

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

Senate Bill 424

By Senators Blair (Mr. President) and Woelfel

(By Request of the Executive)

[Originating in the Committee on Finance; reported

on February 8, 2023]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §11-13MM-101, §11-13MM-201, §11-13MM-202, §11-13MM-301, §11-13MM-
3 302, §11-13MM-303, §11-13MM-401, §11-13MM-402, §11-13MM-403, §11-13MM-501,
4 §11-13MM-502, §11-13MM-503, §11-13MM-601, §11-13MM-602, §11-13MM-603, §11-
5 13MM-701, §11-13MM-702, §11-13MM-703, §11-13MM-801, §11-13MM-802, §11-13MM-
6 803, §11-13MM-901, §11-13MM-902, §11-13MM-903, §11-13MM-1001, §11-13MM-1002,
7 and §11-13MM-1101; and to amend said code by adding thereto two new sections,
8 designated §11-21-4g and §11-21-4h, all relating to taxation; creating refundable tax
9 credits on certain species of personal property tax; allowing tax credit to be applied against
10 personal income tax during a taxable year; providing findings and purpose; defining terms;
11 providing for application of tax credit; specifying credit is refundable; specifying effective
12 date; providing for treatment of credit upon sale or transfer of eligible taxable personal
13 property; providing a refundable tax credit on real property for disabled veterans; providing
14 for an annual report; providing for an annual audit; allowing rulemaking; relating to
15 reducing the personal income tax; providing for a reduction in the rate of personal income
16 tax; reducing the rate of tax on composite returns; reducing the rate of withholding tax on
17 nonresident income; providing for an increase in the consumer sales and service tax and
18 service tax and use tax upon the occurrence of certain contingencies; providing that
19 further action of the Legislature is necessary to raise the personal income tax following a
20 reduction; providing findings; requiring notification to taxpayers of changes to sales and
21 service tax and use tax; requiring annual certification to the Governor and legislative
22 leaders of changes to sales and service tax and use tax; requiring reporting to the
23 legislature; providing for rulemaking; and to provide for tax liabilities that existed prior to
24 elimination of personal income tax.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13MM. PERSONAL AND REAL PROPERTY TAX CREDITS.

PART I. FINDINGS AND PURPOSE.

§11-13MM-101. Findings and purpose.

1 The Legislature finds that the encouragement of economic growth and development in this
2 state is in the public interest and promotes the general welfare of the people of this state. In order
3 to encourage capital investment in business and industry in this state and thereby increase
4 economic development, there is hereby provided a personal property tax credit on certain qualified
5 personal property subject to ad valorem taxation.

Part II. Definitions.

1 **§11-13MM-201. Applicability of definitions.**

2 Unless a different meaning is clearly required by either the context in which the term is
3 used, or by specific definition, when used in this article, or in the administration of this article, terms
4 shall have the meanings ascribed to them in this article.

5 **§11-13MM.202. Defined terms.**

6 "Business" means any entity through which business for-profit is conducted including a
7 corporation, partnership, proprietorship, franchise, association, organization, or self-employed
8 individual.

9 "Commissioner" or "Tax Commissioner" are used interchangeably herein and mean the
10 Tax Commissioner of the State of West Virginia, or his or her delegate.

11 "Computer equipment" means all computers, servers, printers, computer hardware, on-
12 site process control and automation systems, telecommunication assets, and other information
13 technology-related equipment used by a person in the day-to-day operation of a business with the
14 purpose of making a profit. This shall include but is not limited to electronic computer or other data
15 processing equipment, peripherals used in conjunction with such equipment, and electronic media
16 and records. This includes original or replacement servers, routers, switches, power units,
17 network devices, hard drives, processors, memory modules, motherboards, racks, other computer

18 hardware and components, cabling, cooling apparatus, and related or ancillary equipment,
19 machinery, and components, the primary purpose of which is to store, retrieve, aggregate, search,
20 organize, process, analyze, or transfer data or any combination of these, or to support related
21 computer engineering or computer science research.

22 "Credit" or "rebate" means the amount of credit allowable pursuant to the provisions of this
23 article.

24 "Disabled veteran eligible taxpayer" means a person honorable discharged from any
25 branch of the armed services of the United States who is considered ninety percent totally and
26 permanently disabled due solely to service connected disabilities by the Department of Veterans
27 Affairs.

28 "Eligible motor vehicle" means a motor vehicle on which the ad valorem property tax has
29 been paid for the taxable year by the eligible taxpayer, and which is a motor vehicle as defined in
30 this article.

31 "Eligible taxpayer" means any person who pays ad valorem property taxes in this state on
32 qualified tangible personal property as listed in this article pursuant this chapter, and pursuant to
33 article X of the Constitution of this state. Specifically, an eligible taxpayer shall mean:

34 (1) "Eligible taxpayer" – Computer Equipment – "Eligible taxpayer" also means a person
35 who owns computer equipment as that term is defined in this article, who has paid the *ad valorem*
36 property tax during the personal income tax taxable year and who uses the computer equipment
37 for use in the operation of a business for profit.

38 (2) "Eligible taxpayer" – Furniture, fixtures, and equipment – "Eligible taxpayer" also means
39 a person who owns furniture, fixtures, and equipment as that term is defined in this article, who has
40 paid the *ad valorem* property tax during the personal income tax taxable year and who uses the
41 furniture, fixtures, and equipment for use in the operation of a business for profit. Furniture,
42 fixtures, and equipment does not include computer equipment as that term is defined in this article.

