

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2526

BY DELEGATES HANSHAW (MR. SPEAKER) AND SKAFF

(BY REQUEST OF THE EXECUTIVE)

[Passed March 4, 2023; in effect from passage.]

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

2023 MAR - 7 P 1:21

FILED

HB 2526

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2526

BY DELEGATES HANSHAW (MR. SPEAKER) AND SKAFF

(BY REQUEST OF THE EXECUTIVE)

[Passed March 4, 2023; in effect from passage.]

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

2023 MAR - 7 P 1: 21

FILED

1 AN ACT to amend the Code of West Virginia, 1931, as amended; by adding thereto a new article,
2 designated §11-13MM-1, §11-13MM-2, §11-13MM-3, §11-13MM-4, §11-13MM-5, §11-
3 13MM-6, §11-13MM-7, §11-13MM-8, §11-13MM-9, and §11-13MM-10; and to amend said
4 code by adding thereto two new sections, designated §11-21-4g and §11-21-4h, all
5 relating to reducing the personal income tax; providing for reduced graduated income tax
6 rates; reducing the rate of tax on composite returns; reducing the rate of withholding tax
7 on nonresident income; reducing the rate of withholding tax on the nonresident sale of real
8 estate; reducing the rate of withholding on gambling winnings; applying the rates
9 retroactively to January 1, 2023; providing for additional reductions in the personal income
10 tax rates when certain criteria have been met; providing for a method for calculating the
11 rate reduction and cap on the reduction; providing for certification to the Tax
12 Commissioner; authorizing a refundable tax credit applied against personal income tax or
13 corporation net income tax based upon amount of property tax timely paid on motor
14 vehicles; providing for the treatment of credit upon transfer of eligible motor vehicle;
15 authorizing a refundable tax credit applied against personal income tax based upon the
16 amount of real property tax timely paid on a homestead owned by eligible disabled
17 veterans; authorizing a refundable tax credit against corporation net income tax or
18 personal income tax based upon 50% of property tax timely paid on personal property
19 owned by a small business; designating a short title; providing findings and purpose;
20 defining terms; providing for the application of tax credits; allowing rulemaking; providing
21 for annual reports to the legislature; and providing effective dates.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13MM. WEST VIRGINIA PROPERTY TAX ADJUSTMENT ACT.

§11-13MM-1. Findings and Purpose

1 (a) This article shall be known and cited as the West Virginia Property Tax Adjustment
2 Act.

3 (b) The Legislature finds that the encouragement of economic growth and development
4 in this state is in the public interest and promotes the general welfare of the people of this state.
5 In order to encourage capital investment in business and industry in this state and thereby
6 increase economic development, there is hereby provided certain tax credits against the taxes
7 imposed under §11-21-1 *et seq.* of this code, or against the tax imposed under §11-24-1 *et seq.*
8 of this code based upon the amount of property tax timely paid on certain property subject to *ad*
9 *valorem* property taxation.

§11-13MM-2. Definitions.

1 (a) *General.* — When used in this article, or in the administration of this article, terms
2 defined in subsection (b) of this section have the meanings ascribed to them by this section unless
3 a different meaning is clearly required by the context in which the term is used.

4 (b) *Terms defined.* —

5 (1) “*Ad valorem* property tax” means and is limited to the West Virginia *ad valorem* property
6 tax.

7 (2) “Business” means any activity taxable under article §11-12-1 *et seq.* of this code, which
8 is engaged in by any person in this State.

9 (3) “Disabled veteran taxpayer” means a person honorable discharged from any branch
10 of the armed services of the United States and who is considered at least ninety percent totally
11 and permanently disabled due solely to service-connected disabilities by the Department of
12 Veterans Affairs.

13 (4) “Eligible motor vehicle” means a motor vehicle on which the *ad valorem* property tax
14 has been paid for the taxable year by the eligible taxpayer, and which is a motor vehicle as defined
15 in this article.

16 (5) “Flow-through entity,” “conduit entity,” or “pass through entity” means an S Corporation,
17 partnership, limited partnership, limited liability partnership, or limited liability company. The term
18 “flow-through entity,” “conduit entity,” or “pass through entity” includes a publicly traded

19 partnership as that term is defined in section 7704 of the Internal Revenue Code that has equity
20 securities registered with the Securities and Exchange Commission under section 12 of Title I of
21 the Securities Exchange Act of 1934, 15 USC §781: *Provided*, That a publicly traded partnership
22 as defined in section 7704 of the Internal Revenue Code having equity securities registered with
23 the Securities and Exchange Commission under section 12 of Title I of the Securities Exchange
24 Act of 1934, 15 USC §781, and any other person or entity that is treated as a C corporation for
25 federal income tax purposes, shall be treated as a corporation taxable under article §11-24-1 *et*
26 *seq.* of this code for purposes of this article.

