

# WEST VIRGINIA LEGISLATURE

## 2021 REGULAR SESSION

**Introduced**

### **House Bill 3070**

**FISCAL  
NOTE**

BY DELEGATE HIGGINBOTHAM

[Introduced March 11, 2021; Referred to the  
Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §11-24-6c, relating to creating a decreasing modification reducing federal  
 3 taxable income subject to the corporate net income tax for the income of businesses  
 4 relocating from The People’s Republic of China; effective date.

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

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

**§11-24-6c. Decreasing, modification, reducing federal taxable income for the income of businesses relocating from The People’s Republic of China; effective date.**

1 (a) General. — In addition to the amounts authorized to be subtracted from federal taxable  
 2 income pursuant to §11-24-6(c) of this code, there shall be subtracted from federal taxable  
 3 income, an amount equal to net income included in federal taxable income by a corporate  
 4 taxpayer in a taxable year that is ordinary income derived from a qualified business located in  
 5 West Virginia.

6 (b) Eligibility. — To be entitled to modification provided for in subsection (a), the qualified  
 7 business must be a newly registered business in West Virginia registered on or after January 1,  
 8 2021, and before January 1, 2026. Limited liability companies that are treated as corporations for  
 9 purposes of the federal income tax and West Virginia corporation net income tax and which  
 10 otherwise qualify in accordance with the requirements and limitations of this section may qualify  
 11 for the modification authorized under this section.

12 (c) Duration. — The modification provided for in subsection (a) of this section shall apply  
 13 with respect to a taxpayer during the 10-year period beginning with the first full taxable year during  
 14 which the qualified business first qualifies as a qualified business, or the first year in which the  
 15 qualified business reports net income: *Provided*, That the qualified business first qualifies as such  
 16 on or after January 1, 2021.

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

18           (1) “Newly registered business” means a business that is formed on or after January 1,  
19 2021 and before January 1, 2026, that is first required to obtain a business registration certificate  
20 under §11-12-1 et seq. of this code from the Tax Commissioner on or after January 1, 2021 and  
21 before January 1, 2026, and which is not the reorganization of a business that existed prior to  
22 January 1, 2021.

23           (2) “Reorganization of an existing business” includes, but is not limited to, a change in the  
24 name of a business, a change in the form of doing business such as, but not limited to, a  
25 proprietorship that reorganizes as a partnership or other business entity, a subsidiary that  
26 becomes a stand-alone business entity, a division of an existing business that becomes a  
27 separate business and any other similar type of business reorganization. For purposes of this  
28 definition any entity or organization that is determined by the Tax Commissioner to be an alter  
29 ego, nominee or instrumentality of an existing or previously existing business, as determined in  
30 accordance with the criteria specified in §11-12-5 of this code is a business resulting from  
31 reorganization of an existing business.

32           (3) “Qualified Business” means a corporation or a limited liability company that is located  
33 in The People’s Republic of China and relocates its corporate or company offices or its production  
34 facilities to West Virginia.

35           (e) Rules. — The Tax Commissioner may propose legislative rules, or promulgate  
36 interpretive or procedural rules, as the commissioner deems necessary to carry out the provisions  
37 of this section and to provide guidelines and requirements to ensure uniform administrative  
38 practices statewide to effect the intent of this section. All rules shall be promulgated in accordance  
39 with the provisions of §29A-3-1 et seq. of this code.

40           (f) Effective date; expiration of modification, preservation of entitlement. — The  
41 modification authorized by this section becomes effective and is authorized for taxable years  
42 beginning on and after January 1, 2021: *Provided*, That unless sooner terminated by law, the  
43 modification authorized by this section will terminate for taxable years beginning on and after

44 January 1, 2026, and no new entitlement to the modification is authorized thereafter: *Provided,*  
45 *however,* That those taxpayers shall retain that entitlement for the remainder of the 10-year  
46 application period over which the original entitlement applies, if the taxpayer otherwise remains  
47 in compliance with the requirements of this section.

NOTE: The purpose of this bill is to create a decreasing modification reducing federal taxable income subject to the corporate net income tax for the income of businesses relocating from The People's Republic of China to this state.

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