43 (3) "Eligible taxpayer" – Leased motor vehicles -- "Eligible taxpayer" also means and

44 includes any lessor of a motor vehicle, as herein defined, who owns a motor vehicle for which the
45 ad valorem property tax has been paid during the personal income tax taxable year: Provided,
46 That, the lessor shall pass on to the lessee the value of the tax credit asserted by the lessor by
47 causing a decreasing in the amount of rent or lease payment payable by the lessee on the leased
48 motor vehicle.

49 (4) "Eligible taxpayer" – Leasehold investment – "Eligible taxpayer" also means a person
50 who has paid the ad valorem property tax during the personal income tax taxable year on a
51 commercial investment or investments during the personal income tax taxable year by making
52 improvements and/or modifications to space rented from a third party pursuant to an agreement to
53 the make the space the suitable for his or her business.

54 (5) "Eligible taxpayer" – Manufacturing, machinery, equipment, and inventory means a
55 person who pays ad valorem personal property taxes on machinery, equipment and inventory
56 pursuant this chapter and pursuant to article X of the Constitution of this state. A qualified West
57 Virginia manufacturer must be principally engaged in manufacturing as defined in this article
58 during the tax year that either has all of its real and personal property in West Virginia and who has
59 paid ad valorem property tax during the personal income tax taxable year. An eligible taxpayer
60 may include a pass-through entity which shall include any includes any owner, interest holder,
61 partner or S corporation shareholder that derives conduit income from a pass-through entity.

62 (6) "Eligible taxpayer" – Owned motor vehicles – "Eligible taxpayer" means any person
63 who owns a motor vehicle for which the ad valorem property tax has been paid during the personal
64 income tax taxable year. For purposes of this definition, ownership of a motor vehicle includes
65 ownership and possession of a motor vehicle for which a title has been issued by the Division of
66 Motor Vehicles to the eligible taxpayer. For purposes of this definition, ownership of a motor
67 vehicle also includes ownership and possession of a motor vehicle, subject to a purchase
68 financing arrangement whereby a financial institution holds a lien on the motor vehicle, or for which
69 ultimate issuance of title by the Division of Motor Vehicles to the taxpayer, as owner of the motor

70 vehicle, is contingent upon payment in full of the purchase price of the motor vehicle pursuant to
71 an installment payment financing arrangement.

72 (7) "Eligible taxpayer" – Pass through entities – "Eligible taxpayer" also means and
73 includes any owner, interest holder, partner or S corporation shareholder that derives conduit
74 income from a pass-through entity.

75 (8) "Eligible taxpayer" – Retail inventory – "Eligible taxpayer" also means a person who has
76 paid the *ad valorem* property tax during the personal income tax taxable year and who holds goods
77 for the commercial purpose of sale to a final purchaser but not for the purchasers' regular resale.
78 uses the computer equipment for use in the operation of a business for profit.

79 (9) "Eligible taxpayer" – Prohibition for motor vehicle dealers – "Eligible taxpayer" does not
80 mean or include any motor vehicle dealer, motor vehicle dealership, retailer or any business that
81 sells new or used motor vehicles at the retail level, other than a lessor of motor vehicles. In
82 circumstances where any such motor vehicle dealer, motor vehicle dealership, retailer or business
83 that sells new or used motor vehicles as lessor, the tax credit authorized by this article may only be
84 asserted by such business based upon the ad valorem property tax paid on leased motor vehicles,
85 and only to the extent that the lessor has passed on, to the lessee, the value of the tax credit
86 asserted by the lessor by causing a decreasing in the amount of rent or lease payment payable by
87 the lessee on the leased motor vehicle. No credit may be asserted or applied by the business
88 based upon ad valorem property tax paid on motor vehicle retail inventories not actively leased to
89 lessees except as provided in article §11-13MM-1 *et seq.* of this code. To the extent that motor
90 vehicles retail inventories may be held as both motor vehicle retail inventories, and as motor
91 vehicles potentially subject to lease during the taxable year, ad valorem property tax paid on such
92 motor vehicle is excluded from eligibility for the tax credit authorized by this article.

93 "Flow-through entity", "conduit entity", or "pass through entity" means an S Corporation,
94 partnership, limited partnership, limited liability partnership, or limited liability company. The term
95 "flow-through entity", "conduit entity", or "pass through entity" includes a publicly traded

96 partnership as that term is defined in section 7704 of the Internal Revenue Code that has equity
97 securities registered with the Securities and Exchange Commission under section 12 of Title I of
98 the Securities Exchange Act of 1934, 15 U.S.C. § 78l: *Provided*, That a publicly traded partnership
99 as defined in Section 7704 of the Internal Revenue Code having equity securities registered with
100 the Securities and Exchange Commission under Section 12 of Title I of the Securities Exchange
101 Act of 1934, 15 U.S.C. § 78l, and any other person or entity that is treated as a C corporation for
102 federal income tax purposes, shall be treated as a corporation taxable under §11-24-1 *et seq.* of
103 this code for purposes of this article.

104 "Furniture, fixtures, and equipment" shall mean all furniture and fixtures, equipment and
105 appliances used by a person in the day-to-day operation of the business traditionally used to
106 furnish an office, that are used by the business to generate profits, and are moveable and not
107 attached to the structure or building. Furniture and fixtures shall not include computer equipment
108 as that term is defined in this section.

