

**ENROLLED**

**H. B. 4159**

(By Mr. Speaker, (Mr. Miley) and Delegate Armstead)

[By Request of the Executive]

[Passed March 5, 2014; in effect from its passage.]

**FISCAL  
NOTE**

10 AN ACT to amend and reenact §11-21-9 of the Code of West Virginia,  
11 1931, as amended, relating to updating the meaning of federal  
12 adjusted gross income and certain other terms used in the West  
13 Virginia Personal Income Tax Act; and specifying effective  
14 date.

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

16 That §11-21-9 of the Code of West Virginia, 1931, as amended,  
17 be amended and reenacted to read as follows:

18 **ARTICLE 21. PERSONAL INCOME TAX.**

19 **§11-21-9. Meaning of terms.**

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 income taxes, unless a different meaning is clearly  
23 required. Any reference in this article to the laws of the United  
24 States means the provisions of the Internal Revenue Code of 1986,

1 as amended, and any other provisions of the laws of the United  
2 States that relate to the determination of income for federal  
3 income tax purposes. All amendments made to the laws of the United  
4 States after December 31, 2012, but prior to January 1, 2014, shall  
5 be given effect in determining the taxes imposed by this article to  
6 the same extent those changes are allowed for federal income tax  
7 purposes, whether the changes are retroactive or prospective, but  
8 no amendment to the laws of the United States made on or after  
9 January 1, 2014, may be given any effect.

10 (b) Medical savings accounts. -- The term "taxable trust" does  
11 not include a medical savings account established pursuant to  
12 section twenty, article fifteen, chapter thirty-three of this code  
13 or section fifteen, article sixteen of that chapter. Employer  
14 contributions to a medical savings account established pursuant to  
15 those sections are not wages for purposes of withholding under  
16 section seventy-one of this article.

17 (c) Surtax. -- The term "surtax" means the twenty percent  
18 additional tax imposed on taxable withdrawals from a medical  
19 savings account under section twenty, article fifteen, chapter  
20 thirty-three of this code and the twenty percent additional tax  
21 imposed on taxable withdrawals from a medical savings account under  
22 section fifteen, article sixteen of that chapter which are  
23 collected by the Tax Commissioner as tax collected under this  
24 article.

1           (d) Effective date. -- The amendments to this section enacted  
2 in the year 2014 are retroactive to the extent allowable under  
3 federal income tax law. With respect to taxable years that began  
4 prior to January 1, 2015, the law in effect for each of those years  
5 shall be fully preserved as to that year, except as provided in  
6 this section.

7           (e) For purposes of the refundable credit allowed to a low  
8 income senior citizen for property tax paid on his or her homestead  
9 in this state, the term "laws of the United States" as used in  
10 subsection (a) of this section means and includes the term "low  
11 income" as defined in subsection (b), section twenty-one of this  
12 article and as reflected in the poverty guidelines updated  
13 periodically in the federal register by the U.S. Department of  
14 Health and Human Services under the authority of 42 U.S.C.  
§9902(2).