

1 **Senate Bill No. 402**

2 (By Senator Blair)

[Introduced February 3, 2015; referred to the Committee on Finance.]

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⁹ A BILL to amend and reenact §11-21-51 of the Code of West Virginia, 1931, as amended, relating

10 to requiring Tax Commissioner to include on West Virginia personal income tax return a
11 short survey asking taxpayer top three preferences where taxpayer's taxes should be spent and
12 bottom three least preferred preferences where taxpayer's tax dollars are spent.

13 Be it enacted by the Legislature of West Virginia:

14 That §11-21-51 of the Code of West Virginia, 1931, as amended, be amended and reenacted
15 to read as follows:

16 ARTICLE 21. PERSONAL INCOME TAX.

17 §11-21-51. Returns and liabilities.

18 (a) *General.* -- On or before the fifteenth day of the fourth month following the close of a
19 taxable year, an income tax return under this article shall be made and filed by or for:

20 (1) Every resident individual required to file a federal income tax return for the taxable year,
21 or having West Virginia adjusted gross income for the taxable year, determined under section twelve
22 of this article in excess of the sum of his or her West Virginia personal exemptions: *Provided*, That

1 the Tax Commissioner shall by legislative rule specify circumstances when an individual is not
2 required to file a return as a result of the application of section ten of this article;

3 (2) Every resident estate or trust required to file a federal income tax return for the taxable
4 year, or having any West Virginia taxable income for the taxable year, determined under section
5 eighteen of this article;

6 (3) Every nonresident individual having any West Virginia adjusted gross income for the
7 taxable year, determined under section thirty-two of this article, in excess of the sum of his or her
8 West Virginia personal exemptions, except when all of such nonresident individual's West Virginia
9 source income is taxed on a composite return filed under this article for the taxable year; and

10 (4) Every nonresident estate or trust having items of income or gain derived from West
11 Virginia sources, determined in accordance with the applicable rules of section thirty-two of this
12 article as in the case of a nonresident individual, in excess of its West Virginia exemption.

13 (b) *Husband and wife.* --

14 (1) If the federal income tax liability of husband or wife is determined on a separate federal
15 income tax return, their West Virginia income tax liabilities and returns shall be separate.

16 (2) If the federal income tax liabilities of husband and wife other than a husband and wife
17 described in subdivision (3) of this subsection are determined on a joint federal return, or if neither
18 files a federal return:

19 (A) They shall file a joint West Virginia income tax return, and their tax liabilities shall be
20 joint and several; or

21 (B) They may elect to file separate West Virginia income tax returns on a single or separate
22 form, as may be required by the Tax Commissioner, if they comply with the requirements of the Tax

1 Commissioner in setting forth information, and in such event their tax liabilities shall be separate.

2 (3) If either husband and/or wife is a resident and the other is a nonresident, they shall file
3 separate West Virginia income tax returns on such single or separate forms as may be required by
4 the Tax Commissioner, and in such event their tax liabilities shall be separate.

5 (c) *Decedents.* -- The return of any deceased individual shall be made and filed by his or her
6 executor, administrator or other person charged with his or her property.

7 (d) *Individuals under a disability.* -- The return for an individual who is unable to make a
8 return by reason of minority or other disability shall be made and filed by his or her guardian,
9 committee, fiduciary or other person charged with the care of his or her person or property (other
10 than a receiver in possession of only a part of his or her property), by his or her duly authorized
11 agent.

12 (e) *Estates and trusts.* -- The return for an estate or trust shall be made and filed by the
13 fiduciary.

14 (f) *Joint fiduciaries.* -- If two or more fiduciaries are acting jointly, the return may be made
15 by any one of them.

16 (g) *Tax a debt.* -- Any tax under this article, and any increase, interest or penalty thereon,
17 shall, from the time it is due and payable, be a personal debt of the person liable to pay the same, to
18 the State of West Virginia.

19 (h) *Cross reference.* -- For provisions as to information returns by partnerships, employers
20 and other persons, see section fifty-eight of this article. For provisions as to composite returns of
21 nonresidents, see section fifty-one-a of this article. For provisions as to information returns by
22 electing small business corporations, see section thirteen-b, article twenty-four of this chapter.

1 (I) Tax Return to contain certain information. -- The Tax Commissioner shall include on the
2 West Virginia personal income tax return a short survey asking the taxpayer the top three preferences
3 where the taxpayer's taxes should be spent and the bottom three least preferred preferences where
4 their tax dollars are spent. The survey shall consist of a list of twenty to thirty items including roads
5 and bridges, education, welfare and food stamps, other infrastructure and any other annually
6 budgeted expenses paid from individual taxpayer dollars.

7 ~~(I) Effective date.~~ -- This section, as amended by this act in the year 1996, shall apply to all
8 taxable years beginning after December 31, 1995.

9 (j) Effective date. -- This section, as amended in the year 2015, shall apply to all taxable years
10 beginning after December 31, 2015.

NOTE: The purpose of this bill is to require the Tax Commissioner to include on the West Virginia personal income tax return a short survey asking the taxpayer the top three preferences where the taxpayer's taxes should be spent and the bottom three least preferred preferences where their tax dollars are spent.

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