109 "Leasehold investment" means a commercial investment during the personal income tax
110 taxable year by making improvements and/or modifications to property that is not owned by the
111 person making the improvements but is leased from a third party under a lease agreement.

112 "Manufacturing" means a systematic operation or integrated series of systematic
113 operations engaged in as a business or segment of a business which transforms or converts
114 tangible personal property by physical, chemical or other means into a different form, composition
115 or character from that in which it originally existed. In no case shall the term "manufacturing"
116 include the activities of building construction, construction of other structures or facilities affixed to
117 or on realty, retailing or agriculture, food processing or food manufacturing, the operation of any
118 restaurant or retail food preparation or sales operation, the production of any natural resource,
119 contract mining or any other activity of severing, producing, processing or extracting any natural
120 resource. Manufacturing production begins with the arrival of raw materials and ends when the
121 property has reached that point where no further chemical, physical or other changes are to be

122 made to the resultant property in the production process.

123 "Machinery and equipment" shall mean machinery and equipment, including motor
124 vehicles, owned by the taxpayer that is directly used or consumed for business in West Virginia,
125 except for the tangible machinery and equipment personal property of public service companies
126 and railroads pursuant to the provisions of the Railroad Revitalization Reform Act of 1976 codified
127 at 45 U.S.C. § 801. Tangible machinery and equipment personal property does not include:

128 (A) Barges;

129 (B) Ships; and

130 (C) Any other tangible personal property:

131 (i) Not directly used in business activity;

132 (ii) Assessed as part of the working interest in an oil or gas well;

133 (iii) Operating property of public service business as defined in §11-6-1 et seq. of this code;

134 or

135 (iv) Property of railroads pursuant to the provisions of the Railroad Revitalization Reform
136 Act of 1976 codified at 45 U.S.C. § 801.

137 "Manufacturing service provider" means a person engaged in a manufacturing activity who
138 does not have legal title to or any economic interest in the tangible personal property transformed
139 or converted by the manufacturing process, and who engages in the manufacturing activity as a
140 service to another person.

141 "Motor Vehicle" means the following class of vehicles defined in §17A-10-1 of this code:
142 Class A, Class B, Class G, Class H, Class T, Class V, Class X, and all-terrain vehicles and utility
143 terrain vehicles as defined in §20-15-2 of this code.

144 "Partnership" includes a syndicate, group, pool, joint venture or other unincorporated
145 organization through or by means of which any business, operation or venture is carried on, which
146 is taxed under Subchapter K of the Internal Revenue Code, as defined in §11-24-3 of this code,
147 and which is not a trust or estate, a corporation or a sole proprietorship. The term "partner"

148 includes a member in such a syndicate, group, pool, joint venture or other unincorporated
149 organization taxed under Subchapter K of the Internal Revenue Code.

150 "Person" means and includes an individual, a trust, estate, partnership, pass through
151 entity, or association.

152 "Public service company" means a corporation or other business entity which delivers
153 services considered essential to the public interest that are regulated by the applicable federal or
154 state regulatory body, including, but not limited to, businesses furnishing electricity, natural gas,
155 telecommunications, and water, and those transporting personal property or passengers,
156 including, but not limited to, airlines, railroads, trucking, and bus companies, and which are
157 centrally assessed by the state for property tax purposes.

158 "Real property" means the same as that term is used in §11-4-1 et seq. of this code.

159 "Retail inventory" means all tangible property of a business operating for profit consisting
160 of movable personal chattels of value, which a person holds for the commercial purpose of sale to
161 final purchasers thereof for the purchasers' use or consumption, but not for the purchasers' regular
162 resale of the same.

163 "Tangible personal property" means personal property that can be physically relocated,
164 such as equipment, machinery, furniture, and office equipment except as otherwise provided in
165 this article.

166 "Taxpayer" means any person paying ad valorem taxes on personal property as set forth in
167 this chapter and pursuant to Article X of the Constitution of this state.

168 "This code" means the Code of West Virginia, 1931, as amended.

169 "This state" means the State of West Virginia.

Part III. Machinery, Equipment, And Inventory Property Tax Credit.

§11-13MM-301. Eligibility for tax credits; creation of the credit.

2 There shall be allowed to every eligible taxpayer a credit, as determined pursuant to this
3 article, against the ad valorem property taxation imposed pursuant to this chapter and pursuant
4 to Article X of the Constitution of this state, as applicable.

§11-13MM-302. Amount of credit allowed.

1 (a) Credit allowed. — Eligible taxpayers shall be allowed a credit against the ad valorem
2 property taxation imposed pursuant to this chapter and pursuant to Article X of the Constitution of
3 this state as provided in this section.

4 (b) Effective January 1, 2024, an eligible taxpayer may receive a refundable tax credit in
5 the amount of fifty percent of ad valorem personal property tax as set forth in this section which are
6 timely paid in the personal income tax taxable year 2024.

7 (b) Amount of credit. — The amount of credit allowed pursuant this article to the eligible
8 taxpayer is fifty percent of the amount of West Virginia ad valorem property tax due and owing in a
9 tax year and timely paid during the personal income taxable year to a county sheriff by the eligible
10 taxpayer on the value of machinery, inventory, and equipment, as that term is defined in this article:
11 Provided, That in no case shall any credit be allowed under this article for any untimely ad valorem
12 property tax paid, or any payment of delinquent ad valorem property tax, or payment of "back tax"
13 ad valorem property taxes.

