

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **Senate Bill 392**

By Senators Smith (Mr. President) and Woelfel

[By Request of the Executive]

[Introduced January 15, 2026; referred  
to the Committee on Finance]

1 A BILL to amend and reenact §11-21-4h of the Code of West Virginia, 1931, as amended; and to  
2 amend the code by adding a new section, designated §11-21-4j, relating to personal  
3 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 2026; 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.

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

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

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

22 (b) *Future personal income tax rate reductions.* — Beginning on August 15, 2025 2026,  
23 and every August 15 thereafter, the Secretary of Revenue will determine whether the total fiscal  
24 year adjusted general revenue fund collections from the immediately preceding fiscal year are in  
25 excess of the inflation adjusted base year revenues. If the total fiscal year adjusted  
26 general revenue fund collections from the immediately preceding fiscal year are in excess of the  
27 inflation adjusted base year revenues, then there will be a reduction in the personal income tax  
28 rates as determined under this section beginning the second taxable year following the  
29 determination.

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

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

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

46 (e) *Applicability of this section.* — The provisions of this section shall be applicable in  
47 determining the rates of tax imposed by this article and shall apply for all taxable years beginning  
48 on and after January 1, 2026 2027, and shall be in lieu of the rates of tax specified in ~~§11-21-4i~~  
49 §11-21-4j of this code.

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

53 (g) *Rulemaking.* — Notwithstanding any provision of this code to the contrary, the Tax  
54 Commissioner may propose rules for legislative approval in accordance with the provisions of  
55 §29A-3-1 *et seq.* of this code explaining and implementing this section.

**§11-21-4j. Rate of tax — Taxable years beginning on and after January 1, 2026.**

1 (a) Rate of tax on individuals (except married individuals filing separate returns),  
2 individuals filing joint returns, heads of households, and estates and trusts — For taxable years  
3 beginning on and after January 1, 2026, the tax imposed by §11-21-3 of this code on the West  
4 Virginia taxable income of every individual (except married individuals filing separate returns);  
5 every individual who is a head of a household in the determination of his or her federal income tax  
6 for the taxable year; every husband and wife who file a joint return under this article; every  
7 individual who is entitled to file his or her federal income tax return for the taxable year as a  
8 surviving spouse; and every estate and trust (except non-grantor trusts administered by licensed  
9 private trust companies created pursuant to the provisions of §31I-1-1 *et seq.* of this code) shall be

10 determined in accordance with the following table:

11	<u>If the West Virginia taxable</u>	
12	<u>income is:</u>	<u>The tax is:</u>
13	<u>Not over \$10,000</u>	<u>2.00% of the taxable income</u>
14	<u>Over \$10,000 but not over \$25,000</u>	<u>\$200 plus 2.66% of excess over \$10,000</u>
15	<u>Over \$25,000 but not over \$40,000</u>	<u>\$599 plus 3.00% of excess over \$25,000</u>
16	<u>Over \$40,000 but not over \$60,000</u>	<u>\$1,049 plus 4.00% of excess over \$40,000</u>
17	<u>Over \$60,000</u>	<u>\$1,849 plus 4.34% of excess over \$60,000</u>

18 (b) Rate of tax on married individuals filing separate returns. — For taxable years  
19 beginning on and after January 1, 2026, in the case of husband and wife filing separate returns  
20 under this article for the taxable year, the tax imposed by §11-21-3 of this code on the West Virginia  
21 taxable income of each spouse shall be determined in accordance with the following table:

22	<u>If the West Virginia taxable</u>	
23	<u>income is:</u>	<u>The tax is:</u>
24	<u>Not over \$5,000</u>	<u>2.00% of the taxable income</u>
25	<u>Over \$5,000 but not over \$12,500</u>	<u>\$100 plus 2.66% of excess over \$5,000</u>
26	<u>Over \$12,500 but not over \$20,000</u>	<u>\$299.50 plus 3.00% of excess over \$12,500</u>
27	<u>Over \$20,000 but not over \$30,000</u>	<u>\$524.50 plus 4.00% of excess over \$20,000</u>
28	<u>Over \$30,000</u>	<u>\$924.50 plus 4.34% of excess over \$30,000</u>

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

32 (d) Effect of rates on Nonresident Composite and Withholding Obligations —  
33 Notwithstanding any provision of this article to the contrary, for taxable years beginning on and  
34 after the date specified in subsection (e) of this section, whenever the words "six and one-half  
35 percent" appear in §11-21-51a, §11-21-71a, §11-21-71b, or §11-21-77 of this code, with relation to

36 a tax return of, or the tax rate imposed on income of individuals, individuals filing joint returns,  
37 heads of households, and estates and trusts (except non-grantor trusts administered by licensed  
38 private trust companies created pursuant to the provisions of §311-1-1 *et seq.* of this code), the  
39 stated percentage shall be changed to 4.34%.

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

NOTE: The purpose of this bill is to modify the personal 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.