

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 5182**

By Delegates Phillips and McGeehan

[Introduced January 25, 2024; Referred to the  
Committee on Government Organization then  
Finance]

1 A BILL to amend and reenact §11-13MM-3 of the Code of West Virginia, 1931, as amended; and to  
 2 amend and reenact §17A-3-3a of said code, all relating to receipts for payment of personal  
 3 income taxes and the requirement thereof for annual renewal of vehicular registration.

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

**CHAPTER 11. TAXATION**

**ARTICLE 13MM. WEST VIRGINIA PROPERTY TAX ADJUSTMENT ACT.**

**§11-13MM-3. Motor vehicle property tax adjustment credit.**

1 (a) Credit allowed. — There shall be allowed to every eligible taxpayer a credit, as  
 2 determined under this section, against the tax imposed under §11-21-1 *et seq.* of this code, or  
 3 against the tax imposed under §11-24-1 *et seq.* of this code, as applicable.

4 (b) "Eligible taxpayer" defined.—

5 (1) "Eligible taxpayer" – Owned motor vehicles — "Eligible taxpayer" means any person  
 6 who owns a motor vehicle for which the ad valorem property tax has been paid during the  
 7 corporation net income tax taxable year or the personal income tax taxable year, as applicable.  
 8 For purposes of this definition, ownership of a motor vehicle includes ownership and possession of  
 9 a motor vehicle for which a title has been issued by the Division of Motor Vehicles to the eligible  
 10 taxpayer. For purposes of this definition, ownership of a motor vehicle also includes ownership and  
 11 possession of a motor vehicle, subject to a purchase financing arrangement whereby a financial  
 12 institution holds a lien on the motor vehicle, or for which ultimate issuance of title by the Division of  
 13 Motor Vehicles to the taxpayer, as owner of the motor vehicle, is contingent upon payment in full of  
 14 the purchase price of the motor vehicle pursuant to an installment payment financing  
 15 arrangement.

16 (2) "Eligible taxpayer" – Leased motor vehicles — "Eligible taxpayer" also means and  
 17 includes any lessor of a motor vehicle, as herein defined, who owns a motor vehicle for which the  
 18 ad valorem property tax has been paid during the corporation net income tax taxable year or the

19 personal income tax taxable year, as applicable: *Provided*, That, the lessor shall pass on to the  
20 lessee the value of the tax credit asserted by the lessor by causing a decreasing in the amount of  
21 rent or lease payment payable by the lessee on the leased motor vehicle.

22 (3) "Eligible taxpayer" – Pass through entities — "Eligible taxpayer" also means and  
23 includes any owner, interest holder, partner or S corporation shareholder that derives conduit  
24 income from a pass-through entity.

25 (4) "Eligible taxpayer" – Prohibition for motor vehicle dealers — "Eligible taxpayer" does  
26 not mean or include any motor vehicle dealer, motor vehicle dealership, retailer or any business  
27 that sells new or used motor vehicles at the retail level, other than a lessor of motor vehicles. In  
28 circumstances where any such motor vehicle dealer, motor vehicle dealership, retailer or business  
29 that sells new or used motor vehicles at the retail level is engaged in both retail sales of motor  
30 vehicles, and leasing of motor vehicles as lessor, the tax credit authorized by this article may only  
31 be asserted by such business based upon the ad valorem property tax paid on leased motor  
32 vehicles, and only to the extent that the lessor has passed on, to the lessee, the value of the tax  
33 credit asserted by the lessor by causing a decreasing in the amount of rent or lease payment  
34 payable by the lessee on the leased motor vehicle. No credit may be asserted or applied by the  
35 business based upon ad valorem property tax paid on motor vehicle retail inventories, not actively  
36 leased to lessees. To the extent that motor vehicle retail inventories may be held as both motor  
37 vehicle retail inventories, and as motor vehicles potentially subject to lease during the taxable  
38 year, ad valorem property tax paid on such motor vehicles is excluded from eligibility for the tax  
39 credit authorized by this article.

40 (c) Amount of credit. – The amount of credit allowed under this article to the eligible  
41 taxpayer is the amount of West Virginia ad valorem property tax timely paid during the personal  
42 income taxable year or the corporation net income tax taxable year, as applicable, to a county  
43 sheriff on the value of a motor vehicle owned by the eligible taxpayer: *Provided*, That in no case  
44 shall any credit be allowed under this article for any untimely ad valorem property tax paid, or any

45 payment of delinquent ad valorem property tax, or payment of "back tax" ad valorem property  
46 taxes.

47 (d) Application of credit against personal income tax and corporation net income tax. —

48 (1) Personal income tax — If the eligible taxpayer is subject to the personal income tax  
49 imposed by §11-21-1 *et seq.* of this code, the amount of credit allowed shall be taken against the  
50 personal income tax liability of the eligible taxpayer for the current personal income tax taxable  
51 year.

52 (2) Corporation net income tax — If the eligible taxpayer is subject to the corporation net  
53 income tax imposed by §11-24-1 *et seq.* of this code, the amount of credit allowed shall be taken  
54 against the corporation net income tax liability of the eligible taxpayer for the current corporation  
55 net income tax taxable year.

