

WEST VIRGINIA LEGISLATURE

2024 SECOND EXTRAORDINARY SESSION

Enrolled

Senate Bill 2033

By Senators Blair (Mr. President) and Woelfel

(By Request of the Executive)

[Passed October 8, 2024; in effect from passage]

1 AN ACT to amend and reenact §11-21-4h of the Code of West Virginia, 1931, as amended; and to
2 amend said code by adding thereto a new section, designated §11-21-4i, all relating to
3 personal income tax; modifying the effective date of future personal income tax reductions;
4 providing for reduced graduated income tax rates; reducing the rate of tax on certain
5 composite returns; reducing the rate of withholding tax on nonresident income; reducing
6 the rate of withholding tax on the nonresident sale of real estate; reducing the rate of
7 withholding on lottery winnings; applying reduced rates beginning on and after January 1,
8 2025; providing for contingent additional future reductions in the personal income tax rates
9 when certain criteria have been met; making technical corrections; and providing effective
10 dates.

Be it enacted by the Legislature of West Virginia:

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-4h. Future personal income tax reductions.

1 (a) For the purposes of this section, the terms defined in this section have the meanings
2 ascribed to them unless a different meaning is clearly required by the context in which the term is
3 used:

4 (1) "Adjusted consumer price ratio" means the fiscal year consumer price index divided by
5 the base year consumer price index.

6 (2) "Adjusted general revenue fund collections" means all net general revenue fund
7 collections minus the net general revenue fund collections related to the imposition of the taxes
8 imposed under the provisions of §11-13A-1, *et seq.* of this code.

9 (3) "Base year revenues" means actual general revenue fund collections for 2019 fiscal
10 year, which is \$4,293,884,754

11 (4) "Base year consumer price index" means a 12-month average of the not seasonally
12 adjusted Consumer Price Index for all urban consumers for the months between July 2018 and
13 June 2019.

(5) "Excess fiscal year general revenue fund collections" means the positive difference from subtracting the inflation adjusted base year revenues from the adjusted general revenue fund collections from the immediately preceding fiscal year.

(6) "Fiscal year consumer price index" means a 12-month average of the not seasonally adjusted Consumer Price Index for all urban consumers for the months between July and June of the immediately preceding fiscal year.

(7) "Inflation adjusted base year revenues" means the base year general revenue fund collections multiplied by the adjusted consumer price ratio.

(b) *Future personal income tax rate reductions.* — Beginning on August 15, ~~2024~~2025, and every August 15 thereafter, the Secretary of Revenue will determine whether the total fiscal year adjusted general revenue fund collections from the immediately preceding fiscal year are in excess of the inflation adjusted base year revenues. If the total fiscal year adjusted general revenue fund collections from the immediately preceding fiscal year are in excess of the inflation adjusted base year revenues, then there will be a reduction in the personal income tax rates as determined under this section beginning ~~in the next taxable year~~ the second taxable year following the determination.

(c) *Determination of rate.* — In order to determine the amount of a personal income tax reduction, the excess fiscal year general revenue fund collections will be divided by the amount of the immediately preceding fiscal year's total personal income tax collections for all funds and will be rounded down to the nearest whole percentage. The amount of the percentage of reduction will be applied equally across the tax rates applicable in the tax year immediately preceding the rate reduction: *Provided*, That reduction in personal income tax rates may not result in an amount larger than a 10% reduction in the rates set forth in §11-21-4e of this code.

(d) *Certification of reduction.* — The Secretary of Revenue and the State Auditor will certify to the Tax Commissioner that a rate change is required under this section as soon as possible after August 15 so that the Tax Commissioner may notify taxpayers of any change in personal income

tax rates. The certification will provide base year revenues, the total fiscal year general revenue fund collections from the immediately preceding fiscal year, the base year consumer price index, the fiscal year consumer price index, the adjusted consumer price ratio, the amount of inflation adjusted base year revenues, the amount of excess fiscal year general revenue fund collections and the amount of the immediately preceding fiscal year's total personal income tax collections for all funds.

(e) *Applicability of this section.* — The provisions of this section shall be applicable in determining the rates of tax imposed by this article and shall apply for all taxable years beginning on and after January 1, ~~2025~~ 2026, and shall be in lieu of the rates of tax specified in ~~§11-21-4g~~ §11-21-4j of this code.

(f) *Annual Reports.* — The Tax Commissioner shall prepare an annual report to the Joint Committee on Government and Finance detailing any relevant modifications to the personal income tax.

