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Senate Bill No. 356

(By Senators Stollings, Kessler (Mr. President), Laird, Miller,
Foster, Snyder, Klempa and Jenkins)

[Introduced January 20, 2012; referred to the Committee on Health
and Human Resources; and then to the Committee on Finance.]

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new section, designated §11-21-12j; and to
amend said code by adding thereto a new section, designated
§11-24-25, all relating to providing a tax incentive to dental
practitioners to perform dental services at no cost to
indigent patients as defined in these sections.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended
by adding thereto a new section, designated §11-21-12j; and that
said code be amended by adding thereto a new section, designated
§11-24-25, all to read as follows:

ARTICLE 21. PERSONAL INCOME TAX.

PART I. GENERAL.

1 **§11-21-12j. Decreasing modification reducing federal adjusted**
2 **gross income.**

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

15 (b) *General.* -- For tax years, beginning on or after January
16 1, 2012, in addition to amounts authorized to be subtracted from
17 federal adjusted gross income pursuant to subsection (c), section
18 twelve of this article, the value of for services rendered to
19 indigent dental patients at no cost by eligible taxpayers, is also
20 an authorized modification reducing federal adjusted gross income,
21 but only to the extent the amount is not allowable as a deduction
22 when arriving at the taxpayer's federal adjusted gross income for
23 the taxable year in which the payment is made. This modification

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

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

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

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

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

22 (e) Screening and referral of adult indigent patients to
23 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
6 return filed pursuant to this article, a schedule showing the
7 amount of dental services provided at no cost to indigent patients
8 during the taxable year, the amount of decreasing modification
9 allowed under this section, the taxes against which the decreasing
10 modification is being applied and other information that the Tax
11 Commissioner may require. This annual schedule shall set forth the
12 information and 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 (h) The Tax Commissioner may propose rules necessary to carry
23 out the provisions of this section and to provide guidelines and

1 requirements necessary to ensure uniform administrative practices
2 statewide to effect the intent of this section, all in accordance
3 with the provisions of article three, chapter twenty-nine-a of this
4 code.

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

6 **§11-24-25. Decreasing modification reducing federal taxable**
7 **income.**

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

20 (b) For tax years, beginning on or after January 1, 2012, in
21 addition to amounts authorized to be subtracted from federal
22 taxable income pursuant subsection (c), section six this article,
23 the value of for services rendered to indigent dental patients at

1 no cost by eligible taxpayers, is also an authorized modification
2 reducing federal taxable income, but only to the extent the amount
3 is not allowable as a deduction when arriving at the taxpayer's
4 federal taxable income for the taxable year in which the payment is
5 made. This modification is available regardless of the type of
6 return form filed. The taxpayer may also elect to carry forward
7 the modification over a period not to exceed five taxable years,
8 beginning in the taxable year in which the payment was made.

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

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

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

19 (d) *Amount of decreasing modification* -- The amount of
20 decreasing modification allowable under this section to an eligible
21 taxpayer may not exceed \$15,000: *Provided,* That the amount of the
22 decreasing modification will be the dollar value of any dental
23 services provided to indigent patients at no cost, based upon the

1 number of hours worked times the rates specified by Medicaid for
2 the reimbursement for dental services.

3 (e) Screening and referral of indigent patients to eligible
4 taxpayers for dental services for which the decreasing modification
5 may be taken shall be done by the Free Clinics licensed by the
6 State of West Virginia or by the Donated Dental Program.

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

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

1 required by subsection (e) of this section.

2 (h) The Tax Commissioner may propose rules necessary to carry
3 out the provisions of this section and to provide guidelines and
4 requirements necessary to ensure uniform administrative practices
5 statewide to effect the intent of this section, all in accordance
6 with the provisions of article three, chapter twenty-nine-a of this
7 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 in this bill.

§11-21-12j and §11-24-25 are new; therefore, strike-throughs and underscoring have been omitted.