

H. B. 2274

(By Delegate Azinger)

[Introduced January 12, 2011; referred to the
Committee on Veterans' Affairs and Homeland Security then
Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-21-3 of the Code of West Virginia,
1931, as amended, relating to personal income tax; providing
tax exemption to veterans and their spouses locating in West
Virginia following the veterans' separation from service.

Be it enacted by the Legislature of West Virginia:

That §11-21-3 of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

ARTICLE 21. PERSONAL INCOME TAX.**§11-21-3. Imposition of tax; persons subject to tax.**

(a) *Imposition of tax.*

(1) *Primary tax.* -- A tax determined in accordance with the
rates hereinafter set forth in this article is hereby imposed for
each taxable year on the West Virginia taxable income of every
individual, estate and trust: Provided, That a veteran of the

1 United States Armed Forces, honorably discharged, and the veteran's
2 current spouse are exempt from payment of this tax for a total of
3 five years if the veteran locates in West Virginia following
4 separation from military service, resides in the state during the
5 period of exemption, and presents an application to the state Tax
6 Division of the Department of Revenue along with a DD Form 214 and
7 proof of a valid state driver's license or other identification
8 acceptable to the Tax Commissioner to verify state residence. The
9 veteran or spouse is eligible for the exemption in any year within
10 ten years following the date of separation shown on the DD Form
11 214.

12 (2) *Minimum tax.* -- In addition to the primary tax imposed by
13 this section, there is imposed a minimum tax, which shall be the
14 excess, if any, by which an amount equal to twenty-five percent of
15 any federal minimum tax or alternative minimum tax for the taxable
16 year exceeds the primary tax imposed by this section for the
17 taxable year.

18 (3) *Effective date.* -- The minimum tax herein imposed and made
19 effective on and after April 1, 1983, shall expire, be nullified
20 and of no further force or effect whatsoever for tax years
21 beginning on and after January 1, 2010.

22 (b) *Partners and partnerships.* -- A partnership as such shall
23 not be subject to tax under this article. Persons carrying on
24 business as partners shall be liable for tax under this article

1 only in their separate or individual capacities.

2 (c) *Associations taxable as corporations.* -- An association,
3 trust or other unincorporated organization which is taxable as a
4 corporation for federal income tax purposes, shall not be subject
5 to tax under this article.

6 (d) *Exempt trusts and organizations.* -- A trust or other
7 unincorporated organization which by reason of its purposes or
8 activities is exempt from federal income tax shall be exempt from
9 tax under this article (regardless of whether subject to federal
10 income tax on unrelated business taxable income).

11 (e) *Cross references.* -- For definitions of West Virginia
12 taxable income of:

13 (1) Resident individual, see section eleven.

14 (2) Resident estate or trust, see section eighteen.

15 (3) Nonresident individual, see section thirty.

16 (4) Nonresident estate or trust, see section thirty-eight.

NOTE: The purpose of this bill is to exempt from state income tax, for five years, veterans and their spouses who locate in the state following separation from military service.

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