

# Senate Bill No. 205

(By Senators Kessler (Acting President) and Hall,  
By Request of the Executive)

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

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A BILL to amend and reenact §11-24-3 of the Code of West Virginia, 1931, as amended, relating to updating the meaning of “federal taxable income” and certain other terms used in the West Virginia Corporation Net Income Tax Act; and specifying effective dates.

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

That §11-24-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 24. CORPORATION NET INCOME TAX.**

**§11-24-3. Meaning of terms; general rule.**

- 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 United

3 States relating to federal income taxes, unless a different  
4 meaning is clearly required by the context or by definition in  
5 this article. Any reference in this article to the laws of the  
6 United States means the provisions of the Internal Revenue  
7 Code of 1986, as amended, and any other provisions of the  
8 laws of the United States that relate to the determination of  
9 income for federal income tax purposes. All amendments  
10 made to the laws of the United States after December 31,  
11 ~~2008~~ 2009, but prior to January 1, ~~2010~~ 2011, shall be given  
12 effect in determining the taxes imposed by this article to the  
13 same extent those changes are allowed for federal income tax  
14 purposes, whether the changes are retroactive or prospective,  
15 but no amendment to the laws of the United States made on  
16 or after January 1, ~~2010~~ 2011, shall be given any effect.

17 (b) The term “Internal Revenue Code of 1986” means the  
18 Internal Revenue Code of the United States enacted by the  
19 federal Tax Reform Act of 1986 and includes the provisions  
20 of law formerly known as the Internal Revenue Code of 1954,  
21 as amended, and in effect when the federal Tax Reform Act  
22 of 1986 was enacted that were not amended or repealed by  
23 the federal Tax Reform Act of 1986. Except when inappro-

24 priate, any reference in any law, executive order or other  
25 document:

26 (1) To the Internal Revenue Code of 1954 includes a  
27 reference to the Internal Revenue Code of 1986; and

28 (2) To the Internal Revenue Code of 1986 includes a  
29 reference to the provisions of law formerly known as the  
30 Internal Revenue Code of 1954.

31 (c) *Effective date.* — The amendments to this section  
32 enacted in the year ~~2010~~ 2011 are retroactive to the extent  
33 allowable under federal income tax law. With respect to  
34 taxable years that began prior to January 1, ~~2011~~ 2012, the  
35 law in effect for each of those years shall be fully preserved  
36 as to that year, except as provided in this section.

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(NOTE: The purpose of this bill is to update the meaning of “federal taxable income” and certain other terms used but not defined in the West Virginia Corporation Net Income Tax Act by bringing them into conformity with their meaning 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.)