

SB 215

FILED

2011 MAR -2 PM 3:18

**WEST VIRGINIA LEGISLATURE**  
SECRETARY OF STATE  
**EIGHTIETH LEGISLATURE**  
**REGULAR SESSION, 2011**



**ENROLLED**

**Senate Bill No. 215**

(BY SENATORS KESSLER (ACTING PRESIDENT) AND HALL,  
BY REQUEST OF THE EXECUTIVE)

[PASSED FEBRUARY 18, 2011; IN EFFECT FROM PASSAGE.]

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CLERK OF THE SENATE  
SECRETARY OF STATE

ENROLLED

## Senate Bill No. 215

(BY SENATORS KESSLER (ACTING PRESIDENT) AND HALL,  
BY REQUEST OF THE EXECUTIVE)

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[Passed February 18, 2011; in effect from passage.]

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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 used in the West Virginia Personal Income Tax Act; and providing effective dates.

*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.

#### §11-21-9. Meaning of terms.

1 (a) Any term used in this article has the same meaning as  
2 when used in a comparable context in the laws of the United  
3 States relating to income taxes, unless a different meaning is  
4 clearly required. Any reference in this article to the laws of  
5 the United States means the provisions of the Internal  
6 Revenue Code of 1986, as amended, and any other provisions  
7 of the laws of the United States that relate to the determina-  
8 tion of income for federal income tax purposes. All amend-  
9 ments made to the laws of the United States after December

10 31, 2009, but prior to January 1, 2011, shall be given effect in  
11 determining the taxes imposed by this article to the same  
12 extent those changes are allowed for federal income tax  
13 purposes, whether the changes are retroactive or prospective,  
14 but no amendment to the laws of the United States made on  
15 or after January 1, 2011, shall be given any effect.

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

24 (c) *Surtax.* — The term “surtax” means the twenty percent  
25 additional tax imposed on taxable withdrawals from a  
26 medical savings account under section twenty, article fifteen,  
27 chapter thirty-three of this code and the twenty percent  
28 additional tax imposed on taxable withdrawals from a  
29 medical savings account under section fifteen, article sixteen  
30 of said chapter which are collected by the Tax Commissioner  
31 as tax collected under this article.

32 (d) *Effective date.* — The amendments to this section  
33 enacted in the year 2011 are retroactive to the extent  
34 allowable under federal income tax law. With respect to  
35 taxable years that began prior to January 1, 2012, the law in  
36 effect for each of those years shall be fully preserved as to  
37 that year, except as provided in this section.

38 (e) For purposes of the refundable credit allowed to a low  
39 income senior citizen for property tax paid on his or her  
40 homestead in this state, the term “laws of the United States”  
41 as used in subsection (a) of this section means and includes  
42 the term “low income” as defined in subsection (b), section  
43 twenty-one of this article and as reflected in the poverty  
44 guidelines updated periodically in the federal register by the  
45 U.S. Department of Health and Human Services under the  
46 authority of 42 U.S.C. §9902(2).

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

*[Signature]*  
.....  
Chairman Senate Committee

*[Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect from passage.

*[Signature]*  
.....  
Clerk of the Senate

*[Signature]*  
.....  
Clerk of the House of Delegates

*[Signature]*  
.....  
Acting President of the Senate

*[Signature]*  
.....  
Speaker of the House of Delegates

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SECRETARY OF STATE

The within *is approved* this the *22<sup>nd</sup>*  
Day of *March*, 2011.

*[Signature]*  
.....  
Governor



PRESENTED TO THE GOVERNOR

FEB 24 2011

Time 2:09 pm