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2010 APR -2 PM 4: 06

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE  
SEVENTY-NINTH LEGISLATURE  
REGULAR SESSION, 2010**

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**ENROLLED**

**Senate Bill No. 216**

(BY SENATORS TOMBLIN (MR. PRESIDENT) AND CARUTH,

BY REQUEST OF THE EXECUTIVE)

[Passed March 9, 2010; in effect from passage.]

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**Senate Bill No. 216**

(BY SENATORS TOMBLIN (MR. PRESIDENT) AND CARUTH,  
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[Passed March 9, 2010; in effect from passage.]

AN ACT 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 dates.

*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:

**PART I. GENERAL.**

**ARTICLE 21. PERSONAL INCOME TAX.**

**§11-21-9. Meaning of terms.**

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


5 to the laws of the United States means the provisions of  
6 the Internal Revenue Code of 1986, as amended, and any  
7 other provisions of the laws of the United States that  
8 relate to the determination of income for federal income  
9 tax purposes. All amendments made to the laws of the  
10 United States after December 31, 2008, but prior to  
11 January 1, 2010, shall be given effect in determining the  
12 taxes imposed by this article to the same extent those  
13 changes are allowed for federal income tax purposes,  
14 whether the changes are retroactive or prospective, but no  
15 amendment to the laws of the United States made on or  
16 after January 1, 2010, shall be given any effect.

17 (b) *Medical savings accounts.* – The term “taxable trust”  
18 does not include a medical savings account established  
19 pursuant to section twenty, article fifteen, chapter thirty-  
20 three of this code or section fifteen, article sixteen of said  
21 chapter. Employer contributions to a medical savings  
22 account established pursuant to said sections are not  
23 “wages” for purposes of withholding under section  
24 seventy-one of this article.

25 (c) *Surtax.* – The term “surtax” means the twenty  
26 percent additional tax imposed on taxable withdrawals  
27 from a medical savings account under section twenty,  
28 article fifteen, chapter thirty-three of this code and the  
29 twenty percent additional tax imposed on taxable with-  
30 draws from a medical savings account under section  
31 fifteen, article sixteen of said chapter which are collected  
32 by the Tax Commissioner as tax collected under this  
33 article.

34 (d) *Effective date.* – The amendments to this section  
35 enacted in the year 2010 are retroactive to the extent  
36 allowable under federal income tax law. With respect to  
37 taxable years that began prior to January 1, 2011, the law  
38 in effect for each of those years shall be fully preserved as  
39 to that year, except as provided in this section.

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



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*[Handwritten Signature]*  
.....  
Chairman Senate Committee

*[Handwritten Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect from passage.

*[Handwritten Signature]*  
.....  
Clerk of the Senate

*[Handwritten Signature]*  
.....  
Clerk of the House of Delegates

*[Handwritten Signature]*  
.....  
President of the Senate

*[Handwritten Signature]*  
.....  
Speaker House of Delegates

The within *is* approved this the *2nd* Day of *April*, 2010.

*[Handwritten Signature]*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

APR 01 2010

Time 4:15 pm