WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990

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ENROLLED

HOUSE BILL No. 4793

(By Delegates Harless and Kiser)

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Passed March 10, 1990

In Effect from Passage
AN ACT to amend and reenact sections nine and fifty-five, article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to annual updating of meaning of certain terms used in personal income tax law to bring them into conformity with their meanings for federal income tax purpose for taxable years beginning after the thirty-first day of December, one thousand nine hundred eighty-eight; and allowing the annual return of farmers to be treated as a declaration of estimated tax if filed on or before the first day of March of succeeding tax year.

Be it enacted by the Legislature of West Virginia:

That section nine and fifty-five, 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.


1 Any term used in this article shall have the same meaning as when used in a comparable context in the laws of the United States relating to income taxes, unless a different meaning is clearly required. Any reference in this article to the laws of the United States shall mean the provisions of the Internal Revenue Code
of 1986, as amended, and such other provisions of the
laws of the United States as relate to the determination
of income for federal income tax purposes. All amend-
ments made to the laws of the United States prior to
the first day of January, one thousand nine hundred
ninety, shall be given effect in determining the taxes
imposed by this article for any taxable year beginning
the first day of January, one thousand nine hundred
eighty-nine, or thereafter, but no amendment to the laws
of the United States made on or after the first day of
January, one thousand nine hundred ninety, shall be
given effect.

§11-21-55. Declaration of estimated tax.

(a) Requirement of declaration.—Every resident and
nonresident individual shall make a declaration of his
estimated tax for the taxable year, containing such
information as the tax commissioner may prescribe by
regulations or instructions, if his West Virginia adjusted
gross income, other than from wages on which tax is
withheld under this article, can reasonably be expected
to exceed four hundred dollars plus the sum of the West
Virginia personal exemptions to which he is entitled.

(b) Definition of estimated tax.—The term “estimated
tax” means the amount which an individual estimates
to be his income tax under this article for the taxable
year, less the amount which he estimates to be the sum
of any credits allowable against the tax.

(c) Joint declaration of husband and wife.—A husband
and wife may make a joint declaration of estimated tax
as if they were one taxpayer, in which case the liability
with respect to the estimated tax shall be joint and
several. No joint declaration may be made if husband
and wife are separated under a decree of divorce or of
separate maintenance, or if they have different taxable
years. If a joint declaration is made but husband and
wife elect to determine their taxes under this article
separately, the estimated tax for such year may be
treated as the estimated tax of either husband or wife,
or may be divided between them, as they may elect.

(d) Time for filing declaration.—A declaration of
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estimated tax of an individual other than a farmer shall be filed on or before the fifteenth day of April of the taxable year, except that if the requirements of subsection (a) are first met:

(1) After the first day of April and before the second day of June of the taxable year, the declaration shall be filed on or before the fifteenth day of June, or

(2) After the first day of June and before the second day of September of the taxable year, the declaration shall be filed on or before the fifteenth day of September, or

(3) After the first day of September of the taxable year, the declaration shall be filed on or before the fifteenth day of January of the succeeding year.

(e) Declaration of estimated tax by a farmer.—A declaration of estimated tax of an individual having an estimated West Virginia adjusted gross income from farming for the taxable year which is at least two thirds of his total estimated West Virginia adjusted gross income for the taxable year may be filed at any time on or before the fifteenth day of January of the succeeding year.

(f) Declaration of estimated tax of forty dollars or less.—A declaration of estimated tax of an individual having a total estimated tax for the taxable year of forty dollars or less may be filed at any time on or before the fifteenth day of January of the succeeding year under regulations of the tax commissioner.

(g) Amendments of declaration.—An individual may amend a declaration under regulations of the tax commissioner.

(h) Return as declaration or amendment.—If on or before the fifteenth day of February of the succeeding taxable year an individual other than a farmer files his return for the taxable year for which the declaration is required, and pays therewith the full amount of the tax shown to be due on the return:
(1) Such return shall be considered as his declaration, if no declaration was required to be filed during the taxable year, but is otherwise required to be filed on or before the fifteenth day of January.

(2) Such return, if filed on or before the fifteenth day of January, shall be considered an amendment permitted by subsection (g) if the tax shown on the return is greater than the estimated tax shown in a declaration previously made.

(i) Fiscal year.—This section shall apply to a taxable year other than a calendar year by the substitution of the months of such fiscal year for the corresponding months specified in this section.

(j) Short taxable year.—An individual having a taxable year of less than twelve months shall make a declaration in accordance with regulations of the tax commissioner.

(k) Declaration for individual under a disability.—The declaration of estimated tax for an individual who is unable to make a declaration by reason of minority or other disability shall be made and filed by his guardian, committee, fiduciary or other person charged with the care of his person or property (other than a receiver in possession of only a part of his property), or by his duly authorized agent.

(1) Return of farmer as declaration of estimated tax.—If on or before the first day of March of the succeeding taxable year an individual who is a farmer files his return for the taxable year for which the declaration is required, and pays therewith the full amount of the tax shown to be due on the return, such return shall be considered as his declaration, if no declaration was required to be filed during the taxable year, but is otherwise required to be filed on or before the fifteenth day of January, for a taxable year ending after the thirty-first day of December, one thousand nine hundred eighty-nine.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 30th day of January, 1990.

Governor