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SENATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



ENROLLED

House Bill No. 2079

(By Delegates Manuel, Michael, Mezzatesta,
Collins and Martin)



Passed March 14, 1998

In Effect July 1, 1998

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SECRETARY OF STATE

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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
2 exempt from the tax imposed by this article to the extent
3 provided in this section:

4 (a) Natural persons doing business in this state that are
5 not doing business in the form of a partnership (as
6 defined in section three of this article) or in the form of a
7 corporation (as defined in section three of this article).

8 Such persons include persons doing business as sole
9 proprietors, sole practitioners and other self-employed
10 persons.

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

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

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

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

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

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

44 (h) Any corporation or partnership engaged in the
45 activity of agriculture and farming, as defined in

46 paragraph (8), subsection (b), section three of this article:
47 *Provided*, That if a corporation or partnership is not
48 exclusively engaged in such activity, its tax base under this
49 article shall be apportioned, in accordance with regulations
50 promulgated by the tax commissioner, among its several
51 activities and only that portion attributable to the activity
52 of agriculture and farming shall be exempt from tax
53 under this article.

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

65 (j) For those tax years beginning after the thirtieth day
66 of June, one thousand nine hundred ninety-eight, any
67 corporation or partnership operating as a hunting club:
68 *Provided*, That the corporation or partnership distributes
69 no income or dividends to its owners or stockholders. For
70 the purposes of this subsection, a hunting club is a group
71 of persons owning land which is used principally for
72 hunting purposes by the members of the club and guests,
73 and where any charges made for hunting are principally
74 for the purpose of defraying the costs of operating and
75 maintaining the club and club properties or establishing a
76 reasonable reserve to meet the operating and maintenance
77 costs of the club. The tax commissioner shall by
78 legislative rule promulgated in accordance with article
79 three of chapter twenty-nine of this code further prescribe
80 the definition of a hunting club and the manner and
81 method in which this credit may be claimed.

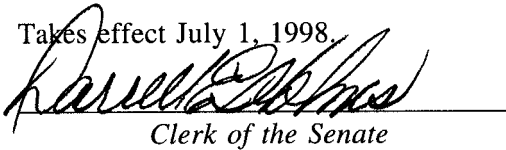
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

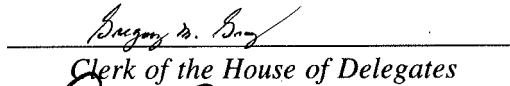

Chairman Senate Committee

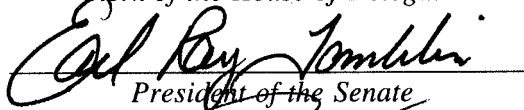

Chairman House Committee

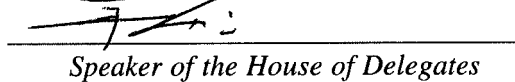
Originating in the House.

Takes effect July 1, 1998.

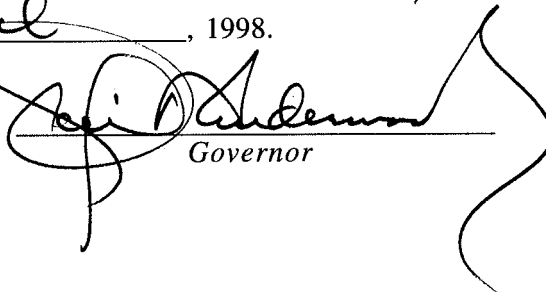

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 6th
day of April, 1998.


Governor

PRESENTED TO THE

GOVERNOR

Date

3/26/98

Time

10:05am