

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

### **Originating**

## **House Bill 2828**

(BY DELEGATES HIGGINBOTHAM, QUEEN, SKAFF,  
ATKINSON, C. MARTIN, NELSON, TONEY, WAXMAN,  
CAPITO, LOVEJOY AND HICKS)

[Originating in the Committee on Small Business,  
Entrepreneurship and Economic Development then  
Finance; Reported on January 31, 2019]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §11-21-12j; and to amend said code by adding thereto a new section,  
3 designated §11-24-6b, all relating to promoting investment in a Qualified Opportunity Zone  
4 by providing a mechanism to exempt taxable income from corporate net income tax and  
5 personal income tax during the first ten (10) years of a Qualified Opportunity Zone  
6 Business's operation within one or more Qualified Opportunity Zones located in West  
7 Virginia; providing an effective date; and authorizing rulemaking authority for the Tax  
8 Commissioner.

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

**ARTICLE 21. PERSONAL INCOME TAX.**

**§11-21-12j. Decreasing modification reducing federal adjusted gross income for the net  
income of Qualified Opportunity Zone Businesses; effective date.**

1 (a) General. – In addition to the amounts authorized to be subtracted from federal adjusted  
2 gross income pursuant to subsection (c), section 12 of this article, a modification reducing federal  
3 adjusted gross income is hereby authorized in an amount equal to the net income included in  
4 federal taxable income by a taxpayer in a taxable year from a Qualified Opportunity Zone  
5 Business located in a Qualified Opportunity Zone which is located in West Virginia. The provisions  
6 of this section are effective for taxable years beginning on and after January 1, 2019.

7 (b) Eligibility. – To be entitled to modification provided for in subsection (a), the Qualified  
8 Opportunity Zone Business must be a newly registered business in West Virginia since January  
9 1, 2019.

10 (c) Duration. – The modification provided for in subsection (a) of this section shall apply  
11 with respect to a taxpayer for a ten (10) year period beginning with the first taxable year during  
12 which the applicable business with respect to which the taxpayer is associated first qualifies as a  
13 Qualified Opportunity Zone Business for the entire year.

14 (d) The following definitions apply to this section:

15 (1) “Qualified Opportunity Zone Business” means “Qualified Opportunity Zone Business”  
16 as that term is defined in 26 U.S.C. §1400Z-2.

17 (2) “Qualified Opportunity Zone” means “Qualified Opportunity Zone” as that term is  
18 defined in 26 U.S.C. §1400Z-1.

19 (e) The Tax Commissioner may propose rules necessary to carry out the provisions of this  
20 section and to provide guidelines and requirements to ensure uniform administrative practices  
21 statewide to effect the intent of this section, all in accordance with the provisions of article three,  
22 chapter twenty-nine-a of this code.

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

##### **§11-24-6b. Decreasing modification reducing federal taxable income for the income** **of Qualified Opportunity Zone Businesses; effective date.**

23 (a) General. – In addition to the amounts authorized to be subtracted from federal taxable  
24 income pursuant to subsection (c), section 6 of this article, a modification reducing federal taxable  
25 income is hereby authorized in an amount equal to net income included in federal taxable income  
26 by a corporate taxpayer in a taxable year if such taxpayer is considered a Qualified Opportunity  
27 Zone Business located in a Qualified Opportunity Zone which is located in West Virginia. The  
28 provisions of this section are effective for taxable years beginning on and after January 1, 2019.

29 (b) Eligibility. – To be entitled to modification provided for in subsection (a), the Qualified  
30 Opportunity Zone Business must be a newly registered business in West Virginia since January  
31 1, 2019.

32 (c) Duration. – The modification provided for in subsection (a) of this section shall apply  
33 with respect to a taxpayer during a ten (10) year period beginning with the first taxable year during  
34 which the applicable business with respect to which the taxpayer is associated first qualifies as a  
35 Qualified Opportunity Zone Business for the entire year.

36 (d) The following definitions apply to this section:

37           (1) “Qualified Opportunity Zone Business” means “Qualified Opportunity Zone Business”  
38 as that term is defined in 26 U.S.C. §1400Z-2.

39           (2) “Qualified Opportunity Zone” means “Qualified Opportunity Zone” as that term is  
40 defined in 26 U.S.C. §1400Z-1.

41           (e) The Tax Commissioner may propose rules necessary to carry out the provisions of this  
42 section and to provide guidelines and requirements to ensure uniform administrative practices  
43 statewide to effect the intent of this section, all in accordance with the provisions of article three,  
44 chapter twenty-nine-a of this code.

NOTE: The purpose of this bill is to exempt income derived from investments in an Opportunity Zone from personal and corporate net income taxes.

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