

1 **Senate Bill No. 240**

2 (By Senators Cole (Mr. President) and Kessler,

3 By Request of the Executive)

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5 [Introduced January 16, 2015; referred to the Committee on Finance.]  
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8  
9 A BILL to amend and reenact §11-21-9 of the Code of West Virginia, 1931, as amended, relating  
10 to updating the meaning of federal adjusted gross income and certain terms used in the West  
11 Virginia Personal Income Tax Act; and specifying effective dates.

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

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

15 **ARTICLE 21. WEST VIRGINIA PERSONAL INCOME TAX.**

16 **§11-21-9. Meaning of terms.**

17 (a) Any term used in this article has the same meaning as when used in a comparable context  
18 in the laws of the United States relating to income taxes, unless a different meaning is clearly  
19 required. Any reference in this article to the laws of the United States means the provisions of the  
20 Internal Revenue Code of 1986, as amended, and any other provisions of the laws of the United  
21 States that relate to the determination of income for federal income tax purposes. All amendments

1 made to the laws of the United States after December 31, ~~2012~~ 2013, but prior to January 1, ~~2014~~  
2 2015, shall be given effect in determining the taxes imposed by this article to the same extent those  
3 changes are allowed for federal income tax purposes, whether the changes are retroactive or  
4 prospective, but no amendment to the laws of the United States made on or after January 1, ~~2014~~  
5 2015, may be given any effect.

6       **(b) Medical savings accounts.** -- The term "taxable trust" does not include a medical savings  
7 account established pursuant to section twenty, article fifteen, chapter thirty-three of this code or  
8 section fifteen, article sixteen of that chapter. Employer contributions to a medical savings account  
9 established pursuant to those sections are not wages for purposes of withholding under section  
10 seventy-one of this article.

11       **(c) Surtax.** -- The term "surtax" means the twenty percent additional tax imposed on taxable  
12 withdrawals from a medical savings account under section twenty, article fifteen, chapter thirty-three  
13 of this code and the twenty percent additional tax imposed on taxable withdrawals from a medical  
14 savings account under section fifteen, article sixteen of that chapter which are collected by the Tax  
15 Commissioner as tax collected under this article.

16       **(d) Effective date.** -- The amendments to this section enacted in the year ~~2014~~ 2015 are  
17 retroactive to the extent allowable under federal income tax law. With respect to taxable years that  
18 began prior to January 1, ~~2015~~ 2016, the law in effect for each of those years shall be fully preserved  
19 as to that year, except as provided in this section.

20       **(e)** For purposes of the refundable credit allowed to a low income senior citizen for property  
21 tax paid on his or her homestead in this state, the term "laws of the United States" as used in

1 subsection (a) of this section means and includes the term "low income" as defined in subsection (b),  
2 section twenty-one of this article and as reflected in the poverty guidelines updated periodically in  
3 the federal register by the U.S. Department of Health and Human Services under the authority of 42  
4 U.S.C. § 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; 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.