

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2156

By Delegate McGeehan

Introduced January 11, 2023; Referred to the
Committee on Fire Departments and Emergency
Medical Services then Finance]

1 A BILL to amend and reenact §11-3-9 of the Code of West Virginia, 1931, as amended; and to
 2 amend and reenact §11-21-12 of said code, all relating to exempting firefighters and
 3 volunteer firefighters from payment of income and real and personal property taxes.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. ASSESSMENTS GENERALLY.

§11-3-9. Property exempt from taxation.

1 (a) All property, real and personal, described in this subsection, and to the extent limited by
 2 this section, is exempt from taxation:

3 (1) Property belonging to the United States, other than property permitted by the United
 4 States to be taxed under state law;

5 (2) Property belonging exclusively to the state;

6 (3) Property belonging exclusively to any county, district, city, village, or town in this state
 7 and used for public purposes;

8 (4) Property located in this state belonging to any city, town, village, county, or any other
 9 political subdivision of another state and used for public purposes;

10 (5) Property used exclusively for divine worship;

11 (6) Parsonages and the household goods and furniture pertaining thereto;

12 (7) Mortgages, bonds, and other evidence of indebtedness in the hands of bona fide
 13 owners and holders hereafter issued and sold by churches and religious societies for the purposes
 14 of securing money to be used in the erection of church buildings used exclusively for divine
 15 worship or for the purpose of paying indebtedness thereon;

16 (8) Cemeteries;

17 (9) Property belonging to, or held in trust for, colleges, seminaries, academies, and free
 18 schools, if used for educational, literary or scientific purposes, including books, apparatus,
 19 annuities and furniture;

20 (10) Property belonging to, or held in trust for, colleges or universities located in West

21 Virginia, or any public or private nonprofit foundation or corporation which receives contributions
22 exclusively for ~~such~~ that college or university, if the property or dividends, interest, rents, or
23 royalties derived therefrom are used or devoted to educational purposes of ~~such~~ that college or
24 university;

25 (11) Public and family libraries;

26 (12) Property used for charitable purposes and not held or leased out for profit;

27 (13) Property used for the public purposes of distributing electricity, water or natural gas or
28 providing sewer service by a duly chartered nonprofit corporation when ~~such~~ that property is not
29 held, leased out or used for profit;

30 (14) Property used for area economic development purposes by nonprofit corporations
31 when the property is not leased out for profit;

32 (15) All real estate not exceeding one acre in extent, and the buildings on the real estate,
33 used exclusively by any college or university society as a literary hall, or as a dormitory or
34 clubroom, if not used with a view to profit, including, but not limited to, property owned by a
35 fraternity or sorority organization affiliated with a university or college or property owned by a
36 nonprofit housing corporation or similar entity on behalf of a fraternity or sorority organization
37 affiliated with a university or college, when the property is used as residential accommodations or
38 as a dormitory for members of the organization;

39 (16) All property belonging to benevolent associations not conducted for private profit;

40 (17) Property belonging to any public institution for the education of the deaf, intellectually
41 disabled or blind or any hospital not held or leased out for profit;

42 (18) Houses of refuge and mental health facility or orphanage;

43 (19) Homes for children or for the aged, friendless, or infirm not conducted for private profit;

44 (20) Fire engines and implements for extinguishing fires, and property used exclusively for
45 the safekeeping thereof, and for the meeting of fire companies;

46 (21) All property on hand to be used in the subsistence of livestock on hand at the

47 commencement of the assessment year;

48 (22) Household goods to the value of \$200, whether or not held or used for profit;

49 (23) Bank deposits and money;

50 (24) Household goods, which for purposes of this section means only personal property
51 and household goods commonly found within the house and items used to care for the house and
52 its surrounding property, when not held or used for profit;

53 (25) Personal effects, which for purposes of this section means only articles and items of
54 personal property commonly worn on or about the human body or carried by a person and
55 normally thought to be associated with the person when not held or used for profit;