§11-13MM-303. Application of annual credit allowance.

1 (a) Application of credit against personal income tax. — If the eligible taxpayer is subject
2 to the personal income tax imposed by article 11-21-1 et seq. of this code, the amount of credit
3 allowed shall be taken against the personal income tax liability of the eligible taxpayer for the
4 current personal income tax taxable year.

5 (b) Refundable portion of annual credit allowance. — If annual tax credit allowed under
6 this article exceeds the amount of personal income tax subject to offset under this article in any

7 taxable year, the eligible taxpayer may claim, for that taxable year, the excess amount as a
8 refundable tax credit.

9 (c) Transfer or sale. —

10 (1) Where there is a sale or transfer of any personal property subject to ad valorem taxation
11 from an eligible taxpayer to any other person or entity, the transferor retains entitlement to the tax
12 credit authorized pursuant to this article for the timely paid ad valorem property tax paid by the
13 transferor in the transferor's personal income tax taxable year on the transferred machinery,
14 equipment, and inventory.

15 (2) If the transferee meets all requirements for qualification as an eligible taxpayer
16 pursuant to this article and meets all requirements for entitlement to the tax credit authorized
17 pursuant to this article, then the transferee shall be entitled to the tax credit authorized under this
18 article for the timely paid ad valorem property tax paid by the transferee in the transferee's
19 personal income tax taxable year on the eligible machinery, equipment and inventory.

20 (3) In no case shall the transferor and the transferee take the tax credit authorized pursuant
21 to this article for the same taxable year.

22 (d) Annual schedule. — For purposes of asserting the credit against tax, the taxpayer shall
23 prepare and file an annual schedule showing the amount of personal income tax paid for the
24 taxable year, and the amount of property tax paid on the personal property subject to ad valorem
25 property taxation pursuant to this chapter and pursuant to Article X of the Constitution of this state,
26 as applicable for the taxable year, and the amount of credit allowed pursuant to this article. The
27 annual schedule shall set forth the information and be in the form prescribed by the Tax
28 Commissioner.

Part IV. Qualified Leasehold Investment Property Tax Credit.

§11-13MM-401. Eligibility for tax credits; creation of the credit.

2 There shall be allowed to every eligible taxpayer a credit, as determined pursuant to this
3 article, against the ad valorem property taxation imposed pursuant to this chapter and pursuant
4 to Article X of the Constitution of this state, as applicable.

§11-13MM-402. Amount of credit allowed.

1 (a) Credit allowed. — Eligible taxpayers shall be allowed a credit against the ad valorem
2 property taxation imposed pursuant to this chapter and pursuant to Article X of the Constitution of
3 this state as provided in this section.

4 (b) Effective January 1, 2024, an eligible taxpayer may receive a refundable tax credit in
5 the amount of fifty percent of ad valorem personal property tax as set forth in this section which are
6 timely paid in the personal income tax taxable year 2024.

7 (c) Amount of credit. — The amount of credit allowed under this article to the eligible
8 taxpayer is fifty percent of the amount of West Virginia ad valorem property tax due and owing and
9 timely paid during the personal income taxable year to a county sheriff by the eligible taxpayer on
10 the value of leasehold investment, as that term is defined in this article: *Provided*, That in no case
11 shall any credit be allowed under this article for any untimely ad valorem property tax paid, or any
12 payment of delinquent ad valorem property tax, or payment of "back tax" ad valorem property
13 taxes.

§11-13MM-403. Application of annual credit allowance.

1 (a) Application of credit against personal income tax. — If the eligible taxpayer is subject
2 to the personal income tax imposed by article 11-21-1 et seq. of this code, the amount of credit
3 allowed shall be taken against the personal income tax liability of the eligible taxpayer for the
4 current personal income tax taxable year.

5 (b) Refundable portion of annual credit allowance. — If annual tax credit allowed under
6 this article exceeds the amount of personal income tax subject to offset under this article in any

7 taxable year, the eligible taxpayer may claim, for that taxable year, the excess amount as a
8 refundable tax credit.

9 (c) Transfer or sale. —

10 (1) Where there is a sale or transfer of any personal property subject to ad valorem taxation
11 from an eligible taxpayer to any other person or entity, the transferor retains entitlement to the tax
12 credit authorized pursuant to this article for the timely paid ad valorem property tax paid by the
13 transferor in the transferor's personal income tax taxable year on the transferred leasehold
14 investment.

15 (2) If the transferee meets all requirements for qualification as an eligible taxpayer
16 pursuant to this article and meets all requirements for entitlement to the tax credit authorized
17 pursuant to this article, then the transferee shall be entitled to the tax credit authorized under this
18 article for the timely paid ad valorem property tax paid by the transferee in the transferee's
19 personal income tax taxable year on the eligible leasehold investment.

20 (3) In no case shall the transferor and the transferee take the tax credit authorized pursuant
21 to this article for the same taxable year.

