

# WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

## Senate Bill 9

FISCAL  
NOTE

BY SENATORS BLAIR, PLYMALE, AND BOSO

[Introduced January 9, 2019; Referred  
to the Committee on Finance]

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 2068.

*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 other jurisdiction  
 14 for the tax under this article, if ~~such~~ the other credit is substantially similar to the credit granted by  
 15 §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 is effective from the amendment and reenactment  
 19 of this section during the regular session of the Legislature in 2019 through July 1, 2069.

20 ~~(d)~~ (e) Definition. -- For purposes of this section West Virginia income means:

- 21 (1) The West Virginia adjusted gross income of an individual, or  
22 (2) The amount of the income of an estate or trust, determined as if the estate or trust  
23 were an individual computing his or her West Virginia adjusted gross income under §11-21-12 of  
24 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.