56 (26) Dead victuals laid away for family use;

57 (27) All property belonging to the state, any county, district, city, village, town or other
58 political subdivision or any state college or university which is subject to a lease purchase
59 agreement and which provides that, during the term of the lease purchase agreement, title to the
60 leased property rests in the lessee so long as lessee is not in default or ~~shall not have~~ has not
61 terminated the lease as to the property;

62 (28) Personal property, including vehicles that qualify for a farm use exemption certificate
63 pursuant to §17A-3-2 of this code and livestock, employed exclusively in agriculture, as defined in
64 article 10, section one of the West Virginia Constitution: *Provided*, That this exemption only applies
65 ~~in the case of such~~ if that personal property is used on a farm or farming operation that annually
66 produces for sale agricultural products, as defined in rules of the Tax Commissioner;

67 (29) Real property owned by a nonprofit organization whose primary purpose is youth
68 development by means of adventure, educational or recreational activities for young people,
69 which real property contains a facility built with the expenditure of not less than \$100 million that is
70 capable of supporting additional activities within the region or the state and which is leased or used
71 to generate revenue for the nonprofit organization whether or not the property is used by the
72 nonprofit organization for its nonprofit purpose, subject to the requirements, limitations and

73 conditions set forth in subsection (h) of this section; ~~and~~

74 ~~(30)~~ (30) Real and personal property owned by firefighters who are full-time employees of a
75 local fire department and volunteer firefighters who have successfully completed training
76 requirements under §29-3-6 of this code and who are employed by a volunteer fire department;
77 and

78 ~~(30)~~ (31) Any other property or security exempted by any other provision of law.

79 (b) Notwithstanding the provisions of subsection (a) of this section, no property is exempt
80 from taxation which has been purchased or procured for the purpose of evading taxation whether
81 temporarily holding the same over the first day of the assessment year or otherwise.

82 (c) Real property which is exempt from taxation by subsection (a) of this section shall be
83 entered upon the assessor's books, together with the true and actual value thereof, but no taxes
84 may be levied upon the property or extended upon the assessor's books.

85 (d) Notwithstanding any other provisions of this section, this section does not exempt from
86 taxation any property owned by, or held in trust for, educational, literary, scientific, religious or other
87 charitable corporations or organizations, including any public or private nonprofit foundation or
88 corporation existing for the support of any college or university located in West Virginia, unless
89 ~~such~~ that property, or the dividends, interest, rents or royalties derived therefrom, is used primarily
90 and immediately for the purposes of the corporations or organizations.

91 (e) The Tax Commissioner shall, by issuance of rules, provide each assessor with
92 guidelines to ensure uniform assessment practices statewide to effect the intent of this section.

93 (f) Inasmuch as there is litigation pending regarding application of this section to property
94 held by fraternities and sororities, amendments to this section enacted in the year 1998 shall apply
95 to all cases and controversies pending on the date of ~~such~~ that enactment.

96 (g) The amendment to subdivision (27), subsection (a) of this section, passed during the
97 2005 regular session of the Legislature, shall apply to all applicable lease purchase agreements in
98 existence upon the effective date of the amendment.

99 (h) Nonprofit youth organization exemption - Limitations, Conditions, Collection, and
100 administration of one and one quarter percent fee, limitations and distribution of ~~monies~~ moneys.

101 (1) The exemption from ad valorem taxation provided pursuant to the provisions of
102 subdivision (29), subsection (a) of this section does not apply to a property owned by a nonprofit
103 organization otherwise qualifying for the exemption but which property or facilities are used for-
104 profit or outside the primary purpose of the owner which result in unrelated business taxable
105 income as defined by Section 512 of the Internal Revenue Code of 1986, as amended, unless the
106 income is generated by an activity upon which the one and one quarter percent fee authorized by
107 subdivision (2) of this section is applied as provided in subdivision (3) of this subsection.

