

1 (a) *General.* - The West Virginia adjusted gross income of a
2 resident individual means his or her federal adjusted gross income
3 as defined in the laws of the United States for the taxable year
4 with the modifications specified in this section.

5 (b) *Modifications increasing federal adjusted gross income.* -
6 There shall be added to federal adjusted gross income unless
7 already included therein the following items:

8 (1) Interest income on obligations of any state other than
9 this state or of a political subdivision of any other state unless
10 created by compact or agreement to which this state is a party;

11 (2) Interest or dividend income on obligations or securities
12 of any authority, commission or instrumentality of the United
13 States, which the laws of the United States exempt from federal
14 income tax but not from state income taxes;

15 (3) Any deduction allowed when determining federal adjusted
16 gross income for federal income tax purposes for the taxable year
17 that is not allowed as a deduction under this article for the
18 taxable year;

19 (4) Interest on indebtedness incurred or continued to purchase
20 or carry obligations or securities the income from which is exempt
21 from tax under this article, to the extent deductible in
22 determining federal adjusted gross income;

23 (5) Interest on a depository institution tax-exempt savings

1 certificate which is allowed as an exclusion from federal gross
2 income under Section 128 of the Internal Revenue Code, for the
3 federal taxable year;

4 (6) The amount of a lump sum distribution for which the
5 taxpayer has elected under Section 402(e) of the Internal Revenue
6 Code of 1986, as amended, to be separately taxed for federal income
7 tax purposes; and

8 (7) Amounts withdrawn from a medical savings account
9 established by or for an individual under section twenty, article
10 fifteen, chapter thirty-three of this code or section fifteen,
11 article sixteen of said chapter that are used for a purpose other
12 than payment of medical expenses, as defined in those sections.

13 (c) *Modifications reducing federal adjusted gross income.* -
14 There shall be subtracted from federal adjusted gross income to the
15 extent included therein:

16 (1) Interest income on obligations of the United States and
17 its possessions to the extent includable in gross income for
18 federal income tax purposes;

19 (2) Interest or dividend income on obligations or securities
20 of any authority, commission or instrumentality of the United
21 States or of the State of West Virginia to the extent includable in
22 gross income for federal income tax purposes but exempt from state
23 income taxes under the laws of the United States or of the State of

1 West Virginia, including federal interest or dividends paid to
2 shareholders of a regulated investment company, under Section 852
3 of the Internal Revenue Code for taxable years ending after June
4 30, 1987;

5 (3) Any amount included in federal adjusted gross income for
6 federal income tax purposes for the taxable year that is not
7 included in federal adjusted gross income under this article for
8 the taxable year;

9 (4) The amount of any refund or credit for overpayment of
10 income taxes imposed by this state, or any other taxing
11 jurisdiction, to the extent properly included in gross income for
12 federal income tax purposes;

13 (5) Annuities, retirement allowances, returns of contributions
14 and any other benefit received under the West Virginia Public
15 Employees Retirement System, the West Virginia State Teachers
16 Retirement System and all forms of military retirement, including
17 regular armed forces, reserve and National Guard, including any
18 survivorship annuities derived therefrom, to the extent includable
19 in gross income for federal income tax purposes: *Provided*, That
20 notwithstanding any provisions in this code to the contrary this
21 modification shall be limited to the first \$2,000 of benefits
22 received under the West Virginia Public Employees Retirement
23 System, the West Virginia State Teachers Retirement System and,

1 including any survivorship annuities derived therefrom, to the
2 extent includable in gross income for federal income tax purposes
3 for taxable years beginning after December 31, 1986; and the first
4 \$2,000 of benefits received under any federal retirement system to
5 which Title 4 U. S. C. §111 applies: *Provided, however,* That the
6 total modification under this paragraph shall not exceed \$2,000 per
7 person receiving retirement benefits and this limitation shall
8 apply to all returns or amended returns filed after December 31,
9 1988;

