

**WEST VIRGINIA LEGISLATURE**

**2021 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 2358**

BY DELEGATES HANSHAW (MR. SPEAKER) AND SKAFF

(BY REQUEST OF THE EXECUTIVE)

[Passed February 18, 2021; in effect from passage.]

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

2021 FEB 24 P 4: 46

FILED

HB 2358

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1 AN ACT to amend and reenact §11-21-9 of the Code of West Virginia, 1931, as amended, relating  
2 to updating meaning of federal adjusted gross income and certain other terms used in  
3 West Virginia Personal Income Tax Act; and specifying effective dates.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 21. WEST VIRGINIA PERSONAL INCOME TAX.**

**§11-21-9. Meaning of terms.**

1 (a) Any term used in this article has the same meaning as when used in a comparable  
2 context in the laws of the United States relating to income taxes, unless a different meaning is  
3 clearly required. Any reference in this article to the laws of the United States means the provisions  
4 of the Internal Revenue Code of 1986, as amended, and any other provisions of the laws of the  
5 United States that relate to the determination of income for federal income tax purposes. All  
6 amendments made to the laws of the United States after December 31, 2019, but prior to January  
7 1, 2021, shall be given effect in determining the taxes imposed by this article to the same extent  
8 those changes are allowed for federal income tax purposes, whether the changes are retroactive  
9 or prospective, but no amendment to the laws of the United States made on or after January 1,  
10 2021, may be given any effect.

11 (b) *Medical savings accounts.* — The term “taxable trust” does not include a medical  
12 savings account established pursuant to §33-15-20 or §33-16-15 of this code. Employer  
13 contributions to a medical savings account established pursuant to those sections are not wages  
14 for purposes of withholding under §11-21-71 of this code.

15 (c) *Surtax.* — The term “surtax” means the 20 percent additional tax imposed on taxable  
16 withdrawals from a medical savings account under §33-15-20 of this code and the 20 percent  
17 additional tax imposed on taxable withdrawals from a medical savings account under §33-16-15  
18 of this code which are collected by the Tax Commissioner as tax collected under this article.

19 (d) *Effective date.* — The amendments to this section enacted in the year 2021 are  
20 retroactive to the extent allowable under federal income tax law. With respect to taxable years

21 that began prior to January 1, 2021, the law in effect for each of those years shall be fully  
22 preserved as to that year, except as provided in this section.

23 (e) For purposes of the refundable credit allowed to a low income senior citizen for property  
24 tax paid on his or her homestead in this state, the term "laws of the United States" as used in  
25 subsection (a) of this section means and includes the term "low income" as defined in subsection  
26 (b), section 21 of this article and as reflected in the poverty guidelines updated periodically in the  
27 federal register by the U.S. Department of Health and Human Services under the authority of 42  
28 U.S.C. § 9902(2).

29 (f) For taxable years beginning on and after January 1, 2018, whenever this article refers  
30 to "each exemption for which he or she is entitled to a deduction for the taxable year for federal  
31 income tax purposes", this phrase means the exemption the person would have been allowed to  
32 claim for the taxable year had the federal income tax law not been amended to eliminate the  
33 personal exemption for federal tax years beginning on or after January 1, 2018.

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

*Don Jeffers*

Chairman, House Committee

*Mark R. Spyranski*

Chairman, Senate Committee

Originating in the House.

In effect from passage.

*Stephanie Morris*

Clerk of the House of Delegates

*Joe Linn*

Clerk of the Senate

*Les Hankins*

Speaker of the House of Delegates

*C. P. Bell*

President of the Senate

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SECRETARY OF STATE

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FILED

The within *is approved* this the *24th*  
day of *February* 2021.

*James O. Eastman*

Governor

PRESENTED TO THE GOVERNOR

FEB 23 2021

Time 3:44 pm