108 (2) The owner of real property exempt from ad valorem taxation under subdivision (29),
109 subsection (a) of this section shall pay an amount equal to one and one quarter percent of the
110 gross revenues the owner receives in accordance with this subsection. For purposes of this
111 subsection, "gross revenues" means the gross amount received by the owner as payment for use
112 of the property or the facilities thereon.

113 (3) Gross revenues derived from the following facilities, uses, activities and operations are
114 subject to a fee of one and one quarter percent of ~~such~~ gross revenues:

115 (A) Gross revenues derived from the use of lodging and campground facilities by persons
116 participating in meetings and multiday spectator sports or multiday recreational, celebratory, or
117 ceremonial events held on-site where on-site lodging or camping is offered as part of the program.
118 For purposes of this section the term "meeting" means, and is limited to, a gathering, assembly or
119 conference of two or more persons who have deliberately convened at a single specific location at
120 a single specified time and date for a common specific purpose.

121 (B) Gross revenues derived from any retail store located at the facility that is open only to
122 those persons who are attending meetings, spectator sports, recreational, celebratory or
123 ceremonial events held on-site at the facility.

124 (C) Gross revenues derived from operations of gift shops at a welcome or information

125 center located adjacent to a public highway operated by the nonprofit organization which is open
126 to the general public.

127 (D) Gross revenues derived from the leasing of zip-lines, canopy tours, wheeled sports
128 and climbing facilities used by the general public on a for-profit basis (i) Under a written agreement
129 with a licensed commercial outfitter operating a business utilizing zip-lines, canopy tours, wheeled
130 sports or climbing areas of a similar nature in the same or an adjacent county where the facilities
131 are located; and (ii) when the property or facilities are used as part of a training or advanced
132 experience offered by the licensed commercial outfitter.

133 (E) Gross revenues derived from the use or operation of zip-lines, canopy tours, wheeled
134 sports facilities or activities, climbing facilities or activities and the use or operation of other
135 sporting facilities on the exempt property that are leased on a for-profit basis for spectator events,
136 such as concerts, spectator sporting events or exhibitions or similar mass gathering events.

137 (F) Gross revenues derived from leases or agreements for use of the property for meetings
138 and multiday spectator sports or events or multiday recreational, celebratory, or ceremonial
139 events, held on site.

140 (4) Notwithstanding any other provision of this section to the contrary, programs or
141 activities occurring on the property or its facilities held in conjunction with a government
142 organization or sponsored by other nonprofit organizations serving youth, veterans, military
143 services, public service agencies including, fire, police, emergency and search and rescue
144 services, government agencies, schools and universities, health care providers and similar
145 organizations or groups which are designed to provide opportunities for learning or training in the
146 areas of leadership, character education, science, technology, engineering, arts and mathematics
147 (STEAM) programs, physical challenges, sustainability, conservation and outdoor learning shall
148 be considered a charitable or nonprofit use for the purposes of this section and not subject to the
149 one and one quarter percent fee.

150 (5) Notwithstanding any other provision of this section to the contrary, activities open to the

151 public through individual visitor passes allowing tours and access to the property and its facilities
152 for the purpose of viewing or participating in demonstrations, programs and facilities providing
153 information and experiences consistent with the owner's nonprofit purposes where zip-lines,
154 canopy tours, wheeled sports or climbing facilities are merely components of the demonstrations,
155 programs and facilities used shall be considered a charitable or nonprofit use for the purposes of
156 this section and not subject to the one and one quarter percent fee: *Provided*, That ~~such~~ the
157 individual visitor passes may not include the rental or use of on-site overnight lodging or camping
158 facilities.

159 (6) Administration –

160 (A) The sheriff of the county wherein the majority of the acreage of the property is located
161 as specified in the deed to ~~such~~ that property, shall collect, on a monthly basis, all moneys derived
162 from the fee of one and one quarter percent of the gross revenues imposed under this subsection.

163 (B) The sheriff of the county wherein the majority of the acreage of the property is located
164 as specified in the deed to ~~such~~ that property, shall prescribe such forms and schedules as may be
165 necessary for the efficient, accurate, and expeditious payment and reporting of the one and one
166 quarter percent fee specified in this subsection on gross revenues.

