

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

**Introduced**

### **House Bill 4892**

BY DELEGATES LINVILLE AND HOUSEHOLDER

[Introduced February 11, 2020; Referred to the  
Committee on Finance]

1 A BILL to amend and reenact §11-21-4e of the Code of West Virginia, 1931, as amended; and to  
 2 amend said code by adding thereto a new section, designated §11B-2-33, all relating to  
 3 reducing personal income tax rates when personal income tax reduction fund is funded at  
 4 a certain threshold, and further reducing those rates when that threshold is reached again;  
 5 establishing personal income tax reduction fund and providing for deposits into personal  
 6 income tax reduction fund; specifying rate reductions; providing for deposits from personal  
 7 income tax reduction fund into general revenue fund; and imposing duties on the State  
 8 Tax Commissioner and other state agencies officers.

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

### **CHAPTER 11. TAXATION.**

#### **ARTICLE 21. PERSONAL INCOME TAX.**

##### **§11-21-4e. Rate of tax -- Taxable years beginning on or after January 1, 1987; taxable years after December 31, 2021.**

1 (a) *Rate of tax on individuals (except married individuals filing separate returns),*  
 2 *individuals filing joint returns, heads of households, estates and trusts.* -- The tax imposed by  
 3 section three of this article on the West Virginia taxable income of every individual (except married  
 4 individuals filing separate returns); every individual who is a head of a household in the  
 5 determination of his or her federal income tax for the taxable year; every husband and wife who  
 6 file a joint return under this article; every individual who is entitled to file his or her federal income  
 7 tax return for the taxable year as a surviving spouse; and every estate and trust shall be  
 8 determined in accordance with the following table:

9	If the West Virginia	The tax is:
10	taxable income is:	
11		
12	Not over \$10,000	3% of the taxable income
13		
14	Over \$10,000 but not	\$300.00 plus 4% of excess
15	over \$25,000	over \$10,000
16		

17	Over \$25,000 but not	\$900.00 plus 4.5% of excess
18	over \$40,000	over \$25,000
19		
20	Over \$40,000 but not	\$1,575.00 plus 6% of excess
21	over \$60,000	over \$40,000
22		
23	Over \$60,000	\$2,775.00 plus 6.5% of excess
24		over \$60,000
25		

26 (b) *Rate of tax on married individuals filing separate returns.* -- In the case of husband and  
 27 wife filing separate returns under this article for the taxable year, the tax imposed by section three  
 28 of this article on the West Virginia taxable income of each spouse shall be determined in  
 29 accordance with the following table:

30	If the West Virginia	
31	taxable income is:	The tax is:
32		
33	Not over \$5,000	3% of the taxable income
34		
35	Over \$5,000 but not	\$150.00 plus 4% of excess
36	over \$12,500	over \$5,000
37		
38	Over \$12,500 but not	\$450.00 plus 4.5% of
39	over \$20,000	excess over \$12,500
40		
41	Over \$20,000 but not	\$787.50 plus 6% of excess
42	over \$30,000	over \$20,000
43		
44	Over \$30,000	\$1,387.50 plus 6.5% of
45		excess over \$30,000
46		

47 (c) *Applicability of this section.* -- The provisions of this section, as amended by this act,  
 48 shall be applicable in determining the rate of tax imposed by this article for all taxable years  
 49 beginning after December 31, 1986, and shall be in lieu of the rates of tax specified in section  
 50 four-d of this article. The provisions of this section, as amended by this act in 2020, and of §11B-  
 51 2-33 of this code shall be applicable in determining the rate of tax imposed by this article for all  
 52 taxable years beginning after December 31, 2021, and shall be in lieu of the rates of tax specified  
 53 in this section upon the occurrence of the events specified in §11B-2-33 of this code.