27 (6) "Motor Vehicle" means the following class of vehicles defined in §17A-10-1 of this
28 code: Class A, Class B, Class G, Class H, Class T, Class V, Class X, and all-terrain vehicles and
29 utility terrain vehicles as defined in §20-15-2 of this code.

30 (7) "Person" means and includes an individual, a trust, estate, partnership, pass through
31 entity, association, company, or corporation.

32 (8) "Personal property" shall have the same meaning as in §11-5-1 *et seq.* of this code:
33 *Provided*: That, for the purposes of this article, the term "personal property" shall not include a
34 working interest in any oil, natural gas, or natural gas liquid producing property or any property of
35 a public service company.

36 (9) "Personal property taxes paid" means the aggregate of regular levies, excess levies
37 and bond levies extended against personal property that are paid during the calendar year and
38 determined after any application of any discount for early payment of taxes. "Personal property
39 taxes paid" does not include any untimely *ad valorem* property tax paid, or any payment of
40 delinquent *ad valorem* property tax, or payment of "back tax" *ad valorem* property taxes, or any
41 penalty or interest for late payment of property taxes.

42 (10) "Public service company" means a corporation or other business entity which delivers
43 services considered essential to the public interest that are regulated by the applicable federal or
44 state regulatory body, including, but not limited to, businesses furnishing electricity, natural gas,

45 telecommunications, and water, and those transporting personal property or passengers,
46 including, but not limited to, airlines, railroads, trucking, and bus companies, and which are
47 centrally assessed by the state for property tax purposes.

48 (11) "Real property taxes paid" means the aggregate of regular levies, excess levies and
49 bond levies that are paid during the calendar year and determined after any application of any
50 discount for early payment of taxes. "Real property taxes paid" does not include any untimely *ad*
51 *valorem* property tax paid, or any payment of delinquent *ad valorem* property tax, or payment of
52 "back tax" *ad valorem* property taxes, or any penalty or interest for late payment of property taxes.

§11-13MM-3. Motor vehicle property tax adjustment credit.

1 (a) *Credit allowed.* — There shall be allowed to every eligible taxpayer a credit, as
2 determined under this section, against the tax imposed under §11-21-1 *et seq.* of this code, or
3 against the tax imposed under §11-24-1 *et seq.* of this code, as applicable.

4 (b) "*Eligible taxpayer*" defined.—

5 (1) "Eligible taxpayer" – Owned motor vehicles — "Eligible taxpayer" means any person
6 who owns a motor vehicle for which the *ad valorem* property tax has been paid during the
7 corporation net income tax taxable year or the personal income tax taxable year, as applicable.
8 For purposes of this definition, ownership of a motor vehicle includes ownership and possession
9 of a motor vehicle for which a title has been issued by the Division of Motor Vehicles to the eligible
10 taxpayer. For purposes of this definition, ownership of a motor vehicle also includes ownership
11 and possession of a motor vehicle, subject to a purchase financing arrangement whereby a
12 financial institution holds a lien on the motor vehicle, or for which ultimate issuance of title by the
13 Division of Motor Vehicles to the taxpayer, as owner of the motor vehicle, is contingent upon
14 payment in full of the purchase price of the motor vehicle pursuant to an installment payment
15 financing arrangement.

16 (2) "Eligible taxpayer" – Leased motor vehicles — "Eligible taxpayer" also means and
17 includes any lessor of a motor vehicle, as herein defined, who owns a motor vehicle for which the

18 *ad valorem* property tax has been paid during the corporation net income tax taxable year or the
19 personal income tax taxable year, as applicable: *Provided*, That, the lessor shall pass on to the
20 lessee the value of the tax credit asserted by the lessor by causing a decreasing in the amount of
21 rent or lease payment payable by the lessee on the leased motor vehicle.

22 (3) "Eligible taxpayer" – Pass through entities — "Eligible taxpayer" also means and
23 includes any owner, interest holder, partner or S corporation shareholder that derives conduit
24 income from a pass-through entity.