167 (C) The sheriff of the county wherein the majority of the acreage of the property is located
168 as specified in the deed to ~~such~~ that property, shall administer the fee imposed under this
169 subsection, including refunds and adjustments.

170 (D) Payment, administration and compliance of fee payers and administrators shall be
171 subject to audit by the Office of Chief Inspector.

172 (E) All ~~moneys~~ moneys so collected, net of refunds and adjustments, shall be paid into a
173 special account in the State Treasury, which is hereby created, and the amount thereof shall be
174 distributed and paid annually, by the State Treasurer, on October 1 of each year, into the funds and
175 to the distributees specified in subdivision (7) of this subsection in the amounts specified therein.

176 (7) Distribution –

177 (A) Twenty-five percent of moneys so collected, net of refunds and adjustments, shall be
178 paid annually to the Tourism Promotion Fund established pursuant to §5b-2-12 of this code.

179 (B) Twenty-five percent of moneys so collected, net of refunds and adjustments, shall be
180 paid annually to the sheriff of the county where the property is located which, but for the exemption
181 provided in subdivision (29), subsection (a) of this section, would be entitled to receive ad valorem
182 taxes on the property. The sheriff shall treat all such payments in the same manner as payments in
183 lieu of taxes, and ~~such~~ those payments are subject to the adjustment mandated under §18-9a-12
184 of this code. For properties located in more than one county, the amount paid to the sheriff of the
185 county shall be in proportion to the total number of acres located in each county at the close of the
186 fiscal year, as specified in the deed to ~~such~~ that property.

187 (C) Fifty percent of moneys so collected, net of refunds and adjustments, shall be divided
188 equally and paid annually into separate accounts established and maintained by the sheriffs of the
189 county or counties wherein the property is located and the sheriffs of any other county that is within
190 the jurisdiction of the same economic development authority as the county or counties wherein the
191 property is located to be used solely for the establishment and delivery of a science, technology,
192 engineering, art and math (STEAM) program in conjunction with the owner of the exempt property.
193 The funds shall be divided equally for use in each county and the programs must be approved by
194 the respective county superintendents of schools. Expenditures from the accounts shall be
195 authorized by the county superintendent of schools.

196 (8) If lodging is furnished as part of a retreat, meeting, or multiday spectator sport or event
197 being held on-site wherein on-site lodging or camping is offered as part of the program, any
198 applicable hotel occupancy tax and state and local consumers sales and service tax and use tax
199 shall be paid based upon the actual location of ~~such~~ that lodging.

200 (9) If merchants are allowed to do business on the property, the owner or lessee of the
201 property shall offer space to local merchants on terms at least as favorable as are offered to other
202 merchants.

203 (10) For the purposes of this subsection, owner includes the owner holding record title to
204 the property and its affiliates to the extent they are commonly owned, controlled or have the power
205 to appoint the governing body of the affiliate.

206 (11) The Tourism Commission shall include in its annual report submitted to the Governor
207 and the Legislature a summary of funds paid into the Tourism Promotion Fund and
208 recommendations pertaining to the administration of this section.

209 (12) This subsection may not be construed to prohibit the owner of property otherwise
210 subject to this section from having portions of the property severed from the remainder of the
211 property, assessed and taxed as if nonexempt and thereafter conducting business on ~~such~~ that
212 property the same as any other nonexempt property: *Provided*, That the area of property to be
213 severed shall be approved by the county commission wherein the property lies so as to include in
214 the severance all property substantially supporting the for profit or business activity giving rise to
215 the specific purpose of the severance and excluding all property entitled to the continued benefits
216 of this act.

