



# **WEST VIRGINIA TAX EXPENDITURE STUDY**

## **Corporation Net Income Tax and Personal Income Tax Expenditures**

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Prepared By: West Virginia Tax Division  
Research and Development

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## **EXECUTIVE SUMMARY**

This report covers West Virginia's Personal Income Tax and Corporation Net Income Tax, the major broad-based business tax in the State. The report analyzes all provisions involving exclusions, exemptions, deductions, or credits for both taxes. Some of these provisions constitute government expenditure programs while others are an integral part of the basic tax structure.

### **CORPORATION NET INCOME TAX**

The section on Corporation Net Income Tax provides analysis of explicit and implicit provisions in the laws of West Virginia and the United States that may be considered tax expenditures for this tax. Domestic and foreign corporations doing business in West Virginia are subject to the Corporation Net Income Tax. Some businesses, such as insurance companies and Subchapter S corporations, are exempt from this tax. The Corporation Net Income Tax is levied on federal taxable income adjusted and apportioned according to State law. Beginning January 1, 2022, West Virginia adopted a market-based single sales apportionment factor and repealed the sales factor throw-out rule. Some of these adjustments, along with the various exemptions for businesses specifically excluded from taxation, represent tax expenditures for the Corporation Net Income Tax. In addition, West Virginia law provides a variety of tax credits that can be used against Corporation Net Income Tax liability. These credits are also considered tax expenditures.

### **PERSONAL INCOME TAX**

This section of the report provides analysis of the exemptions, exclusions, deductions and credits that can be used to reduce Personal Income Tax liability. The computation of West Virginia Personal Income Tax begins with federal adjusted gross income. The Internal Revenue Code provides for certain exclusions and adjustments in determining federal adjusted gross income. West Virginia allows some decreasing modifications to federal adjusted gross income. A deduction is also allowed based on the number of personal exemptions claimed on the federal return under federal rules in place prior to 2018. In addition, various credits may be applied to Personal Income Tax liability.

Also included in the Personal Income Tax section is an analysis of three expenditures relating to the taxation of estates and trusts under the Fiduciary Income Tax. Computation of West Virginia Fiduciary Income Tax begins with federal taxable income, as opposed to federal adjusted gross income under Personal Income Tax law. West Virginia taxable income of estates and trusts is derived after specific increasing or decreasing modifications are made to federal taxable income.

# INTRODUCTION

Section 11-10-5s(c) of the W.Va. Code requires a tax expenditure report to be submitted to the Legislature by January 15 of each year. In three-year cycles, these reports are intended to analyze tax expenditures for most major State taxes. The law defines the term “tax expenditure” as a provision in the tax laws designed to encourage certain kinds of activities or to aid Taxpayers in special circumstances. Such provisions generally include exclusions, exemptions, deductions, credits, and deferrals from tax. This report covers the Corporation Net Income Tax and Personal Income Tax.

## OVERVIEW

The Corporation Net Income Tax and Personal Income Tax accounted for roughly \$2.9 billion, or 48.7 percent, of the total General Revenue Fund collections in Fiscal Year 2022.

### West Virginia General Revenue Fund Percentage Yield

<b>Revenue Source</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
Personal Income	44.1%	43.3%	45.2%	42.5%
Corporation Net Income	4.2%	3.4%	6.4%	6.2%
<b>Total</b>	<b>48.3%</b>	<b>46.7%</b>	<b>51.6%</b>	<b>48.7%</b>

Personal Income Tax collections generally represent a relatively stable portion of the General Revenue Fund receipts. Corporation Net Income Tax collections tend to be more volatile over time.

Most exclusions, exemptions, deductions, and credits associated with these taxes may be viewed as tax expenditures. Such tax expenditures tend to escape the usual legislative scrutiny afforded other expenditures in the annual budget approval process because provisions in the tax law often remain intact indefinitely. Programs funded through tax expenditures in effect receive priority funding over all other programs. The goal of this report is to facilitate an examination of both Corporation Net Income Tax and Personal Income Tax expenditures using available resources.

## ESTIMATING COSTS OF TAX EXPENDITURES

This study provides estimates of the value of Corporation Net Income Tax and Personal Income Tax expenditures and certain provisions considered necessary to define a model tax structure. Except where otherwise noted, expenditures within the study are examined independently from all other expenditures. Following the establishment of a value in isolation, the influence of outside factors (i.e., other expenditures and Taxpayer behavior) is discussed, where applicable.

Several sources of information were used in the construction of expenditure valuations. These include, among others:

1. Tax return data;
2. Alternative tax data; and
3. Federal and State publications.

In most cases, the revenue impact attributable to the repeal of a tax expenditure is less than the value of that expenditure. This occurs because tax expenditures tend to overlap one another, and Taxpayers tend to alter behavior whenever income becomes taxable for the first time.

Caution must be exercised when using values from this report as estimates of tax revenue attributable to potential tax law changes, especially due to the impact of overlapping expenditures. For example, the partial exclusion of a teacher's pension income may overlap the \$8,000 exclusion for senior citizens. Therefore, both exclusions would have to be repealed before the State would receive the full value of the senior citizen exclusion.

## **RATIONALE SUPPORTING TAX EXPENDITURES**

This report also attempts to briefly articulate the rationale for the exclusions, exemptions, and deductions evaluated. The rationales set forth in this report are not intended to be all inclusive. The reader may identify other rationales for the various expenditures in the law. Given that statutory language does not often specify the rationale in much, if any, detail, the Department relied solely upon its experience to formulate the assumed rationales set forth in this report. The reader is left to judge the extent to which a particular rationale is appropriate and the extent to which a particular exemption furthers the preferred activity.

# CORPORATION NET INCOME TAX

## OVERVIEW

The West Virginia Corporation Net Income Tax is a direct income tax imposed on domestic and foreign corporations engaged in business in West Virginia or deriving income from property, activity or other sources in the State. Corporations engaged in a unitary business with one or more other corporations must file a combined report which includes the income of all corporations that are members of the unitary business.

Computation of the Corporation Net Income Tax begins with federal taxable income modified by specific additions and subtractions. A corporation's income is subject to tax without allocation or apportionment if the entire business is transacted within West Virginia. For multistate corporations, certain income items are allocated or apportioned to West Virginia according to State law. The allocated items are rents and royalties from real or tangible personal property, capital gains, interest and dividends, patent or copyright royalties, and gains from sales of natural resources, if the proceeds are nonbusiness income. This type of income is generally allocated to West Virginia if the site of the income-producing property is in the State. West Virginia allocated income plus non-allocated income apportioned to the State becomes taxable income. An adjustment to taxable income is also made for West Virginia net operating losses. Adjusted taxable income after net operating loss deductions is taxed at 6.5 percent. Beginning January 1, 2022, the apportionment of West Virginia income is based on a single sales factor. Additionally, beginning January 1, 2022, West Virginia adopted market-based sourcing for sales of service and intangible property and repealed the sales factor throw-out rule.

A large percentage of the Corporation Net Income Tax collections is remitted by relatively few businesses. Since this tax is imposed on net income, collections of the Corporation Net Income Tax can vary significantly from one year to the next based upon the economic status of a few companies.

## ORGANIZATION AND ANALYSIS

The Corporation Net Income Tax expenditures discussed in this report are divided into five groups:

- Businesses Exempt from Taxation;
- Federal Taxable Income Expenditures;
- Modifications Decreasing Federal Taxable Income for State Tax Purposes;
- Modifications Decreasing West Virginia Taxable Income; and
- Credits.

The analysis provided for each tax expenditure includes the item's cost to the State, a rationale, and an analysis of the possible revenue scenarios if an expenditure was repealed, where applicable.



## BUSINESSES EXEMPT FROM TAXATION

Selected businesses are exempt from Corporation Net Income Tax due to the structure of the business or the nature of the business activity. The following businesses are exempt:

- Sole Proprietorships, Partnerships, and Subchapter S Corporations; and
- Various Miscellaneous Businesses.

An analysis of these exemptions follows.

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### SOLE PROPRIETORSHIPS, PARTNERSHIPS, AND SUBCHAPTER S CORPORATIONS

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**STATUTES:** W.Va. Code §§11-24-3a(7) and 11-24-5(d)

**EXEMPTION:** The term “corporation” includes a joint-stock company and any association or other organization which is taxable as a corporation under the federal income tax law (which excludes sole proprietorships and partnerships) (W.Va. Code §11-24-3a(7)).

Corporations electing to be taxed under Subchapter S of the Internal Revenue Code 1986, as amended (W.Va. Code §11-24-5(d)).

#### Rationale

Since the Corporation Net Income Tax is only levied on businesses organized as corporations, an implied exemption exists for businesses organized as sole proprietorships or partnerships. This exemption presumably exists for ease of administration and to avoid double taxation of the business income of the sole proprietor or partnership. Income of businesses organized as sole proprietorships or partnerships is generally included on the Personal Income Tax return of the proprietor or partner. If the partner is itself a corporation, the income is reported on the Corporation Net Income Tax return. Therefore, subjecting these businesses to the Corporation Net Income Tax without removing the income from taxation under the Personal Income Tax statute would subject some business income to double taxation. This is **not** an expenditure. West Virginia follows the federal practice of classifying limited liability companies as partnerships unless such entities are organized as corporations.

The income of Subchapter S corporations is passed through to the stockholders of the corporation. Stockholders include income from the corporation on their individual income tax returns. The exemption for Subchapter S corporations exists to avoid the double taxation of the income of these businesses (once under the Corporation Net Income Tax and once under the Personal Income Tax) due to the difference in tax rates.

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## VARIOUS MISCELLANEOUS BUSINESSES

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**STATUTES:** United States Code 15 U.S.C. §381 et seq. (United States Public Law 86-272)

W.Va. Code §§11-24-5(a), 11-24-5(b), 11-24-5(c), 11-24-5(e), 19-23-12, 31C-2-8, 33-22-16, 33-23-29(b), and 33-24-4

**EXEMPTION:** This exemption includes:

- Corporations Whose Only Activity Is Solicitation of Sales (15 U.S.C. §381 et seq. (United States Public Law 86-272))
- Corporations Exempt from Federal Income Tax (W.Va. Code §11-24-5(a))
- Insurance companies which pay this State a tax upon premiums (W.Va. Code §11-24-5(b))
- Production Credit Associations (Farm Credit Act of 1933) (W.Va. Code §11-24-5(c))
- Section 186 Trusts (W.Va. Code §11-24-5(e))
- Horse or Dog Tracks (W.Va. Code §19-23-12)
- Credit Unions (W.Va. Code §31C-2-8)
- Farmer's Mutual Fire Insurance Companies (W.Va. Code §33-22-16)
- Fraternal Benefit Societies (W.Va. Code §33-23-29(b))
- Nonprofit Hospital, Medical, Dental and Health Service Corporations (W.Va. Code §33-24-4)

**VALUE:** Annual values for expenditures include:

Public Law 86-272:	<b>Not available</b>
Federally Exempt Corporations:	<b>\$24.1 million</b>
Insurance Companies:	<b>Not available</b>
Production Credit Associations	<b>Minimal</b>
Section 186 Trusts:	<b>Minimal</b>
Horse or Dog Tracks	<b>Cannot be disclosed<sup>1</sup></b>
Credit Unions:	<b>\$25,000</b>
Farmer's Mutual Fire Insurance Company:	<b>Not available</b>
Fraternal Benefit Societies:	<b>\$400,000</b>
Nonprofit Healthcare Corporations:	<b>Not available</b>

### Rationale

These businesses are exempt from the West Virginia Corporation Net Income Tax for a variety of reasons. In some cases (e.g., Corporations Whose Only Activity Is Solicitation of Sales), federal law precludes the State from levying a tax on the specified business. Ease of administration (i.e., Corporations Exempt from Federal Income Tax), double taxation concerns (i.e., Insurance companies which pay this State a tax upon premiums), and the encouragement of certain business activities are some of the other reasons for these exemptions.

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<sup>1</sup> Due to Taxpayer confidentiality.

## FEDERAL TAXABLE INCOME EXPENDITURES

The use of federal taxable income as a starting point for the calculation of West Virginia Corporation Net Income Tax includes various allowances for federal tax expenditures. Federal Tax Expenditures Incorporated within the State Tax Structure are considered tax expenditures for the purposes of this study. An analysis of these expenditures follows.

