

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Originating

House Bill 3137

BY DELEGATES HOUSEHOLDER, GRAVES, HARDY,
ELLINGTON, MAYNARD, HILL, LINVILLE AND ESPINOSA

[Originating in the Committee on Finance; Reported
on February 21, 2019.]

1 A BILL to amend and reenact §11-21-4e of the Code of West Virginia, 1931, as amended; and to
 2 amend said code by adding a new section thereto, §11B-2-33, all relating to reducing
 3 personal income tax rates when personal income tax reduction fund is funded at an
 4 amount equal to or exceeding \$200 million; establishing personal income tax reduction
 5 fund and providing for deposits into personal income tax reduction fund; specifying rate
 6 reductions; providing for deposits from personal income tax reduction fund into general
 7 revenue fund; imposing duties on the Secretary of Revenue and State Lottery
 8 Commission.

Be it enacted by the Legislature of West Virginia:

CHAPTER 11. TAXATION.

ARTICLE 21. PERSONAL INCOME TAX.

PART I.

GENERAL.

§11-21-4e. Rate of tax — Taxable years beginning on or after January 1, 1987; taxable years after December 31, 2020.

1 (a) *Rate of tax on individuals (except married individuals filing separate returns),*
 2 *individuals filing joint returns, heads of households, estates and trusts.* — The tax imposed by
 3 section three of this article on the West Virginia taxable income of every individual (except married
 4 individuals filing separate returns); every individual who is a head of a household in the
 5 determination of his or her federal income tax for the taxable year; every husband and wife who
 6 file a joint return under this article; every individual who is entitled to file his or her federal income
 7 tax return for the taxable year as a surviving spouse; and every estate and trust shall be
 8 determined in accordance with the following table:

9	If the West Virginia	The tax is:
10	taxable income is:	
11		
12	Not over \$10,000	3% of the taxable income

13		
14	Over \$10,000 but not	\$300.00 plus 4% of excess
15	over \$25,000	over \$10,000
16		
17	Over \$25,000 but not	\$900.00 plus 4.5% of excess
18	over \$40,000	over \$25,000
19		
20	Over \$40,000 but not	\$1,575.00 plus 6% of excess
21	over \$60,000	over \$40,000
22		
23	Over \$60,000	\$2,775.00 plus 6.5% of excess
24		over \$60,000
25		

26 (b) *Rate of tax on married individuals filing separate returns.* — In the case of husband
 27 and wife filing separate returns under this article for the taxable year, the tax imposed by section
 28 three of this article on the West Virginia taxable income of each spouse shall be determined in
 29 accordance with the following table:

30	If the West Virginia	
31	taxable income is:	The tax is:
32		
33	Not over \$5,000	3% of the taxable income
34		
35	Over \$5,000 but not	\$150.00 plus 4% of excess
36	over \$12,500	over \$5,000
37		
38	Over \$12,500 but not	\$450.00 plus 4.5% of
39	over \$20,000	excess over \$12,500
40		
41	Over \$20,000 but not	\$787.50 plus 6% of excess
42	over \$30,000	over \$20,000
43		
44	Over \$30,000	\$1,387.50 plus 6.5% of
45		excess over \$30,000
46		

47 (c) *Applicability of this section.* — The provisions of this section, as amended by this act,
 48 shall be applicable in determining the rate of tax imposed by this article for all taxable years
 49 beginning after December 31, 1986, and shall be in lieu of the rates of tax specified in section
 50 four-d of this article. The provisions of this section, as amended by this act in 2019, and of §11B-
 51 2-33 of this code shall be applicable in determining the rate of tax imposed by this article for all
 52 taxable years beginning after December 31, 2020, and shall be in lieu of the rates of tax specified
 53 in this section upon the occurrence of the events specified in §11B-2-33 of this code.

CHAPTER 11B. DEPARTMENT OF REVENUE.

ARTICLE 2. STATE BUDGET OFFICE.

§11B-2-33. Personal income tax reduction fund.

