

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2245

By Delegates Riley and Steele

[Introduced January 11, 2023; Referred to the
Committee on Finance]

1 A BILL to amend and reenact §11-21-20 of the Code of West Virginia, 1931, as amended, relating
 2 to the personal income tax; alleviating double taxation on foreign income at the state level;
 3 and sunsetting the credit for income tax paid on foreign income in 2070.

Be it enacted by the Legislature of West Virginia:

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-20. Credit for income tax of another state and foreign country.

1 (a) *General.* — A resident ~~shall be~~ is allowed a credit against the tax otherwise due under
 2 this article for any income tax imposed for the taxable year by another state of the United States, or
 3 by the District of Columbia, or by a foreign country upon income both derived therefrom and
 4 subject to tax under this article.

5 (b) *Limitations.* — (1) The credit under this section ~~shall~~ may not exceed the percentage of
 6 the tax otherwise due under this article determined by dividing the portion of the taxpayer’s West
 7 Virginia income subject to taxation by ~~such~~ the other jurisdiction by the total amount of the
 8 taxpayer’s West Virginia income.

9 (2) The credit under this section shall not reduce the tax otherwise due under this article to
 10 an amount less than would have been due if the income subject to taxation by ~~such~~ the other
 11 jurisdiction were excluded from the taxpayer’s West Virginia income.

12 (3) A credit pursuant to this section for income tax paid to a foreign country shall be allowed
 13 only when the taxpayer demonstrates to the satisfaction of the Tax Commissioner that, after
 14 application of provisions of the Internal Revenue Code with regard to taxation of foreign income,
 15 double taxation of the foreign income included in the federal adjusted gross income of the taxpayer
 16 will occur unless the credit provided in this section is allowed.

17 (c) *Exception.* — No credit ~~shall be~~ is allowed under this section for a tax of a jurisdiction
 18 which allows residents of this state a credit against the taxes imposed by ~~such~~ the other
 19 jurisdiction for the tax under this article, if ~~such~~ the other credit is substantially similar to the credit
 20 granted by ~~section forty~~ §11-21-40 of this code.

- 21 (d) *Definition.* — For purposes of this section, "West Virginia income" means:
- 22 (1) The West Virginia adjusted gross income of an individual; or
- 23 (2) The amount of the income of an estate or trust, determined as if the estate or trust were
- 24 an individual computing his or her West Virginia adjusted gross income under ~~section twelve §11-~~
- 25 21-12 of this code.
- 26 (e) *Sunset provision.* — The credit allowed against the tax otherwise due under this article
- 27 for any income tax imposed for the taxable year by a foreign country upon income both derived
- 28 therefrom and subject to tax under this article is effective from the amendment and reenactment of
- 29 this section during the 2023 regular session of the Legislature through July 1, 2070.

NOTE: The purpose of this bill is to alleviate double taxation on foreign income at the state level. The bill sunsets the credit for income tax paid on foreign income in 2070.

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