10 (6) Retirement income received in the form of pensions and
11 annuities after December 31, 1979, under any West Virginia police,
12 West Virginia Firemen's Retirement System or the West Virginia
13 State Police Death, Disability and Retirement Fund, the West
14 Virginia State Police Retirement System, ~~or~~ the West Virginia
15 Deputy Sheriff Retirement System or the West Virginia Public
16 Employees Retirement System if paid to police officers retired from
17 the Department of Natural Resources, including those formerly
18 classified as conservation officers, including any survivorship
19 annuities derived from any of these programs, to the extent
20 includable in gross income for federal income tax purposes;

21 (7) (A) For taxable years beginning after December 31, 2000,
22 and ending prior to January 1, 2003, an amount equal to two percent
23 multiplied by the number of years of active duty in the armed

1 forces of the United States of America with the product thereof
2 multiplied by the first \$30,000 of military retirement income,
3 including retirement income from the regular armed forces, reserve
4 and National Guard paid by the United States or by this state after
5 December 31, 2000, including any survivorship annuities, to the
6 extent included in gross income for federal income tax purposes for
7 the taxable year.

8 (B) For taxable years beginning after December 31, 2002, the
9 first \$20,000 of military retirement income, including retirement
10 income from the regular armed forces, reserve and National Guard
11 paid by the United States or by this state after December 31, 2002,
12 including any survivorship annuities, to the extent included in
13 gross income for federal income tax purposes for the taxable year.

14 (C) In the event that any of the provisions of this
15 subdivision are found by a court of competent jurisdiction to
16 violate either the Constitution of this state or of the United
17 States, or is held to be extended to persons other than specified
18 in this subdivision, this subdivision shall become null and void by
19 operation of law.

20 (8) Federal adjusted gross income in the amount of \$8,000
21 received from any source after December 31, 1986, by any person who
22 has attained the age of sixty-five on or before the last day of the
23 taxable year, or by any person certified by proper authority as

1 permanently and totally disabled, regardless of age, on or before
2 the last day of the taxable year, to the extent includable in
3 federal adjusted gross income for federal tax purposes: *Provided,*
4 That if a person has a medical certification from a prior year and
5 he or she is still permanently and totally disabled, a copy of the
6 original certificate is acceptable as proof of disability. A copy
7 of the form filed for the federal disability income tax exclusion
8 is acceptable: *Provided, however, That:*

9 (i) Where the total modification under subdivisions (1), (2),
10 (5), (6) and (7) of this subsection is \$8,000 per person or more,
11 no deduction shall be allowed under this subdivision; and

12 (ii) Where the total modification under subdivisions (1), (2),
13 (5), (6) and (7) of this subsection is less than \$8,000 per person,
14 the total modification allowed under this subdivision for all gross
15 income received by that person shall be limited to the difference
16 between \$8,000 and the sum of modifications under subdivisions (1),
17 (2), (5), (6) and (7) of this subsection;

18 (9) Federal adjusted gross income in the amount of \$8,000
19 received from any source after December 31, 1986, by the surviving
20 spouse of any person who had attained the age of sixty-five or who
21 had been certified as permanently and totally disabled, to the
22 extent includable in federal adjusted gross income for federal tax
23 purposes: *Provided, That:*

1 (i) Where the total modification under subdivisions (1), (2),
2 (5), (6), (7) and (8) of this subsection is \$8,000 or more, no
3 deduction shall be allowed under this subdivision; and

4 (ii) Where the total modification under subdivisions (1), (2),
5 (5), (6), (7) and (8) of this subsection is less than \$8,000 per
6 person, the total modification allowed under this subdivision for
7 all gross income received by that person shall be limited to the
8 difference between \$8,000 and the sum of subdivisions (1), (2),
9 (5), (6), (7) and (8) of this subsection;

