

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

**Introduced**

### **House Bill 4146**

BY MR. SPEAKER (MR. ARMSTEAD) AND DELEGATE MILEY

[BY REQUEST OF THE EXECUTIVE]

[Introduced January 16, 2018; Referred  
to the Committee on Finance.]

1 A BILL to amend and reenact §11-21-9 of the Code of West Virginia, 1931, as amended, relating  
 2 to updating meaning of federal adjusted gross income and certain other terms used in  
 3 West Virginia Personal Income Tax Act; providing rule for determining number of personal  
 4 exemptions; and specifying effective dates.

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

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

**§11-21-9. Meaning of terms.**

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 income taxes, unless a different meaning is  
 3 clearly required. Any reference in this article to the laws of the United States means the provisions  
 4 of the Internal Revenue Code of 1986, as amended, and any other provisions of the laws of the  
 5 United States that relate to the determination of income for federal income tax purposes. All  
 6 amendments made to the laws of the United States after December 31, ~~2015~~ 2016, but prior to  
 7 January 1, ~~2017~~ 2018, shall be given effect in determining the taxes imposed by this article to the  
 8 same extent those changes are allowed for federal income tax purposes, whether the changes  
 9 are retroactive or prospective, but no amendment to the laws of the United States made on or  
 10 after January 1, ~~2017~~ 2018, may be given any effect.

11 (b) *Medical savings accounts.* -- The term "taxable trust" does not include a medical  
 12 savings account established pursuant to §33-15-20 or §33-16-15 of this code. Employer  
 13 contributions to a medical savings account established pursuant to those sections are not wages  
 14 for purposes of withholding under §11-21-71 of this code.

15 (c) *Surtax.* -- The term "surtax" means the twenty percent additional tax imposed on  
 16 taxable withdrawals from a medical savings account under §33-15-20 of this code and the twenty  
 17 percent additional tax imposed on taxable withdrawals from a medical savings account under  
 18 §33-16-15 of this code which are collected by the Tax Commissioner as tax collected under this

19 article.

20 (d) *Effective date.* -- The amendments to this section enacted in the year ~~2016~~ 2017 are  
21 retroactive to the extent allowable under federal income tax law. With respect to taxable years  
22 that began prior to January 1, ~~2017~~ 2018, the law in effect for each of those years shall be fully  
23 preserved as to that year, except as provided in this section.

24 (e) For purposes of the refundable credit allowed to a low income senior citizen for property  
25 tax paid on his or her homestead in this state, the term "laws of the United States" as used in  
26 subsection (a) of this section means and includes the term "low income" as defined in subsection  
27 (b), section twenty-one of this article and as reflected in the poverty guidelines updated  
28 periodically in the federal register by the U.S. Department of Health and Human Services under  
29 the authority of 42 U.S.C. § 9902(2).

30 (f) For taxable years beginning on and after January 1, 2018, whenever §11-21-1 et seq.  
31 of this code refers to "each exemption for which he or she is entitled to a deduction for the taxable  
32 year for federal income tax purposes" this phrase means the exemption the person would have  
33 been allowed to claim for the taxable year had the federal income tax law not been amended to  
34 eliminate the personal exemption for federal tax years beginning on or after January 1, 2018.

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 specify 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.