**CHAPTER 11B. DEPARTMENT OF REVENUE.**

**ARTICLE 2. STATE BUDGET OFFICE.****§11B-2-33. Personal income tax reduction fund.**

1       (a) The personal income tax reduction fund is hereby established. The personal income  
2 tax reduction fund shall be funded continuously and on a revolving basis in accordance with this  
3 section, with all interest or other earnings on the moneys therein credited to the fund. The personal  
4 income tax reduction fund shall be funded as provided by this section, by other provisions of this  
5 code, and by any appropriation made to the fund by the Legislature. Moneys in the personal  
6 income tax reduction fund may be expended solely for the purposes set forth in this section.

7       (b) Notwithstanding any other provision of this code to the contrary, moneys to be  
8 deposited in the personal income tax reduction fund include:

9       (1) The net amount of all West Virginia state sales and use tax collections on all sales  
10 made on and after January 1, 2020, through the internet. The State Tax Commissioner shall  
11 deposit the amounts as required by this section into the fund;

12       (2) The net amount of the state's share of the gross sales received by the State Lottery  
13 Commission that are derived from lottery games authorized under §29-22-1 *et seq.* of this code  
14 on and after January 1, 2020, that utilize an electronic computer and a video screen to operate a  
15 lottery game and communicate the results thereof, such as the games of "Travel" or "Keno", and  
16 which do not utilize an interactive electronic terminal device allowing input by an individual player,  
17 that are made available by the State Lottery Commission in locations other than: (A) Private clubs  
18 licensed in accordance with the provisions of §60-7-1 *et seq.* of this code; (B) retail licensees  
19 licensed in accordance with the provisions of §60-3A-1 *et seq.* of this code; or (C) in the facilities  
20 of class A licensees which are licensed in accordance with the provisions of §11-16-9 of this code,  
21 in which facility at least 75 percent of the nonintoxicating beer sold by the class A licensee in the  
22 preceding year was sold for consumption on the premises. The State Lottery Commission shall  
23 deposit the amounts as required by this section into the fund;

24       (3) The net amount of the state's share of gross terminal income received by the State

25 Lottery Commission that are derived from lottery games that are derived from limited video lottery  
26 operations authorized under §29-22B-1 et seq. of this code on and after January 1, 2020, that are  
27 operated at a retail location by a licensed operator authorized by the State Lottery Commission  
28 to operate limited video lottery terminals as a limited video lottery retailer. The State Lottery  
29 Commission shall deposit the amounts as required by this section into the fund;

30 (4) The net amount of the state's share of gross revenues received by the State Lottery  
31 Commission that are derived from racetrack video lottery terminals at a secondary location of a  
32 licensed racetrack authorized under §29-22A-1 et seq. of this code on and after January 1, 2020.  
33 The State Lottery Commission shall deposit the amounts as required by this section into the fund;

34 (5) The net amount of the state's share of gross revenues received by the State Lottery  
35 Commission that are derived from racetrack table games at a secondary location of a licensed  
36 racetrack authorized under §29-22C-1 et seq. of this code on and after January 1, 2020. The  
37 State Lottery Commission shall deposit the amounts as required by this section into the fund;

38 (6) The net amount of the state's share of gross revenues received by the State Lottery  
39 Commission that are derived from sports wagering at a secondary location of a licensed racetrack  
40 authorized under §29-22D-1 et seq. of this code on and after January 1, 2020. The State Lottery  
41 Commission shall deposit the amounts as required by this section into the fund;

42 (7) The net amount of the state's share of gross revenues received by the State Lottery  
43 Commission that are derived from interactive gaming at a primary or secondary location of a  
44 licensed racetrack authorized under §29-22E-1 et seq. of this code on and after January 1, 2019.  
45 The State Lottery Commission shall deposit the amounts as required by this section into the fund;

46 (8) After depositing the amounts into the Revenue Shortfall Reserve Fund as required  
47 under §11B-2-20 of this code, 25 percent of all surplus revenues described in that section; and

48 (9) All other amounts directed to be deposited into the fund by any provision of this code  
49 or appropriation.