25 (4) "Eligible taxpayer" – Prohibition for motor vehicle dealers — "Eligible taxpayer" does
26 not mean or include any motor vehicle dealer, motor vehicle dealership, retailer or any business
27 that sells new or used motor vehicles at the retail level, other than a lessor of motor vehicles. In
28 circumstances where any such motor vehicle dealer, motor vehicle dealership, retailer or business
29 that sells new or used motor vehicles at the retail level is engaged in both retail sales of motor
30 vehicles, and leasing of motor vehicles as lessor, the tax credit authorized by this article may only
31 be asserted by such business based upon the *ad valorem* property tax paid on leased motor
32 vehicles, and only to the extent that the lessor has passed on, to the lessee, the value of the tax
33 credit asserted by the lessor by causing a decreasing in the amount of rent or lease payment
34 payable by the lessee on the leased motor vehicle. No credit may be asserted or applied by the
35 business based upon *ad valorem* property tax paid on motor vehicle retail inventories, not actively
36 leased to lessees. To the extent that motor vehicle retail inventories may be held as both motor
37 vehicle retail inventories, and as motor vehicles potentially subject to lease during the taxable
38 year, *ad valorem* property tax paid on such motor vehicles is excluded from eligibility for the tax
39 credit authorized by this article.

40 (c) *Amount of credit*. – The amount of credit allowed under this article to the eligible
41 taxpayer is the amount of West Virginia *ad valorem* property tax timely paid during the personal
42 income taxable year or the corporation net income tax taxable year, as applicable, to a county
43 sheriff on the value of a motor vehicle owned by the eligible taxpayer: *Provided*, That in no case

44 shall any credit be allowed under this article for any untimely *ad valorem* property tax paid, or any
45 payment of delinquent *ad valorem* property tax, or payment of “back tax” *ad valorem* property
46 taxes.

47 (d) *Application of credit against personal income tax and corporation net income tax.* —

48 (1) Personal income tax — If the eligible taxpayer is subject to the personal income tax
49 imposed by §11-21-1 *et seq.* of this code, the amount of credit allowed shall be taken against the
50 personal income tax liability of the eligible taxpayer for the current personal income tax taxable
51 year.

52 (2) Corporation net income tax — If the eligible taxpayer is subject to the corporation net
53 income tax imposed by §11-24-1 *et seq.* of this code, the amount of credit allowed shall be taken
54 against the corporation net income tax liability of the eligible taxpayer for the current corporation
55 net income tax taxable year.

56 (e) *Refundable portion of annual credit allowance.* — If annual tax credit allowed under
57 this article exceeds the amount of personal income tax or corporation net income tax, as
58 applicable, subject to offset under this article in any taxable year, the eligible taxpayer may claim,
59 for that taxable year, the excess amount as a refundable tax credit.

60 (f) *Transfer or sale of the motor vehicle.* —

61 (1) Where there is a sale or transfer of the motor vehicle from an eligible taxpayer to any
62 other person or entity, the transferor retains entitlement to the tax credit authorized under this
63 article for the timely paid *ad valorem* property tax paid by the transferor in the transferor’s personal
64 income tax taxable year or corporation net income tax taxable year, as applicable, on the
65 transferred motor vehicle.

66 (2) If the transferee meets all requirements for qualification as an eligible taxpayer under
67 this article and meets all requirements for entitlement to the tax credit authorized under this article,
68 then the transferee shall be entitled to the tax credit authorized under this article for the timely

69 paid *ad valorem* property tax paid by the transferee in the transferee's personal income tax taxable
70 year or corporation net income tax taxable year, as applicable on the eligible motor vehicle.

71 (3) In no case shall the transferor and the transferee take the tax credit authorized under
72 this article for the same taxable year.

73 (g) *Annual schedule*. — The Tax Commissioner shall prescribe and supply all necessary
74 instructions and forms for administration of this section. For purposes of asserting the credit
75 against tax, the taxpayer shall prepare and file an annual schedule showing the amount of
76 personal income tax paid for the taxable year, and the amount of property tax paid on the motor
77 vehicle for the taxable year, and the amount of credit allowed under this article. The annual
78 schedule shall set forth the information and be in the form prescribed by the Tax Commissioner.

§11-13MM-4. Disabled veteran real property tax credit.

