

Senate Bill No. 333

(By Senators Kessler (Mr. President) and M. Hall,

By Request of the Executive)

[Introduced January 10, 2014; referred to the Committee on
Finance.]

**FISCAL
NOTE**

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-9. Meaning of terms.

(a) Any term used in this article has the same meaning as when used in a comparable context in the laws of the United States relating to income taxes, unless a different meaning is clearly required. Any reference in this article to the laws of the United

1 States means the provisions of the Internal Revenue Code of 1986,
2 as amended, and any other provisions of the laws of the United
3 States that relate to the determination of income for federal
4 income tax purposes. All amendments made to the laws of the United
5 States after ~~January 1, 2012,~~ December 31, 2012, but prior to
6 ~~January 3, 2013,~~ 1, 2014, shall be given effect in determining the
7 taxes imposed by this article to the same extent those changes are
8 allowed for federal income tax purposes, whether the changes are
9 retroactive or prospective, but no amendment to the laws of the
10 United States made on or after ~~January 3, 2013,~~ 1, 2014, may
11 be given any effect.

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

19 (c) Surtax. -- The term "surtax" means the twenty percent
20 additional tax imposed on taxable withdrawals from a medical
21 savings account under section twenty, article fifteen, chapter
22 thirty-three of this code and the twenty percent additional tax
23 imposed on taxable withdrawals from a medical savings account under

1 section fifteen, article sixteen of ~~said~~ that chapter which are
2 collected by the Tax Commissioner as tax collected under this
3 article.

4 (d) Effective date. -- The amendments to this section enacted
5 in the year ~~2013~~ 2014 are retroactive to the extent allowable under
6 federal income tax law. With respect to taxable years that began
7 prior to January 1, ~~2014~~, 2015, the law in effect for each of those
8 years shall be fully preserved as to that year, except as provided
9 in this section.

10 (e) For purposes of the refundable credit allowed to a low
11 income senior citizen for property tax paid on his or her homestead
12 in this state, the term "laws of the United States" as used in
13 subsection (a) of this section means and includes the term "low
14 income" as defined in subsection (b), section twenty-one of this
15 article and as reflected in the poverty guidelines updated
16 periodically in the federal register by the U.S. Department of
17 Health and Human Services under the authority of 42 U.S.C.
18 §9902(2).

NOTE: The purpose of this bill is to update the meaning of federal adjusted gross income and certain other terms used in the West Virginia Personal Income Tax Act and to specify an effective date.

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