

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2594**

BY DELEGATES ARMSTEAD (MR. SPEAKER)

AND MILEY

[BY REQUEST OF THE EXECUTIVE]

[Introduced February 21, 2017; Referred  
to the Committee on Finance.]

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

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

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

**ARTICLE 21. WEST VIRGINIA PERSONAL INCOME TAX.**

**§11-21-9. Meaning of terms.**

1 (a) Any term used in this article has the same meaning as when used in a comparable  
 2 context in the laws of the United States relating to income taxes, unless a different meaning is  
 3 clearly required. Any reference in this article to the laws of the United States means the provisions  
 4 of the Internal Revenue Code of 1986, as amended, and any other provisions of the laws of the  
 5 United States that relate to the determination of income for federal income tax purposes. All  
 6 amendments made to the laws of the United States after December 31, ~~2014~~ 2015, but prior to  
 7 January 1, ~~2016~~ 2017, shall be given effect in determining the taxes imposed by this article to the  
 8 same extent those changes are allowed for federal income tax purposes, whether the changes  
 9 are retroactive or prospective, but no amendment to the laws of the United States made on or  
 10 after January 1, ~~2016~~ 2017, may be given any effect.

11 (b) Medical savings accounts. -- The term "taxable trust" does not include a medical  
 12 savings account established pursuant to section twenty, article fifteen, chapter thirty-three of this  
 13 code or section fifteen, article sixteen of that chapter. Employer contributions to a medical savings  
 14 account established pursuant to those 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 additional tax imposed on  
 17 taxable withdrawals from a medical savings account under section twenty, article fifteen, chapter  
 18 thirty-three of this code and the twenty percent additional tax imposed on taxable withdrawals

19 from a medical savings account under section fifteen, article sixteen of that chapter which are  
20 collected by the Tax Commissioner as tax collected under this article.

21 (d) Effective date. -- The amendments to this section enacted in the year ~~2016~~ 2017 are  
22 retroactive to the extent allowable under federal income tax law. With respect to taxable years  
23 that began prior to January 1, 2017, the law in effect for each of those years shall be fully  
24 preserved as to that year, except as provided in this section.

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

NOTE: The purpose of this bill is to update the meaning of federal adjusted gross income and certain other terms used in the West Virginia Personal Income Tax Act; and specify effective dates.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.