

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990



ENROLLED

HOUSE BILL No. 4793

(By ~~the~~ Delegates Farley + Kiss)



Passed March 10, 1990

In Effect from Passage

ENROLLED
H. B. 4793

(By DELEGATES FARLEY AND KISS)

[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.

§11-21-9. Meaning of terms.

1 Any term used in this article shall have the same
2 meaning as when used in a comparable context in the
3 laws of the United States relating to income taxes,
4 unless a different meaning is clearly required. Any
5 reference in this article to the laws of the United States
6 shall mean the provisions of the Internal Revenue Code

7 of 1986, as amended, and such other provisions of the
8 laws of the United States as relate to the determination
9 of income for federal income tax purposes. All amend-
10 ments made to the laws of the United States prior to
11 the first day of January, one thousand nine hundred
12 ninety, shall be given effect in determining the taxes
13 imposed by this article for any taxable year beginning
14 the first day of January, one thousand nine hundred
15 eighty-nine, or thereafter, but no amendment to the laws
16 of the United States made on or after the first day of
17 January, one thousand nine hundred ninety, shall be
18 given effect.

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

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

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

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

27 (d) *Time for filing declaration.*—A declaration of

28 estimated tax of an individual other than a farmer shall
29 be filed on or before the fifteenth day of April of the
30 taxable year, except that if the requirements of
31 subsection (a) are first met:

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

35 (2) After the first day of June and before the second
36 day of September of the taxable year, the declaration
37 shall be filed on or before the fifteenth day of Sep-
38 tember, or

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

42 (e) *Declaration of estimated tax by a farmer.*—A
43 declaration of estimated tax of an individual having an
44 estimated West Virginia adjusted gross income from
45 farming for the taxable year which is at least two thirds
46 of his total estimated West Virginia adjusted gross
47 income for the taxable year may be filed at any time
48 on or before the fifteenth day of January of the
49 succeeding year, in lieu of the time otherwise
50 prescribed.

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

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

60 (h) *Return as declaration or amendment.*—If on or
61 before the fifteenth day of February of the succeeding
62 taxable year an individual other than a farmer files his
63 return for the taxable year for which the declaration is
64 required, and pays therewith the full amount of the tax
65 shown to be due on the return:

66 (1) Such return shall be considered as his declaration,
67 if no declaration was required to be filed during the
68 taxable year, but is otherwise required to be filed on or
69 before the fifteenth day of January.

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

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

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

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

91 (l) *Return of farmer as declaration of estimated tax*.—
92 If on or before the first day of March of the succeeding
93 taxable year an individual who is a farmer files his
94 return for the taxable year for which the declaration is
95 required, and pays therewith the full amount of the tax
96 shown to be due on the return, such return shall be
97 considered as his declaration, if no declaration was
98 required to be filed during the taxable year, but is
99 otherwise required to be filed on or before the fifteenth
100 day of January, for a taxable year ending after the
101 thirty-first day of December, one thousand nine hundred
102 eighty-nine.

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

Frederick J. Parker

Chairman Senate Committee

Bernard V. Kelly

Chairman House Committee

Originating in the House.

Takes effect from passage.

Parrell Edelman

Clerk of the Senate

Donald Y. Kopp

Clerk of the House of Delegates

Keith Sandette

President of the Senate

[Signature]

Speaker of the House of Delegates

The within *is approved* this the *30th*
day of *March* 1990.

Anton Caperton

Governor

PRESENTED TO THE

GOVERNOR

Date 3/29/90

Date _____

Time 12:05 pm

RECEIVED

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OFFICE OF THE
SECRETARY