1 (a) The personal income tax reduction fund is hereby established. The personal income
2 tax reduction fund shall be funded continuously and on a revolving basis in accordance with this
3 section, with all interest or other earnings on the moneys therein credited to the fund. The personal
4 income tax reduction fund shall be funded as provided by this section, by other provisions of this
5 code, and by any appropriation made to the fund by the Legislature. Moneys in the personal
6 income tax reduction fund may be expended solely for the purposes set forth in this section.

7 (b) Notwithstanding any other provision of this code to the contrary, moneys to be
8 deposited in the personal income tax reduction fund include:

9 (1) The net amount of all West Virginia state sales and use tax collections on all sales
10 made on and after January 1, 2019, that are delivered into West Virginia that are paid by any out-
11 of-state vendor. The State Tax Commissioner shall deposit the amounts as required by this
12 section into the fund;

13 (2) The net amount of the state's share of the gross sales received by the State Lottery
14 Commission that are derived from lottery games authorized under §29-22-1, et seq., of this code
15 on and after January 1, 2019, that utilize an electronic computer and a video screen to operate a
16 lottery game and communicate the results thereof, such as the games of "Travel" or "Keno", and
17 which do not utilize an interactive electronic terminal device allowing input by an individual player,
18 that are made available by the State Lottery Commission in locations other than (A) private clubs
19 licensed in accordance with the provisions of article seven, chapter sixty of this code, (B) retail
20 licensees licensed in accordance with the provisions of article three-a of said chapter sixty, or (C)
21 in the facilities of class A licensees which are licensed in accordance with the provisions of section
22 nine, article sixteen, chapter eleven of this code, in which facility at least seventy-five percent of

23 the nonintoxicating beer sold by the class A licensee in the preceding year was sold for
24 consumption on the premises. The State Lottery Commission shall deposit the amounts as
25 required by this section into the fund;

26 (3) The net amount of the state's share of gross terminal income received by the State
27 Lottery Commission that are derived from lottery games that are derived from limited video lottery
28 operations authorized under §29-22B-1, et seq., of this code on and after January 1, 2019, that
29 are operated at a retail location by a licensed operator authorized by the State Lottery Commission
30 to operate limited video lottery terminals as a limited video lottery retailer. The State Lottery
31 Commission shall deposit the amounts as required by this section into the fund;

32 (4) The net amount of the state's share of gross revenues received by the State Lottery
33 Commission that are derived from racetrack video lottery terminals at a secondary location of a
34 licensed racetrack authorized under §29-22A-1 et seq. of this code on and after January 1, 2019.
35 The State Lottery Commission shall deposit the amounts as required by this section into the fund;

36 (5) The net amount of the state's share of gross revenues received by the State Lottery
37 Commission that are derived from racetrack table games at a secondary location of a licensed
38 racetrack authorized under §29-22C-1 et seq. of this code on and after January 1, 2019. The
39 State Lottery Commission shall deposit the amounts as required by this section into the fund;

40 (6) The net amount of the state's share of gross revenues received by the State Lottery
41 Commission that are derived from sports wagering at a secondary location of a licensed racetrack
42 authorized under §29-22D-1 et seq. of this code on and after January 1, 2019. The State Lottery
43 Commission shall deposit the amounts as required by this section into the fund;

44 (7) The net amount of the state's share of gross revenues received by the State Lottery
45 Commission that are derived from interactive gaming at a primary or secondary location of a
46 licensed racetrack authorized under §29-22E-1 et seq. of this code on and after January 1, 2019.
47 The State Lottery Commission shall deposit the amounts as required by this section into the fund;

48 and

49 (8) All other amounts directed to be deposited into the fund by any provision of this code
 50 or appropriation.

51 (c)(1) If at the end of any fiscal year the personal income tax reduction fund is funded at
 52 an amount equal to or exceeding \$200 million, the Secretary of Revenue shall certify the same to
 53 the State Tax Commissioner on or before the next ensuing July 31.