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### FEDERAL TAX EXPENDITURES INCORPORATED WITHIN THE STATE TAX STRUCTURE

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<b>STATUTE:</b>	W.Va. Code §11-24-3a(44)
<b>EXCLUSION:</b>	The term “West Virginia taxable income” means the taxable income of a corporation as defined by the laws of the United States for federal income tax purposes, adjusted, as provided in W.Va. Code §11-24-6.
<b>VALUE:</b>	Annual values for expenditures include:
Cost of goods sold:	<b>\$3,143.6 million</b>
Compensation of officers:	<b>\$80.8 million</b>
Salaries and wages less employment credits:	<b>\$588.6 million</b>
Repairs and Maintenance:	<b>\$37.7 million</b>
Bad debts:	<b>\$19.8 million</b>
Rents:	<b>\$92.6 million</b>
Taxes and licenses:	<b>\$103.5 million</b>
Interest:	<b>\$40.2 million</b>
Charitable contributions:	<b>\$4.5 million</b>
Depreciation:	<b>\$186.4 million</b>
Depletion:	<b>\$3.1 million</b>
Advertising:	<b>\$57.9 million</b>
Pension, profit-sharing, etc. plans:	<b>\$26.6 million</b>
Employee benefit programs:	<b>\$68.5 million</b>
Other deductions:	<b>\$739.6 million</b>
Special deductions:	<b>\$52.0 million</b>

#### Rationale

West Virginia uses federal taxable income as the starting point for the calculation of the Corporation Net Income Tax. Deductions granted in the calculation of federal taxable income become implied exclusions from West Virginia taxable income and exist to administer the tax. These implied exclusions exist to ease administration of the Corporation Net Income Tax. As stated in W.Va. Code §11-24-1, “the adoption by this State for its Corporation Net Income Tax purposes of certain provisions of the laws of the United States relating to the determination of income for federal income tax purposes will: (1) simplify preparation of State Corporation Net Income Tax returns by Taxpayers; (2) improve enforcement of the State Corporation Net Income Tax through better use of information obtained from federal income tax audits; and (3) aid interpretation of the State Corporation Net Income Tax law through increased use of federal judicial and administrative determinations and precedents.”

The Corporation Net Income Tax is often equated to a tax on profits. Some of the items mentioned above, such as cost of goods sold, are an integral part of the definition of net income or profit. Those items necessary for the definition of net income may **not** be tax expenditures. Inclusions of other items, such as employee benefit programs, may not necessarily be required to define net income and therefore may constitute tax expenditures.

### **Revenue Analysis**

The expenditure values presented in this section were calculated in isolation from any other listed expenditure. Also, calculation of the expenditure value was made without consideration of any portion of the exclusion returned to the original value pursuant to W.Va. Code §11-24-6(b). Thus, caution should be used in adding the values presented above.

## MODIFICATIONS DECREASING FEDERAL TAXABLE INCOME FOR STATE TAX PURPOSES

Several deductions are available to corporations in West Virginia as decreasing modifications to federal taxable income in determining taxable income for State purposes. These modifications exist for one of the following reasons:

1. To account for deviations between federal statutes and the W.Va. Code;
2. To account for income for which states are prohibited from taxing; or
3. To remove from taxable income amounts that were added to current federal taxable income and related to prior year deductions not permitted by West Virginia.

West Virginia has codified the following decreasing modifications:

- Refund or Credit for Overpayment of Income-Based Taxes;
- Disallowed Interest Expense;
- Section 78 Dividends Received from Foreign Corporations;
- Salary Expense Not Allowed as a Federal Deduction;
- Subpart F Income;
- Employer Contributions to Medical Savings Accounts;
- Foreign Source Income;
- West Virginia Water or Air Pollution Control Facilities;
- Federal Obligations;
- West Virginia Obligations;
- Investments Secured by Mortgages and Loans on Residential Property; and
- Qualified Opportunity Business Income

An analysis of these modifications follows.

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### REFUND OR CREDIT FOR OVERPAYMENT OF INCOME-BASED TAXES

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**STATUTE:** W.Va. Code §11-24-6(c)(2)

**EXCLUSION:** The amount of any refund or credit for overpayment of income taxes and other taxes, including franchise and excise taxes, which are based on, measured by, or computed with reference to net income, imposed by this State or any other taxing jurisdiction, to the extent properly included in gross income for federal income tax purposes.

**VALUE:** \$100,000 per year

#### Rationale

For State purposes, West Virginia requires Taxpayers to add back to federal taxable income the income tax deduction. State and local income taxes are deducted on the federal return for the tax year in which the payments are made. Any refund is included in federal taxable income for the tax year in which it is received. Since West Virginia does not allow the federal deduction for income taxes paid, a refund included in federal taxable income may be deducted for State purposes. This exclusion eliminates double taxation of this refund amount and therefore is **not** a tax expenditure.

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## DISALLOWED INTEREST EXPENSE

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**STATUTE:** W.Va. Code §11-24-6(c)(4)

**EXCLUSION:** The full amount of interest expense actually disallowed in determining federal taxable income which was incurred or continued to purchase or carry obligations or securities of any State or of any political subdivision thereof.

**VALUE:** **\$80,000 per year**

### Rationale

This expenditure exists in recognition that the identified interest expense is a normal business expense at the State and local government level. Interest income from State and municipal government securities is excluded from income for federal income tax purposes due to the intergovernmental immunity principle. Since it is not included in income for federal income tax purposes, the interest expense related to exempt obligations is disallowed as a deduction at the federal level.

West Virginia requires Taxpayers to make an increasing modification to federal taxable income for State income tax purposes for interest or dividends received from any State or local bonds or securities. While recognizing the interest received on State and local securities as income, this expenditure identifies the expenses incurred in holding or carrying these securities as legitimate business expenses for State tax purposes.

West Virginia provides a modification to taxable income for its own obligations and those of its political subdivisions. This expenditure is analyzed later in this section.

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## SECTION 78 DIVIDENDS RECEIVED FROM FOREIGN CORPORATIONS

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**STATUTE:** W.Va. Code §11-24-6(c)(5)

**EXCLUSION:** The amount required to be added to federal taxable income as a dividend received from a foreign (non-United States) corporation under Section 78 of the Internal Revenue Code of 1986, as amended, by a corporation electing to take the foreign tax credit for federal income tax purposes.

**VALUE:** **\$10.1 million per year**

### Rationale

This expenditure exists to preclude double taxation, once by the State and once by a foreign country. Section 78 dividends are dividends received from a foreign corporation by a corporation that elects to take the foreign tax credit.

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## SALARY EXPENSE NOT ALLOWED AS A FEDERAL DEDUCTION

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**STATUTE:** W.Va. Code §11-24-6(c)(6)

**EXCLUSION:** There shall be subtracted from federal taxable income to the extent included therein: The amount of salary expenses disallowed as a deduction for federal income tax purposes due to claiming the federal jobs credit under Section 51 of the Internal Revenue Code of 1986, as amended.

**VALUE:** **\$400,000 per year**

### Rationale

Taxpayers claiming a Federal Work Opportunity Tax Credit (formerly the Federal Jobs Credit) on the federal Corporation Net Income Tax return must reduce their salary expense deduction for federal tax purposes by the total of salaries upon which the credit is calculated. West Virginia, however, does not offer a similar credit. Therefore, such salary expenses are a legitimate business deduction for State tax purposes.

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## SUBPART F INCOME

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**STATUTE:** W.Va. Code §11-24-6(c)(7)

**EXCLUSION:** The amount included in federal adjusted gross income by the operation of Section 951 of the Internal Revenue Code of 1986, as amended.

**VALUE:** **\$9.2 million per year**

### Rationale

This expenditure exists to preclude double taxation, once by the State and once by a foreign country. Subpart F income is composed of earnings and profits of controlled foreign corporations exclusive of any income from sources within the United States.

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## EMPLOYER CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS

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**STATUTE:** W.Va. Code §11-24-6(c)(8)

**EXCLUSION:** Employer contributions to medical savings accounts established pursuant to section fifteen, article sixteen, chapter thirty-three of the W.Va. Code to the extent included in federal adjusted gross income for federal income tax purposes less any portion of employer contributions withdrawn for purposes other than payment of medical expenses.

**VALUE:** **\$0 per year**

### Rationale

This expenditure exists to encourage the formation and use of medical savings accounts.

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## FOREIGN SOURCE INCOME

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<b>STATUTE:</b>	W.Va. Code §11-24-6(c)(9)
<b>EXCLUSION:</b>	Any amount included in federal adjusted gross income which is foreign source income.
<b>VALUE:</b>	<b>\$21.7 million per year</b>

### Rationale

This exclusion exists to preclude double taxation, once by the State and once by a foreign country. A decreasing modification is allowed for foreign source income, as defined, if it was included in federal taxable income, less attributable expenses.

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## WEST VIRGINIA WATER OR AIR POLLUTION CONTROL FACILITIES

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<b>STATUTE:</b>	W.Va. Code §11-24-6(e)
<b>EXCLUSION:</b>	If the Taxpayer so elects under W.Va. Code §11-24-6(e)(2), there shall be: Subtracted from federal taxable income the total of the amounts paid or incurred during the taxable year for the acquisition, construction or development within this State of water pollution control facilities or air pollution control facilities as defined in Section 169 of the Internal Revenue Code; and (B) Added to federal taxable income the total of the amounts of any allowances for depreciation and amortization of the water pollution control facilities or air pollution control facilities, as so defined, to the extent deductible in determining federal taxable income.
<b>VALUE:</b>	<b>Cannot be disclosed<sup>2</sup></b>

### Rationale

This expenditure exists to encourage investment in water and air pollution control devices in West Virginia. Deducting the full cost of pollution control devices in a single year provides a greater benefit to the Taxpayer than a normal depreciation allowance. Facility modifications are often necessary to comply with various Federal pollution control regulations.

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<sup>2</sup> Due to Taxpayer confidentiality.



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## FEDERAL OBLIGATIONS

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<b>STATUTE:</b>	W.Va. Code §11-24-6(f)(1)(A)
<b>ADJUSTMENT:</b>	West Virginia taxable income is reduced by an amount equal to share of total assets attributable to securities or obligations of the United States Government or its instrumentalities.
<b>VALUE:</b>	<b>\$50,000 per year</b>

### Rationale

This modification exists for compliance with the immunity of the federal government and its instrumentalities from State taxation. Codified in federal statutes, the prohibition reads in part as follows:

“Except as otherwise provided by law, all stocks, bonds, Treasury notes and other obligations of the United States, shall be exempt from taxation by . . . other State or municipal or local authority.”

The statute was revised in 1959 to provide an exception for nondiscriminatory franchise taxes imposed on corporations. The West Virginia Corporation Net Income Tax is a direct tax on net income. Thus, the State cannot subject federal obligations to the tax. If legislative action repealing the above cited adjustment would be enacted, the prohibition against taxation would still exist. Therefore, this modification is **not** a tax expenditure.

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## WEST VIRGINIA OBLIGATIONS

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<b>STATUTE:</b>	W.Va. Code §11-24-6(f)(1)(B)
<b>ADJUSTMENT:</b>	West Virginia taxable income is reduced by an amount equal to share of total assets attributable to West Virginia State government securities or obligations.
<b>VALUE:</b>	<b>\$110,000 per year</b>

### Rationale

The purpose of this expenditure is presumably to reduce the cost of borrowed money for West Virginia and local governments. An adjustment to taxable income for government securities reduces the cost of holding government obligations. The reduced cost makes the securities more attractive to investors and thus makes the marketing of State and local bonds easier. If the security instruments are easier to sell, the governmental unit selling the securities can obtain financing at lower interest rates.

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## INVESTMENTS SECURED BY MORTGAGES AND LOANS ON RESIDENTIAL PROPERTY

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<b>STATUTE:</b>	W.Va. Code §11-24-6(f)(1)(C) and 11-24-6(f)(1)(D)
<b>ADJUSTMENT:</b>	West Virginia taxable income is reduced by an amount equal to share of total assets attributable to residential mortgage securities related to West Virginia residential property.
<b>VALUE:</b>	<b>\$600,000 per year</b>

### Rationale

This expenditure exists to encourage investments or loans on West Virginia residential property occupied by non-transients. The preferential treatment for these obligations presumably lowers the cost of the investment instruments by reducing the tax imposed on the income from the loans. The intention is for part of the reduced cost in holding the identified securities to be passed on to the loan recipients. Thus, housing may be more affordable.

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## QUALIFIED OPPORTUNITY BUSINESS INCOME

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<b>STATUTE:</b>	W.Va. Code §11-24-6b
<b>ADJUSTMENT:</b>	West Virginia taxable income is reduced by an amount equal to net income included in federal taxable income by a corporate taxpayer in a taxable year that is ordinary income derived from a qualified opportunity zone business located in a qualified opportunity zone located in West Virginia.
<b>VALUE:</b>	<b>Cannot be disclosed<sup>3</sup></b>

### Rationale

The purpose of this expenditure is to encourage individuals and businesses to invest in certain rural and low-income urban communities through qualified opportunity zone projects. West Virginia has designated 55 census tracts in 30 counties as qualified opportunity zones, which included both larger cities and small towns. Qualified opportunity zones were part of the Tax Cuts and Jobs Act of 2017 and were included in this specific federal tax reform legislation passed by Congress to encourage economic growth in neglected areas of the United States that had a high demand for capital investments.

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<sup>3</sup> Due to Taxpayer confidentiality.

## MODIFICATION DECREASING WEST VIRGINIA TAXABLE INCOME

One modification to West Virginia taxable income is available to corporations. The decreasing modification to West Virginia taxable income is a Net Operating Loss Deduction. An analysis of this expenditure follows.

