

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 473

By Senators Weld, Rucker, Woodrum, Martin, and

Maynard

[Introduced January 25, 2023; referred
to the Committee on Finance]

1 A BILL to amend and reenact §11-21-3 of the Code of West Virginia, 1931, as amended, relating to
 2 the personal income tax by exempting certain irrevocable trusts from the personal income
 3 tax.

Be it enacted by the Legislature of West Virginia:

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-3. Imposition of tax; persons subject to tax.

1 (a) Imposition of tax. — A tax determined in accordance with the rates hereinafter set forth
 2 in this article is hereby imposed for each taxable year on the West Virginia taxable income of every
 3 individual, estate, and trust.

4 (b) Partners and partnerships. — A partnership as such shall not be subject to tax under
 5 this article. Persons carrying on business as partners shall be liable for tax under this article only in
 6 their separate or individual capacities. However, partnerships and other pass-through entities are
 7 subject to the tax imposed by this article to the extent they elect to pay additional West Virginia
 8 income taxes owed that are attributable to final federal partnership audit adjustments under §11-
 9 21A-3 of this code.

10 (c) Associations taxable as corporations. — An association, trust or other unincorporated
 11 organization which is taxable as a corporation for federal income tax purposes, shall not be subject
 12 to tax under this article.

13 (d) Exempt trusts and organizations. — A trust or other unincorporated organization which
 14 by reason of its purposes or activities is exempt from federal income tax shall be exempt from tax
 15 under this article (regardless of whether subject to federal income tax on unrelated business
 16 taxable income).

17 (e) Irrevocable trusts. -- The income earned on an irrevocable trust created under the laws
 18 of the State of West Virginia and administered by any West Virginia state chartered banking
 19 institution or a federally chartered banking institution with its corporate headquarters located in this
 20 state shall be exempt from tax under this article.

- 21 ~~(e)~~ (f) Cross references. — For definitions of West Virginia taxable income of:
- 22 (1) Resident individual, see §11-21-11 of this code.
- 23 (2) Resident estate or trust, see §11-21-18 of this code.
- 24 (3) Nonresident individual, see §11-21-30 of this code.
- 25 (4) Nonresident estate or trust, see §11-21-38 of this code.
- 26 ~~(f)~~ (g) Effective date. — This section as amended in 2019 shall apply to taxable years
- 27 beginning on and after January 1, 2018: Provided, That the provisions of this section, as amended
- 28 during the 2023 regular legislative session, shall apply to taxable years beginning on and after
- 29 January 1, 2024.

NOTE: The purpose of this bill is to exempt certain irrevocable trusts created and administered in the State of West Virginia from the state income tax.

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