

Senate Bill No. 2

(By Senators Stollings, Unger, Jenkins, Miller, Laird and Yost)

[Introduced January 8, 2014; referred to the Committee on Health and Human Resources; and then to the Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-12j; and to amend said code by adding thereto a new section, designated §11-24-25, all relating to providing a tax incentive to dental practitioners to perform dental services at no cost to indigent patients as defined in these sections.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §11-21-12j; and that said code be amended by adding thereto a new section, designated §11-24-25, all to read as follows:

ARTICLE 21. PERSONAL INCOME TAX.

PART I. GENERAL.

§11-21-12j. Decreasing modification reducing federal adjusted

1 **gross income.**

2 (a) *Legislative Findings.* -- The Legislature finds that there
3 is a need for the provision of dental services for the adult
4 indigent. Poor dental health decreases overall health and well-
5 being and in some cases may prevent a patient from receiving other
6 necessary medical care, such as heart surgery. The adult indigent
7 population has access to medical care through various public
8 programs but access to dental care is extremely limited. The
9 Legislature recognizes that many dentists provide dental services
10 to adult indigent patients at no cost. Desiring to encourage more
11 charity dental care, the Legislature hereby creates a tax incentive
12 to reduce the taxable income of dentists providing services to
13 adult indigent patients.

14 (b) *General.* -- For tax years beginning on or after January 1,
15 2014, in addition to amounts authorized to be subtracted from
16 federal adjusted gross income pursuant to subsection (c), section
17 twelve of this article, the value of services rendered to indigent
18 dental patients at no cost by eligible taxpayers, is also an
19 authorized modification reducing federal adjusted gross income but
20 only to the extent the amount is not allowable as a deduction when
21 arriving at the taxpayer's federal adjusted gross income for the
22 taxable year in which the payment is made. This modification is
23 available regardless of the type of return form filed. The

1 taxpayer may also elect to carry forward the modification over a
2 period not to exceed five taxable years beginning in the taxable
3 year in which the payment was made.

4 (c) *Definitions.* -- When used in this section or in the
5 administration of this section, terms defined in this subsection
6 have the meanings ascribed to them by this subsection unless a
7 different meaning is clearly required by the context in which the
8 term is used or by specific definition in this article.

9 (1) "Eligible taxpayer" is defined as a taxpayer who is
10 licensed pursuant to article four, chapter thirty of this code.

11 (2) "Indigent patient" is defined as a West Virginia resident
12 whose income is one hundred fifty percent or more below the federal
13 poverty level and who has no insurance coverage for dental care.

14 (d) Amount of decreasing modification. -- The amount of
15 decreasing modification allowable under this section to an eligible
16 taxpayer may not exceed \$15,000. The amount of the decreasing
17 modification is the dollar value of any dental services provided to
18 indigent patients at no cost based upon the number of hours worked
19 times the rates specified by Medicaid for the reimbursement for
20 dental services.

21 (e) Screening and referral of adult indigent patients to
22 eligible taxpayers for dental services for which the decreasing
23 modification may be taken shall be done by the free clinics

1 recognized by the State of West Virginia or by the Donated Dental
2 Program.

3 (f) *Schedule.* -- To assert this decreasing modification,
4 eligible taxpayers shall prepare and file with the annual tax
5 return filed pursuant to this article a schedule showing the amount
6 of dental services provided at no cost to indigent patients during
7 the taxable year, the amount of decreasing modification allowed
8 under this section, the taxes against which the decreasing
9 modification is being applied and other information that the Tax
10 Commissioner may require. This annual schedule shall be in the
11 form prescribed by the Tax Commissioner.

12 (g) An eligible taxpayer may consider the amount of decreasing
13 modification allowed under this section when determining the
14 eligible taxpayer's liability under this article for periodic
15 payments of estimated tax for the taxable year in accordance with
16 the procedures and requirements prescribed by the Tax Commissioner.
17 The annual total tax liability and total decreasing modification
18 allowed under this section are subject to adjustment and
19 reconciliation pursuant to the filing of the annual schedule
20 required by subsection (e) of this section.

21 (h) The Tax Commissioner may propose rules necessary to carry
22 out the provisions of this section and to provide guidelines and
23 requirements necessary to ensure uniform administrative practices

1 statewide to effect the intent of this section, all in accordance
2 with the provisions of article three, chapter twenty-nine-a of this
3 code.