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### WEST VIRGINIA NET OPERATING LOSS DEDUCTION

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**STATUTE:** W.Va. Code §11-24-6(d)

**DEDUCTION:** There is allowed as a deduction for the taxable year an amount equal to the aggregate of: (1) The West Virginia net operating loss carryovers to that year; plus (2) the net operating loss carrybacks to that year: Provided, that no more than three hundred thousand dollars of net operating loss from any taxable year beginning after the thirty-first day of December, one thousand nine-hundred ninety-two may be carried back to any previous taxable year.

**VALUE:** **\$230.0 million per year**

#### Rationale

This expenditure exists to extend the concept of “net income” across multiple years and thus reduce the tax liability of corporations that experience “net losses.” In some years, the normal business expenses of a corporation may be greater than income, thus resulting in a “net loss.” The carryback and/or carryforward provisions of the net operating loss statute permit the corporation to apply the loss (deductions in excess of income) to other tax years where income exceeded deductions. Thus, instead of the activities of a single year determining taxable income, calculation of taxable income may be based, in part, on activities from other years. The West Virginia net operating loss deduction is only available to corporations with business operations located in the State and that filed Corporation Net Income Tax returns in previous tax years. A net operating loss deduction of a multi-state corporation is subject to West Virginia allocation and apportionment rules. Except for the provision limiting the amount of carryback, West Virginia generally follows Section 172 of the Internal Revenue Code of 1986, as amended.<sup>4</sup>

The Tax Cuts and Jobs Act made changes to the Net Operating Loss Deduction. For tax years beginning on or before December 31, 2017, net operating losses could be carried back two years and carried forward twenty years with no taxable income limitation. For tax years ending after December 31, 2017, there is no carryback for net operating losses. The Net Operating Loss Deduction is limited to 80 percent of taxable income and can be carried forward indefinitely.

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<sup>4</sup> W.Va. Code §11-24-3 provides that terms used in W.Va. Code §11-24 “shall have the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required by context or definition ...” The statute defines the term “Internal Revenue Code of 1986” as the Internal Revenue Code of the United States enacted by the Federal Tax Reform Act of 1986. The 1986 act provided that net operating losses could be carried back for three years and carried forward for fifteen. However, the Taxpayer Relief Act of 1997 provides for carry back of two years and carry forward of twenty years. Additionally, the American Recovery and Reinvestment Act of 2009 provides that small businesses may carry back losses for five years.

## CREDITS

W.Va. Code provides for the application of various tax credits against the Corporation Net Income Tax. Some credits provide qualifying businesses with an investment or employment incentive. Others provide relief from double taxation or compensation to utilities providing aid to low-income households. These tax credits are listed below.

### ECONOMIC DEVELOPMENT TAX CREDITS

- Economic Opportunity Tax Credits
- Downstream Natural Gas Manufacturing Investment Tax Credit
- High-Wage Growth Business Tax Credit
- Small Arms and Ammunition Manufacturers Credit
- Post-Coal Mine Site Business Credit

### EMPLOYMENT TAX CREDITS

- Apprenticeship Training Tax Credit
- Military Incentive Tax Credit

### CREDITS THAT AID LOW-INCOME FAMILIES

- Credit for Reducing Utility Charges to Low-Income Families
- Credit for Reducing Telephone Charges to Low-Income Families

### MISCELLANEOUS TAX CREDITS

- Neighborhood Investment Program Credit
- Environmental Agricultural Equipment Tax Credit
- Film Industry Investments Tax Credit
- Manufacturing Property Tax Adjustment Credit
- Innovative Mine Safety Technology Tax Credit
- Farm to Food Bank Tax Credit
- Tax Credit for Donation or Sale of Vehicle
- Natural Gas Liquids Property Tax Adjustment Credit
- Credit for Utility Taxpayers with Net Operating Loss Carryovers
- Historic Rehabilitated Buildings Investment Credit

### EXPIRED AND TERMINATED TAX CREDIT

- Strategic Research and Development Tax Credit

Many of the credits listed above may also be applied against other business and personal taxes. Expenditure values presented in this section represent the amounts applied against only Corporation Net Income Tax. Often, the credit claimed against the Corporation Net Income Tax has been reduced by the application of the credit against other taxes according to the priority order specified by statute or regulations. Thus, the credit amounts claimed against Corporation Net Income Tax may be negligible compared to the total cost of the credit taken against all taxes. An analysis of these expenditures follows.

## **ECONOMIC DEVELOPMENT TAX CREDITS**

Economic Development Tax Credits exist to promote business expansion in the State. Such credits require either creation of employment or capital outlays for certain qualified investments to qualify.

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### **ECONOMIC OPPORTUNITY TAX CREDITS**

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**STATUTE:** W.Va. Code §11-13Q

**CREDIT:** The Economic Opportunity Tax Credits generally promote job creation and investment within the State through capital incentives.

**VALUE:** **\$4.1 million per year**

#### **Rationale**

The Economic Opportunity Tax Credits are incentives designed to promote job creation through capital investment. These credits generally represent a capital investment tax credit pro-rated over a 10-year period for businesses engaged in the activities of manufacturing, information processing, warehousing, goods distribution exclusive of retail, destination-oriented recreation and tourism, research and development, and the relocation of a corporate headquarters. The share of qualified capital investment subject to tax credit is based on the number of new jobs created as the result of the additional capital investment. The share of total payroll represented by the new employees determines the share of total tax liability offset by tax credit. A minimum number of new jobs must be created and maintained to gain entitlement to tax credit benefits.

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### **MANUFACTURING INVESTMENT TAX CREDIT**

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**STATUTE:** W.Va. Code §11-13S

**CREDIT:** The Manufacturing Investment Tax Credit promotes the expansion, growth and revitalization of industrial facilities in the State through a capital investment incentive.

**VALUE:** **\$3.0 million per year**

#### **Rationale**

The Manufacturing Investment Tax Credit is an incentive designed to promote manufacturing expansion and revitalization through capital investment. The tax credit equals 5 percent of qualified capital investment pro-rated over a 10-year period for businesses engaged in the activity of manufacturing. The tax credit may offset up to 60 percent of the West Virginia Corporation Net Income Tax liability of the qualified manufacturing entity.

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**DOWNSTREAM NATURAL GAS MANUFACTURING INVESTMENT TAX CREDIT**

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**STATUTE:** W.Va. Code §11-13GG

**CREDIT:** The Downstream Natural Gas Manufacturing Investment Tax Credit is an incentive for eligible taxpayers to make a qualified investment in a new or expanded downstream natural gas manufacturing facility in West Virginia that results in the creation of at least five new jobs.

**VALUE:** \$0

**Revenue Analysis**

The Downstream Natural Gas Manufacturing Investment Tax Credit is a relatively new credit that was passed during the 2020 Legislative Session. As of November 2022, there are no known applicants for this credit.

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**HIGH-WAGE GROWTH BUSINESS TAX CREDIT**

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**STATUTE:** W.Va. Code §11-13II

**CREDIT:** The High-Wage Tax Credit provides a payroll incentive to an eligible business for creating ten or more new high-paying jobs.

**VALUE:** \$0

**Revenue Analysis**

The High-Wage Growth Tax Credit is a relatively new credit that was passed during the 2020 Legislative Session. As of November 2022, there has been one application received for this credit, but it has not yet been awarded.

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**SMALL ARMS AND AMMUNITION MANUFACTURERS CREDIT**

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**STATUTE:** W.Va. Code §11-13KK

**CREDIT:** The Small Arms and Ammunition Manufacturers Credit encourages investment in the manufacturing of small arms and ammunition in West Virginia.

**VALUE:** \$0

**Revenue Analysis**

The Small Arms and Ammunition Manufacturers Credit is a relatively new credit that was passed during the 2021 Legislative Session. As of November 2022, there are no known applicants for this credit.

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**POST-COAL MINE SITE BUSINESS CREDIT**

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**STATUTE:** W.Va. Code §11-28

**CREDIT:** The Post-Coal Mine Site Business Credit is an incentive for eligible businesses to locate on post-coal mine site by providing for five-year tax credits.

**VALUE:** \$0

**Revenue Analysis**

The Post-Coal Mine Site Business Credit is a relatively new credit that was passed during the 2019 Legislative Session. As of November 2022, there are no known applicants for this credit.

## EMPLOYMENT TAX CREDITS

Employment Tax Credits generally exist to encourage employee training and the hiring of certain individuals, such as qualified unemployed veterans or other military personnel.

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### APPRENTICESHIP TRAINING TAX CREDIT

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<b>STATUTE:</b>	W.Va. Code §11-13W
<b>CREDIT:</b>	The Apprenticeship Training Tax Credit promotes on-the-job training of construction trade apprentices.
<b>VALUE:</b>	<b>\$50,000 per year</b>

#### Rationale

The Apprenticeship Training Tax Credit provides qualified construction trade employers with a \$2 per hour tax credit for the training of an apprentice up to a maximum of \$2,000 per year or 50 percent of wages paid to such person, whichever is less. The tax credit may provide some incentive for additional training of apprentices.

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### MILITARY INCENTIVE TAX CREDIT

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<b>STATUTE:</b>	W.Va. Code §11-24-12
<b>CREDIT:</b>	Military Incentive Credit promotes the hiring of veterans and National Guard members.
<b>VALUE:</b>	<b>\$0 per year</b>

#### Rationale

The Military Incentive Tax Credit provides employers who hire a qualified unemployed member of the West Virginia National Guard and reserve forces or unemployed disabled veteran with a one-time employment tax credit generally equal to either 25 percent of up to the first \$5,000 in wages paid during the year or the disability percentage multiplied by the first \$5,000 of wages paid a qualified disabled veteran. The program is administered by Workforce West Virginia.



## CREDITS THAT AID LOW-INCOME FAMILIES

These credits are a form of government assistance for aiding low-income households. Public utilities and local telephone companies are compensated for the value of rate reductions to low-income customers through these tax credit programs.

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### CREDIT FOR REDUCING UTILITY CHARGES TO LOW-INCOME FAMILIES

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<b>STATUTE:</b>	W.Va. Code §§11-13F and 11-24-11
<b>CREDIT:</b>	These credits are a form of government assistance for aiding low-income households.
<b>VALUE:</b>	<b>\$0 per year</b>

#### Rationale

This is a credit against the tax on the cost of providing electric, natural gas, or water utility services at reduced rates to qualified low-income residential customers that have not been reimbursed by any other means.

#### Revenue Analysis

The cost is \$0 against Corporation Net Income Tax because roughly \$8.0 million in program costs are fully absorbed by Taxpayers taking the credit against Business and Occupation Tax.

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### CREDIT FOR REDUCING TELEPHONE CHARGES TO LOW-INCOME FAMILIES

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<b>STATUTE:</b>	W.Va. Code §§11-13G and 11-24-11a
<b>CREDIT:</b>	These credits are a form of government assistance for aiding low-income households.
<b>VALUE:</b>	<b>\$0 per year</b>

#### Rationale

This credit is allowed against the primary tax liability of an eligible Taxpayer for the cost of providing wireline telephone services at special reduced rates to qualified low-income residential customers who have not been reimbursed by any other means

#### Revenue Analysis

No credit has been claimed in recent years. The tax credit is provided to wire-lines services by regulated public utilities.

## MISCELLANEOUS TAX CREDITS

Miscellaneous Tax Credits exist to incentivize investments in a variety of activities, such as increasing charitable contributions, promoting purchases of environmentally friendly agricultural equipment, and encouraging rehabilitation of certain properties.

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### NEIGHBORHOOD INVESTMENT PROGRAM CREDIT

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**STATUTE:** W.Va. Code §11-13J

**CREDIT:** The Neighborhood Investment Program Credit provides qualified Taxpayers with a tax credit equal to 50 percent of charitable contributions made to an approved organization.

**VALUE:** **\$60,000 per year**

#### Rationale

The Neighborhood Investment Program Credit provides qualified contributing Taxpayers with a tax credit equal to 50 percent of charitable contributions made to an approved organization that received project approval along with an allotment of tax credits from the West Virginia Development Office based on recommendations from a neighborhood investment advisory board. The Taxpayer may use credits received from a qualifying organization to offset up to 50 percent of income tax liability. The minimum contribution for purposes of the tax credit is \$500 per year and the maximum contribution is \$200,000 per year. Excess tax credits may be carried forward for a period of up to four additional years. The total maximum amount of tax credit allocated by the State in any given year is limited to \$3 million. The Program may stimulate additional giving for tax credit eligible charitable projects.

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### ENVIRONMENTAL AGRICULTURAL EQUIPMENT TAX CREDIT

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**STATUTE:** W.Va. Code §11-13K

**CREDIT:** The Environmental Agricultural Equipment Tax Credit provides eligible Taxpayers with an incentive to purchase certain types of “environmentally friendly” agricultural equipment.