217 (i) To assure the implementation of subsection (h) of this section does not harm local and
218 regionally located businesses by use of the tax-exempt facility in a manner that cause unfair
219 competition and unreasonable loss of revenue to those businesses, studies shall be periodically
220 conducted to assure that further legislation is in order regarding the uses of the tax exempt facility.
221 The county commission of any county where such a property is located shall report to the Joint
222 Committee on Government and Finance by January 1, every five years after the effective date of
223 this section. The report shall include information on any unfair business competition resulting from
224 the establishment of the nonprofit status, and include a report of the costs and benefits to its
225 county of the tax exemption and associated fee, including an audit of that county's use of the net
226 revenues. The West Virginia University Bureau of Business and Economic Research in
227 coordination of the Center for Business and Economic Research at Marshall University, by
228 January 1, 2020, shall undertake a study and report to the committee, the economic impact of this

229 tax exemption and fee to the county and that region of the state, and make any recommendations
 230 regarding the benefits and disadvantages for continuing the provision of this tax exemption and
 231 fee, included, but not limited to, the impacts to other small and large businesses in the county, the
 232 costs to the county has incurred as a result of use of the facility, and any other relevant data that
 233 the universities may deem relevant.

ARTICLE 21. PERSONAL INCOME TAX.
§11-21-12. West Virginia adjusted gross income of resident individual.

1 (a) *General.* -- The West Virginia adjusted gross income of a resident individual means his
 2 or her federal adjusted gross income as defined in the laws of the United States for the taxable
 3 year with the modifications specified in this section.

4 (b) *Modifications increasing federal adjusted gross income.* -- There shall be added to
 5 federal adjusted gross income, unless already included therein, the following items:

6 (1) Interest income on obligations of any state other than this state or of a political
 7 subdivision of any other state unless created by compact or agreement to which this state is a
 8 party;

9 (2) Interest or dividend income on obligations or securities of any authority, commission, or
 10 instrumentality of the United States, which the laws of the United States exempt from federal
 11 income tax but not from state income taxes;

12 (3) Any deduction allowed when determining federal adjusted gross income for federal
 13 income tax purposes for the taxable year that is not allowed as a deduction under this article for the
 14 taxable year;

15 (4) Interest on indebtedness incurred or continued to purchase or carry obligations or
 16 securities the income from which is exempt from tax under this article, to the extent deductible in
 17 determining federal adjusted gross income;

18 (5) Interest on a depository institution tax-exempt savings certificate which is allowed as an
 19 exclusion from federal gross income under Section 128 of the Internal Revenue Code, for the

20 federal taxable year;

21 (6) The amount of a lump sum distribution for which the taxpayer has elected under
22 Section 402(e) of the Internal Revenue Code of 1986, as amended, to be separately taxed for
23 federal income tax purposes; and

24 (7) Amounts withdrawn from a medical savings account established by or for an individual
25 under §33-15-20 or §33-16-15 of this code that are used for a purpose other than payment of
26 medical expenses, as defined in those sections.

27 (c) *Modifications reducing federal adjusted gross income.* -- There shall be subtracted from
28 federal adjusted gross income to the extent included therein:

29 (1) Interest income on obligations of the United States and its possessions to the extent
30 includable in gross income for federal income tax purposes;

31 (2) Interest or dividend income on obligations or securities of any authority, commission or
32 instrumentality of the United States or of the State of West Virginia to the extent includable in gross
33 income for federal income tax purposes but exempt from state income taxes under the laws of the
34 United States or of the State of West Virginia, including federal interest or dividends paid to
35 shareholders of a regulated investment company, under Section 852 of the Internal Revenue
36 Code for taxable years ending after June 30, 1987;

37 (3) Any amount included in federal adjusted gross income for federal income tax purposes
38 for the taxable year that is not included in federal adjusted gross income under this article for the
39 taxable year;

40 (4) The amount of any refund or credit for overpayment of income taxes imposed by this
41 state, or any other taxing jurisdiction, to the extent properly included in gross income for federal
42 income tax purposes;

43 (5) Annuities, retirement allowances, returns of contributions and any other benefit
44 received under the West Virginia Public Employees Retirement System, and the West Virginia
45 State Teachers Retirement System, including any survivorship annuities derived therefrom, to the

