

1 **H. B. 2516**

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3 (By Mr. Speaker, (Mr. Thompson) and Delegate Armstead)  
4 [By Request of the Executive]  
5 [Introduced February 15, 2013; referred to the  
6 Committee on Finance.]  
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10 A BILL to amend and reenact §11-21-9 of the Code of West Virginia,  
11 1931, as amended, relating to updating the meaning of federal  
12 adjusted gross income and certain other terms used in the West  
13 Virginia Personal Income Tax Act so the definitions conform  
14 with the Internal Revenue Code's definitions; and specifying  
15 effective dates.

16 *Be it enacted by the Legislature of West Virginia:*

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

19 **ARTICLE 21. PERSONAL INCOME TAX.**

20 **§11-21-9. Meaning of terms.**

21 (a) Any term used in this article has the same meaning as when  
22 used in a comparable context in the laws of the United States  
23 relating to income taxes, unless a different meaning is clearly

1 required. Any reference in this article to the laws of the United  
2 States means the provisions of the Internal Revenue Code of 1986,  
3 as amended, and any other provisions of the laws of the United  
4 States that relate to the determination of income for federal  
5 income tax purposes. All amendments made to the laws of the United  
6 States after ~~December 31, 2010,~~ January 1, 2012, but prior to  
7 ~~January 1, 2012,~~ 3, 2013, shall be given effect in determining the  
8 taxes imposed by this article to the same extent those changes are  
9 allowed for federal income tax purposes, whether the changes are  
10 retroactive or prospective, but no amendment to the laws of the  
11 United States made on or after ~~January 1, 2012,~~ 3, 2013, shall be  
12 given any effect.

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

20 (c) Surtax. -- The term "surtax" means the twenty percent  
21 additional tax imposed on taxable withdrawals from a medical  
22 savings account under section twenty, article fifteen, chapter  
23 thirty-three of this code and the twenty percent additional tax

1 imposed on taxable withdrawals from a medical savings account under  
2 section fifteen, article sixteen of said chapter which are  
3 collected by the Tax Commissioner as tax collected under this  
4 article.

5 (d) Effective date. -- The amendments to this section enacted  
6 in the year ~~2012~~ 2013 are retroactive to the extent allowable under  
7 federal income tax law. With respect to taxable years that began  
8 prior to January 1, ~~2013~~, 2014, the law in effect for each of those  
9 years shall be fully preserved as to that year, except as provided  
10 in this section.

11 (e) For purposes of the refundable credit allowed to a low  
12 income senior citizen for property tax paid on his or her homestead  
13 in this state, the term "laws of the United States" as used in  
14 subsection (a) of this section means and includes the term "low  
15 income" as defined in subsection (b), section twenty-one of this  
16 article and as reflected in the poverty guidelines updated  
17 periodically in the federal register by the U.S. Department of  
18 Health and Human Services under the authority of 42 U.S.C.  
19 §9902(2).

NOTE: The purpose of this bill is to update the meaning of federal adjusted gross income and certain other terms used in the West Virginia Personal Income Tax Act by bringing them into conformity with their meaning for Internal Revenue Code's definitions; and specifying effective dates.

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