

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 354

**FISCAL
NOTE**

BY SENATORS COLE (MR. PRESIDENT) AND KESSLER

(BY REQUEST OF THE EXECUTIVE)

[Introduced January 21, 2016;

Referred to the Committee on Finance.]

1 A BILL to amend and reenact §11-24-3 and §11-24-13 of the Code of West Virginia, 1931, as
2 amended, all relating to updating meaning of “federal taxable income” and certain other
3 terms used in West Virginia Corporation Net Income Tax Act; changing due date for filing
4 West Virginia Corporation Net Income Tax return; and specifying effective dates.

Be it enacted by the Legislature of West Virginia:

1 That §11-24-3 and §11-24-13 of the Code of West Virginia, 1931, as amended, be
2 amended and reenacted, all to read as follows:

ARTICLE 24. CORPORATION NET INCOME TAX.

§11-24-3. Meaning of terms; general rule.

1 (a) Any term used in this article has the same meaning as when used in a comparable
2 context in the laws of the United States relating to federal income taxes, unless a different
3 meaning is clearly required by the context or by definition in this article. Any reference in this
4 article to the laws of the United States means the provisions of the Internal Revenue Code of
5 1986, as amended, and any other provisions of the laws of the United States that relate to the
6 determination of income for federal income tax purposes. All amendments made to the laws of
7 the United States after December 31, ~~2013~~ 2014, but prior to January 1, ~~2015~~ 2016, shall be
8 given effect in determining the taxes imposed by this article to the same extent those changes
9 are allowed for federal income tax purposes, whether the changes are retroactive or prospective,
10 but no amendment to the laws of the United States made on or after January 1, ~~2015~~ 2016, shall
11 be given any effect.

12 (b) The term "Internal Revenue Code of 1986" means the Internal Revenue Code of the
13 United States enacted by the federal Tax Reform Act of 1986 and includes the provisions of law
14 formerly known as the Internal Revenue Code of 1954, as amended, and in effect when the
15 federal Tax Reform Act of 1986 was enacted that were not amended or repealed by the federal
16 Tax Reform Act of 1986. Except when inappropriate, any reference in any law, executive order or
17 other document:

18 (1) To the Internal Revenue Code of 1954 includes a reference to the Internal Revenue
19 Code of 1986; and

20 (2) To the Internal Revenue Code of 1986 includes a reference to the provisions of law
21 formerly known as the Internal Revenue Code of 1954.

22 (c) Effective date. -- The amendments to this section enacted in the year ~~2015~~ 2016 are
23 retroactive to the extent allowable under federal income tax law. With respect to taxable years
24 that began prior to January 1, ~~2016~~ 2017, the law in effect for each of those years shall be fully
25 preserved as to that year, except as provided in this section.

§11-24-13. Returns; time for filing.

1 (a) On or before the fifteenth day of the third month following the close of a taxable year,
2 an income tax return under this article shall be made and filed by or for every corporation subject
3 to the tax imposed by this article: Provided, That for tax years beginning after December 31, 2015,
4 an income tax return under this article shall be made and filed by or for every corporation subject
5 to the tax imposed by this article on or before the fifteenth day of the fourth month following the
6 close of a taxable year.

7 (b) Special rule for tax exempt corporations with unrelated business taxable income. --
8 Notwithstanding the provisions of subsection (a) of this section, when an income tax return is
9 required from a corporation generally exempt from tax under subsection (a), section five of this
10 article, which has unrelated business taxable income, the annual return shall be filed on or before
11 the fifteenth day of the ~~fifth~~ fourth month following the close of the taxable year.

12 (c) The Tax Commissioner may combine into one form the annual return due under this
13 article and the annual return due under article twenty-three of this chapter. When a combined
14 business franchise tax and corporation net income tax annual return is filed by a taxpayer, the
15 amount of tax remitted shall be applied first against any business franchise tax that may be due
16 for the taxable year under said article and then against any corporation net income tax that may
17 be due for the taxable year. The Tax Commissioner may also combine the forms for filing

18 declarations of estimated tax and the forms for making installment payments of estimated tax.

19 (d) Effective date. -- The amendments to this section made in the year one thousand nine

20 hundred ninety-three shall apply to tax returns that become due after the first day of that year.

NOTE: The purpose of this bill is to update the meaning of "federal taxable income" and certain other terms used in the West Virginia Corporation Net Income Tax Act by bringing them into conformity with their meaning for Internal Revenue Code's definitions; changing the due date for filing a West Virginia Corporation Net Income Tax return; and specifying effective dates.

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