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3 **H. B. 2009**

4 (By Delegates Fleischauer, Hatfield, Craig,
5 Guthrie, Marshall, Kominar and Poore)

6 [Introduced January 12, 2011; referred to the
7 Committee on Health and Human Resources then Finance.]

8
9 **FISCAL
NOTE**

10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new section, designated §11-21-12j; and to
12 amend said code by adding thereto a new section, designated
13 §11-24-25, all relating to the creation of a tax incentive to
14 dental practitioners to perform dental services at no cost to
15 indigent patients; providing a decreasing modification
16 reducing federal gross income; providing a decreasing
17 modification reducing federal taxable income; defining terms;
18 providing amount of decreasing modifications; and requiring a
19 schedule to be filed with a tax return to receive the
20 decreasing modifications.

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

22 That the Code of West Virginia, 1931, as amended, be amended
23 by adding thereto a new section, designated §11-21-12j; and that
24 said code be amended by adding thereto a new section, designated

1 §11-24-25, all to read as follows:

2 **ARTICLE 21. PERSONAL INCOME TAX.**

3 **§11-21-12j. Decreasing modification reducing federal adjusted**
4 **gross income.**

5 (a) Legislative findings. -- The Legislature finds that there
6 is a need for the provision of dental services for the adult
7 indigent. Poor dental health decreases overall health and well-
8 being, and in some cases may prevent a patient from receiving other
9 necessary medical care, such as heart surgery. The adult indigent
10 population has access to medical care through various public
11 programs, but access to dental care is extremely limited. The
12 Legislature recognizes that many dentists provide dental services
13 to adult indigent patients at no cost. Desiring to encourage more
14 charity dental care, there is created a tax incentive to reduce the
15 taxable income of dentists providing services to adult indigent
16 patients.

17 (b) General. -- For tax years, beginning after January 1,
18 2011, in addition to amounts authorized to be subtracted from
19 federal adjusted gross income pursuant to subsection (c), section
20 twelve of this article, the value of services rendered to indigent
21 dental patients at no cost by eligible taxpayers, is also an
22 authorized modification reducing federal adjusted gross income, but
23 only to the extent the amount is not allowable as a deduction when
24 arriving at the taxpayer's federal adjusted gross income for the

1 taxable year in which the payment is made. This modification is
2 available regardless of the type of return form filed. The
3 taxpayer may also elect to carry forward the modification over a
4 period not to exceed five taxable years, beginning in the taxable
5 year in which the payment was made.

6 (c) Definitions. -- When used in this section, or in the
7 administration of this section, terms defined in this subsection
8 have the meanings ascribed to them by this subsection, unless a
9 different meaning is clearly required by the context in which the
10 term is used, or by specific definition, in this article.

11 (1) "Eligible taxpayer" is defined as a taxpayer who is
12 licensed pursuant to article four, chapter thirty of this code.

13 (2) "Indigent patient" is defined as a West Virginia resident
14 whose income is one hundred fifty percent or more below the federal
15 poverty level, and who has no insurance coverage for dental care.

16 (d) Amount of decreasing modification. -- The amount of
17 decreasing modification allowable under this section to an eligible
18 tax payer may not exceed \$15,000: Provided, That the amount of the
19 decreasing modification will be the dollar value of any dental
20 services provided to indigent patients at no cost, based upon the
21 number of hours worked times the rates specified by Medicaid for the
22 reimbursement for dental services.

23 (e) Screening and referral of adult indigent patients to
24 eligible taxpayers for dental services for which the decreasing

1 modification may be taken shall be done by the free clinics
2 recognized by the State of West Virginia or by the Donated Dental
3 Program.

4 (f) Schedule. -- To assert this decreasing modification,
5 eligible taxpayers shall prepare and file with the annual tax return
6 filed pursuant to this article, a schedule showing the amount of
7 dental services provided at no cost to indigent patients during the
8 taxable year, the amount of decreasing modification allowed under
9 this section, the taxes against which the decreasing modification
10 is being applied and other information that the Tax Commissioner may
11 require. This annual schedule shall set forth the information and
12 be in the form prescribed by the Tax Commissioner.

13 (g) An eligible taxpayer may consider the amount of decreasing
14 modification allowed under this section when determining the
15 eligible taxpayer's liability under this article for periodic
16 payments of estimated tax for the taxable year, in accordance with
17 the procedures and requirements prescribed by the Tax Commissioner.
18 The annual total tax liability and total decreasing modification
19 allowed under this section are subject to adjustment and
20 reconciliation pursuant to the filing of the annual schedule
21 required by subsection (e) of this section.