54 (2) Upon the certification, for all taxable years beginning on or after the next ensuing
 55 January 1, the tax imposed by §11-21-3 of this code shall, in lieu of the provisions of §11-21-4e
 56 of this code, be imposed in accordance with the following as if fully set forth therein:

57 (A) Rate of tax on individuals (except married individuals filing separate returns),
 58 individuals filing joint returns, heads of households, estates and trusts. — The tax imposed by
 59 section three of this article on the West Virginia taxable income of every individual (except married
 60 individuals filing separate returns); every individual who is a head of a household in the
 61 determination of his or her federal income tax for the taxable year; every husband and wife who
 62 file a joint return under this article; every individual who is entitled to file his or her federal income
 63 tax return for the taxable year as a surviving spouse; and every estate and trust shall be
 64 determined in accordance with the following table:

<u>If the West Virginia taxable income is:</u>	<u>The tax is:</u>
<u>Not over \$10,000</u>	<u>2.5% of the taxable income</u>
<u>Over \$10,000 but not over \$25,000</u>	<u>\$300.00 plus 3.5% of excess over \$10,000</u>
<u>Over \$25,000 but not over \$40,000</u>	<u>\$900.00 plus 4.0% of excess over \$25,000</u>
<u>Over \$40,000 but not over \$60,000</u>	<u>\$1,575.00 plus 5.5% of excess over \$40,000</u>
<u>Over \$60,000</u>	<u>\$2,775.00 plus 6.0% of excess over \$60,000</u>

81

82 (B) Rate of tax on married individuals filing separate returns. — In the case of husband
 83 and wife filing separate returns under this article for the taxable year, the tax imposed by section
 84 three of this article on the West Virginia taxable income of each spouse shall be determined in
 85 accordance with the following table:

<u>If the West Virginia taxable income is:</u>	<u>The tax is:</u>
<u>Not over \$5,000</u>	<u>2.5% of the taxable income</u>
<u>Over \$5,000 but not over \$12,500</u>	<u>\$150.00 plus 3.5% of excess over \$5,000</u>
<u>Over \$12,500 but not over \$20,000</u>	<u>\$450.00 plus 4.0% of excess over \$12,500</u>
<u>Over \$20,000 but not over \$30,000</u>	<u>\$787.50 plus 5.5% of excess over \$20,000</u>
<u>Over \$30,000</u>	<u>\$1,387.50 plus 6.0% of excess over \$30,000</u>

103 (3) Upon the certification, on the next ensuing July 1, the Secretary of Revenue shall
 104 transfer \$200 million from the personal income tax reduction fund to the general revenue fund of
 105 the state.

106 (d)(1) After the occurrence of the events described in §11B-2-33(c)(1) of this code, if at
 107 the end of any fiscal year the personal income tax reduction fund is funded at an amount equal to
 108 or exceeding \$200 million, the Secretary of Revenue shall certify the same to the State Tax
 109 Commissioner on or before the next ensuing July 31.

110 (2) Upon the certification, for all taxable years beginning on or after the next ensuing
 111 January 1, the tax imposed by §11-21-3 of this code shall, in lieu of the provisions of §11-21-4e,
 112 be imposed in accordance with the following as if fully set forth therein:

113 (A) Rate of tax on individuals (except married individuals filing separate returns),
 114 individuals filing joint returns, heads of households, estates and trusts. — The tax imposed by
 115 section three of this article on the West Virginia taxable income of every individual (except married

116 individuals filing separate returns); every individual who is a head of a household in the
 117 determination of his or her federal income tax for the taxable year; every husband and wife who
 118 file a joint return under this article; every individual who is entitled to file his or her federal income
 119 tax return for the taxable year as a surviving spouse; and every estate and trust shall be
 120 determined in accordance with the following table:

<u>If the West Virginia taxable income is:</u>	<u>The tax is:</u>
<u>Not over \$10,000</u>	<u>2.0% of the taxable income</u>
<u>Over \$10,000 but not over \$25,000</u>	<u>\$300.00 plus 3.0% of excess over \$10,000</u>
<u>Over \$25,000 but not over \$40,000</u>	<u>\$900.00 plus 3.5% of excess over \$25,000</u>
<u>Over \$40,000 but not over \$60,000</u>	<u>\$1,575.00 plus 5.0% of excess over \$40,000</u>
<u>Over \$60,000</u>	<u>\$2,775.00 plus 5.5% of excess over \$60,000</u>

138 (B) Rate of tax on married individuals filing separate returns. — In the case of husband
 139 and wife filing separate returns under this article for the taxable year, the tax imposed by section
 140 three of this article on the West Virginia taxable income of each spouse shall be determined in
 141 accordance with the following table:

<u>If the West Virginia taxable income is:</u>	<u>The tax is:</u>
<u>Not over \$5,000</u>	<u>2.0% of the taxable income</u>
<u>Over \$5,000 but not over \$12,500</u>	<u>\$150.00 plus 3.0% of excess over \$5,000</u>
<u>Over \$12,500 but not over \$20,000</u>	<u>\$450.00 plus 3.5% of excess over \$12,500</u>
<u>Over \$20,000 but not over \$30,000</u>	<u>\$787.50 plus 5.0% of excess over \$20,000</u>
<u>Over \$30,000</u>	<u>\$1,387.50 plus 5.5% of excess over \$30,000</u>

158 (3) Upon the certification, on the next ensuing July 1, the Secretary of Revenue shall
159 transfer \$200 million from the personal income tax reduction fund to the general revenue fund of
160 the state.

161 (e)(1) After the occurrence described in §11B-2-33(d)(1) of this code, if at the end of any
162 fiscal year the personal income tax reduction fund is funded at an amount equal to or exceeding
163 \$200 million, the Secretary of Revenue shall certify the same to the State Tax Commissioner on
164 or before the next ensuing July 31.

165 (2) Upon the certification, for all taxable years beginning on or after the next ensuing
166 January 1, the tax imposed by §11-21-3 of this code shall, in lieu of the provisions of §11-21-4e,
167 be imposed in accordance with the following as if fully set forth therein: The Tax Commissioner
168 shall publish by administrative notice the provisions set forth in §11B-2-33(d)(2) of this code after
169 reducing each percentage by 0.5% to the same effect of reducing those percentages as provided
170 by §11B-2-33(c)(2) and §11B-2-33(d)(2) of this code, which published provisions shall for all
171 taxable years beginning on or after the next ensuing January 1, be the tax imposed by §11-21-3
172 of this code in lieu of the provisions of §11-21-4e.

173 (3) Upon the certification, on the next ensuing July 1, the Secretary of Revenue shall
174 transfer \$200 million from the personal income tax reduction fund to the general revenue fund of
175 the state.

176 (f) The moneys in the personal income tax reduction fund shall be made available to the
177 West Virginia Board of Treasury Investments for management and investment of the moneys in
178 accordance with the provisions of article six-c, chapter twelve of this code and to the West Virginia
179 Investment Management Board for management and investment of the moneys in accordance
180 with the provisions of article six, chapter twelve of this code in such amounts as may be directed
181 in the discretion of the Secretary of Revenue. Any balance of the personal income tax reduction
182 fund, including accrued interest and other return earned thereon at the end of any fiscal year,

183 shall not revert to the General Fund but shall remain in personal income tax reduction fund for the
184 purposes set forth in this section.

NOTE: The purpose of this bill is to direct certain revenue sources into a new Personal Income Tax Reduction Fund. When the balance of the fund reaches \$200 million at the end of a fiscal year, state personal income tax rates will reduce by a half percent beginning Jan 1 of the following calendar year. Then, at the beginning of the next fiscal year, \$200 million will be deposited from the Personal Income Tax Reduction Fund into the General Revenue Fund of the state. Upon the accumulation of further amounts of \$200 million, the process repeats itself thereafter.

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