10 (10) Contributions from any source to a medical savings
11 account established by or for the individual pursuant to section
12 twenty, article fifteen, chapter thirty-three of this code or
13 section fifteen, article sixteen of said chapter, plus interest
14 earned on the account, to the extent includable in federal adjusted
15 gross income for federal tax purposes: *Provided*, That the amount
16 subtracted pursuant to this subdivision for any one taxable year
17 may not exceed \$2,000 plus interest earned on the account. For
18 married individuals filing a joint return, the maximum deduction is
19 computed separately for each individual;

20 (11) For the 2006 taxable year only, severance wages received
21 by a taxpayer from an employer as the result of the taxpayer's
22 permanent termination from employment through a reduction in force
23 and through no fault of the employee, not to exceed \$30,000. For

1 purposes of this subdivision:

2 (i) The term "severance wages" means any monetary compensation
3 paid by the employer in the taxable year as a result of permanent
4 termination from employment in excess of regular annual wages or
5 regular annual salary;

6 (ii) The term "reduction in force" means a net reduction in
7 the number of employees employed by the employer in West Virginia,
8 determined based on total West Virginia employment of the
9 employer's controlled group;

10 (iii) The term "controlled group" means one or more chains of
11 corporations connected through stock ownership with a common parent
12 corporation if stock possessing at least fifty percent of the
13 voting power of all classes of stock of each of the corporations is
14 owned directly or indirectly by one or more of the corporations and
15 the common parent owns directly stock possessing at least fifty
16 percent of the voting power of all classes of stock of at least one
17 of the other corporations;

18 (iv) The term "corporation" means any corporation, joint-stock
19 company or association and any business conducted by a trustee or
20 trustees wherein interest or ownership is evidenced by a
21 certificate of interest or ownership or similar written instrument;
22 and

23 (12) Any other income which this state is prohibited from

1 taxing under the laws of the United States.

2 (d) *Modification for West Virginia fiduciary adjustment.* -
3 There shall be added to or subtracted from federal adjusted gross
4 income, as the case may be, the taxpayer's share, as beneficiary of
5 an estate or trust, of the West Virginia fiduciary adjustment
6 determined under section nineteen of this article.

7 (e) *Partners and S corporation shareholders.* - The amounts of
8 modifications required to be made under this section by a partner
9 or an S corporation shareholder, which relate to items of income,
10 gain, loss or deduction of a partnership or an S corporation, shall
11 be determined under section seventeen of this article.

12 (f) *Husband and wife.* - If husband and wife determine their
13 federal income tax on a joint return but determine their West
14 Virginia income taxes separately, they shall determine their West
15 Virginia adjusted gross incomes separately as if their federal
16 adjusted gross incomes had been determined separately.

17 (g) *Effective date.* - (1) Changes in the language of this
18 section enacted in the year 2000 shall apply to taxable years
19 beginning after December 31, 2000.

20 (2) Changes in the language of this section enacted in the
21 year 2002 shall apply to taxable years beginning after December 31,
22 2002.

23 (3) Changes in the language of this section enacted in the

1 year 2013 shall apply to taxable years beginning after December 31,
2 2013.

3 **CHAPTER 20. NATURAL RESOURCES.**

4 **ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.**

5 **§20-7-1. Chief natural resources police officer; natural resources**
6 **police officers; special and emergency natural**
7 **resources police officers; subsistence allowance;**
8 **expenses.**

9 (a) The division's law-enforcement policies, practices and
10 programs are under the immediate supervision and direction of the
11 division law-enforcement officer selected by the director and
12 designated as chief natural resources police officer as provided in
13 section thirteen, article one of this chapter.

14 (b) Under the supervision of the director, the chief natural
15 resources police officer shall organize, develop and maintain
16 law-enforcement practices, means and methods geared, timed and
17 adjustable to seasonal, emergency and other needs and requirements
18 of the division's comprehensive natural resources program. All
19 division personnel detailed and assigned to law-enforcement duties
20 and services under this section shall be known and designated as
21 natural resources police officers and are under the immediate
22 supervision and direction of the chief natural resources police

1 officer except as otherwise provided. All natural resources police
2 officers shall be trained, equipped and conditioned for duty and
3 services wherever and whenever required by division law-enforcement
4 needs.