22 (d) Annual schedule. — For purposes of asserting the credit against tax, the taxpayer shall
23 prepare and file an annual schedule showing the amount of personal income tax paid for the
24 taxable year, and the amount of property tax paid on the personal property subject to ad valorem
25 property taxation pursuant to this chapter and pursuant to Article X of the Constitution of this state,
26 as applicable for the taxable year, and the amount of credit allowed pursuant to this article. The
27 annual schedule shall set forth the information and be in the form prescribed by the Tax
28 Commissioner.

Part V. Qualified Computer Equipment Property Tax Credit.

§11-13MM-501. Eligibility for tax credits; creation of the credit.

2 There shall be allowed to every eligible taxpayer a credit, as determined pursuant to this
3 article, against the ad valorem property taxation imposed pursuant to this chapter and pursuant
4 to Article X of the Constitution of this state, as applicable.

§11-13MM-502. Amount of credit allowed.

1 (a) Credit allowed. — Eligible taxpayers shall be allowed a credit against the ad valorem
2 property taxation imposed pursuant to this chapter and pursuant to Article X of the Constitution of
3 this state as provided in this section.

4 (b) Effective January 1, 2024, an eligible taxpayer may receive a refundable tax credit in
5 the amount of 50 percent of ad valorem personal property tax as set forth in this section which are
6 timely paid in the personal income tax taxable year 2024.

7 (c) Amount of credit. — The amount of credit allowed under this article to the eligible
8 taxpayer is the amount of West Virginia ad valorem property tax due and owing and timely paid
9 during the personal income taxable year or the to a county sheriff by the eligible taxpayer on the
10 value of certain computer equipment, as that term is defined in this article: *Provided*, That in no
11 case shall any credit be allowed under this article for any untimely ad valorem property tax paid, or
12 any payment of delinquent ad valorem property tax, or payment of "back tax" ad valorem property
13 taxes.

§11-13MM-503. Application of annual credit allowance.

1 (a) Application of credit against personal income tax. — If the eligible taxpayer is subject to
2 the personal income tax imposed by article 11-21-1 et seq. of this code, the amount of credit
3 allowed shall be taken against the personal income tax liability of the eligible taxpayer for the
4 current personal income tax taxable year.

5 (b) Refundable portion of annual credit allowance. — If annual tax credit allowed under this
6 article exceeds the amount of personal income tax subject to offset under this article in any taxable

7 year, the eligible taxpayer may claim, for that taxable year, the excess amount as a refundable tax
8 credit.

9 (c) Transfer or sale. —

10 (1) Where there is a sale or transfer of any personal property subject to ad valorem taxation
11 from an eligible taxpayer to any other person or entity, the transferor retains entitlement to the tax
12 credit authorized pursuant to this article for the timely paid ad valorem property tax paid by the
13 transferor in the transferor's personal income tax taxable year on the transferred qualified
14 computer equipment.

15 (2) If the transferee meets all requirements for qualification as an eligible taxpayer
16 pursuant to this article and meets all requirements for entitlement to the tax credit authorized
17 pursuant to this article, then the transferee shall be entitled to the tax credit authorized under this
18 article for the timely paid ad valorem property tax paid by the transferee in the transferee's
19 personal income tax taxable year on the eligible computer equipment.

20 (3) In no case shall the transferor and the transferee take the tax credit authorized pursuant
21 to this article for the same taxable year.

22 (d) Annual schedule. — For purposes of asserting the credit against tax, the taxpayer shall
23 prepare and file an annual schedule showing the amount of personal income tax paid for the
24 taxable year, and the amount of property tax paid on the personal property subject to ad valorem
25 property taxation pursuant to this chapter and pursuant to Article X of the Constitution of this state,
26 as applicable for the taxable year, and the amount of credit allowed pursuant to this article. The
27 annual schedule shall set forth the information and be in the form prescribed by the Tax
28 Commissioner.

Part VI. Qualified Furniture, Fixtures and Equipment Property Tax Credit.

§11-13MM-601. Eligibility for tax credits; creation of the credit.

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2 There shall be allowed to every eligible taxpayer a credit, as determined pursuant to this
3 article, against the ad valorem property taxation imposed pursuant to this chapter and pursuant
4 to Article X of the Constitution of this state, as applicable.

§11-13MM-602. Amount of credit allowed.

1 (a) Credit allowed. — Eligible taxpayers shall be allowed a credit against the ad valorem
2 property taxation imposed pursuant to this chapter and pursuant to Article X of the Constitution of
3 this state as provided in this section.

4 (b) Effective January 1, 2024, an eligible taxpayer may receive a refundable tax credit in
5 the amount of 50 percent of ad valorem personal property tax as set forth in this section which are
6 timely paid in the personal income tax taxable year 2024.

7 (c) Amount of credit. — The amount of credit allowed under this article to the eligible
8 taxpayer is the amount of West Virginia ad valorem property tax due and owing and timely paid
9 during the personal income taxable year or the to a county sheriff by the eligible taxpayer on the
10 value of certain furniture, fixtures, and equipment, as that term is defined in this article: Provided,
11 That in no case shall any credit be allowed under this article for any untimely ad valorem property
12 tax paid, or any payment of delinquent ad valorem property tax, or payment of "back tax" ad
13 valorem property taxes.

§11-13MM-603. Application of annual credit allowance.

1 (a) Application of credit against personal income tax. — If the eligible taxpayer is subject
2 to the personal income tax imposed by article 11-21-1 et seq. of this code, the amount of credit
3 allowed shall be taken against the personal income tax liability of the eligible taxpayer for the
4 current personal income tax taxable year.