(g) *Rulemaking.* — Notwithstanding any provision of this code to the contrary, the Tax Commissioner may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code explaining and implementing this section.

§11-21-4i. Rate of tax — Taxable years beginning on and after January 1, 2025.

(a) *Rate of tax on individuals (except married individuals filing separate returns), individuals filing joint returns, heads of households, and estates and trusts.* — The tax imposed by §11-21-3 of this code on the West Virginia taxable income of every individual (except married individuals filing separate returns); every individual who is a head of a household in the determination of his or her federal income tax for the taxable year; every husband and wife who file a joint return under this article; every individual who is entitled to file his or her federal income tax return for the taxable year as a surviving spouse; and every estate and trust (except non-grantor trusts administered by licensed private trust companies created pursuant to the provisions of §311-1-1 *et seq.* of this code) shall be determined in accordance with the following table:

10	<u>If the West Virginia taxable</u>	
11	<u>income is:</u>	<u>The tax is:</u>
12	<u>Not over \$10,000</u>	<u>2.22% of the taxable income</u>
13	<u>Over \$10,000 but not over \$25,000</u>	<u>\$222 plus 2.96% of excess over \$10,000</u>
14	<u>Over \$25,000 but not over \$40,000</u>	<u>\$666 plus 3.33% of excess over \$25,000</u>
15	<u>Over \$40,000 but not over \$60,000</u>	<u>\$1,165.50 plus 4.44% of excess over</u>
16	<u>\$40,000</u>	
17	<u>Over \$60,000</u>	<u>\$2,053.50 plus 4.82% of excess over</u>
18	<u>\$60,000</u>	

19 (b) Rate of tax on married individuals filing separate returns. — In the case of husband and
 20 wife filing separate returns under this article for the taxable year, the tax imposed by §11-21-3 of
 21 this code on the West Virginia taxable income of each spouse shall be determined in accordance
 22 with the following table:

23	<u>If the West Virginia taxable</u>	
24	<u>income is:</u>	<u>The tax is:</u>
25	<u>Not over \$5,000</u>	<u>2.22% of the taxable income</u>
26	<u>Over \$5,000 but not over \$12,500</u>	<u>\$111 plus 2.96% of excess over \$5,000</u>
27	<u>Over \$12,500 but not over \$20,000</u>	<u>\$333 plus 3.33% of excess over \$12,500</u>
28	<u>Over \$20,000 but not over \$30,000</u>	<u>\$582.75 plus 4.44% of excess over \$20,000</u>
29	<u>Over \$30,000</u>	<u>\$1,026.75 plus 4.82% of excess over</u>
30	<u>\$30,000</u>	

31 (c) Rate of tax on non-grantor trusts administered by licensed private trust companies. — In
 32 the case of non-grantor trusts administered by licensed private trust companies created pursuant
 33 to §311-1-1 et seq. of this code, there is no tax imposed by §11-21-3 of this code.

34 (d) Effect of rates on Nonresident Composite and Withholding Obligations —
 35 Notwithstanding any provision of this article to the contrary, for taxable years beginning on and

36 after the date specified in subsection (e) of this section, whenever the words "six and one-half
37 percent" appear in §11-21-51a, §11-21-71a, §11-21-71b, or §11-21-77 of this code, with relation to
38 a tax return of, or the tax rate imposed on income of individuals, individuals filing joint returns,
39 heads of households, and estates and trusts (except non-grantor trusts administered by licensed
40 private trust companies created pursuant to the provisions of §311-1-1 et seq. of this code), the
41 stated percentage shall be changed to 4.82%.

42 (e) *Applicability of this section.* — The provisions of this section shall be applicable in
43 determining the rates of tax imposed by this article and shall apply for all taxable years beginning
44 on and after January 1, 2025, and shall be in lieu of the rates of tax specified in §11-21-4g of this
45 code and as those rates were modified by the application of §11-21-4h of this code in 2024.

46 (f) *Applicability of §11-21-4h of this code.* – The Legislature finds that in August 2024, the
47 Tax Commissioner issued an administrative notice reducing the tax rates imposed by §11-21-4g of
48 this code for all taxable years beginning on and after January 1, 2025, pursuant to application of
49 §11-21-4h of this code. The Legislature intends that the provisions of the enactment of this section
50 in 2024 supersede the tax rates set forth in §11-21-4g of this code and set forth in the
51 administrative notice. It is the further intent of the Legislature that §11-21-4h of this code continue
52 in full force and effect as amended.