1 (a) *Credit allowed*. — Disabled veterans may receive a tax credit against the tax imposed
2 under §11-21-1 *et seq.* of this code in the amount of West Virginia *ad valorem* property tax timely
3 paid on his or her homestead during the personal income taxable year.

4 (b) *Amount of credit*. — Any homeowner meeting the definition of a disabled veteran
5 under this article, shall be allowed a refundable credit against the taxes imposed by §11-21-1 *et*
6 *seq.* of this code equal to the amount of West Virginia *ad valorem* real property taxes timely paid
7 a county sheriff on a homestead which is used or occupied exclusively for residential purposes,
8 as those terms are defined in §11-6B-2, during the personal income taxable year: *Provided*, That
9 in no case shall any credit be allowed under this article for any untimely real property tax paid, or
10 any payment of delinquent real property tax, or payment of "back tax" real property taxes.

11 (c) *Application of credit against personal income tax*. — The amount of credit allowed
12 under this section shall be taken against the personal income tax liability, imposed by article §11-
13 21-1 *et seq.* of this code, of the eligible taxpayer.

14 (d) *Refundable portion of annual credit allowance*. — If annual tax credit allowed under
15 this article exceeds the amount of personal income tax subject to offset under this article in any

16 taxable year, the eligible taxpayer may claim, for that taxable year, the excess amount as a
17 refundable tax credit.

18 (e) *Termination of tax credit.* — Any tax credit approved in accordance with the provisions
19 of this section shall terminate immediately when any of the following events occur:

20 (1) The death of the owner of the property for which the tax credit was authorized;

21 (2) The sale of the property for which the tax credit was approved; or

22 (3) A determination by the assessor that the property for which the tax credit was approved
23 no longer qualifies for the tax credit in accordance with the provisions of this section.

24 (f) *Forms and instructions.* — The Tax Commissioner shall prescribe and supply all
25 necessary instructions and forms for administration of this section.

§11-13MM-5. Small business property tax adjustment credit.

1 (a) *Credit allowed.* — There shall be allowed to every eligible small business taxpayer a
2 credit, as determined under this section, against the tax imposed under §11-21-1 *et seq.* of this
3 code, or against the tax imposed under §11-24-1 *et seq.* of this code, as applicable.

4 (b) Definitions – The following definitions apply to this section:

5 (1) “Aggregate appraised value” means the true and actual value of all property in the
6 state owned by the eligible taxpayer including the true and actual value of all property of any
7 related entity;

8 (2) “Related entity” means:

9 (A) An individual, corporation, partnership, affiliate, association or trust or any combination
10 or group thereof controlled by the taxpayer;

11 (B) An individual, corporation, partnership, affiliate, association or trust or any combination
12 or group thereof that is in control of the taxpayer;

13 (C) An individual, corporation, partnership, affiliate, association or trust or any combination
14 or group thereof controlled by an individual, corporation, partnership, affiliate, association or trust
15 or any combination or group thereof that is in control of the taxpayer; or

16 (D) A member of the same controlled group as the taxpayer.

17 For purposes of this section, "control", with respect to a corporation, means ownership,
18 directly or indirectly, of stock possessing fifty percent or more of the total combined voting power
19 of all classes of the stock of the corporation which entitles its owner to vote. "Control", with respect
20 to a trust, means ownership, directly or indirectly, of fifty percent or more of the beneficial interest
21 in the principal or income of the trust. The ownership of stock in a corporation, of a capital or
22 profits interest in a partnership or association or of a beneficial interest in a trust shall be
23 determined in accordance with the rules for constructive ownership of stock provided in section
24 267(c) of the United States Internal Revenue Code, as amended: *Provided*, That paragraph (3)
25 of section 267(c) of the United States Internal Revenue Code shall not apply.

26 (3) "*Small business*" means a business with personal property located in this state with an
27 aggregate appraised value of \$1 million or less; *Provided*, That, for the purposes of this section,
28 "small business" does not include any person holding a working interest in any oil, natural gas, or
29 natural gas liquid producing property or any public service company that is centrally assessed by
30 the state for property tax purposes.

31 (c) *Amount of credit.* — The amount of credit allowed pursuant to this article to the eligible
32 small business taxpayer is 50% of the amount of West Virginia *ad valorem* property tax due and
33 owing and timely paid to a county sheriff by the eligible taxpayer on personal property, as that
34 term is defined in this article: *Provided*, That in no case shall any credit be allowed under this
35 article for any untimely *ad valorem* property tax paid, or any payment of delinquent *ad valorem*
36 property tax, or payment of "back tax" *ad valorem* property taxes.

