WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2009

ENROLLED

Senate Bill No. 329
(By Senators Tomblin (Mr. President) and Caruth,
By Request of the Executive)

[Passed March 23, 2009; in effect from passage.]
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(BY SENATORS TOMBLIN (MR. PRESIDENT) AND CARUTH,
BY REQUEST OF THE EXECUTIVE)

[Passed March 23, 2009; in effect from passage.]

AN ACT to amend and reenact §11-21-9 of the Code of West Virginia, 1931, as amended, relating to updating the meaning of “federal adjusted gross income” and certain other terms in the West Virginia Personal Income Tax Act in order for the definitions to conform with the Internal Revenue Code's definitions.

Be it enacted by the Legislature of West Virginia:

That §11-21-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 21. PERSONAL INCOME TAX.


(a) Any term used in this article has 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 means the provisions of
the Internal Revenue Code of 1986, as amended, and any
other provisions of the laws of the United States that
relate to the determination of income for federal income
tax purposes. All amendments made to the laws of the
United States after December 31, 2007, but prior to
February 18, 2009, shall be given effect in determining the
taxes imposed by this article to the same extent those
changes are allowed for federal income tax purposes,
whether the changes are retroactive or prospective, but no
amendment to the laws of the United States made on or
after February 18, 2009, shall be given any effect.

(b) Medical savings accounts. – The term “taxable trust”
does not include a medical savings account established
pursuant to section twenty, article fifteen, chapter thirty-
three of this code or section fifteen, article sixteen of said
chapter. Employer contributions to a medical savings
account established pursuant to said sections are not
“wages” for purposes of withholding under section
seventy-one of this article.

(c) Surtax. – The term “surtax” means the twenty
percent additional tax imposed on taxable withdrawals
from a medical savings account under section twenty,
article fifteen, chapter thirty-three of this code and the
twenty percent additional tax imposed on taxable with-
drawals from a medical savings account under section
fifteen, article sixteen of said chapter which are collected
by the Tax Commissioner as tax collected under this
article.

(d) Effective date. – The amendments to this section
enacted in the year 2009 are retroactive to the extent
allowable under federal income tax law. With respect to
taxable years that began prior to January 1, 2010, the law
in effect for each of those years shall be fully preserved as
to that year, except as provided in this section.
(e) For purposes of the refundable credit allowed to a low income senior citizen for property tax paid on his or her homestead in this state, the term "laws of the United States" as used in subsection (a) of this section means and includes the term "low income" as defined in subsection (b), section twenty-one of this article and as reflected in the poverty guidelines updated periodically in the federal register by the U. S. Department of Health and Human Services under the authority of 42 U. S. C. §9902(2).
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 1st Day of April, 2009.

Governor
PRESENTED TO THE GOVERNOR

MAR 26 2009

Time 9:30 A.M.