



**Dave Hardy**  
Secretary of Revenue

**Matthew Irby**  
Tax Commissioner

**STATE TAX DEPARTMENT**

December 30, 2022

The Honorable Craig Blair  
Senate President  
Joint Committee on Government and Finance  
State Capitol Complex  
Building 1, Room 229M  
Charleston, WV 25305

The Honorable Roger Hanshaw  
Speaker of the House  
Joint Committee on Government and Finance  
State Capitol Complex  
Building 1, Room 228M  
Charleston, WV 25305

Senator Amy Grady, Chair  
Legislative Oversight Commission on Health and Human Resources Accountability  
State Capitol Complex  
Building 1, Room 206W  
Charleston, WV 25305

Delegate Matthew Rohrbach, Chair  
Legislative Oversight Commission on Health and Human Resources Accountability  
State Capitol Complex  
Building 1, Room 215E-C  
Charleston, WV 25305

**RE: West Virginia Children with Autism Trust Board Annual Report**

Dear Sir/Madam,

Enclosed please find a courtesy copy of the West Virginia Children with Autism Trust Board Annual Report. We are filing this report with the Joint Committee on Government and Finance and the Legislative Oversight Commission on Health and Human Resources Accountability pursuant to W. Va. Code §44-16-4(b). We will also file the enclosed report electronically on the West Virginia Legislature's webpage.

Sincerely,

A handwritten signature in blue ink, appearing to read "Matthew Irby".

**Matthew Irby**  
Tax Commissioner and  
Chair, West Virginia Children with Autism Trust Board

Enclosure: Annual Report

**WEST VIRGINIA CHILDREN WITH AUTISM TRUST BOARD**  
**ANNUAL REPORT**

December 30, 2022

Submitted by:  
West Virginia State Tax Department  
Matthew Irby  
State Tax Commissioner

# WEST VIRGINIA CHILDREN WITH AUTISM TRUST BOARD ANNUAL REPORT

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 §44-16-1, *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. Since these applications were received and acted upon by the Board, no new applications were received until this year. In 2022, one additional application was received, but the Board determined that this trust did not meet the eligibility requirements for the program.

As indicated in the 2021 Annual Report, the State Tax Department programmatically reviewed West Virginia Personal Income Tax returns for Tax Years 2011 through 2020<sup>1</sup> that reported a decreasing modification for autism contributions. A similar review was conducted for West Virginia Personal Income Tax Returns for Tax Year 2021 that reported this modification. 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.

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<sup>1</sup> 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.