

ENROLLED

Senate Bill No. 209

(BY SENATORS KESSLER (MR. PRESIDENT) AND HALL,
BY REQUEST OF THE EXECUTIVE)

[Passed February 16, 2012; in effect from passage.]

AN ACT to amend and reenact §11-21-9 of the Code of West Virginia, 1931, as amended, relating to updating the meaning of “federal adjusted gross income” and certain other terms used in the West Virginia Personal Income Tax Act; and specifying effective dates.

Be it enacted by the Legislature of West Virginia:

That §11-21-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-9. Meaning of terms.

1 (a) Any term used in this article has the same meaning as
2 when used in a comparable context in the laws of the United
3 States relating to income taxes, unless a different meaning is
4 clearly required. Any reference in this article to the laws of
5 the United States means the provisions of the Internal
6 Revenue Code of 1986, as amended, and any other provisions
7 of the laws of the United States that relate to the determina-
8 tion of income for federal income tax purposes. All amend-
9 ments made to the laws of the United States after December

10 31, 2010, but prior to January 1, 2012, shall be given effect in
11 determining the taxes imposed by this article to the same
12 extent those changes are allowed for federal income tax
13 purposes, whether the changes are retroactive or prospective,
14 but no amendment to the laws of the United States made on
15 or after January 1, 2012, shall be given any effect.

16 (b) *Medical savings accounts.* — The term “taxable trust”
17 does not include a medical savings account established
18 pursuant to section twenty, article fifteen, chapter
19 thirty-three of this code or section fifteen, article sixteen of
20 said chapter. Employer contributions to a medical savings
21 account established pursuant to said sections are not wages
22 for purposes of withholding under section seventy-one of this
23 article.

24 (c) *Surtax.* — The term “surtax” means the twenty
25 percent additional tax imposed on taxable withdrawals from
26 a medical savings account under section twenty, article
27 fifteen, chapter thirty-three of this code and the twenty
28 percent additional tax imposed on taxable withdrawals from
29 a medical savings account under section fifteen, article
30 sixteen of said chapter which are collected by the Tax
31 Commissioner as tax collected under this article.

32 (d) *Effective date.* — The amendments to this section
33 enacted in the year 2012 are retroactive to the extent
34 allowable under federal income tax law. With respect to
35 taxable years that began prior to January 1, 2013, the law in
36 effect for each of those years shall be fully preserved as to
37 that year, except as provided in this section.

38 (e) For purposes of the refundable credit allowed to a low
39 income senior citizen for property tax paid on his or her
40 homestead in this state, the term “laws of the United States”
41 as used in subsection (a) of this section means and includes
42 the term “low income” as defined in subsection (b), section
43 twenty-one of this article and as reflected in the poverty
44 guidelines updated periodically in the federal register by the
45 U. S. Department of Health and Human Services under the
46 authority of 42 U. S. C. §9902(2).