5 (b) Refundable portion of annual credit allowance. -- If annual tax credit allowed under
6 this article exceeds the amount of personal income tax subject to offset under this article in any

7 taxable year, the eligible taxpayer may claim, for that taxable year, the excess amount as a
8 refundable tax credit.

9 (c) Transfer or sale. —

10 (1) Where there is a sale or transfer of any personal property subject to ad valorem taxation
11 from an eligible taxpayer to any other person or entity, the transferor retains entitlement to the tax
12 credit authorized pursuant to this article for the timely paid ad valorem property tax paid by the
13 transferor in the transferor's personal income tax taxable year on the transferred qualified
14 furniture, fixture, and equipment.

15 (2) If the transferee meets all requirements for qualification as an eligible taxpayer
16 pursuant to this article and meets all requirements for entitlement to the tax credit authorized
17 pursuant to this article, then the transferee shall be entitled to the tax credit authorized under this
18 article for the timely paid ad valorem property tax paid by the transferee in the transferee's
19 personal income tax taxable year on the eligible furniture, fixture, and equipment.

20 (3) In no case shall the transferor and the transferee take the tax credit authorized pursuant
21 to this article for the same taxable year.

22 (d) Annual schedule. — For purposes of asserting the credit against tax, the taxpayer shall
23 prepare and file an annual schedule showing the amount of personal income tax paid for the
24 taxable year, and the amount of property tax paid on the personal property subject to ad valorem
25 property taxation pursuant to this chapter and pursuant to Article X of the Constitution of this state,
26 as applicable for the taxable year, and the amount of credit allowed pursuant to this article. The
27 annual schedule shall set forth the information and be in the form prescribed by the Tax
28 Commissioner.

Part VII. Retail Inventory Property Tax Credit.

§11-13MM-701. Eligibility for tax credits; creation of the credit.

1 There shall be allowed to every eligible taxpayer a credit, as determined under this
2 article, against the ad valorem property taxation imposed pursuant to this chapter and pursuant
3 to Article X of the Constitution of this state, as applicable.

§11-13MM-702. Amount of credit allowed.

1 (a) Credit allowed. — Eligible taxpayers shall be allowed a credit against the ad valorem
2 property taxation imposed pursuant to this chapter and pursuant to Article X of the Constitution of
3 this state as provided in this section.

4 (b) Effective January 1, 2024, an eligible taxpayer may receive a refundable tax credit in
5 the amount of 50 percent of ad valorem personal property tax as set forth in this section which are
6 timely paid in the personal income tax taxable year 2024.

7 (c) Amount of credit. — The amount of credit allowed under this article to the eligible
8 taxpayer is the amount of West Virginia ad valorem property tax due and owing and timely paid
9 during the personal income taxable year to a county sheriff by the eligible taxpayer on the value of
10 retail inventory, as that term is defined in this article: *Provided*, That in no case shall any credit be
11 allowed under this article for any untimely ad valorem property tax paid, or any payment of
12 delinquent ad valorem property tax, or payment of “back tax” ad valorem property taxes.

§11-13MM-703. Application of annual credit allowance.

1 (a) Application of credit against personal income tax. — If the eligible taxpayer is subject
2 to the personal income tax imposed by article 11-21-1 et seq. of this code, the amount of credit
3 allowed shall be taken against the personal income tax liability of the eligible taxpayer for the
4 current personal income tax taxable year.

5 (b) Refundable portion of annual credit allowance. — If annual tax credit allowed under
6 this article exceeds the amount of personal income tax subject to offset under this article in any
7 taxable year, the eligible taxpayer may claim, for that taxable year, the excess amount as a
8 refundable tax credit.

9 (c) Transfer or sale. —

10 (1) Where there is a sale or transfer of any personal property subject to ad valorem taxation
11 from an eligible taxpayer to any other person or entity, the transferor retains entitlement to the tax
12 credit authorized pursuant to this article for the timely paid ad valorem property tax paid by the
13 transferor in the transferor's personal income tax taxable year on the transferred retail inventory.

14 (2) If the transferee meets all requirements for qualification as an eligible taxpayer
15 pursuant to this article and meets all requirements for entitlement to the tax credit authorized
16 pursuant to this article, then the transferee shall be entitled to the tax credit authorized under this
17 article for the timely paid ad valorem property tax paid by the transferee in the transferee's
18 personal income tax taxable year on the eligible retail inventory.

19 (3) In no case shall the transferor and the transferee take the tax credit authorized pursuant
20 to this article for the same taxable year.

21 (d) Annual schedule. — For purposes of asserting the credit against tax, the taxpayer shall
22 prepare and file an annual schedule showing the amount of personal income tax paid for the
23 taxable year, and the amount of property tax paid on the personal property subject to ad valorem
24 property taxation pursuant to this chapter and pursuant to Article X of the Constitution of this state,
25 as applicable for the taxable year, and the amount of credit allowed pursuant to this article. The
26 annual schedule shall set forth the information and be in the form prescribed by the Tax
27 Commissioner.

Part VIII. Motor Vehicle Tax Credit.

§11-13MM-801. Eligibility for tax credits; creation of the credit.

1 There shall be allowed to every eligible taxpayer a credit, as determined under this article,
2 against the tax imposed under article 11-21-1 et seq. of this code.