22 (f) The Tax Commissioner may propose rules necessary to carry
23 out the provisions of this section and to provide guidelines and
24 requirements necessary to ensure uniform administrative practices

1 statewide to effect the intent of this section, all in accordance
2 with the provisions of article three, chapter twenty-nine-a of this
3 code.

4 **ARTICLE 24. CORPORATION NET INCOME TAX.**

5 **§11-24-25. Decreasing modification reducing federal taxable income.**

6 (a) Legislative findings. -- The Legislature finds that there
7 is a need for the provision of dental services for the adult
8 indigent. Poor dental health decreases overall health and well-
9 being, and in some cases may prevent a patient from receiving other
10 necessary medical care, such as heart surgery. The adult indigent
11 population has access to medical care through various public
12 programs, but access to dental care is extremely limited. The
13 Legislature recognizes that many dentists provide dental services
14 to adult indigent patients at no cost. Desiring to encourage more
15 charity dental care, there is created a tax incentive to reduce the
16 taxable income of dentists providing services to adult indigent
17 patients.

18 (b) For tax years, beginning after January 1, 2011, in addition
19 to amounts authorized to be subtracted from federal taxable income
20 pursuant subsection (c), section six of this article, the value of
21 services rendered to indigent dental patients at no cost by eligible
22 taxpayers, is also an authorized modification reducing federal
23 taxable income, but only to the extent the amount is not allowable
24 as a deduction when arriving at the taxpayer's federal taxable

1 income for the taxable year in which the payment is made. This
2 modification is available regardless of the type of return form
3 filed. The taxpayer may also elect to carry forward the
4 modification over a period not to exceed five taxable years,
5 beginning in the taxable year in which the payment was made.

6 (c) Definitions. -- When used in this section, or in the
7 administration of this section, terms defined in this subsection
8 have the meanings ascribed to them by this subsection, unless a
9 different meaning is clearly required by the context in which the
10 term is used, or by specific definition, in this article.

11 (1) "Eligible taxpayer" is defined as a taxpayer who is
12 licensed pursuant to article four, chapter thirty of this code.

13 (2) "Indigent patient" is defined as a West Virginia resident
14 whose income is two hundred percent or more below the federal
15 poverty level, and who has no insurance coverage for dental care.

16 (d) Amount of decreasing modification. -- The amount of
17 decreasing modification allowable under this section to an eligible
18 tax payer may not exceed \$15,000: Provided, That the amount of the
19 decreasing modification will be the dollar value of any dental
20 services provided to indigent patients at no cost, based upon the
21 number of hours worked times the rates specified by Medicaid for the
22 reimbursement for dental services.

23 (e) Screening and referral of indigent patients to eligible
24 taxpayers for dental services for which the decreasing modification

1 may be taken shall be done by the free clinics licensed by the State
2 of West Virginia or by the Donated Dental Program.

3 (f) Schedule. -- To assert this decreasing modification,
4 eligible taxpayers shall prepare and file with the annual tax return
5 filed pursuant to this article, a schedule showing the amount of
6 dental services provided at no cost to indigent patients during the
7 taxable year, the amount of decreasing modification allowed under
8 this section, the taxes against which the decreasing modification
9 is being applied and other information that the Tax Commissioner may
10 require. This annual schedule shall set forth the information and
11 be in the form prescribed by the Tax Commissioner.

12 (g) An eligible taxpayer may consider the amount of decreasing
13 modification allowed under this section when determining the
14 eligible taxpayer's liability under this article for periodic
15 payments of estimated tax for the taxable year, in accordance with
16 the procedures and requirements prescribed by the Tax Commissioner.
17 The annual total tax liability and total decreasing modification
18 allowed under this section are subject to adjustment and
19 reconciliation pursuant to the filing of the annual schedule
20 required by subsection (e) of this section.

21 (h) The Tax Commissioner may propose rules necessary to carry
22 out the provisions of this section and to provide guidelines and
23 requirements necessary to ensure uniform administrative practices
24 statewide to effect the intent of this section, all in accordance

1 with the provisions of article three, chapter twenty-nine-a of this
2 code.

NOTE: The purpose of the bill is to provide a tax incentive to dental practitioners to perform dental services at no cost to indigent patients as defined.

These sections are new; therefore, they have been completely underscored.