WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1998

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ENROLLED

House Bill No. 2079
(By Delegates Manuel, Michael, Mezzatesta, Collins and Martin)

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Passed March 14, 1998

In Effect July 1, 1998
ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2079
(BY DELEGATES MANUEL, MICHAEL, MEZZATESTA,
COLLINS AND MARTIN)

[Passed March 14, 1998; in effect July 1, 1998.]

AN ACT to amend and reenact section seven, article twenty-three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to exempting hunting clubs from paying a franchise tax if there is no income and no dividends paid.

Be it enacted by the Legislature of West Virginia:

That section seven, article twenty-three, 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 23. BUSINESS FRANCHISE TAX.

§11-23-7. Persons and organizations exempt from tax.

1 The following organizations and persons shall be exempt from the tax imposed by this article to the extent provided in this section:

4 (a) Natural persons doing business in this state that are not doing business in the form of a partnership (as defined in section three of this article) or in the form of a corporation (as defined in section three of this article).
Such persons include persons doing business as sole proprietors, sole practitioners and other self-employed persons.

(b) Corporations and organizations which by reason of their purposes or activities are exempt from federal income tax: Provided, That this exemption does not apply to that portion of their capital (as defined in section three of this article) which is used, directly or indirectly, in the generation of unrelated business income (as defined in the Internal Revenue Code) of any such corporation or organization if the unrelated business income is subject to federal income tax.

(c) Insurance companies which pay this state a tax upon premiums.

(d) Production credit associations organized under the provisions of the federal "Farm Credit Act of 1933": Provided, That this exemption does not apply to corporations or associations organized under the provisions of article four, chapter nineteen of this code.

(e) Any trust established pursuant to section one hundred eighty-six, chapter seven, title twenty-nine of the code of the laws of the United States (enacted as section three hundred two (c) of the labor management relations act, one thousand nine hundred forty-seven), as amended prior to the first day of January, one thousand nine hundred eighty-five.

(f) Any credit union organized under the provisions of chapter thirty-one, or any other chapter of this code: Provided, That this exemption does not apply to corporations or cooperative associations organized under the provisions of article four, chapter nineteen of this code.

(g) Any corporation organized under this code which is a political subdivision of the state of West Virginia, or is an instrumentality of a political subdivision of this state, and was created pursuant to this code.

(h) Any corporation or partnership engaged in the activity of agriculture and farming, as defined in
paragraph (8), subsection (b), section three of this article:

Provided, That if a corporation or partnership is not exclusively engaged in such activity, its tax base under this article shall be apportioned, in accordance with regulations promulgated by the tax commissioner, among its several activities and only that portion attributable to the activity of agriculture and farming shall be exempt from tax under this article.

(i) Any corporation or partnership licensed under article twenty-three, chapter nineteen of this code, to conduct horse or dog racing meetings or a pari-mutuel system of wagering: Provided, That if the corporation or partnership is not exclusively engaged in this activity, its tax base under this article shall be apportioned, in accordance with regulations promulgated by the tax commissioner, among its several activities and only that portion attributable to the activity of conducting a horse or dog racing meeting or a pari-mutuel system of wagering shall be exempt from tax under this article.

(j) For those tax years beginning after the thirtieth day of June, one thousand nine hundred ninety-eight, any corporation or partnership operating as a hunting club: Provided, That the corporation or partnership distributes no income or dividends to its owners or stockholders. For the purposes of this subsection, a hunting club is a group of persons owning land which is used principally for hunting purposes by the members of the club and guests, and where any charges made for hunting are principally for the purpose of defraying the costs of operating and maintaining the club and club properties or establishing a reasonable reserve to meet the operating and maintenance costs of the club. The tax commissioner shall by legislative rule promulgated in accordance with article three of chapter twenty-nine of this code further prescribe the definition of a hunting club and the manner and method in which this credit may be claimed.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating in the House.

Takes effect July 1, 1998.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

Speaker of the House of Delegates

The within approved this the ___

day of ___________, 1998.

[Signature]
Governor