

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

### **Introduced**

## **House Bill 3185**

By Delegates Worrell, Dean, Toney, Flanigan, Moore,

B. Smith, Bridges, Foggin, Shamblin, Willis, and

Browning

[Introduced March 06, 2025; referred to the

Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section,  
2 designated §11-21-11a, relating to taxable income of residents; and creating the Taxpayer  
3 Protection Act designed to ensure that individual taxpayers are not misclassified.

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

## **ARTICLE 21. PERSONAL INCOME TAX.**

### **§11-21-11a. Taxpayer Protection Act.**

1 (a) In order to prevent the misclassification of resident individual taxpayers as independent  
2 contractors and ensure the state rightfully receives taxes from employment, the Tax  
3 Commissioner shall implement an "ABC" test for an independent contractor follows:

4 (1) Absence of Control – Is the worker taxpayer free from the direction or control of the  
5 employer?;

6 (2) Business of Worker -- Is the worker taxpayer 's task unusual, with regards to the hiring  
7 employer's business?; and

8 (3) Customarily Engaged -- Is the worker taxpayer customarily independent from the  
9 employer? Do the worker taxpayers have their own business identify on the open market?

10 (b) A worker taxpayer is presumed to be an independent contractor unless a hiring entity or  
11 employer can demonstrate all three of the following:

12 (1) The worker taxpayer is subject to the type and degree of control a business typically  
13 exercises over employees;

14 (2) The worker taxpayer performs the work under the direction of, and is economically  
15 responsible to, the principal; and

16 (3) The work is performed under the direction of, and is economically responsible to, the  
17 principal.

NOTE: The purpose of this bill is to create the Taxpayer Protection Act designed to ensure that individual taxpayers are not misclassified.

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