§11-13MM-802. Amount of credit allowed.

1 (a) Credit allowed. — Eligible taxpayers shall be allowed a credit against the tax imposed

2 under article 11-21-1 et seq. of this code as provided in this section.

3 (b) Effective January 1, 2024, an eligible taxpayer may receive a refundable tax credit in
4 the amount of 100 percent of ad valorem personal property tax as set forth in this section which are
5 timely paid in the personal income tax taxable year 2024.

6 (b) Amount of credit. — The amount of credit allowed under this article to the eligible
7 taxpayer is the amount of West Virginia ad valorem property tax due and owing and timely paid
8 during the personal income taxable year to a county sheriff on the value of a motor vehicle owned
9 by the eligible taxpayer: *Provided*, That in no case shall any credit be allowed under this article for
10 any untimely ad valorem property tax paid, or any payment of delinquent ad valorem property tax,
11 or payment of "back tax" ad valorem property taxes.

§11-13MM-803. Application of annual credit allowance.

1 (a) Application of credit against personal income tax. — If the eligible taxpayer is subject
2 to the personal income tax imposed by article 11-21-1 et seq. of this code, the amount of credit
3 allowed shall be taken against the personal income tax liability of the eligible taxpayer for the
4 current personal income tax taxable year.

5 (b) Refundable portion of annual credit allowance. — If annual tax credit allowed under
6 this article exceeds the amount of personal income tax subject to offset under this article in any
7 taxable year, the eligible taxpayer may claim, for that taxable year, the excess amount as a
8 refundable tax credit.

9 (c) Transfer or sale of the motor vehicle. —

10 (1) Where there is a sale or transfer of the motor vehicle from an eligible taxpayer to any
11 other person or entity, the transferor retains entitlement to the tax credit authorized under this
12 article for the timely paid ad valorem property tax paid by the transferor in the transferor's personal
13 income tax taxable year on the transferred motor vehicle.

14 (2) If the transferee meets all requirements for qualification as an eligible taxpayer under
15 this article and meets all requirements for entitlement to the tax credit authorized under this article,
16 then the transferee shall be entitled to the tax credit authorized under this article for the timely paid
17 ad valorem property tax paid by the transferee in the transferee's personal income tax taxable year
18 on the eligible motor vehicle.

19 (3) In no case shall the transferor and the transferee take the tax credit authorized under
20 this article for the same taxable year.

21 (d) Annual schedule. — For purposes of asserting the credit against tax, the taxpayer shall
22 prepare and file an annual schedule showing the amount of personal income tax paid for the
23 taxable year, and the amount of property tax paid on the motor vehicle for the taxable year, and the
24 amount of credit allowed under this article. The annual schedule shall set forth the information and
25 be in the form prescribed by the Tax Commissioner.

Part IX. Disabled Veteran Real Property Tax Credit.

§11-13MM-901. Eligibility for tax credits; creation of the credit.

1 There shall be allowed to every disabled veteran eligible taxpayer a credit, as
2 determined under this article, against the tax imposed under article 11-21-1 et seq. of this code.

§11-13MM-902. Amount of credit allowed.

1 (a) Credit allowed. — Disabled veteran eligible taxpayers shall be allowed a credit against
2 the tax imposed under article 11-21-1 et seq. of this code as provided in this section.

3 (b) Effective January 1, 2024, a disabled veteran eligible taxpayer may receive a
4 refundable tax credit in the amount of one hundred percent of real property taxes paid pursuant to
5 §11-4-1 et seq. of this code and Article X of the Constitution of West Virginia and as set forth in this
6 section which are timely paid in the taxable year 2024.

7 (b) Amount of credit. — The amount of credit allowed under this article to the disabled
8 veteran eligible taxpayer is the amount of West Virginia real property tax due and owing and timely

9 paid during the taxable year to a county sheriff on the value of real property owned by the disabled
10 veteran eligible taxpayer: *Provided*, That in no case shall any credit be allowed under this article
11 for any untimely real property tax paid, or any payment of delinquent real property tax, or payment
12 of "back tax" real property taxes.

§11-13MM-903. Application of annual credit allowance.

1 (a) *Application of credit against personal income tax.* — If the disabled veteran eligible
2 taxpayer is subject to the personal income tax imposed by article 11-21-1 *et seq.* of this code,
3 the amount of credit allowed shall be taken against the personal income tax liability of the
4 eligible taxpayer for the current personal income tax taxable year.

5 (b) *Refundable portion of annual credit allowance.* — If annual tax credit allowed under
6 this article exceeds the amount of personal income tax subject to offset under this article in any
7 taxable year, the eligible taxpayer may claim, for that taxable year, the excess amount as a
8 refundable tax credit.

9 (c) *Transfer or sale of the real property.* —

10 (1) *Where there is a sale or transfer of the real property from a disabled veteran eligible*
11 *taxpayer to any other person or entity, the transferor retains entitlement to the tax credit authorized*
12 *under this article for the timely paid real property tax paid by the transferor in the transferor's*
13 *personal income tax taxable year on the transferred real property.*

14 (2) *If the transferee meets all requirements for qualification as an eligible taxpayer under*
15 *this article and meets all requirements for entitlement to the tax credit authorized under this article,*
16 *then the transferee shall be entitled to the tax credit authorized under this article for the timely paid*
17 *real property tax paid by the transferee in the transferee's personal income tax taxable year on the*
18 *eligible real property.*

19 (3) *In no case shall the transferor and the transferee take the tax credit authorized under*
20 *this article for the same taxable year.*

21 (d) Annual schedule. — For purposes of asserting the credit against tax, the taxpayer shall
22 prepare and file an annual schedule showing the amount of personal income tax paid for the
23 taxable year, and the amount of property tax paid on the real property for the taxable year, and the
24 amount of credit allowed under this article. The annual schedule shall set forth the information and
25 be in the form prescribed by the Tax Commissioner.

