

**ENROLLED**

**H. B. 2516**

(By Mr. Speaker, (Mr. Thompson) and Delegate Armstead)

[By Request of the Executive]

[Passed April 12, 2013; in effect from passage.]

1  
2  
3  
4  
5  
6  
7  
8  
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 West  
13 Virginia Personal Income Tax Act so the definitions conform  
14 with the Internal Revenue Code's definitions; and specifying  
15 effective dates.

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

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

19 **ARTICLE 21. PERSONAL INCOME TAX.**

20 **§11-21-9. Meaning of terms.**

21 (a) Any term used in this article has the same meaning as when  
22 used in a comparable context in the laws of the United States  
23 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 January 1, 2012, but prior to January 3, 2013, 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 3, 2013, shall be given any effect.

12 (b) Medical savings accounts. -- The term "taxable trust" does  
13 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  
23 imposed on taxable withdrawals from a medical savings account under

1 section fifteen, article sixteen of said chapter which are  
2 collected by the Tax Commissioner as tax collected under this  
3 article.

4 (d) Effective date. -- The amendments to this section enacted  
5 in the year 2013 are retroactive to the extent allowable under  
6 federal income tax law. With respect to taxable years that began  
7 prior to January 1, 2014, the law in effect for each of those years  
8 shall be fully preserved as to that year, except as provided in  
9 this section.

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