

1 **Senate Bill No. 215**

2 (By Senators Kessler (Acting President) and Hall,

3 By Request of the Executive)

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5 [Introduced January 19, 2011; referred to the Committee on
6 Finance.]

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10 A BILL to amend and reenact §11-21-9 of the Code of West Virginia,
11 1931, as amended, relating to updating the meaning of "federal
12 adjusted gross income" and certain other terms used in the
13 West Virginia Personal Income Tax Act; and providing effective
14 dates.

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

16 That §11-21-9 of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

18 **ARTICLE 21. PERSONAL INCOME TAX.**

19 **§11-21-9. Meaning of terms.**

20 (a) Any term used in this article has the same meaning as when
21 used in a comparable context in the laws of the United States
22 relating to income taxes, unless a different meaning is clearly
23 required. Any reference in this article to the laws of the United
24 States means the provisions of the Internal Revenue Code of 1986,
25 as amended, and any other provisions of the laws of the United

1 States that relate to the determination of income for federal
2 income tax purposes. All amendments made to the laws of the United
3 States after December 31, ~~2008~~ 2009, but prior to January 1, ~~2010~~
4 2011, shall be given effect in determining the taxes imposed by
5 this article to the same extent those changes are allowed for
6 federal income tax purposes, whether the changes are retroactive or
7 prospective, but no amendment to the laws of the United States made
8 on or after January 1, ~~2010~~ 2011, shall be given any effect.

9 (b) *Medical savings accounts.* -- The term "taxable trust" does
10 not include a medical savings account established pursuant to
11 section twenty, article fifteen, chapter thirty-three of this code
12 or section fifteen, article sixteen of said chapter. Employer
13 contributions to a medical savings account established pursuant to
14 said sections are not "wages" for purposes of withholding under
15 section seventy-one of this article.

16 (c) *Surtax.* -- The term "surtax" means the twenty percent
17 additional tax imposed on taxable withdrawals from a medical
18 savings account under section twenty, article fifteen, chapter
19 thirty-three of this code and the twenty percent additional tax
20 imposed on taxable withdrawals from a medical savings account under
21 section fifteen, article sixteen of said chapter which are
22 collected by the Tax Commissioner as tax collected under this
23 article.

24 (d) *Effective date.* -- The amendments to this section enacted
25 in the year ~~2010~~ 2011 are retroactive to the extent allowable under

1 federal income tax law. With respect to taxable years that began
2 prior to January 1, ~~2011~~ 2012, the law in effect for each of those
3 years shall be fully preserved as to that year, except as provided
4 in this section.

5 (e) For purposes of the refundable credit allowed to a low
6 income senior citizen for property tax paid on his or her homestead
7 in this state, the term "laws of the United States" as used in
8 subsection (a) of this section means and includes the term "low
9 income" as defined in subsection (b), section twenty-one of this
10 article and as reflected in the poverty guidelines updated
11 periodically in the federal register by the U.S. Department of
12 Health and Human Services under the authority of 42 U.S.C.
13 §9902(2).

(NOTE: The purpose of this bill is to update the meaning of
"federal adjusted gross income" and certain other terms used but
not defined in the West Virginia Personal Income Tax Act by
bringing them into conformity with their meanings under the
Internal Revenue Code for federal income tax purposes.

Strike-throughs indicate language that would be stricken from
the present law, and underscoring indicates new language that would
be added.)