

WEST VIRGINIA CHILDREN WITH AUTISM TRUST BOARD
ANNUAL REPORT

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Chapter 44, Article 16 of the West Virginia Code was enacted in 2009 and effective for tax years beginning on or after January 1, 2011. West Virginia Code §44-16-4(b) requires that the West Virginia Children with Autism Trust Board “Prepare, or have prepared, by January, each year, an annual report on the status of the program, including a summary of the qualified trust funds, and provide a copy of the report to the Joint Committee on Government and Finance and the Legislative Oversight Commission on Health and Human Resources Accountability.”

Introduction

The West Virginia Children with Autism Trust Board was created to qualify and oversee trust accounts created pursuant to West Virginia Code §44-16-4(b) *et seq.*, and held by approved banks or trust companies for administration by qualified trustees. The trust accounts may be established by any parent or guardian of a child with autism. However, no account may be deemed to be a qualified trust for a child with autism until it has been approved as such by the West Virginia Children with Autism Trust Board.

West Virginia Code §11-21-12i authorizes a decreasing modification, up to \$1,000 per year for individual Taxpayers and Taxpayers who are married, filing separately, and \$2,000 per year for Taxpayers who are married and filing jointly—modifying federal adjusted gross income for the purpose of determining West Virginia adjusted gross income to compute West Virginia Personal Income Tax. The modification is available only to the extent not allowable as a deduction when arriving at the Taxpayer’s federal adjusted gross income for the taxable year in which the payment is made.

Program Status and Summary of Qualified Trust Funds

In 2012, the West Virginia Children with Autism Trust Board approved six trust accounts for a child with autism. As of December 2017, no additional applications for the program have been received.

As indicated in the 2016 Annual Report, the State Tax Department programmatically reviewed West Virginia Personal Income Tax returns for Tax Years 2011 through 2015¹ that reported a decreasing modification for autism contributions. A similar review was conducted for West Virginia Personal Income Tax Returns for Tax Year 2016 that reported this modification. Since the number of Taxpayers reporting the autism decreasing modification was much greater than the number of approved child with autism trust accounts, the State Tax Department contacted Taxpayers reporting the modification to determine if the criteria for claiming the modification had been satisfied. For those Taxpayers not meeting the criteria for the modification, the modification was voided and their tax return was adjusted. The State Tax Department continues to monitor Personal Income Tax returns and will notify those Taxpayers without an approved child with autism trust account of the proper procedures for obtaining an approved trust account.

¹ Due to the structure of Personal Income Tax Schedule M for Tax Year 2013, the Autism Modification was not a unique line on the return. This restricts the State Tax Department’s ability to review claims of decreasing modification for autism contributions for this tax year.