37 (d) *Application of credit against personal income tax and corporation net income tax.* —
38 The amount of credit determined under this section is allowed as a credit against 100 percent of
39 that portion of the taxpayer's state income tax liability and applied as provided in subsections (1)
40 and (2), and in that order.

41 (1) Corporation net income taxes. — If the eligible taxpayer is subject to the corporation
42 net income tax imposed by §11-24-1 *et seq.* of this code, the amount of credit allowed shall be
43 taken against the corporation net income tax liability of the eligible taxpayer for the current
44 corporation net income tax taxable year.

45 (2) Personal income taxes. — If the small business taxpayer is an electing small business
46 corporation, as defined in section 1361 of the United States Internal Revenue Code, a
47 partnership, a limited liability company that is treated as a partnership for federal income tax
48 purposes, or a sole proprietorship, then any unused credit is allowed as a credit against the taxes
49 imposed by §11-21-1 *et seq.* of this code.

50 (3) Electing small business corporations, limited liability companies treated as
51 partnerships for federal income tax purposes, partnerships, and other unincorporated
52 organizations shall allocate the credit allowed by this article among its members in the same
53 manner as profits and losses are allocated for the taxable year.

54 (4) No credit is allowed under this section against any employer withholding taxes imposed
55 by §11-21-1 *et seq.* of this code.

56 (e) *Refundable portion of annual credit allowance.* — If the annual tax credit allowed under
57 this article exceeds the amount of personal income tax or corporation net income tax, as
58 applicable, subject to offset under this article in any taxable year, the eligible taxpayer may claim,
59 for that taxable year, the excess amount as a refundable tax credit.

60 (f) *Annual schedule.* — The Tax Commissioner shall prescribe and supply all necessary
61 instructions and forms for administration of this section. For purposes of asserting the credit
62 against tax, the taxpayer shall prepare and file an annual schedule showing the amount of
63 personal income tax paid for the taxable year, and the amount of property tax paid on the personal
64 property subject to *ad valorem* property taxation pursuant to this chapter and pursuant to Article
65 X of the Constitution of this State, as applicable for the taxable year, and the amount of credit

66 allowed pursuant to this article. The annual schedule shall set forth the information and be in the
67 form prescribed by the Tax Commissioner.

§11-13MM-6. Rulemaking.

1 The Tax Commissioner may promulgate such interpretive, legislative, and procedural
2 rules as the commissioner deems to be useful or necessary to carry out the purpose of §11-
3 13MM-1 *et seq.* of this code and to implement the intent of the Legislature. All rules shall be
4 promulgated in accordance with the provisions of §29A-3-1 *et seq.* of this code.

§11-13MM-7. Annual Reports.

1 The Tax Commissioner shall make an annual report, as soon as possible after the close
2 of each tax year, of the actions taken by the West Virginia Tax Division with respect to the tax
3 credits authorized pursuant to this article. This report shall be filed with the Joint Committee on
4 Government and Finance. The report shall include at a minimum the amount of the credit claimed
5 in the preceding tax year in each of the categories set forth in this article. Information set forth in
6 the report shall be subject to the confidentiality restrictions of §11-10-1 *et seq.* of this code, and
7 shall be redated and otherwise formatted and presented so as to preserve the confidentiality of
8 taxpayers and tax information.

11-13MM-8. Tax administration and procedures.

1 (a) Each and every provision of the “West Virginia Tax Procedure and Administration Act”
2 set forth in §11-10-1 *et seq.* of this code applies to the tax credits allowed under §11-13MM-1 *et*
3 *seq.* of this code, except as otherwise expressly provided in this article, with like effect as if that
4 act were applicable only to the tax credit allowed by §11-13MM-1 *et seq.* of this code and were
5 set forth *in extenso* in this article.

6 (b) Each and every provision of the “West Virginia Tax Crimes and Penalties Act” set forth
7 in §11-9-1 *et seq.* of this code applies to the tax credit allowed by §11-13MM-1 *et seq.* of this code
8 with like effect as if that act were applicable only to the tax credit §11-13MM-1 *et seq.* of this code
9 and were set forth *in extenso* in this article.

§ 11-13MM-9. Severability.