56 (e) Refundable portion of annual credit allowance. — If annual tax credit allowed under this  
57 article exceeds the amount of personal income tax or corporation net income tax, as applicable,  
58 subject to offset under this article in any taxable year, the eligible taxpayer may claim, for that  
59 taxable year, the excess amount as a refundable tax credit. The issued tax credit may have  
60 deducted the cost of annual vehicular registration renewal in accordance with §17A-3-3(g) of this  
61 code, to be timely paid to the Division of Motor Vehicles by the Tax Commissioner, by filing a  
62 request with the Tax Commissioner. The necessary form shall be available by July 1 of the fiscal  
63 year. The Tax Commissioner shall then promptly provide verification of payment to the Division of  
64 Motor Vehicles via electronic means in accordance with §17A-3-3a of this code.

65 (f) Transfer or sale of the motor vehicle. —

66 (1) Where there is a sale or transfer of the motor vehicle from an eligible taxpayer to any  
67 other person or entity, the transferor retains entitlement to the tax credit authorized under this  
68 article for the timely paid ad valorem property tax paid by the transferor in the transferor's personal  
69 income tax taxable year or corporation net income tax taxable year, as applicable, on the  
70 transferred motor vehicle.

71 (2) If the transferee meets all requirements for qualification as an eligible taxpayer under  
72 this article and meets all requirements for entitlement to the tax credit authorized under this article,  
73 then the transferee shall be entitled to the tax credit authorized under this article for the timely paid  
74 ad valorem property tax paid by the transferee in the transferee's personal income tax taxable year  
75 or corporation net income tax taxable year, as applicable on the eligible motor vehicle.

76 (3) In no case shall the transferor and the transferee take the tax credit authorized under  
77 this article for the same taxable year.

78 (g) Annual schedule. — The Tax Commissioner shall prescribe and supply all necessary  
79 instructions and forms for administration of this section. For purposes of asserting the credit  
80 against tax, the taxpayer shall prepare and file an annual schedule showing the amount of  
81 personal income tax paid for the taxable year, and the amount of property tax paid on the motor  
82 vehicle for the taxable year, and the amount of credit allowed under this article. The annual  
83 schedule shall set forth the information and be in the form prescribed by the Tax Commissioner.

## **CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION, CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.**

### **ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF CERTIFICATES OF TITLE.**

#### **§17A-3-3a. Payment of personal property taxes and emergency ambulance fees prerequisite to registration or renewal; duties of assessors; schedule of automobile values.**

1 (a) Certificates of registration and renewal of registration of any vehicle or registration  
2 plates for any vehicle may not be issued or furnished by the Division of Motor Vehicles, or any  
3 other officer charged with the duty, unless the applicant for the certificate or registration plate,  
4 except an applicant exempt from payment of registration fees under section eight, article ten of this  
5 chapter, has furnished the receipt provided in this section or the division has received verification

6 by electronic means to show full payment of:

7 (1) The personal property taxes for the current ~~calendar~~ calendar year or the calendar year  
8 which immediately precedes the calendar year in which application is made on all vehicles which  
9 were registered with the Division of Motor Vehicles in the applicant's name on the tax day for the  
10 former calendar year; and

11 (2) All emergency ambulance fees owed pursuant to section seventeen, article fifteen,  
12 chapter seven of this code at the time the receipt is prepared, except for any of the fees that are not  
13 yet past due: *Provided*, That any county which does not impose emergency ambulance fees or  
14 which chooses not to show emergency ambulance fees on the personal property tax receipt may  
15 issue a receipt without complying with this subdivision and the Commissioner of Motor Vehicles  
16 may issue or renew registration without regard to such fees.

17 (b) If the applicant contends that any registered vehicle was not subject to personal  
18 property taxation for that year or that he or she does not owe any emergency ambulance fees if a  
19 receipt for fees are required by the county, he or she shall furnish the information and evidence as  
20 the Commissioner of Motor Vehicles may require to substantiate his or her contention.

21 (c) The assessor shall require any person having a duty to make a return of property for  
22 taxation to him or her to furnish information identifying each vehicle subject to the registration  
23 provisions of this chapter. When the property taxes on any vehicle have been paid, the officer to  
24 whom the payment was made shall deliver to the person paying the taxes a written or printed  
25 receipt for the payment and shall retain for his or her records a duplicate of the receipt. It is the duty  
26 of the assessor and sheriff, respectively, to see that the assessment records and the receipts  
27 contain information adequately identifying the vehicle as registered under the provisions of this  
28 chapter. The officer receiving payment shall sign each receipt in his or her own handwriting. If  
29 transferring payment against a motor vehicle property tax adjustment tax credit in accordance with  
30 §11-13MM-3(e) of this code, the officer receiving payment shall promptly transmit electronic  
31 verification of payment to the Division of Motor Vehicles in accordance with subsection (a) of this

32 section.

33 (d) Each receipt given to a taxpayer for payment of personal property taxes on a vehicle  
34 may indicate on the receipt whether the taxpayer has paid all emergency ambulance fees owed  
35 pursuant to section seventeen, article fifteen, chapter seven of this code at the time the receipt is  
36 prepared, except for any of the fees that are not yet past due: *Provided*, That each county shall  
37 include on the same notice of personal property taxes due the additional amount due for all  
38 emergency ambulance fees.

39 (e) The State Tax Commissioner shall annually compile a schedule of automobile values  
40 based on the lowest values shown in a nationally accepted used car guide. The State Tax  
41 Commissioner shall furnish the schedule to each assessor and it shall be used by him or her as a  
42 guide in placing the assessed values on all automobiles in his or her county.

NOTE: The purpose of this bill is to allow for the automatic deduction of the Division of Motor Vehicles annual registration renewal fee from the rebate for the motor vehicle property tax adjustment credit to allow for renewal without having to present a receipt of payment of the annual personal property tax on vehicles.

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