**VALUE:** **Minimal**

#### Rationale

The Environmental Agricultural Equipment Tax Credit provides eligible Taxpayers with an incentive to purchase certain types of “environmentally friendly” agricultural equipment. The tax credit equals 25 percent of the purchase price of qualified machinery up to a maximum of \$2,500 for purchases in a single year with a maximum carryover period of five years.

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## FILM INDUSTRY INVESTMENT TAX CREDIT

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<b>STATUTE:</b>	W.Va. Code §11-13X
<b>CREDIT:</b>	The Film Industry Incentive Tax Credit promotes film or audiovisual projects in West Virginia.
<b>VALUE:</b>	<b>\$0</b>

### Rationale

The Film Industry Investment Tax Credit is an incentive designed to promote the film industry in West Virginia through partial reimbursement of qualified film expenditures through marketable tax credits.

### Revenue Analysis

The Film Industry Investment Tax Credit was terminated effective January 16, 2018, and no new Film Tax credits were authorized after January 16, 2018. Film Tax credits issued prior to that date could be claimed through the second taxable year after the taxable year in which the expenditure occurred.

The Film Industry Investment Tax Credit was reinstated for taxable years beginning on and after July 1, 2022 with a sunset date of December 31, 2027. The reinstated credit has no statutory cap and the credit can be sold or transferred. Therefore, the impact of the credit could become significant in future years. Film credits are valid for two taxable years after the taxable year in which the expenditures were made.

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## MANUFACTURING PROPERTY TAX ADJUSTMENT CREDIT

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<b>STATUTE:</b>	W.Va. Code §11-13Y
<b>CREDIT:</b>	The Manufacturing Property Tax Adjustment Credit provides West Virginia manufacturers with a state tax credit equal to the amount of local West Virginia property taxes paid on manufacturing inventory.
<b>VALUE:</b>	<b>\$3.5 million per year</b>

### Rationale

The Manufacturing Property Tax Adjustment Credit provides West Virginia manufacturers with a State tax credit equal to the amount of local West Virginia property taxes paid on manufacturing inventory. The State effectively pays a portion of the local property tax bill out of State funds. The current State Constitution requires assessment and collection of local property taxes on business inventory, including certain manufacturing inventories. Voters approved a narrow Constitutional Amendment in 1984 that removed the inventory tax from unaltered inventory destined for export outside of this State. However, other business inventories remain subject to the local property tax. There are currently fourteen states imposing property tax on certain business inventories, including Kentucky, Maryland, Virginia, and West Virginia. Nine states currently impose property

taxes on manufacturing inventory, including Arkansas, Kentucky, Louisiana, Massachusetts, Mississippi, Oklahoma, Texas, Virginia, and West Virginia.

### Revenue Analysis

Legislation enacted during the 2021 Session changed the current four-factor apportionment formula for most multi-state businesses to a single sales factor formula effective for tax years beginning on and after January 1, 2022. In addition, market-based sourcing for sales other than sales of tangible personal property was adopted for sales made on or after January 1, 2022. The combined effect of these legislative changes could potentially reduce the tax liability of many West Virginia manufacturers and therefore reduce their ability to use the Manufacturing Property Tax Adjustment Credit.

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#### INNOVATIVE MINE SAFETY TECHNOLOGY TAX CREDIT

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**STATUTE:** W.Va. Code §11-13BB

**CREDIT:** The Innovative Mine Safety Technology Tax Credit provides West Virginia coal mining companies with a State tax credit equal to 50 percent of the purchase cost of qualified safety equipment.

**VALUE:** **\$0 per year**

#### Rationale

The Innovative Mine Safety Technology Tax Credit provides West Virginia coal mining companies with a State tax credit equal to 50 percent of the purchase cost of qualified safety equipment. The Office of Miners' Health Safety and Training, pursuant to applications for the tax credit, may allocate no more than \$2 million of Innovative Mine Safety Technology Tax Credit per fiscal year. No one taxpayer may be allocated more than \$100,000 in credit in any given year. The tax credit is intended to promote new investment in innovative coal mine safety technology.

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#### FARM TO FOOD BANK TAX CREDIT

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**STATUTE:** W.Va. Code §11-13DD

**CREDIT:** The credit is equal to 30 percent of the value of the donated edible agricultural products.

**VALUE:** **Minimal**

#### Rationale

A tax credit is available to farmers who make donations of edible agricultural products to one or more nonprofit food programs in West Virginia. The credit is equal to 30 percent of the value of the donated edible agricultural products, not to exceed \$5,000 during a taxable year. Any credit remaining after application against the taxpayer's tax liabilities for the current year may be carried forward to the next four taxable years. No more than \$200,000 of tax credits may be allocated in any fiscal year. Tax credits are allocated in the order in which the donation forms are received.

The purpose of the credit is to promote fresh, healthy, and local agricultural products for food banks and to provide an incentive for farmers to donate to food banks in this state.

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### **TAX CREDIT FOR DONATION OR SALE OF VEHICLE**

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**STATUTE:** W.Va. Code §11-13FF

**CREDIT:** The credit is either 50 percent of the program value of a vehicle donated to a qualified charitable organization or, for vehicles sold by dealers, 50 percent of the difference between the program value of the vehicle and the reduced sales price.

**VALUE:** \$0

#### **Rationale**

A tax credit is available to Taxpayers who donate a vehicle to a qualified charitable organization in this state of 50 percent of the determined program value up to \$2,000. The credit is also available to licensed motor vehicle dealers that sell a vehicle at a reduced sales price to low-income workers through a program administered by a qualified charitable organization. The credit for licensed motor vehicle dealers is 50 percent of the difference between the program value of the vehicle and the reduced sales price up to \$2,000. The purpose of the credit is to assist low-income workers in obtaining reliable transportation.

#### **Revenue Analysis**

The Donation or Sale of Vehicle Tax Credit is effective for donations occurring after December 31, 2020. Therefore, no claims were made against the Corporation Net Income Tax in Tax Year 2020. The impact of the credit to General Revenue Fund collections was originally estimated to be up to \$1.0 million per year for both Corporation Net Income Tax and Personal Income Tax combined.

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### **NATURAL GAS LIQUIDS PROPERTY TAX ADJUSTMENT CREDIT**

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**STATUTE:** W.Va. Code §11-13HH

**CREDIT:** The Natural Gas Liquids Property Tax Adjustment Credit provides natural gas liquid storers or transporters with a State tax credit equal to the amount of the West Virginia ad valorem property tax paid on the value of natural liquids inventory and equipment.

**VALUE:** \$0

#### **Rationale**

The Natural Gas Liquids Property Tax Adjustment Credit was created as part of the Natural Gas Liquids Economic Development Act to encourage the development of these businesses in West Virginia. The credit provides eligible West Virginia natural gas liquid storers and transporters with

a state tax credit equal to the amount of local West Virginia property taxes paid on the value of natural gas liquids inventory and equipment.

### Revenue Analysis

The Natural Gas Liquids Property Tax Adjustment Credit is effective for tax years beginning on or after July 1, 2020. However, no claims were made against the Corporation Net Income Tax in Tax Year 2020. The impact of the credit to General Revenue Fund collections was estimated to be \$500,000 per year for both Corporation Net Income Tax and Personal Income Tax combined.

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#### **CREDIT FOR UTILITY TAXPAYERS WITH NET OPERATING LOSS CARRYOVERS**

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**STATUTE:** W.Va. Code §11-24-11b

**CREDIT:** This credit seeks to preserve a portion of value to electric utility Taxpayers with net operating loss carryovers lost due to tax rate reductions.

**VALUE:** **\$0 per year**

#### Rationale

This credit was designed to preserve a portion of the value of net operating loss assets of regulated utility companies to offset valuation losses due to reduction of the State Corporation Net Income Tax rate.

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#### **HISTORIC REHABILITATED BUILDINGS INVESTMENT CREDIT**

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**STATUTE:** W.Va. Code §11-24-23a

**CREDIT:** The Historic Rehabilitated Buildings Investment Credit is available to qualified rehabilitated building projects located in West Virginia that also qualify for the 20 percent federal historic rehabilitation tax credit.

**VALUE:** **\$800,000 per year<sup>5</sup>**

#### Rationale

The Historic Rehabilitated Buildings Investment Credit is available to qualified rehabilitated building projects located in West Virginia that also qualify for the 20 percent federal historic rehabilitation tax credit. Prior to January 1, 2018, the State tax credit equaled 10 percent of qualified expenditures for historic rehabilitation as approved by the West Virginia Division of Culture and History and designated by the National Park Service as a “certified historic structure.” Effective January 1, 2018, the State tax credit was increased to 25 percent of the qualified expenditures. The West Virginia tax credit can be transferred or sold to other Taxpayers. The tax credit was intended to promote historic building rehabilitation.

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<sup>5</sup> This is an average value due to variations in claims year-to-year.

## **Revenue Analysis**

The value of the credit to Taxpayers was significantly enhanced through the increase of the credit percentage from 10 percent to 25 percent and the allowance of phased projects. This change will encourage larger multi-phase projects which will likely expand the use and resulting cost of the tax credit in future years.

## EXPIRED AND TERMINATED CREDIT

Tax credits are not always available in perpetuity. Some credits include an expiration date when the statute is enacted. Others are terminated by enactment of legislation.

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### STRATEGIC RESEARCH AND DEVELOPMENT TAX CREDIT

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**STATUTE:** W.Va. Code §11-13R

**CREDIT:** The Strategic Research and Development Tax Credit was available to qualified Taxpayers who conducted qualified research and development projects in West Virginia.

**VALUE:** **Cannot be disclosed**<sup>6</sup>

#### Rationale

The Strategic Research and Development Tax Credit was available to qualified Taxpayers who conducted qualified research and development projects in West Virginia. The tax credit equaled the greatest of 3 percent of annual qualified expenditures or 10 percent of annual qualified expenditures in excess of the prior three-year average. This program was terminated for any tax year after December 31, 2013.

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<sup>6</sup> Due to Taxpayer confidentiality.



# PERSONAL INCOME TAX

## OVERVIEW

The Personal Income Tax is the largest source of revenue for West Virginia. This tax is imposed on the West Virginia taxable income of resident individuals, estates, and trusts regardless of where income is earned. Nonresident individuals, estates, and trusts are also subject to the tax on income received from West Virginia sources. Corporations, partnerships (but not partners), other entities treated like partnerships for federal income tax purposes, and certain trusts and associations are exempt from West Virginia Personal Income Tax. While estates and trusts are taxed under the Personal Income Tax statute, related tax liability is calculated on the Fiduciary Income Tax return, not the Personal Income Tax return. For the purposes of this study, the Personal Income Tax sections deal with income tax on individuals while the Fiduciary Income Tax sections deal with income tax on estates and trusts.

For individuals, computation of West Virginia taxable income begins with federal adjusted gross income. West Virginia adjusted gross income is determined by application of various State modifications increasing or decreasing federal adjusted gross income. To determine West Virginia taxable income, the Taxpayer then takes a deduction based on the number of personal exemptions that could have been claimed on the federal return under federal rules in place prior to 2018.

Unlike the tax on individuals, federal taxable income is the starting point for the calculation of the West Virginia Fiduciary Income Tax for estates and trusts. West Virginia taxable income is derived after specific increasing or decreasing modifications are made to federal taxable income. The rate schedule for both resident and nonresident estates and trusts is the same as Personal Income Tax rates for all Taxpayers, except for married Taxpayers filing separate returns.

Personal Income Tax and Fiduciary Income Tax rates differ with each taxable income category. Although the rates increase as taxable income increases, each marginal rate is independent of every other rate. The following tables provide these tax rates.

### West Virginia Tax Rate Schedule

#### All Taxpayers Excluding Married Filing Separately

TAXABLE INCOME		TAX LIABILITY		
Over	Not Over	Base Tax	Plus	Over
\$0	\$10,000	\$0.00	3.0%	\$0
\$10,000	\$25,000	\$300.00	4.0%	\$10,000
\$25,000	\$40,000	\$900.00	4.5%	\$25,000
\$40,000	\$60,000	\$1,575.00	6.0%	\$40,000
\$60,000		\$2,775.00	6.5%	\$60,000

## West Virginia Tax Rate Schedule

### Married Filing Separately Only

TAXABLE INCOME		TAX LIABILITY		
Over	Not Over	Base Tax	Plus	Over
\$0	\$5,000	\$0.00	3.0%	\$0
\$5,000	\$12,500	\$150.00	4.0%	\$5,000
\$12,500	\$20,000	\$450.00	4.5%	\$12,500
\$20,000	\$30,000	\$787.50	6.0%	\$20,000
\$30,000		\$1,387.50	6.5%	\$30,000

## ORGANIZATION AND ANALYSIS

The Personal Income Tax expenditures discussed in this report are divided into six groups:

- Exclusions;
- Exemptions;
- Decreasing Modifications;
- Federally Mandated Exemptions;
- Other Decreasing Modifications; and
- Credits.

The analysis provided for each tax expenditure includes a cost to the State and a rationale for each item.