1 (a) If any provision of §11-13MM-1 *et seq.* of this code, or the application thereof, is for
2 any reason adjudged by any court of competent jurisdiction to be invalid, the judgment may not
3 affect, impair, or invalidate the remainder of §11-13MM-1 *et seq.* of this code, but shall be confined
4 in its operation to the provision thereof directly involved in the controversy in which the judgment
5 shall have been rendered, and the applicability of the provision to other persons or circumstances
6 may not be affected thereby.

7 (b) If any provision of §11-13MM-1 *et seq.* of this code, or the application thereof, is made
8 invalid or inapplicable by reason of the repeal or any other invalidation of any statute therein
9 addressed or referred to, such invalidation or inapplicability may not affect, impair, or invalidate
10 the remainder of §11-13MM-1 *et seq.* of this code, but shall be confined in its operation to the
11 provision thereof directly involved with, pertaining to, addressing, or referring to the statute, and
12 the application of the provision with regard to other statutes or in other instances not affected by
13 any such repealed or invalid statute may not be abrogated or diminished in any way.

§11-13MM-10. Effective Date.

1 This article shall be effective for personal income taxable years beginning on or after
2 January 1, 2024, and for corporation net income tax taxable years beginning on or after January
3 1, 2024. Subject to the restrictions, limitations and requirements set forth in this article, *ad*
4 *valorem* property tax timely paid in the personal income tax taxable year, or the corporation net
5 income tax taxable year, as applicable, beginning on or after January 1, 2024, may qualify for the
6 tax credits specified in this article.

ARTICLE 21. PERSONAL INCOME TAX

§11-21-4g Rate of tax — Taxable years beginning on and after January 1, 2023.

1 (a) *Rate of tax on individuals (except married individuals filing separate returns),*
2 *individuals filing joint returns, heads of households, and estates and trusts.* — The tax imposed
3 by §11-21-3 of this code on the West Virginia taxable income of every individual (except married

4 individuals filing separate returns); every individual who is a head of a household in the
 5 determination of his or her federal income tax for the taxable year; every husband and wife who
 6 file a joint return under this article; every individual who is entitled to file his or her federal income
 7 tax return for the taxable year as a surviving spouse; and every estate and trust shall be
 8 determined in accordance with the following table:

If the West Virginia taxable	
income is:	The tax is:
11 Not over \$10,000	2.36% of the taxable income
12 Over \$10,000 but not over \$25,000	\$236 plus 3.15% of excess over \$10,000
13 Over \$25,000 but not over \$40,000	\$708.50 plus 3.54% of excess over \$25,000
14 Over \$40,000 but not over \$60,000	\$1,239.50 plus 4.72% of excess over 15 \$40,000
16 Over \$60,000	\$2,183.50 plus 5.12% of excess over 17 \$60,000

18 (b) *Rate of tax on married individuals filing separate returns.* — In the case of husband
 19 and wife filing separate returns under this article for the taxable year, the tax imposed by §11-21-
 20 3 of this code on the West Virginia taxable income of each spouse shall be determined in
 21 accordance with the following table:

If the West Virginia taxable	
income is:	The tax is:
24 Not over \$5,000	2.36% of the taxable income
25 Over \$5,000 but not over \$12,500	\$118 plus 3.15% of excess over \$5,000
26 Over \$12,500 but not over \$20,000	\$354.25 plus 3.54% of excess over \$12,500
27 Over \$20,000 but not over \$30,000	\$619.75 plus 4.72% of excess over \$20,000
28 Over \$30,000	\$1,091.75 plus 5.12% of excess over 29 \$30,000

30 (c) Effect of rates on Nonresident Composite and Withholding Obligations —
31 Notwithstanding any provision of this article to the contrary, for taxable years beginning on and
32 after the retroactive date specific in §11-21-4g(d) of this code, whenever the words “six and one-
33 half percent” appear in §11-21-51a, §11-21-71a, §11-21-71b, or §11-21-77, of this article, with
34 relation to a tax return of, or the tax rate imposed on income of individuals, individuals filing joint
35 returns, heads of households, and estates and trusts, the stated percentage shall be changed to
36 5.12%.

37 (d) *Applicability of this section.* — The provisions of this section shall be applicable in
38 determining the rates of tax imposed by this article and shall apply retroactively for all taxable
39 years beginning on and after January 1, 2023, and shall be in lieu of the rates of tax specified in
40 §11-21-4e of this code.