5 (c) The chief natural resources police officer, acting under
6 supervision of the director, is authorized to select and appoint
7 emergency natural resources police officers for a limited period
8 for effective enforcement of the provisions of this chapter when
9 considered necessary because of emergency or other unusual
10 circumstances. The emergency natural resources police officers
11 shall be selected from qualified civil service personnel of the
12 division, except in emergency situations and circumstances when the
13 director may designate officers, without regard to civil service
14 requirements and qualifications, to meet law-enforcement needs.
15 Emergency natural resources police officers shall exercise all
16 powers and duties prescribed in section four of this article for
17 full-time salaried natural resources police officers except the
18 provisions of subdivision (8) of said section.

19 (d) The chief natural resources police officer, acting under
20 supervision of the director, is also authorized to select and
21 appoint as special natural resources police officers any full-time
22 civil service employee who is assigned to, and has direct
23 responsibility for management of, an area owned, leased or under

1 the control of the division and who has satisfactorily completed a
2 course of training established and administered by the chief
3 natural resources police officer, when the action is considered
4 necessary because of law-enforcement needs. The powers and duties
5 of a special natural resources police officer, appointed under this
6 provision, is the same within his or her assigned area as
7 prescribed for full-time salaried natural resources police
8 officers. The jurisdiction of the person appointed as a special
9 natural resources police officer, under this provision, shall be
10 limited to the division area or areas to which he or she is
11 assigned and directly manages.

12 (e) The Director of the Division of Forestry is authorized to
13 appoint and revoke Division of Forestry special natural resources
14 police officers who are full-time civil service personnel who have
15 satisfactorily completed a course of training as required by the
16 Director of the Division of Forestry. The jurisdiction, powers and
17 duties of Division of Forestry special natural resources police
18 officers are set forth by the Director of the Division of Forestry
19 pursuant to article three of this chapter, and articles one-a and
20 one-b, chapter nineteen of this code.

21 (f) The chief natural resources police officer, with the
22 approval of the director, has the power and authority to revoke any
23 appointment of an emergency natural resources police officer or of

1 a special natural resources police officer at any time.

2 (g) Natural resources police officers are subject to seasonal
3 or other assignment and detail to duty whenever and wherever
4 required by the functions, services and needs of the division.

5 (h) The chief natural resources police officer shall designate
6 the area of primary residence of each natural resources police
7 officer, including himself or herself. Since the area of business
8 activity of the division is actually anywhere within the
9 territorial confines of the State of West Virginia, actual expenses
10 incurred shall be paid whenever the duties are performed outside
11 the area of primary assignment and still within the state.

12 (i) Natural resources police officers shall receive, in
13 addition to their base pay salary, a minimum monthly subsistence
14 allowance for their required telephone service, dry cleaning or
15 required uniforms and meal expenses while performing their regular
16 duties in their area of primary assignment in the amount of \$130
17 each month. This subsistence allowance does not apply to special
18 or emergency natural resources police officers appointed under this
19 section.

20 (j) After June 30, 2010, all those full-time law-enforcement
21 officers employed by the Division of Natural Resources as
22 conservation officers shall be titled and known as natural
23 resources police officers. Wherever used in this code the term

1 "conservation officer", or its plural, means "natural resources
2 police officer", or its plural, respectively.

3 ~~(k) Notwithstanding any provision of this code to the~~
4 ~~contrary, the provisions of subdivision six, subsection c, section~~
5 ~~twelve, article twenty-one, chapter eleven of this code are~~
6 ~~inapplicable to pensions of natural resources police officers paid~~
7 ~~through the Public Employees Retirement System.~~

(NOTE: The purpose of this bill is to treat natural resources
police like all other law enforcement and exempt them from state
income tax.

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