

1 **Senate Bill No. 205**

2 (By Senators Kessler (Acting President) and Hall, By Request of
3 the Executive)

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5 [Introduced January 19, 2011; referred to the Committee on
6 Finance.]
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10 A BILL to amend and reenact §11-24-3 of the Code of West Virginia,
11 1931, as amended, relating to updating the meaning of "federal
12 taxable income" and certain other terms used in the West
13 Virginia Corporation Net Income Tax Act; and specifying
14 effective dates.

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

16 That §11-24-3 of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

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

19 **§11-24-3. Meaning of terms; general rule.**

20 (a) Any term used in this article has the same meaning as when
21 used in a comparable context in the laws of the United States
22 relating to federal income taxes, unless a different meaning is
23 clearly required by the context or by definition in this article.
24 Any reference in this article to the laws of the United States
25 means the provisions of the Internal Revenue Code of 1986, as

1 amended, and any other provisions of the laws of the United States
2 that relate to the determination of income for federal income tax
3 purposes. All amendments made to the laws of the United States
4 after December 31, ~~2008~~ 2009, but prior to January 1, ~~2010~~ 2011,
5 shall be given effect in determining the taxes imposed by this
6 article to the same extent those changes are allowed for federal
7 income tax purposes, whether the changes are retroactive or
8 prospective, but no amendment to the laws of the United States made
9 on or after January 1, ~~2010~~ 2011, shall be given any effect.

10 (b) The term "Internal Revenue Code of 1986" means the
11 Internal Revenue Code of the United States enacted by the federal
12 Tax Reform Act of 1986 and includes the provisions of law formerly
13 known as the Internal Revenue Code of 1954, as amended, and in
14 effect when the federal Tax Reform Act of 1986 was enacted that
15 were not amended or repealed by the federal Tax Reform Act of 1986.
16 Except when inappropriate, any reference in any law, executive
17 order or other document:

18 (1) To the Internal Revenue Code of 1954 includes a reference
19 to the Internal Revenue Code of 1986; and

20 (2) To the Internal Revenue Code of 1986 includes a reference
21 to the provisions of law formerly known as the Internal Revenue
22 Code of 1954.

23 (c) *Effective date.* -- The amendments to this section enacted
24 in the year ~~2010~~ 2011 are retroactive to the extent allowable under
25 federal income tax law. With respect to taxable years that began

1 prior to January 1, ~~2011~~ 2012, the law in effect for each of those
2 years shall be fully preserved as to that year, except as provided
3 in this section.

(NOTE: The purpose of this bill is to update the meaning of "federal taxable income" and certain other terms used but not defined in the West Virginia Corporation Net Income Tax Act by bringing them into conformity with their meaning under the Internal Revenue Code for federal income tax purposes.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)