

# H. B. 2516

---

(BY DELEGATE(S) MR. SPEAKER (MR. THOMPSON)

AND ARMSTEAD)

**[BY REQUEST OF THE EXECUTIVE]**

---

[Introduced February 15, 2013; referred to the  
Committee on Finance.]

A BILL 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 so the definitions conform with the Internal Revenue Code's definitions; 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 when  
2 used in a comparable context in the laws of the United States  
3 relating to income taxes, unless a different meaning is clearly  
4 required. Any reference in this article to the laws of the United  
5 States means the provisions of the Internal Revenue Code of  
6 1986, as amended, and any other provisions of the laws of the  
7 United States that relate to the determination of income for  
8 federal income tax purposes. All amendments made to the laws  
9 of the United States after ~~December 31, 2010~~, January 1, 2012,  
10 but prior to January ~~1, 2012~~, 3, 2013, shall be given effect in  
11 determining the taxes imposed by this article to the same extent  
12 those changes are allowed for federal income tax purposes,  
13 whether the changes are retroactive or prospective, but no  
14 amendment to the laws of the United States made on or after  
15 January ~~1, 2012~~, 3, 2013, shall be given any effect.

16 (b) Medical savings accounts. — The term “taxable trust” does  
17 not include a medical savings account established pursuant to  
18 section twenty, article fifteen, chapter thirty-three of this code or

19 section fifteen, article sixteen of said chapter. Employer contri-  
20 butions to a medical savings account established pursuant to said  
21 sections are not wages for purposes of withholding under section  
22 seventy-one of this article.

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

31 (d) Effective date. — The amendments to this section  
32 enacted in the year ~~2012~~ 2013 are retroactive to the extent  
33 allowable under federal income tax law. With respect to taxable  
34 years that began prior to January 1, ~~2013~~, 2014, the law in effect  
35 for each of those years shall be fully preserved as to that year,  
36 except as provided in this section.

37 (e) For purposes of the refundable credit allowed to a low  
38 income senior citizen for property tax paid on his or her home-

39   stead in this state, the term “laws of the United States” as used  
40   in subsection (a) of this section means and includes the term  
41   “low income” as defined in subsection (b), section twenty-one of  
42   this article and as reflected in the poverty guidelines updated  
43   periodically in the federal register by the U.S. Department of  
44   Health and Human Services under the authority of 42 U.S.C.  
45   §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.