

1 **ENROLLED**

2 **Senate Bill No. 209**

3 (BY SENATORS KESSLER (MR. PRESIDENT) AND HALL,

4 BY REQUEST OF THE EXECUTIVE)

5 \_\_\_\_\_  
6 [Passed February 16, 2012; in effect from passage.]  
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9  
10 AN ACT 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 specifying  
14 effective 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

1 required. Any reference in this article to the laws of the United  
2 States means the provisions of the Internal Revenue Code of 1986,  
3 as amended, and any other provisions of the laws of the United  
4 States that relate to the determination of income for federal  
5 income tax purposes. All amendments made to the laws of the United  
6 States after December 31, 2010, but prior to January 1, 2012, shall  
7 be given effect in determining the taxes imposed by this article to  
8 the same extent those changes are allowed for federal income tax  
9 purposes, whether the changes are retroactive or prospective, but  
10 no amendment to the laws of the United States made on or after  
11 January 1, 2012, shall be given any effect.

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

19 (c) *Surtax.* -- The term "surtax" means the twenty percent  
20 additional tax imposed on taxable withdrawals from a medical  
21 savings account under section twenty, article fifteen, chapter  
22 thirty-three of this code and the twenty percent additional tax

1 imposed on taxable withdrawals from a medical savings account under  
2 section fifteen, article sixteen of said chapter which are  
3 collected by the Tax Commissioner as tax collected under this  
4 article.

5 (d) *Effective date.* -- The amendments to this section enacted  
6 in the year 2012 are retroactive to the extent allowable under  
7 federal income tax law. With respect to taxable years that began  
8 prior to January 1, 2013, the law in effect for each of those years  
9 shall be fully preserved as to that year, except as provided in  
10 this section.

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