Part X. Annual Report and Audit.

§11-13MM-1001. Annual report.

1 The commissioner shall make an annual report, as soon as possible after the close of each
2 tax year, of the actions taken by the West Virginia Tax Division with respect to the tax credits
3 authorized pursuant to this article. This report shall be filed with the Joint Committee on
4 Government and Finance. The report shall include at a minimum the amount of the credit claimed
5 in the preceding tax year in each of the categories set forth in this article.

§11-13MM-1002. Annual audit.

(a) To ensure proper levels and uniformity standards are being followed by the county
assessor in each county in West Virginia, the State Auditor shall conduct an annual audit of each
county of all levy rates for personal property assessment in each county. The audit shall examine
all classes of personal property subject to taxation in each county and examine how the assessor
sets valuation determination and confirms, qualifies, and quantifies such property.

(b) The purpose of the audit is to ascertain if the county assessor is correctly applying the
constitutional and statutory provisions to arrive at the actual value of each class of personal
property and to determine if each assessor is applying correctly the provisions of law to the actual
values when arriving at valuations for assessment of all personal property subject to personal
property taxation.

(c) Findings of the annual audit shall be reported to the Governor and to the Joint
Committee on Government and Finance by December 31, of each year.

(d) The State Auditor may provide statistical analysis of the audit to the Joint Committee on Government and Finance. He or she may recommend revaluations in any county where the valuations do not reflect the proper valuation level of value.

Part XI. Rulemaking.

§11-13MM-1101. Rulemaking.

1 The Tax Commission may propose rules for legislative approval in accordance with the
2 provisions of §29A-3-1 *et seq.* of this code as he or she deems necessary to effectuate the
3 provisions of this article.

ARTICLE 21. PERSONAL INCOME TAX

§11-21-4g Rate of tax — Taxable years beginning on and after January 1, 2024.

1 (a) Rate of tax on individuals, individuals filing joint returns, heads of households, and
2 estates and trusts. — The tax imposed by §11-21-3 of this code on the West Virginia taxable
3 income of every individual every individual who is a head of a household in the determination of his
4 or her federal income tax for the taxable year; every husband and wife who file a joint return under
5 this article; every individual who is entitled to file his or her federal income tax return for the taxable
6 year as a surviving spouse; and every estate and trust shall be determined in accordance with the
7 following table:

<u>If the West Virginia taxable</u>	<u>The tax is:</u>
9 <u>income is:</u>	
10 <u>Not over \$10,000</u>	<u>2.78% of the taxable income</u>
11 <u>Over \$10,000 but not over \$25,000</u>	<u>\$278 plus 3.70% of excess over \$10,000</u>
12 <u>Over \$25,000 but not over \$40,000</u>	<u>\$833 plus 4.17% of excess over \$25,000</u>
13 <u>Over \$40,000 but not over \$60,000</u>	<u>\$1,458.50 plus 5.57% of excess over 40,000</u>

16 §11-15A-1 et seq. in a fiscal year exceeding 5 percent of the consumer sales and service tax
17 collections and use tax collections in the previous fiscal year when compared to the ratio of the
18 consumer sales and service tax collections and the use tax collections to the prior fiscal year's
19 enacted executive budget: *Provided*, That the total difference must be greater than 5 percent:
20 *Provided, however*, That if at any time in the three preceding fiscal years there has been a 10
21 percent or more reduction in the collections of consumer sales and service tax and the use tax
22 there shall not be a reduction in the personal income tax effectuated by a 5 percent increase in the
23 consumer sales and service tax and the use tax as provided in this section. The increase in the
24 sales and service tax and the use tax shall trigger a dollar-for-dollar reduction in the personal
25 income tax in the percentage amount of the increase in the sales and service tax and the use tax.
26 The reduction set forth in this section shall be distributed proportionate to the personal property
27 amounts collected in each income bracket. This amount shall be in lieu of the rates of taxation
28 specified in §11-21-4g of this code;

1 (c) The Tax Department shall prepare an annual report to the Joint Committee on
2 Government and Finance detailing any relevant modifications to the personal income tax, in the
3 consumer sales and service tax, and the use tax.

4 (d) The Tax Division shall at least notify taxpayers of any changes in the personal income
5 tax structure. This notice should come at the beginning of each tax year.

6 (e) Notwithstanding any provision of this code to the contrary, the Commissioner may
7 propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this
8 code explaining and implementing this section. These rules may include, but are not limited to:

9 (1) The methodology to increase, if necessary, the state consumer sales and service tax
10 and the use tax pursuant to the provisions of this section;

11 (2) A means to notify taxpayers of changes to their tax liability, including their tax rate and
12 effective tax rate; and

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- 13 (3) The provisions of the annual report to the Joint Committee on Government and
14 Finance.