46 extent includable in gross income for federal income tax purposes: *Provided*, That notwithstanding
47 any provisions in this code to the contrary this modification shall be limited to the first \$2,000 of
48 benefits received under the West Virginia Public Employees Retirement System, the West Virginia
49 State Teachers Retirement System and, including any survivorship annuities derived therefrom, to
50 the extent includable in gross income for federal income tax purposes for taxable years beginning
51 after December 31, 1986; and the first \$2,000 of benefits received under any federal retirement
52 system to which Title 4 U.S.C. §111 applies: *Provided, however*, That the total modification under
53 this paragraph shall may not exceed \$2,000 per person receiving retirement benefits and this
54 limitation shall apply to all returns or amended returns filed after December 31, 1988;

55 (6) Retirement income received in the form of pensions and annuities after December 31,
56 1979, under any West Virginia police, West Virginia Firemen's Retirement System or the West
57 Virginia State Police Death, Disability and Retirement Fund, the West Virginia State Police
58 Retirement System or the West Virginia Deputy Sheriff Retirement System, including any
59 survivorship annuities derived from any of these programs, to the extent includable in gross
60 income for federal income tax purposes;

61 (7) (A) For taxable years beginning after December 31, 2000, and ending prior to January
62 1, 2003, an amount equal to two percent multiplied by the number of years of active duty in the
63 Armed Forces of the United States of America with the product thereof multiplied by the first
64 \$30,000 of military retirement income, including retirement income from the regular armed forces,
65 Reserves and National Guard paid by the United States or by this state after December 31, 2000,
66 including any survivorship annuities, to the extent included in gross income for federal income tax
67 purposes for the taxable year.

68 (B) For taxable years beginning after December 31, 2000, the first \$20,000 of military
69 retirement income, including retirement income from the regular armed forces, Reserves and
70 National Guard paid by the United States or by this state after December 31, 2002, including any
71 survivorship annuities, to the extent included in gross income for federal income tax purposes for

72 the taxable year.

73 (C) For taxable years beginning after December 31, 2017, military retirement income,
74 including retirement income from the regular armed forces, Reserves and National Guard paid by
75 the United States or by this state after December 31, 2017, including any survivorship annuities, to
76 the extent included in federal adjusted gross income for the taxable year.

77 (D) In the event that any of the provisions of this subdivision are found by a court of
78 competent jurisdiction to violate either the Constitution of this state or of the United States, or is
79 held to be extended to persons other than specified in this subdivision, this subdivision shall
80 become null and void by operation of law.

81 (8) Federal adjusted gross income in the amount of \$8,000 received from any source after
82 December 31, 1986, by any person who has attained the age of 65 on or before the last day of the
83 taxable year, or by any person certified by proper authority as permanently and totally disabled,
84 regardless of age, on or before the last day of the taxable year, to the extent includable in federal
85 adjusted gross income for federal tax purposes: *Provided*, That if a person has a medical
86 certification from a prior year and he or she is still permanently and totally disabled, a copy of the
87 original certificate is acceptable as proof of disability. A copy of the form filed for the federal
88 disability income tax exclusion is acceptable: *Provided, however*, That:

89 (i) Where the total modification under subdivisions (1), (2), (5), (6) and (7) of this
90 subsection is \$8,000 per person or more, no deduction shall may be allowed under this
91 subdivision; and

92 (ii) Where the total modification under subdivisions (1), (2), (5), (6) and (7) of this
93 subsection is less than \$8,000 per person, the total modification allowed under this subdivision for
94 all gross income received by that person shall be limited to the difference between \$8,000 and the
95 sum of modifications under subdivisions (1), (2), (5), (6) and (7) of this subsection;

96 (9) Federal adjusted gross income in the amount of \$8,000 received from any source after
97 December 31, 1986, by the surviving spouse of any person who had attained the age of 65 or who

