taxes imposed by this state or any other
22 taxing jurisdiction, to the extent deductible in determin-
23 ing federal adjusted gross income and not credited against
24 federal income tax;

25 (4) Interest on indebtedness incurred or continued to
26 purchase or carry obligations or securities the income
27 from which is exempt from tax under this article, to the
28 extent deductible in determining federal adjusted gross
29 income;

30 (5) Interest on a depository institution tax-exempt
31 savings certificate which is allowed as an exclusion from
32 federal gross income under section 128 of the Internal
33 Revenue Code, for the federal taxable year;

34 (6) The amount allowed as a deduction from federal
35 gross income under section 221 of the Internal Revenue
36 Code by married couples who file a joint federal return
37 for the federal taxable year; and

38 (7) The deferral value of certain income that is not
39 recognized for federal tax purposes, which value shall
40 be an amount equal to a percentage of the amount al-
41 lowed as a deduction in determining federal adjusted
42 gross income pursuant to the accelerated cost recovery
43 system under section 168 of the Internal Revenue Code
44 for the federal taxable year, with the percentage of the
45 federal deduction to be added as follows with respect to
46 the following recovery property: three-year property—
47 no modification; five-year property—ten percent; ten-
48 year property—fifteen percent; fifteen-year public utility
49 property—twenty-five percent; and fifteen-year real prop-
50 erty—thirty-five percent: *Provided*, That this modifica-
51 tion shall not apply to any person whose federal de-
52 duction is determined by the use of the straight line
53 method.

54 (c) *Modifications reducing federal adjusted gross in-*
55 *come.*—There shall be subtracted from federal adjusted
56 gross income:

57 (1) Interest income on obligations of the United States
58 and its possessions to the extent includible in gross in-
59 come for federal income tax purposes;

60 (2) Interest or dividend income on obligations or
61 securities of any authority, commission or instrumental-
62 ity of the United States to the extent includible in gross
63 income for federal income tax purposes but exempt from
64 state income taxes under the laws of the United States;

65 (3) Any gain from the sale or other disposition of
66 property having a higher fair market value on the first
67 day of January, one thousand nine hundred sixty-one,
68 than the adjusted basis at said date for federal income
69 tax purposes: *Provided*, That the amount of this ad-
70 justment is limited to that portion of any such gain which
71 does not exceed the difference between such fair market
72 value and such adjusted basis: *Provided, however*, That
73 if such gain is considered a long-term capital gain for
74 federal income tax purposes, the modification shall be
75 limited to forty percent of such portion of the gain;

76 (4) The amount of any refund or credit for overpay-
77 ment of income taxes imposed by this state, or any other
78 taxing jurisdiction, to the extent properly included in
79 gross income for federal income tax purposes;

80 (5) Annuities, retirement allowances, returns of con-
81 tributions and any other benefit received under the
82 public employees retirement system, the department
83 of public safety death, disability and retirement fund,
84 the state teachers retirement system, and all forms of
85 military retirement, including regular armed forces,
86 reserves and national guard, including any survivorship
87 annuities derived therefrom, to the extent includible in
88 gross income for federal income tax purposes;

89 (6) Retirement income received in the form of pen-
90 sions and annuities after the thirty-first day of December,
91 one thousand nine hundred seventy-nine, under any
92 police or firemen's retirement system, including any
93 survivorship annuities derived therefrom, to the extent

94 includible in gross income for federal income tax pur-
95 poses;

96 (7) Federal adjusted gross income in the amount of
97 eight thousand dollars received from any source after
98 the thirty-first day of December, one thousand nine
99 hundred seventy-nine, by any person who has attained
100 the age of sixty-five on or before the last day of the
101 taxable year, or by any person certified by proper
102 authority as permanently and totally disabled, regardless
103 of age, on or before the last day of the taxable year, to
104 the extent includible in federal adjusted gross income
105 for federal tax purposes: *Provided*, That if a person has
106 a medical certification from a prior year and he is still
107 permanently and totally disabled, a copy of the original
108 certificate is acceptable as proof of disability. A copy
109 of the form filed for the federal disability income tax
110 exclusion is acceptable: *Provided, however*, That

111 (i) Where the total modification under subdivisions
112 (1), (2), (5) and (6) of this subsection is eight thousand
113 dollars per person or more, no deduction shall be allowed
114 under this subdivision, and

115 (ii) Where the total modification under subdivisions
116 (1), (2), (5) and (6) of this subsection is less than
117 eight thousand dollars per person, the total modification
118 allowed under this subdivision for all gross income re-
119 ceived by such person shall be limited to the difference
120 between eight thousand dollars and the sum of modifi-
121 cations under such subdivisions;

122 (8) Federal adjusted gross income in the amount of
123 eight thousand dollars received from any source after
124 the thirty-first day of December, one thousand nine
125 hundred seventy-nine, by the surviving spouse of any
126 person who had attained the age of sixty-five or who
127 had been certified as permanently and totally disabled,
128 to the extent includible in federal adjusted gross income
129 for federal tax purposes: *Provided*, That

130 (i) Where the total modification under subdivisions
131 (1), (2), (5), (6) and (7) of this subsection is eight
132 thousand dollars or more, no deduction shall be allowed
133 under this subdivision, and

134 (ii) Where the total modification under subdivisions
135 (1), (2), (5), (6) and (7) of this subsection is less than
136 eight thousand dollars per person the total modification
137 allowed under this subdivision for all gross income re-
138 ceived by such person shall be limited to the difference
139 between eight thousand dollars and the sum of such
140 subdivisions; and

141 (9) Any pay or allowances received, after the thirty-
142 first day of December, one thousand nine hundred
143 seventy-nine, by West Virginia residents who have not
144 attained the age of sixty-five, as compensation for active
145 service in the armed forces of the United States: *Pro-*
146 *vided*, That such deduction shall be limited to an amount
147 not to exceed four thousand dollars.

148 (d) *Modification for West Virginia fiduciary adjust-*
149 *ment.*—There shall be added to or subtracted from federal
150 adjusted gross income, as the case may be, the taxpayer's
151 share, as beneficiary of an estate or trust, of the West
152 Virginia fiduciary adjustment determined under section
153 nineteen of this article.

154 (e) *Partners.*—The amounts of modifications required
155 to be made under this section by a partner, which relate
156 to items of income, gain, loss or deduction of a partner-
157 ship, shall be determined under section seventeen of this
158 article.

159 (f) *Husband and wife.*—If husband and wife determine
160 their federal income tax on a joint return but determine
161 their West Virginia income taxes separately, they shall
162 determine their West Virginia adjusted gross incomes
163 separately as if their federal adjusted gross incomes had
164 been determined separately.

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

James L. Davis
Chairman Senate Committee

James A. ...
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Todd C. ...
Clerk of the Senate

Donald L. ...
Clerk of the House of Delegates

Robert F. ...
President of the Senate

William H. ...
Speaker House of Delegates

The within is approved this the 17

day of March, 1983.

John I. ...
Governor

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