## EXCLUSIONS

The existence of Personal Income Tax exclusions reduces West Virginia taxable income by reductions to federal adjusted gross income. Such exclusions include a variety of federal above the line exclusions and those benefitting low-income Taxpayers.

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### FEDERAL ABOVE THE LINE EXCLUSIONS

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Computation of West Virginia taxable income begins with federal adjusted gross income. For that reason, items excluded from the definition of federal adjusted gross income are also excluded for West Virginia Personal Income Tax purposes, unless specific additions are included in the W.Va. Code. Some of these exclusions include:

- Nontaxable Social Security Benefits;<sup>7</sup>
- Nontaxable Tier I Railroad Retirement Benefits;<sup>8</sup>
- Workers' Compensation Benefits;
- Veterans' Benefits and Services;
- Life Insurance Death Benefits;
- Contributions to 401K Plans;
- Interest on West Virginia or Municipal Tax-Exempt Bonds;
- Income Earned Abroad by U.S. Citizens;
- Capital Gains on Home Sales;
- Deferral for Reinvesting Scholarship and Fellowship Income;
- Employee Meals and Lodging;
- Employer Contributions for Medical Insurance and Care and Pensions;
- Employer-Provided Child Care;
- Benefits and Allowances to Armed Forces Personnel;
- Combat Pay Received for Desert Shield Service;<sup>9</sup>
- Employer-Paid Premiums on Life, Disability, and Accident Insurance;
- Capital Gains at Death;
- Expensing of Capital Outlays for Farm Income Stabilization; and
- Research and Development Costs.

This list is not all-inclusive. The estimated revenue loss from the above-mentioned list is \$400.0 million per year.

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<sup>7</sup> A portion of a Taxpayer's Social Security benefits or equivalent Tier I Railroad Retirement benefits may be taxable for federal income tax purposes and therefore included in federal adjusted gross income. The amount of benefits that are taxable is based on the Taxpayer's combined income over a specified base amount. The base amount is one of the following:

1. \$32,000 for married Taxpayers filing jointly;
2. \$0 for married Taxpayers filing separately; or
3. \$25,000 for all other Taxpayers.

<sup>8</sup> *Ibid*

<sup>9</sup> Under W.Va. Code §11-12-12b, combat pay received for Desert Shield service, as defined in Section 61 of that Article, which is exempt from federal income tax under Section 112 of the Internal Revenue Code, is exempt from Personal Income Tax.

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## FEDERAL ABOVE THE LINE ADJUSTMENTS

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Computation of West Virginia taxable income begins with federal adjusted gross income. For that reason, income adjustments prior to the calculation of federal adjusted gross income are also excluded for West Virginia Personal Income Tax purposes, unless specific additions are included in the W.Va. Code. Some of these adjustments include:

- Deductible Contributions to Individual Retirement Accounts (IRAs) and Keogh Accounts;
- The 50 Percent Self-Employment Tax Exclusion;
- The Self-Employed Health Insurance Deduction;
- The Self-Employed SEP Deduction;
- Health Savings Account Deduction;
- Penalty On Early Withdrawal of Savings;
- Alimony Paid;
- Student Loan Interest Deduction;
- Educator Expense Deduction; and
- Tuition and Fees Deduction.

This list is not all-inclusive. The estimated revenue loss from the above-mentioned adjustments to federal income is \$26.5 million per year.

In addition to the exclusions listed above, West Virginia law allows the following exclusion to aid low-income families.

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## LOW INCOME EXCLUSION

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**STATUTE:** W.Va. Code §11-21-10

**EXCLUSION:** A deduction from federal adjusted gross income of the amount of earned income included, not to exceed \$10,000, except for a husband and wife filing separate returns whose exclusion cannot exceed \$5,000 each.

**VALUE:** **\$13.6 million per year**

### Rationale

The low-income exclusion exists to provide some tax relief to low-income Taxpayers. However, the deduction is only available to Taxpayers with total earned income below the statutory threshold.

### Revenue Analysis

The value noted above for this expenditure is the “gross value” which is the value calculated independently of other variables. The revenue impact of this expenditure is strongly affected by other expenditures discussed in this study such as personal exemptions, the Family Tax Credit, and the Senior Citizen income modification. Including these variables in the calculation would reduce the estimated “net value” of this expenditure to \$7.2 million per year.

## EXEMPTIONS

Any individual Taxpayer, whether resident or nonresident, is allowed a \$2,000 exemption for each personal exemption claimed on the federal return under federal rules in place prior to 2018. A surviving spouse is allowed one additional \$2,000 exemption for the two taxable years beginning after the death of his or her spouse. Individuals claimed as dependents on another's return can only take one \$500 exemption. Estates and trusts are allowed only one \$600 exemption. These exemptions include:

- Personal Exemption;
- Surviving Spouse Exemption;
- Exemption for Dependents Claimed on Another's Return; and
- Fiduciary Income Tax Exemption.

An analysis of these exemptions follows.

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### PERSONAL EXEMPTION

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<b>STATUTE:</b>	W.Va. Code §11-21-16(a)
<b>EXEMPTION:</b>	\$2,000 per personal exemption allowed.
<b>VALUE:</b>	<b>\$145.0 million per year</b>

#### Rationale

The personal exemption provides a tax deduction based on the number of people supported by the reported income. Additional exemptions are allowed for special circumstances (e.g., surviving spouse exemption). The personal exemption could possibly be seen as an allowance to reduce gross income. Such allowances increase the income threshold for income tax filing and provide some level of tax relief to low-income households and to families. In terms of a tax reduction, the value is greater per return at higher income levels.

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### SURVIVING SPOUSE EXEMPTION

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<b>STATUTE:</b>	W.Va. Code §11-21-16(c)
<b>EXEMPTION:</b>	One additional \$2,000 exemption allowed for a surviving spouse for two taxable years beginning after the death of a spouse.
<b>VALUE:</b>	<b>\$320,000 per year</b>

#### Rationale

This modification exists to help in the transition for the surviving spouse.

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**EXEMPTION FOR DEPENDENTS CLAIMED ON ANOTHER'S RETURN**

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<b>STATUTE:</b>	W.Va. Code §11-21-16(d)
<b>EXEMPTION:</b>	\$500 for individuals claimed as dependents on another's return.
<b>VALUE:</b>	<b>\$260,000 per year</b>

**Rationale**

Dependents claimed on another's return are not allowed a personal exemption for federal income tax purposes under federal rules in place prior to 2018. West Virginia allows a lower exemption for these individuals. The amount for this exemption is equal to the basic federal standard deduction for dependents claimed on another's return in 1987. This partial exemption benefits those dependents claimed on another's return, many of whom are students working part-time.

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**FIDUCIARY INCOME TAX EXEMPTION**

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<b>STATUTE:</b>	W.Va. Code §11-21-18(1)
<b>EXEMPTION:</b>	Exemption of \$600 for estates and trusts.
<b>VALUE:</b>	<b>\$90,000 per year</b>

**Rationale**

For simplicity, estates have the same exemption allowance as on the federal return. Since West Virginia's treatment of estates and trusts are similar, the same \$600 exemption is allowed for trusts. The exemption is in lieu of the federal deduction for estates and trusts.

## DECREASING MODIFICATIONS

In determining West Virginia taxable income, specific increases or decreases are made to federal adjusted gross income. Most income reduction modifications are tax expenditures. These modifications are available to some, but not all Taxpayers. Decreasing modifications discussed in this section include:

- Decreasing Modification for Resident Full-Time Military Personnel Stationed Outside West Virginia;
- Interest and Dividend Income from State or Local Obligations;
- State Income Tax Refunds;
- Decreasing Modification for Social Security Benefits;
- Decreasing Modification for Senior Citizens;
- Decreasing Modification for Disabled Persons;
- Decreasing Modification for Surviving Spouses;
- Decreasing Modification for Contributions to Medical Savings Accounts;
- Decreasing Modification for Contributions to West Virginia SMART529 Trust Fund;
- Decreasing Modification for Premiums for Long-Term Care Insurance Policies;
- Pension Benefit Guarantee Modification;
- Decreasing Modification for National Guard and Reserve Forces Called to Active Duty;
- Decreasing Modification for Active Duty Military Separation;
- Decreasing Modification for Contributions to Private Autism Trust Funds;
- Decreasing Modification for Contributions to Achieving a Better Life Experience (ABLE) Accounts
- Decreasing Modification for Qualified Opportunity Zone Business Income;
- Decreasing Modification for Assets Held by Subchapter S Corporations;
- Itemized Deductions for Fiduciaries;
- Pension Exclusions:
  - Federal Retirement System Benefits;
  - West Virginia Public Employees' Retirement System Benefits;
  - West Virginia Teachers' Retirement System Benefits;
  - State or Local Police or Firefighters' or Deputy Sheriffs' Retirement Systems Benefits;
  - Military Retirement Benefits; and
  - Railroad Retirement Benefits;
- Federally Mandated Exclusions:
  - Interest Income from United States Obligations for Personal Income Tax Purposes;
  - Interest Income from United States Obligations for Fiduciary Income Tax.

An analysis of these decreasing modifications follows.

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**DECREASING MODIFICATION FOR RESIDENT FULL-TIME MILITARY  
PERSONNEL STATIONED OUTSIDE WEST VIRGINIA**

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**STATUTE:** W.Va. Code §11-21-7

**EXCLUSION:** Exclusion for military income earned by military personnel who claim West Virginia as the individuals' State of residence but are stationed outside the State.

**VALUE:** **Cannot be determined**

**Rationale**

If a Taxpayer is a member of the United States military forces and the Taxpayer's domicile was in West Virginia at the time the person entered military service, then assignment to duty outside the State does not change the Taxpayer's West Virginia domicile. The member of the armed forces will be liable for West Virginia Personal Income Tax unless the following conditions are met:

1. The Taxpayer had no permanent place of abode in West Virginia during the taxable year; and
2. The Taxpayer did not spend more than 30 not necessarily consecutive days in West Virginia during the taxable year.

These Taxpayers, despite claiming West Virginia as the individuals' State of residence, were stationed elsewhere and did not live in West Virginia during the tax year. This is an implied modification based on an administrative interpretation of the definition of residency for Personal Income Tax purposes.

**Revenue Analysis**

The revenue loss associated with this decreasing modification could not be determined. Most full-time military personnel are not required to file West Virginia Personal Income Tax returns because such income is exempt from State taxation.

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**INTEREST AND DIVIDEND INCOME FROM STATE OR LOCAL OBLIGATIONS**

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**STATUTE:** W.Va. Code §11-21-12(c)(2)

**EXCLUSION:** Interest income on West Virginia obligations subject to federal tax but not State tax.

**VALUE:** **Minimal**

**Rationale**

Interest income from West Virginia obligations is excluded because these obligations represent funding for State and local projects. A tax on interest income increases the cost of borrowing.

Interest from most State and local obligations is excluded for federal income tax purposes. This income is usually not included in federal adjusted gross income, which is the starting point in



calculating West Virginia Personal Income Tax liability. The amount of interest from West Virginia obligations not already excluded in calculating federal adjusted gross income is small. Therefore, the revenue loss from excluding any other interest from State or local obligations is minimal.

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### **STATE INCOME TAX REFUNDS**

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**STATUTE:** W.Va. Code §11-21-12(c)(4)

**DEDUCTION:** Any refund or credit for overpayment of West Virginia income taxes or income taxes of any other taxing jurisdiction to the extent included in gross income for federal income tax purposes.

**VALUE:** **\$0.5 million per year**

#### **Rationale**

This decreasing modification is only for Taxpayers who itemized on prior year federal returns. For Taxpayers who itemize on their federal return, state and local income taxes withheld can be deducted on the federal return for the tax year in which the payments are made. The modification is based on the amount of income tax paid, not the tax liability. Therefore, any refund must be included in federal adjusted gross income for the tax year in which it is received. Since West Virginia does not allow a deduction for State and local income taxes paid, a refund included in federal adjusted gross income may be deducted for State purposes. This modification eliminates double taxation of the same income and therefore is **not** a tax expenditure.

#### **Revenue Analysis**

The value for this decreasing modification has declined due to the changes in the federal income tax standard deduction. Fewer taxpayers itemize their deductions for federal income tax purpose due to the significant increase in the federal standard deduction.

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## DECREASING MODIFICATION FOR SOCIAL SECURITY BENEFITS

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**STATUTE:** W.Va. Code §11-21-12(c)(8)

**EXCLUSION:** For taxable years beginning on and after January 1, 2020, 35 percent of the amount of social security benefits paid by the Social Security Administration as Old Age, Survivors and Disability Insurance Benefits as provided in §42 U.S.C. 401 et. seq. or as Supplemental Security Income for the Aged, Blind, and Disabled as provided in §42 U.S.C. 1381 et. seq., included in federal adjusted gross income for the taxable year shall be allowed as a decreasing modification.