§11-21-4h Future personal income tax reductions.

1 (a) For the purposes of this section, the terms defined in this section have the meanings
2 ascribed to them unless a different meaning is clearly required by the context in which the term is
3 used:

4 (1) “Adjusted consumer price ratio” means the fiscal year consumer price index divided by
5 the base year consumer price index.

6 (2) “Adjusted general revenue fund collections” means all net general revenue fund
7 collections minus the net general revenue fund collections related to the imposition of the taxes
8 imposed under the provisions of §11-13A-1, *et seq.* of this code.

9 (3) “Base year revenues” means actual general revenue fund collections for 2019 fiscal
10 year, which is \$4,293,884,754

11 (4) “Base year consumer price index” means a 12-month average of the not seasonally
12 adjusted Consumer Price Index for all urban consumers for the months between July 2018 and
13 June 2019.

14 (5) “Excess fiscal year general revenue fund collections” means the positive difference
15 from subtracting the inflation adjusted base year revenues from the adjusted general revenue
16 fund collections from the immediately preceding fiscal year.

17 (6) “Fiscal year consumer price index” means a 12-month average of the not seasonally
18 adjusted Consumer Price Index for all urban consumers for the months between July and June
19 of the immediately preceding fiscal year.

20 (7) “Inflation adjusted base year revenues” means the base year general revenue fund
21 collections multiplied by the adjusted consumer price ratio.

22 (b) *Future personal income tax rate reductions.* — Beginning on August 15, 2024, and
23 every August 15 thereafter, the Secretary of Revenue will determine whether the total fiscal year
24 adjusted general revenue fund collections from the immediately preceding fiscal year are in
25 excess of the inflation adjusted base year revenues. If the total fiscal year adjusted
26 general revenue fund collections from the immediately preceding fiscal year are in excess of the
27 inflation adjusted base year revenues, then there will be a reduction in the personal income tax
28 rates as determined under this section beginning in the next taxable year.

29 (c) *Determination of rate.* — In order to determine the amount of a personal income tax
30 reduction, the excess fiscal year general revenue fund collections will be divided by the amount
31 of the immediately preceding fiscal year’s total personal income tax collections for all funds and
32 will be rounded down to the nearest whole percentage. The amount of the percentage of reduction
33 will be applied equally across the tax rates applicable in the tax year immediately preceding the
34 rate reduction: *Provided*, That reduction in personal income tax rates may not result in an amount
35 larger than a 10% reduction in the rates set forth in §11-21-4e of this code.

36 (d) *Certification of reduction.* — The Secretary of Revenue and the State Auditor will certify
37 to the Tax Commissioner that a rate change is required under this section as soon as possible
38 after August 15 so that the Tax Commissioner may notify taxpayers of any change in personal
39 income tax rates. The certification will provide base year revenues, the total fiscal year

40 general revenue fund collections from the immediately preceding fiscal year, the base year
41 consumer price index, the fiscal year consumer price index, the adjusted consumer price ratio,
42 the amount of inflation adjusted base year revenues, the amount of excess fiscal year general
43 revenue fund collections and the amount of the immediately preceding fiscal year's total personal
44 income tax collections for all funds.

45 (e) *Applicability of this section.* — The provisions of this section shall be applicable in
46 determining the rates of tax imposed by this article and shall apply for all taxable years beginning
47 on and after January 1, 2025, and shall be in lieu of the rates of tax specified in §11-21-4g of this
48 code.

49 (f) *Annual Reports.* — The Tax Commissioner shall prepare an annual report to the Joint
50 Committee on Government and Finance detailing any relevant modifications to the personal
51 income tax.

52 (g) *Rulemaking.* — Notwithstanding any provision of this code to the contrary, the Tax
53 Commissioner may propose rules for legislative approval in accordance with the provisions of
54 §29A-3-1 *et seq.* of this code explaining and implementing this section.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

Steve Harris
Clerk of the House of Delegates

Joe Gini
Clerk of the Senate

2023 MAR -7 P 1:21
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

FILED

Originated in the House of Delegates.

In effect from passage.

Roger Hanshaw
Speaker of the House of Delegates

G.P.B.
President of the Senate

The within is *approved* this the *7th*
Day of *March*, 2023.

James Justice
Governor

PRESENTED TO THE GOVERNOR

MAR 07 2023

Time 10:06am