98 had been certified as permanently and totally disabled, to the extent includable in federal adjusted
99 gross income for federal tax purposes: *Provided*, That:

100 (i) Where the total modification under subdivisions (1), (2), (5), (6), (7) and (8) of this
101 subsection is \$8,000 or more, no deduction shall may be allowed under this subdivision; and

102 (ii) Where the total modification under subdivisions (1), (2), (5), (6), (7) and (8) of this
103 subsection is less than \$8,000 per person, the total modification allowed under this subdivision for
104 all gross income received by that person shall be limited to the difference between \$8,000 and the
105 sum of subdivisions (1), (2), (5), (6), (7) and (8) of this subsection;

106 (10) Contributions from any source to a medical savings account established by or for the
107 individual pursuant to §33-15-20 or §33-16-15 of this code, plus interest earned on the account, to
108 the extent includable in federal adjusted gross income for federal tax purposes: *Provided*, That the
109 amount subtracted pursuant to this subdivision for any one taxable year may not exceed \$2,000
110 plus interest earned on the account. For married individuals filing a joint return, the maximum
111 deduction is computed separately for each individual;

112 (11) For the 2006 taxable year only, severance wages received by a taxpayer from an
113 employer as the result of the taxpayer's permanent termination from employment through a
114 reduction in force and through no fault of the employee, not to exceed \$30,000. For purposes of
115 this subdivision:

116 (i) The term "severance wages" means any monetary compensation paid by the employer
117 in the taxable year as a result of permanent termination from employment in excess of regular
118 annual wages or regular annual salary;

119 (ii) The term "reduction in force" means a net reduction in the number of employees
120 employed by the employer in West Virginia, determined based on total West Virginia employment
121 of the employer's controlled group;

122 (iii) The term "controlled group" means one or more chains of corporations connected
123 through stock ownership with a common parent corporation if stock possessing at least 50 percent

124 of the voting power of all classes of stock of each of the corporations is owned directly or indirectly
125 by one or more of the corporations and the common parent owns directly stock possessing at least
126 50 percent of the voting power of all classes of stock of at least one of the other corporations;

127 (iv) The term "corporation" means any corporation, joint-stock company or association and
128 any business conducted by a trustee or trustees wherein interest or ownership is evidenced by a
129 certificate of interest or ownership or similar written instrument; ~~and~~

130 (12) Income received by firefighters who are full-time employees of a local fire department
131 and volunteer firefighters who have successfully completed training requirements under §29-3-6
132 of this code and who are employed by a volunteer fire department; and

133 ~~(12)~~ (13) Any other income which this state is prohibited from taxing under the laws of the
134 United States.

135 (d) *Modification for West Virginia fiduciary adjustment.* -- There shall be added to or
136 subtracted from federal adjusted gross income, as the case may be, the taxpayer's share, as
137 beneficiary of an estate or trust, of the West Virginia fiduciary adjustment determined under §11-
138 21-19 of this code.

139 (e) *Partners and S corporation shareholders.* -- The amounts of modifications required to
140 be made under this section by a partner or an S corporation shareholder, which relate to items of
141 income, gain, loss or deduction of a partnership or an S corporation, shall be determined under
142 §11-21-17 of this code.

143 (f) *Husband and wife.* -- If husband and wife determine their federal income tax on a joint
144 return but determine their West Virginia income taxes separately, they shall determine their West
145 Virginia adjusted gross incomes separately as if their federal adjusted gross incomes had been
146 determined separately.

147 (g) *Effective date.* --

148 (1) Changes in the language of this section enacted in the year 2000 shall apply to taxable
149 years beginning after December 31, 2000.

150 (2) Changes in the language of this section enacted in the year 2002 shall apply to taxable
151 years beginning after December 31, 2002.

NOTE: The purpose of this bill is to exempt firefighters, who are full-time employees of a local fire department, and volunteer firefighters who have successfully completed training requirements under §29-3-6 of this code and who are employed by a volunteer fire department, from payment of income and real and personal property 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.