For taxable years beginning on or after January 1, 2021, 65 percent of the social security benefits paid by the Social Security Administration as Old Age, Survivors and Disability Insurance Benefits as provided in §42 U.S.C. 401 et. seq. or as Supplemental Security Income for the Aged, Blind, and Disabled as provided in §42 U.S.C. 1381 et. seq., included in federal adjusted gross income for the taxable year shall be allowed as a decreasing modification.

For taxable years beginning on or after January 1, 2022, 100 percent of the social security benefits paid by the Social Security Administration as Old Age, Survivors and Disability Insurance Benefits as provided in §42 U.S.C. 401 et. seq. or as Supplemental Security Income for the Aged, Blind, and Disabled as provided in §42 U.S.C. 1381 et. seq., included in federal adjusted gross income for the taxable year shall be allowed as a decreasing modification.

<b>VALUE:</b>	<b>FY2021</b>	<b>\$3.4 Million</b>
	<b>FY2022</b>	<b>\$11.0 Million</b>
	<b>FY2023</b>	<b>\$25.2 Million</b>

### Rationale

The decreasing modification is allowable only when the federal adjusted gross income of a married couple filing a joint return does not exceed \$100,000 or \$50,000 in the case of a single individual or a married individual filing a separate return. The calculation of the modification is based on the amount of benefits which are included in the federal adjusted gross income for the taxable year. This would include only the portion of benefits which are taxed at the federal level. The amount claimed as a decreasing modification will reduce the \$8,000 income modification currently available to Senior Citizens and Disabled Individuals.

The purpose of the modification is to provide tax relief on Social Security benefits to qualified taxpayers.

### Revenue Analysis

Beginning with Tax Year 2022, the modification will increase to 100 percent of federally taxed Social Security benefits for taxpayers below the income guidelines. The full impact of the modification is expected to cause a reduction in general revenue fund collections of more than \$25 million beginning in Fiscal Year 2023.

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## DECREASING MODIFICATION FOR SENIOR CITIZENS

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<b>STATUTE:</b>	W.Va. Code §11-21-12(c)(9)
<b>EXCLUSION:</b>	Senior citizen exclusion of up to \$8,000 per individual or \$16,000 per two-income married couple filing jointly.
<b>VALUE:</b>	<b>\$78.0 million per year</b>

### Rationale

This modification provides a significant tax reduction to those aged 65 or older. It was designed as a minimum income exclusion for low-income senior citizens although all Taxpayers over 65 years old, whether the individuals are low-income or high-income earners, are allowed this modification.

### Revenue Analysis

The repeal of this modification would not necessarily yield the amount shown. The revenue impact for this exemption was calculated in isolation from other exemptions. Therefore, the actual revenue to be gained by the repeal of the decreasing modification for senior citizens would be less than stated above. Other exclusions, such as the decreasing modification for military retirement pay, may overlap this modification. Due to these overlapping modifications, legislation to repeal the senior citizen modification would result in a revenue gain of approximately \$69.5 million per year.

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## DECREASING MODIFICATION FOR DISABLED PERSONS

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<b>STATUTE:</b>	W.Va. Code §11-21-12(c)(9)
<b>EXCLUSION:</b>	Permanent disability exclusion of up to \$8,000 per individual or \$16,000 per married couple filing jointly.
<b>VALUE:</b>	<b>\$5.2 million per year</b>

### Rationale

This decreasing modification provides a measure of income tax relief to disabled individuals.

### Revenue Analysis

The repeal of this modification would not necessarily yield the amount shown. The revenue impact for this exemption was calculated in isolation from other exemptions. Therefore, the actual revenue to be gained by the repeal of the decreasing modification for senior citizens would be less than stated above. Other exclusions, such as the decreasing modification for military retirement pay, may overlap this modification. Due to these overlapping modifications, legislation to repeal the senior citizen modification would result in a revenue gain of approximately \$5.1 million per year.

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## DECREASING MODIFICATION FOR SURVIVING SPOUSES

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<b>STATUTE:</b>	W.Va. Code §11-21-12(c)(10)
<b>EXCLUSION:</b>	Surviving spouse exclusion of up to \$8,000 for the spouse of a person who had attained age 65 or who was certified as totally and permanently disabled prior to death.
<b>VALUE:</b>	<b>\$200,000 per year</b>

### Rationale

This modification exists to help in the transition for surviving spouses. The surviving spouse may claim a one-time subtraction from his/her income of up to \$8,000 for the taxable year following the year of the spouse's death if the decedent was 65 years of age or older or was certified as permanently and totally disabled prior to his or her death.

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## DECREASING MODIFICATION FOR CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS

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<b>STATUTE:</b>	W.Va. Code §11-21-12(c)(11)
<b>EXCLUSION:</b>	Contributions to medical savings accounts established pursuant to W.Va. Code §33-16-15 to the extent included in federal adjusted gross income for federal income tax purposes less any portion of employer contributions withdrawn for purposes other than payment of medical expenses.
<b>VALUE:</b>	<b>\$0 per year</b>

### Rationale

This expenditure exists to encourage the formation and use of State medical savings accounts. However, contributions to medical savings accounts that qualify for federal exclusion are also automatically excluded from State taxes because of the State tie-in to federal adjusted gross income. There are no known State medical savings accounts that do not qualify for federal tax exclusions.

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**DECREASING MODIFICATION FOR CONTRIBUTIONS TO WEST VIRGINIA SMART529 TRUST FUND**

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**STATUTE:** W.Va. Code §11-21-12a

**EXCLUSION:** Payments made to either the West Virginia Prepaid Trust Fund or the West Virginia SMART529 Trust Fund.

**VALUE:** **\$3.6 million per year**

**Rationale**

This modification exists to encourage Taxpayers to save for their children's or other family member's college education. This modification is available for contributions to either the West Virginia Prepaid Trust Fund or the West Virginia SMART529 Trust Fund. The West Virginia Prepaid Trust Fund closed to new enrollments on March 8, 2003, but contributions can still be made to the plans of those who were already enrolled before this date. Nearly all Taxpayers using this modification are making contributions to SMART529 plans.

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**DECREASING MODIFICATION FOR PREMIUMS FOR LONG-TERM CARE INSURANCE POLICIES**

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**STATUTE:** W.Va. Code §11-21-12c

**EXCLUSION:** Payments for premiums for a long-term care policy that offers coverage to either the Taxpayer or the Taxpayer's spouse, parent, or dependent.

**VALUE:** **\$1.0 million per year**

**Rationale**

This expenditure exists to encourage the purchase of long-term care insurance policies.

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## PENSION BENEFIT GUARANTEE MODIFICATION

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**STATUTE:** W.Va. Code §11-21-12d

**EXCLUSION:** Reducing modification of the difference between the amount the taxpayer would have received had his pension plan not been terminated and the amount actually received from the guarantor for taxpayers who retire under an employer-provided defined benefits pension plan that terminates prior to or after the retirement and that pension plan is covered by a guarantor whose maximum benefit guarantee is less than the maximum benefit to which the taxpayer is entitled.

**VALUE:** **\$400,000 per year**

### Rationale

This modification exists as a benefit for retirees who are receiving less benefits than they were entitled to under a defined benefits plan because the pension plan was terminated due to inadequate funding and payments are being made by a federally backed guarantor.

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## DECREASING MODIFICATION FOR NATIONAL GUARD AND RESERVE FORCES CALLED TO ACTIVE DUTY

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**STATUTE:** W.Va. Code §11-21-12e(a)

**EXCLUSION:** Exclusion for income of members of the West Virginia National Guard or reserve forces who are called to active duty for Operation Enduring Freedom or domestic security duty.

**VALUE:** **Cannot be determined**

### Rationale

This expenditure exists to recognize the services of reserve military or National Guard personnel who are called to active duty for as defined in Executive Order 13223 as part of Operation Noble Eagle, Operation Enduring Freedom, Operation Iraqi Freedom, and Operation New Dawn, Operation Inherent Resolve, as well as any other current or future military operations deemed to be part of the Overseas Contingency Operation (OCO). The President's memorandum applies to any West Virginia National Guard and Reserve service members called to active duty in support of the OCO, regardless of whether they are deployed overseas or stateside.

### Revenue Analysis

The revenue loss associated with this decreasing modification cannot be determined. The loss of revenue in any given year depends on the number of military personnel called to active duty and the length of time spent on active duty.

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**DECREASING MODIFICATION FOR ACTIVE DUTY MILITARY SEPARATION**

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<b>STATUTE:</b>	W.Va. Code §11-21-12e(b)
<b>EXCLUSION:</b>	Exclusion for active duty military income earned by military personnel who claim West Virginia as the individual's State of residence if individual was on active duty for at least 30 continuous days and has separated from active military service.
<b>VALUE:</b>	<b>\$120,000 per year</b>

**Rationale**

This expenditure exists to presumably to encourage military personnel to live in West Virginia following separation from the military.

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**DECREASING MODIFICATION FOR CONTRIBUTIONS TO PRIVATE AUTISM TRUST FUNDS**

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<b>STATUTE:</b>	W.Va. Code §11-21-12i
<b>EXCLUSION:</b>	Contributions to a qualified trust maintained for the benefit of a child with autism by the parent or guardian of a child with autism to the extent the amount is not allowable as a deduction when arriving at federal adjusted gross income.
<b>VALUE:</b>	<b>Minimal</b>

**Rationale**

This expenditure exists to encourage savings for future expenses for an autistic child.

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**DECREASING MODIFICATION FOR CONTRIBUTIONS TO ACHIEVING A BETTER LIFE EXPERIENCE (ABLE) ACCOUNTS**

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<b>STATUTE:</b>	W.Va. Code §11-21-12j
<b>EXCLUSION:</b>	Contributions to a WVABLE account for the year.
<b>VALUE:</b>	<b>Minimal</b>

**Rationale**

This expenditure exists to encourage contributions to WVABLE accounts by individuals with disabilities and their families. WVABLE accounts can be used for future disability expenses.

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## DECREASING MODIFICATION FOR QUALIFIED OPPORTUNITY ZONE BUSINESS INCOME

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<b>STATUTE:</b>	W.Va. Code §11-21-12l
<b>EXCLUSION:</b>	Qualified Opportunity Zone business income.
<b>VALUE:</b>	<b>Cannot be disclosed</b> <sup>10</sup>

### Rationale

The purpose of this expenditure is to encourage individuals and businesses to invest in certain rural and low-income urban communities through qualified opportunity zone projects. West Virginia has designated 55 census tracts in 30 counties as qualified opportunity zones, which included both larger cities and small towns. Qualified opportunity zones were part of the Tax Cuts and Jobs Act of 2017 and were included in this specific federal tax reform legislation passed by Congress, to encourage economic growth in neglected areas of the United States that had a high demand for capital investments.

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## DECREASING MODIFICATION FOR ASSETS HELD BY SUBCHAPTER S CORPORATIONS

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<b>STATUTE:</b>	W.Va. Code §11-21-17a
<b>EXCLUSION:</b>	Certain assets Held by Subchapter S Bank Corporations
<b>VALUE:</b>	<b>Cannot be disclosed</b> <sup>11</sup>

### Rationale

This expenditure provides a decreasing modification for shareholders of S corporations in the banking business for tax years beginning on or after January 1, 2015. This provision parallels a similar modification for Corporation Net Income Tax related to United States obligations, state obligations and mortgage obligations.

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## ITEMIZED DEDUCTIONS FOR FIDUCIARIES

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<b>STATUTE:</b>	W.Va. Code §11-21-18
<b>DEDUCTION:</b>	Itemized deductions claimed prior to attainment of taxable income for the fiduciary.
<b>VALUE:</b>	<b>\$60,000 per year</b>

### Rationale

Although the State does not permit federal itemized deductions for Personal Income Tax, West Virginia allows these deductions for the Fiduciary Income Tax. Current calculations of State tax liability for fiduciaries begin with federal taxable income, not federal adjusted gross income.

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<sup>10</sup> Due to Taxpayer confidentiality.

<sup>11</sup> Due to Taxpayer confidentiality.



Therefore, fiduciaries are essentially allowed to claim itemized deductions. This simplifies the filing requirements for these Taxpayers.

## PENSION EXCLUSIONS

Due to the similarities in West Virginia's tax treatment of retirement benefits for government retirees, these exclusions have been grouped together for purposes of this study. Currently, most pension plan contributions are tax-deferred under both federal and West Virginia tax laws. A pension income exclusion changes tax-deferred income into tax-exempt income.

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### FEDERAL RETIREMENT SYSTEM BENEFITS

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<b>STATUTE:</b>	W.Va. Code §11-21-12(c)(5)
<b>EXCLUSION:</b>	The first \$2,000 of benefits received from any federal retirement system.
<b>VALUE:</b>	<b>\$2.2 million per year</b>

#### Rationale

Due to the United States Supreme Court ruling in Davis v. Michigan, 489 U.S. 803 (1989), this partial exclusion is necessary because a similar exclusion is allowed for State government retirement benefits.