4 **ARTICLE 24. CORPORATION NET INCOME TAX.**

5 **§11-24-25. Decreasing modification reducing federal taxable**
6 **income.**

7 (a) *Legislative Findings.* -- The Legislature finds that there
8 is a need for the provision of dental services for the adult
9 indigent. Poor dental health decreases overall health and well-
10 being and, in some cases, may prevent a patient from receiving
11 other necessary medical care such as heart surgery. The adult
12 indigent population has access to medical care through various
13 public programs but access to dental care is extremely limited.
14 The Legislature recognizes that many dentists provide dental
15 services to adult indigent patients at no cost. Desiring to
16 encourage more charity dental care, the Legislature hereby creates
17 a tax incentive to reduce the taxable income of dentists providing
18 services to adult indigent patients.

19 (b) For tax years, beginning on or after January 1, 2014, in
20 addition to amounts authorized to be subtracted from federal
21 taxable income pursuant subsection (c), section six this article,
22 the value of services rendered to indigent dental patients at no
23 cost by eligible taxpayers, is also an authorized modification

1 reducing federal taxable income, but only to the extent the amount
2 is not allowable as a deduction when arriving at the taxpayer's
3 federal taxable income for the taxable year in which the payment is
4 made. This modification is available regardless of the type of
5 return form filed. The taxpayer may also elect to carry forward
6 the modification over a period not to exceed five taxable years,
7 beginning in the taxable year in which the payment was made.

8 (c) *Definitions.* -- When used in this section, or in the
9 administration of this section, terms defined in this subsection
10 have the meanings ascribed to them by this subsection, unless a
11 different meaning is clearly required by the context in which the
12 term is used, or by specific definition, in this article.

13 (1) "Eligible Taxpayer" is defined as a taxpayer who is
14 licensed pursuant to article four, chapter thirty of this code.

15 (2) "Indigent Patient" is defined as a West Virginia resident
16 whose income is two hundred percent or more below the federal
17 poverty level, and who has no insurance coverage for dental care.

18 (d) *Amount of decreasing modification* -- The amount of
19 decreasing modification allowable under this section to an eligible
20 taxpayer may not exceed \$15,000: *Provided,* That the amount of the
21 decreasing modification will be the dollar value of any dental
22 services provided to indigent patients at no cost, based upon the
23 number of hours worked times the rates specified by Medicaid for

1 the reimbursement for dental services.

2 (e) Screening and referral of indigent patients to eligible
3 taxpayers for dental services for which the decreasing modification
4 may be taken shall be done by the free clinics licensed by the
5 State of West Virginia or by the Donated Dental Program.

6 (f) *Schedule*. -- To assert this decreasing modification,
7 eligible taxpayers shall prepare and file with the annual tax
8 return filed pursuant to this article, a schedule showing the
9 amount of dental services provided at no cost to indigent patients
10 during the taxable year, the amount of decreasing modification
11 allowed under this section, the taxes against which the decreasing
12 modification is being applied and other information that the Tax
13 Commissioner may require. This annual schedule shall set forth the
14 information and be in the form prescribed by the Tax Commissioner.

15 (g) An eligible taxpayer may consider the amount of decreasing
16 modification allowed under this section when determining the
17 eligible taxpayer's liability under this article for periodic
18 payments of estimated tax for the taxable year, in accordance with
19 the procedures and requirements prescribed by the Tax Commissioner.
20 The annual total tax liability and total decreasing modification
21 allowed under this section are subject to adjustment and
22 reconciliation pursuant to the filing of the annual schedule
23 required by subsection (e) of this section.

1 (h) The Tax Commissioner may propose rules necessary to carry
2 out the provisions of this section and to provide guidelines and
3 requirements necessary to ensure uniform administrative practices
4 statewide to effect the intent of this section, all in accordance
5 with the provisions of article three, chapter twenty-nine-a of this
6 code.

NOTE: The purpose of the bill is to provide a tax incentive to dental practitioners to perform dental services at no cost to indigent patients as defined in this bill.

§11-21-12j and §11-24-25 are new; therefore, strike-throughs and underscoring have been omitted.