50 (c)(1) If at the end of any fiscal year the personal income tax reduction fund is funded at

51 an amount equal to or exceeding 2.5 times the total net reduction in personal income tax revenue  
52 collections that would have been received in that fiscal year if the income tax rates for that fiscal  
53 year had been reduced by 0.25 percent, the Secretary of Revenue shall certify the same to the  
54 State Tax Commissioner on or before the next ensuing July 31.

55 (2) Upon the certification, for all taxable years beginning on or after the next ensuing  
56 January 1, the tax imposed by §11-21-3 of this code shall, in lieu of the provisions of §11-21-4e  
57 of this code, be imposed in accordance with the following as if fully set forth therein: The Tax  
58 Commissioner shall publish by administrative notice the provisions set forth in §11-21-4e of this  
59 code after reducing each percentage by 0.25 percent, which published provisions shall for all  
60 taxable years beginning on or after the next ensuing January 1, be the tax imposed by §11-21-3  
61 of this code in lieu of the provisions of §11-21-4e of this code.

62 (3) Upon the certification, on the next ensuing July 1, the Secretary of Revenue shall  
63 transfer the sum of the multiplication described in subdivision (1) of this subsection from the  
64 personal income tax reduction fund to the General Revenue Fund of the state.

65 (d)(1) After the occurrence of the events described in subdivision (1), subsection (c) of this  
66 section, if at the end of any fiscal year the personal income tax reduction fund is funded at an  
67 amount equal to or exceeding two and one half times the total net reduction in personal income  
68 tax revenue collections that would have been received in that fiscal year if the income tax rates  
69 for that fiscal year had been reduced by 0.25 percent, less the amount required to be transferred  
70 by subdivision (3), subsection (c) of this section, if required, the Secretary of Revenue shall certify  
71 the same to the State Tax Commissioner on or before the next ensuing July 31.

72 (2) Upon the certification, for all taxable years beginning on or after the next ensuing  
73 January 1, the tax imposed by §11-21-3 of this code shall, in lieu of the provisions of §11-21-4e  
74 of this code, be imposed in accordance with the following as if fully set forth therein: The Tax  
75 Commissioner shall publish by administrative notice the provisions set forth in §11-21-4e of this  
76 code after reducing each percentage by an additional 0.25 percent to the same effect of reducing

77 those percentages as provided by subdivision (2), subsection (c) of this section, which published  
78 provisions shall for all taxable years beginning on or after the next ensuing January 1, be the tax  
79 imposed by §11-21-3 of this code in lieu of the provisions of §11-21-4e of this code.

80 (3) Upon the certification, on the next ensuing July 1, the Secretary of Revenue shall  
81 transfer the sum of the multiplication described in subdivision (1) of this subsection from the  
82 personal income tax reduction fund to the general revenue fund of the state.

83 (e) The moneys in the personal income tax reduction fund shall be made available to the  
84 West Virginia Board of Treasury Investments for management and investment of the moneys in  
85 accordance with the provisions of §12-6C-1 et seq. of this code and to the West Virginia  
86 Investment Management Board for management and investment of the moneys in accordance  
87 with the provisions of §12-6-1 et seq. of this code in such amounts as may be directed in the  
88 discretion of the Secretary of Revenue. Any balance of the personal income tax reduction fund,  
89 including accrued interest and other return earned thereon at the end of any fiscal year, shall not  
90 revert to the General Fund but shall remain in the personal income tax reduction fund for the  
91 purposes set forth in this section.

NOTE: The purpose of this bill is to direct certain revenue sources into a new Personal Income Tax Reduction Fund. When the balance of the fund reaches a certain threshold at the end of a fiscal year, state personal income tax rates will reduce by a quarter percent beginning Jan 1 of the following calendar year. Then, at the beginning of the next fiscal year, the amount equal to that threshold will be deposited from the Personal Income Tax Reduction Fund into the General Revenue Fund of the state. Each time these events occur, the personal income tax rates will be reduced by 0.25%.

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