#### Revenue Analysis

Taxpayers who are eligible for the \$8,000 exclusion for those who at least 65 years old or totally and permanently disabled may currently take a \$6,000 exclusion for senior citizens or disabled persons and \$2,000 decreasing modification for any federal retirement benefits. Without the decreasing modification for federal retirement benefits, these Taxpayers would be eligible for the full \$8,000 senior citizen exclusion.

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### WEST VIRGINIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM BENEFITS

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<b>STATUTE:</b>	W.Va. Code §11-21-12(c)(5)
<b>EXCLUSION:</b>	The first \$2,000 of benefits received from the West Virginia Public Employees' Retirement System.
<b>VALUE:</b>	<b>\$2.8 million per year</b>

#### Rationale

This exclusion is a benefit for West Virginia Public Employees' Retirement System participants.

#### Revenue Analysis

Taxpayers who are eligible for the \$8,000 exclusion for those who at least 65 years old or totally and permanently disabled may currently take a \$6,000 exclusion for senior citizens or disabled persons and \$2,000 decreasing modification for any benefits from the West Virginia Public Employees' Retirement System. Without the decreasing modification for benefits from the West Virginia Public Employees' Retirement System, these Taxpayers would be eligible for the full \$8,000 senior citizen exclusion.

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**WEST VIRGINIA TEACHERS' RETIREMENT SYSTEM BENEFITS**

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<b>STATUTE:</b>	W.Va. Code §11-21-12(c)(5)
<b>EXCLUSION:</b>	The first \$2,000 of benefits received from the West Virginia Teachers' Retirement System.
<b>VALUE:</b>	<b>\$3.9 million per year</b>

**Rationale**

This modification exists as a benefit for West Virginia Teachers' Retirement System participants.

**Revenue Analysis**

Taxpayers who are eligible for the \$8,000 exclusion for those who at least 65 years old or totally and permanently disabled may currently take a \$6,000 exclusion for senior citizens or disabled persons and \$2,000 decreasing modification for any benefits from the West Virginia Teachers' Retirement System. Without the decreasing modification for benefits from the West Virginia Teachers' Retirement System, these Taxpayers would be eligible for the full \$8,000 senior citizen exclusion.

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**STATE OR LOCAL POLICE OR FIREFIGHTERS' OR DEPUTY SHERIFFS' RETIREMENT SYSTEM BENEFITS**

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<b>STATUTE:</b>	W.Va. Code §11-21-12(c)(6)
<b>EXCLUSION:</b>	All benefits received under the West Virginia Department of Public Safety Death, Disability and Retirement Fund or retirement income received in the form of pensions or annuities from any West Virginia police or firemen's retirement system after December 31, 1979.
<b>VALUE:</b>	<b>\$6.7 million per year</b>

**Rationale**

All benefits received from any West Virginia State or local police, or firefighters' retirement system are excluded from Personal Income Tax. Also excluded are all federal retirement benefits for federal law enforcement and firefighter retirees with similar job duties.

**Revenue Analysis**

As a portion of total value, 68 percent of this exclusion is attributable to retirees from police departments. The remaining 32 percent is attributable to retirees from fire departments.

Some of these Taxpayers are senior citizens. If no decreasing modification existed for benefits from State or local police or firefighters' retirement plans, these Taxpayers would be eligible for the \$8,000 decreasing modification for Taxpayers over age 65 or totally and permanently disabled.

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## MILITARY RETIREMENT BENEFITS

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**STATUTE:** W.Va. Code §11-21-12(c)(7)

**EXCLUSION:** Military Retirement Benefits.

**VALUE:** **\$9.8 million per year**

### Rationale

This modification exists as a benefit for military retirees.

### Revenue Analysis

Effective with the 2019 tax year, this modification excludes all military retirement benefits. Military retirement benefits include those benefits received based on service in the Army, Navy, Marines, Air Force, Coast Guard, Public Health Service, National Oceanic Atmospheric Administration, Reserves, and National Guard, which are paid by the United States or by this State after December 31, 2018, including any survivorship annuities, to the extent included in federal adjusted gross income for the taxable year.

Some of these Taxpayers are senior citizens. If no decreasing modification existed for military retirement benefits, these Taxpayers would be eligible for the \$8,000 decreasing modification for Taxpayers over age 65 or totally and permanently disabled.

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## RAILROAD RETIREMENT BENEFITS

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**STATUTE:** W.Va. Code §11-21-12(c)(12)

**EXCLUSION:** Railroad Retirement benefits paid by the United States Railroad Retirement Board.

**VALUE:** **\$5.3 million per year**

### Rationale

Tier I and Tier II Railroad Retirement benefits included in federal adjusted gross income are excluded from State Personal Income Tax.<sup>12</sup> Taxation of Tier I benefits by states is prohibited under federal law. All or part of Tier I Railroad Retirement benefits may be excluded in computing federal adjusted gross income, the starting point for West Virginia Personal Income Tax computation. The amount excluded on the federal income tax return is based on the Taxpayer's combined income over a specified base amount. The value of the State exclusion includes only those benefits that are taxable under federal income tax statutes.

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<sup>12</sup> A portion of a Taxpayer's Tier I Railroad Retirement benefits may be taxable for federal income tax purposes and therefore included in federal adjusted gross income. The amount of benefits that are taxable is based on the Taxpayer's combined income over a specified base amount. The base amount is one of the following:

1. \$32,000 for married Taxpayers filing jointly;
2. \$0 for married Taxpayers filing separately; or
3. \$25,000 for all other Taxpayers.

## FEDERALLY MANDATED EXCLUSIONS

The federal exclusion for interest income from United States obligations for Personal Income Tax purposes is **not** a tax expenditure because it is excluded from State taxation by federal law.

For this report, this exclusion is considered a basic part of the Personal Income Tax structure because State lawmakers have no authority to tax such income. Values for this exclusion are given although additional revenue would not be realized through Legislative action due to federal prohibitions for taxing these obligations.

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### INTEREST INCOME FROM UNITED STATES OBLIGATIONS FOR PERSONAL INCOME TAX PURPOSES

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**STATUTE:** W.Va. Code §11-21-12(c)(1)  
**EXCLUSION:** Interest Income on obligations of the United States.  
**VALUE:** **\$2.5 million per year**

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### INTEREST INCOME FROM UNITED STATES OBLIGATIONS FOR FIDUCIARY INCOME TAX PURPOSES

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**STATUTE:** W.Va. Code §11-21-19  
**EXCLUSION:** Interest Income on obligations of the United States.  
**VALUE:** **\$300,000 per year**

## CREDITS

W.Va. Code provides for the application of various tax credits against the Personal Income Tax. Some credits provide qualifying businesses or business shareholders with an investment incentive while others provide relief from double taxation. These tax credits are listed below.

### ECONOMIC DEVELOPMENT TAX CREDITS

- Economic Opportunity Tax Credits
- Manufacturing Investment Tax Credit
- Downstream Natural Gas Manufacturing Investment Tax Credit
- High-Wage Growth Business Tax Credit
- Small Arms and Ammunition investment Tax Credit
- Post-Coal Mine Site Business Credit

### CREDITS TO PREVENT DOUBLE TAXATION

- Credit for Personal and Fiduciary Income Taxes Paid to Other States

### EMPLOYMENT TAX CREDITS

- Apprenticeship Training Tax Credit
- Military Incentive Tax Credit

### CREDITS THAT AID LOW-INCOME FAMILIES

- Senior Citizens Credit for Property Taxes Paid
- Family Tax Credit
- Excess Property Tax Credit

### MISCELLANEOUS TAX CREDITS

- Neighborhood Investment Program Credit
- Environmental Agricultural Equipment Tax Credit
- Film Industry Investment Tax Credit
- Farm to Food Bank Tax Credit
- Tax Credit for Donation or Sale of Vehicle
- Natural Gas Liquids Property Tax Adjustment Credit
- Historic Rehabilitated Buildings Investment Credit
- Qualified Rehabilitated Residential Building Investment Credit
- Nonfamily Adoption Credit
- Conceal Carry Gun Permit Credit

Many of the credits listed above may also be applied against other business taxes. Expenditure values presented in this section represent the amounts applied against only Personal Income Tax. Often, the credit claimed against the Personal Income Tax has been reduced by the application of the credit against other taxes according to the priority order specified by statute or regulations. Thus, the credit amounts claimed against Personal Income Tax may be negligible compared to the total cost of the credit taken against all taxes. An analysis of these expenditures follows.

## ECONOMIC DEVELOPMENT TAX CREDITS

Economic Development Tax Credits exist to promote business expansion in the State. Such credits require either creation of employment or capital outlays for certain qualified investments to qualify.

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### ECONOMIC OPPORTUNITY TAX CREDITS

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<b>STATUTE:</b>	W.Va. Code §11-13Q
<b>CREDIT:</b>	The Economic Opportunity Tax credits generally promotes job creation and investment within the State through capital incentives.
<b>VALUE:</b>	<b>Cannot be disclosed</b> <sup>13</sup>

#### Rationale

The Economic Opportunity Tax Credits are incentives designed to promote job creation through capital investment. These credits generally represent a capital investment tax credit pro-rated over a 10-year period for businesses engaged in the activities of manufacturing, information processing, warehousing, goods distribution exclusive of retail, destination-oriented recreation and tourism, research and development, and the relocation of a corporate headquarters. The share of qualified capital investment subject to tax credit is based on the number of new jobs created as the result of the additional capital investment. The share of total payroll represented by the new employees determines the share of total tax liability offset by tax credit. A minimum number of new jobs must be created and maintained to gain entitlement to tax credit benefits.

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### DOWNSTREAM NATURAL GAS MANUFACTURING INVESTMENT TAX CREDIT

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<b>STATUTE:</b>	W.Va. Code §11-13GG
<b>CREDIT:</b>	The Downstream Natural Gas Manufacturing Investment Tax Credit is an incentive for eligible taxpayers to make a qualified investment in a new or expanded downstream natural gas manufacturing facility in West Virginia that results in creation of at least five new jobs.
<b>VALUE:</b>	<b>\$0</b>

#### Revenue Analysis

The Downstream Natural Gas Manufacturing Investment Tax Credit is a relatively new credit that was passed during the 2020 Legislative Session. As of November 2022, there are no known applicants for this credit.

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<sup>13</sup> Due to taxpayer confidentiality.

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**HIGH-WAGE GROWTH BUSINESS TAX CREDIT**

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**STATUTE:** W.Va. Code §11-13II

**CREDIT:** The High-Wage Growth Tax Credit provides a payroll incentive to an eligible business for creating ten or more new high-paying jobs.

**VALUE:** \$0

**Revenue Analysis**

The High-Wage Growth Tax Credit is a relatively new credit that was passed during the 2020 Legislative Session. As of November 2022, there has been one application received for this credit, but it has not yet been awarded.

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**SMALL ARMS AND AMMUNITION MANUFACTURERS CREDIT**

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**STATUTE:** W.Va. Code §11-13KK

**CREDIT:** The Small Arms and Ammunition Manufacturers Credit encourages investment in the manufacturing of small arms and ammunition in West Virginia.

**VALUE:** \$0

**Revenue Analysis**

The Small Arms and Ammunition Manufacturers Credit is a relatively new credit that was passed during the 2021 Legislative Session. As of November 2022, there are no known applicants for this credit.

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**POST-COAL MINE SITE BUSINESS CREDIT**

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**STATUTE:** W.Va. Code §11-28

**CREDIT:** The Post-Coal Mine Site Business Credit is an incentive for eligible businesses to locate on post coal mine sites by providing for five-year tax credits.

**VALUE:** \$0

**Revenue Analysis**

The Post-Coal Mine Site Business Credit is a relatively new credit that was passed during the 2019 Legislative Session. As of November 2022, there are no known applicants for this credit.



## CREDITS TO PREVENT DOUBLE TAXATION

The following credit exists to eliminate the possibility of double taxation for income taxes paid to other states.

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### CREDIT FOR PERSONAL AND FIDUCIARY INCOME TAXES PAID TO OTHER STATES

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**STATUTES:** W.Va. Code §§11-21-20 and 11-21-40

**CREDIT:** These credits generally exist to eliminate the possibility of double taxation of same income by two or more states.

**VALUE:** **\$23.2 million per year**

#### Rationale

The intent for these credits is simply to provide a mechanism for the return of funds never due to the State. Therefore, these credits are **not** tax expenditures.

## EMPLOYMENT TAX CREDITS

Employment Tax Credits generally exist to encourage employee training and the hiring of certain individuals, such as qualified unemployed veterans or other military personnel.

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### APPRENTICESHIP TRAINING TAX CREDIT

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**STATUTE:** W.Va. Code §11-13W

**CREDIT:** The Apprenticeship Training Tax Credit is available to taxpayers for wages paid to apprentices in construction trade.

**VALUE:** **\$240,000 per year**

#### Rationale

The Apprenticeship Training Tax Credit provides qualified construction trade employers with a \$2 per hour tax credit for the training of an apprentice up to a maximum of \$2,000 per year or 50 percent of wages paid to such person, whichever is less. The tax credit may provide some incentive for additional training of apprentices.

