

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Committee Substitute

for

Senate Bill 106

SENATOR FACEMIRE, *original sponsor*

[Originating in the Committee on Finance; reported on

January 11, 2019]

1 A BILL to amend and reenact §11-21-20 of the Code of West Virginia, 1931, as amended, relating
2 to personal income tax; alleviating double taxation on foreign income at the state level;
3 and sunsetting the credit for income tax paid on foreign income in 2069.

Be it enacted by the Legislature of West Virginia:

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-20. Credit for income tax of another state and foreign country.

1 (a) *General.* – A resident ~~shall be~~ is allowed a credit against the tax otherwise due under
2 this article for any income tax imposed for the taxable year by another state of the United States,
3 ~~or~~ by the District of Columbia, or by a foreign country upon income both derived therefrom and
4 subject to tax under this article.

5 (b) *Limitations.* – (1) The credit under this section ~~shall~~ may not exceed the percentage of
6 the tax otherwise due under this article determined by dividing the portion of the taxpayer's West
7 Virginia income subject to taxation by ~~such~~ the other jurisdiction by the total amount of the
8 taxpayer's West Virginia income.

9 (2) The credit under this section ~~shall~~ may not reduce the tax otherwise due under this
10 article to an amount less than would have been due if the income subject to taxation by ~~such~~ the
11 other jurisdiction were excluded from the taxpayer's West Virginia income.

12 (c) *Exception.* – No credit ~~shall be~~ is allowed under this section for a tax of a jurisdiction
13 which allows residents of this state a credit against the taxes imposed by ~~such~~ the other
14 jurisdiction for the tax under this article, if ~~such~~ the other credit is substantially similar to the credit
15 granted by §11-21-40 of this code.

16 (d) *Sunset provision.* – The credit allowed against the tax otherwise due under this article
17 for any income tax imposed for the taxable year by a foreign country upon income both derived
18 therefrom and subject to tax under this article shall be effective from the amendment and
19 reenactment of this section during the regular session of the Legislature, 2019, through July 1,
20 2069.

- 21 ~~(d)~~ (e) *Definition.* – For purposes of this section, West Virginia income means:
- 22 (1) The West Virginia adjusted gross income of an individual; or
- 23 (2) The amount of the income of an estate or trust, determined as if the estate or trust
- 24 were an individual computing his or her West Virginia adjusted gross income under §11-21-12 of
- 25 this code.

NOTE: The purpose of this bill is to alleviate double taxation on foreign income at the state level under the personal income tax. The section sunsets the credit for foreign income in 2069.

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