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### MILITARY INCENTIVE TAX CREDIT

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**STATUTE:** W.Va. Code §11-21-42

**CREDIT:** Military Incentive Tax Credit promotes the hiring of veterans and National Guard members.

**VALUE:** **\$0 per year**

#### Rationale

The Military Incentive Tax Credit provides employers who hire a qualified unemployed member of the West Virginia National Guard and reserve forces or unemployed disabled veteran with a one-time employment tax credit generally equal to either 25 percent of up to the first \$5,000 in wages paid during the year or the disability percentage multiplied by the first \$5,000 of wages paid a qualified disabled veteran. The program is administered by Work Force West Virginia.

## CREDITS THAT AID LOW-INCOME FAMILIES

Three tax credits exist to aid low-income families, senior citizens, and those who are permanently and totally disabled.

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### SENIOR CITIZENS CREDIT FOR PROPERTY TAX PAID

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<b>STATUTE:</b>	W.Va. Code §11-21-21
<b>CREDIT:</b>	Provides eligible lower income recipients of Homestead Property Tax Exemption with additional tax relief through a refundable State tax credit related to local property tax paid.
<b>VALUE:</b>	<b>\$10.0 million per year</b>

#### Rationale

The refundable personal income tax credit for residential real estate property taxes paid on the first \$20,000 of taxable valuation exists to provide moderate to lower income homestead exemption beneficiaries with additional relief from local real property taxes paid on their owner-occupied homes. This provision benefits qualified senior citizens and qualified permanently and totally disabled residents with an average net property tax savings of an additional \$200 above local tax savings associated with both the \$20,000 homestead tax exemption and Class II property tax rate preference.

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### FAMILY TAX CREDIT

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<b>STATUTE:</b>	W.Va. Code §11-21-22
<b>CREDIT:</b>	To eliminate West Virginia Personal Income Tax on families with incomes below federal poverty guidelines.
<b>VALUE:</b>	<b>\$21.0 million per year</b>

#### Rationale

The Family Tax Credit exists to provide total state income tax relief to families with income at or below the federal poverty guideline based on family size. Program cost is minimized via a tax credit phase-out mechanism for those with incomes slightly above the federal poverty guideline.

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## EXCESS PROPERTY TAX CREDIT

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<b>STATUTE:</b>	W.Va. Code §11-21-23
<b>CREDIT:</b>	Refundable credit for real property taxes paid in excess of 4 percent of gross household income.
<b>VALUE:</b>	<b>\$2.6 million per year</b>

### Rationale

The refundable personal income tax credit for residential real estate property taxes paid in excess of an amount equal to 4 percent of federal adjusted gross income exists to provide qualified moderate to lower income homeowners with additional property tax relief in cases where annual taxes paid on the owner-occupied residence exceeds an amount equal to 4 percent of the homeowner's annual federal adjusted gross income as reported on the State personal income tax return.

## MISCELLANEOUS TAX CREDITS

Miscellaneous Tax Credits exist to incentivize investments in a variety of activities, such as increasing charitable contributions, promoting purchases of environmentally friendly agricultural equipment, and encouraging rehabilitation of certain properties.

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### NEIGHBORHOOD INVESTMENT PROGRAM CREDIT

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<b>STATUTE:</b>	W.Va. Code §11-13J
<b>CREDIT:</b>	The Neighborhood Investment Program Credit provides qualified Taxpayers with a tax credit equal to 50 percent of charitable contributions made to an approved organization.
<b>VALUE:</b>	<b>\$2.6 million per year</b>

#### Rationale

The Neighborhood Investment Program Credit provides qualified contributing Taxpayers with a tax credit equal to 50 percent of charitable contributions made to an approved organization that received project approval along with an allotment of tax credits from the West Virginia Development Office based on recommendations from a neighborhood investment advisory board. The Taxpayer may use credits received from a qualifying organization to offset up to 50 percent of Personal Income Tax liability. The minimum contribution for purposes of the tax credit is \$500 per year and the maximum contribution is \$200,000 per year. Excess tax credits may be carried forward for a period of up to four additional years. The total maximum amount of tax credit allocated by the State in any given year is limited to \$3 million. The Program may stimulate additional giving for tax credit eligible charitable projects.

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### ENVIRONMENTAL AGRICULTURAL EQUIPMENT TAX CREDIT

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<b>STATUTE:</b>	W.Va. Code §11-13K
<b>CREDIT:</b>	The Environmental Agricultural Equipment Tax Credit provides eligible Taxpayers with an incentive to purchase certain types of “environmentally friendly” agricultural equipment.
<b>VALUE:</b>	<b>Minimal</b>

#### Rationale

The Environmental Agricultural Equipment Tax Credit provides eligible Taxpayers with an incentive to purchase certain types of “environmentally friendly” agricultural equipment. The tax credit equals 25 percent of the purchase price of qualified machinery up to a maximum of \$2,500 for purchases in a single year with a maximum carryover period of five years.

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## FILM INDUSTRY INVESTMENT TAX CREDIT

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<b>STATUTE:</b>	W.Va. Code §11-13X
<b>CREDIT:</b>	The Film Industry Incentive Tax Credit promotes film or audiovisual projects in West Virginia.
<b>VALUE:</b>	<b>\$0</b>

### Rationale

The Film Industry Investment Tax Credit is an incentive designed to promote the film industry in West Virginia through partial reimbursement of qualified film expenditures through marketable tax credits.

### Revenue Analysis

The Film Industry Investment Tax Credit was terminated effective January 16, 2018, and no new Film Tax credits were authorized after January 16, 2018. Film Tax credits issued prior to that date could be claimed through the second taxable year after the taxable year in which the expenditure occurred.

The Film Industry Investment Tax Credit was reinstated for taxable years beginning on and after July 1, 2022 with a sunset date of December 31, 2027. The reinstated credit has no statutory cap and the credit can be sold or transferred. Therefore, the impact of the credit could become significant in future years. Film credits are valid for two taxable years after the taxable year in which the expenditures were made.

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## FARM TO FOOD BANK TAX CREDIT

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<b>STATUTE:</b>	W.Va. Code §11-13DD
<b>CREDIT:</b>	The credit is equal to 30 percent of the value of the donated edible agricultural products.
<b>VALUE:</b>	<b>Minimal</b>

### Rationale

A tax credit is available to farmers who make donations of edible agricultural products to one or more nonprofit food programs in West Virginia. The credit is equal to 30 percent of the value of the donated edible agricultural products, not to exceed \$5,000 during a taxable year. Any credit remaining after application against the taxpayer's tax liabilities for the current year may be carried forward to the next four taxable years. No more than \$200,000 of tax credits may be allocated in any fiscal year. Tax credits are allocated in the order in which the donation forms are received.

The purpose of the credit is to promote fresh, healthy and local agricultural products for food banks and to provide an incentive for farmers to donate to food banks in this state.

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**TAX CREDIT FOR DONATION OR SALE OF VEHICLE**

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**STATUTE:** W.Va. Code §11-13FF

**CREDIT:** The credit is either 50 percent of the value of a vehicle donated to a qualified charitable organization or, for vehicles sold by dealers, 50 percent of the difference between the program value of the vehicle and the reduced sales price up to \$2,000.

**VALUE:** \$0

**Rationale**

A tax credit is available to taxpayers who donate a vehicle to a qualified charitable organization in this state of 50 percent of the determined program value up to \$2,000. The credit is also available to licensed motor vehicle dealers that sell a vehicle at a reduced sales price to low-income workers through a program administered by a qualified charitable organization. The credit for licensed motor vehicle dealers is 50 percent of the difference between the program value of the vehicle and the reduced sales price up to \$2,000. The purpose of the credit is to assist low-income workers in obtaining reliable transportation.

**Revenue Analysis**

The Donation or Sale of Vehicle Tax Credit was effective for donations occurring after December 31, 2020. Therefore, no claims were made against Personal Income Tax in Tax Year 2020. The impact of the credit to General Revenue Fund collections was originally estimated to be up to \$1.0 million per year for both Corporation Net Income Tax and Personal Income Tax combined.

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**NATURAL GAS LIQUIDS PROPERTY TAX ADJUSTMENT CREDIT**

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**STATUTE:** W.Va. Code §11-13HH

**CREDIT:** The Natural Gas Liquids Property Tax Adjustment Credit provides natural gas liquid storers or transporters with a State tax credit equal to the amount of the West Virginia ad valorem property tax paid on the value of natural liquids inventory and equipment.

**VALUE:** \$0

**Rationale**

The Natural Gas Liquids Property Tax Adjustment Credit was created as part of the Natural Gas Liquids Economic Development Act to encourage the development of these businesses in West Virginia. The credit provides eligible West Virginia natural gas liquid storers and transporters with a State tax credit equal to the amount of local West Virginia property taxes paid on the value of natural gas liquids inventory and equipment.

**Revenue Analysis**

The Natural Gas Liquids Property Tax Adjustment Credit was effective for tax years beginning on or after July 1, 2020. However, no claims were made against the Personal Income Tax in Tax Year 2020. The impact of the credit to General Revenue Fund collections was estimated to be \$500,000 per year for both Corporation Net Income Tax and Personal Income Tax combined.

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## HISTORIC REHABILITATED BUILDINGS INVESTMENT CREDIT

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<b>STATUTE:</b>	W.Va. Code §11-21-8a
<b>CREDIT:</b>	The Historic Rehabilitated Buildings Investment Credit is available to qualified rehabilitated building projects located in West Virginia that also qualify for the 20 percent federal rehabilitation tax credit.
<b>VALUE:</b>	<b>\$350,000 per year</b> <sup>14</sup>

### Rationale

The Historic Rehabilitated Buildings Investment Credit is available to qualified rehabilitated building projects located in West Virginia that also qualify for the 20 percent federal historic rehabilitation tax credit. Prior to January 1, 2018, the State tax credit equaled 10 percent of qualified expenditures for historic rehabilitation as approved by the West Virginia Division of Culture and History and designated by the National Park Service as a “certified historic structure.” Effective January 1, 2018, the State tax credit is equal to 25 percent of the qualified expenditures. The West Virginia tax credit is transferable to other Taxpayers. The tax credit was intended to promote historic building rehabilitation of qualified owner-occupied buildings.

### Revenue Analysis

The value of the credit to Taxpayers was significantly enhanced through the increase of the credit percentage from 10 percent to 25 percent and the allowance of phased projects. These changes will encourage larger multi-phase projects which will likely expand the use and resulting cost of the tax credit in future years.

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## QUALIFIED REHABILITATED RESIDENTIAL BUILDING INVESTMENT CREDIT

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<b>STATUTE:</b>	W.Va. Code §11-21-8g
<b>CREDIT:</b>	The Qualified Rehabilitated Residential Building Investment Credit is available to qualified owner-occupied rehabilitated residential building projects located in West Virginia.
<b>VALUE:</b>	<b>\$100,000 per year</b> <sup>15</sup>

### Rationale

The Qualified Rehabilitated Residential Building Investment Credit is available to owner-occupied qualified rehabilitated building projects located in West Virginia. The State tax credit equals 20 percent of qualified expenditures for historic rehabilitation as approved by the West Virginia Division of Culture and History and designated by the National Park Service as a “certified historic structure.” The West Virginia tax credit is transferable to other Taxpayers. The tax credit was intended to promote the rehabilitation of owner-occupied historic residential housing.

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<sup>14</sup> This is an average value due to variation in claims year-to-year.

<sup>15</sup> *Ibid*



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## NONFAMILY ADOPTION CREDIT

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<b>STATUTE:</b>	W.Va. Code §11-21-10a
<b>CREDIT:</b>	A one-time credit against the tax imposed by the provisions of this article for adoption of a child.
<b>VALUE:</b>	<b>\$3.2 million per year</b>

### Rationale

The credit is equal to \$4,000 for each nonfamily child who is under the age of 18 years at the time of adoption. For this credit, nonfamily adoption means adoption of a child or children by a taxpayer or taxpayers who are not the father, mother, or stepparent of the child. The credit is refundable; however, the Taxpayer may elect to claim the credit in the year of adoption or over a period of up to three years. It is designed to encourage adoption of children.

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## CONCEAL CARRY GUN PERMIT CREDIT

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<b>STATUTE:</b>	W.Va. Code §61-7-4(r)
<b>CREDIT:</b>	A one-time credit of up to \$50 for the successful completion of a safety course or the fees associated with the initial application of a license to carry a concealed weapon.
<b>VALUE:</b>	<b>\$20,000 per year</b>

### Rationale

A credit is allowed against West Virginia Personal Income Tax for the costs incurred during the taxable year for training courses or classes taken by the primary taxpayer and/or spouse for the purposes of applying for and qualifying for a permit to carry a concealed weapon in this state. This is a one-time credit limited to the lesser of actual costs or the maximum amount of credit allowable with respect to any taxpayer and/or spouse not to exceed \$50 per taxpayer. The credits are not allowed with respect to any person who fails to qualify or is denied a permit after applying for the permit.