

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 2526**

BY DELEGATES HANSHAW (MR. SPEAKER) AND SKAFF

(BY REQUEST OF THE EXECUTIVE)

[Passed March 4, 2023; in effect from passage.]



1 AN ACT to amend the Code of West Virginia, 1931, as amended; by adding thereto a new article,  
2 designated §11-13MM-1, §11-13MM-2, §11-13MM-3, §11-13MM-4, §11-13MM-5, §11-  
3 13MM-6, §11-13MM-7, §11-13MM-8, §11-13MM-9, and §11-13MM-10; and to amend said  
4 code by adding thereto two new sections, designated §11-21-4g and §11-21-4h, all  
5 relating to reducing the personal income tax; providing for reduced graduated income tax  
6 rates; reducing the rate of tax on composite returns; reducing the rate of withholding tax  
7 on nonresident income; reducing the rate of withholding tax on the nonresident sale of real  
8 estate; reducing the rate of withholding on gambling winnings; applying the rates  
9 retroactively to January 1, 2023; providing for additional reductions in the personal income  
10 tax rates when certain criteria have been met; providing for a method for calculating the  
11 rate reduction and cap on the reduction; providing for certification to the Tax  
12 Commissioner; authorizing a refundable tax credit applied against personal income tax or  
13 corporation net income tax based upon amount of property tax timely paid on motor  
14 vehicles; providing for the treatment of credit upon transfer of eligible motor vehicle;  
15 authorizing a refundable tax credit applied against personal income tax based upon the  
16 amount of real property tax timely paid on a homestead owned by eligible disabled  
17 veterans; authorizing a refundable tax credit against corporation net income tax or  
18 personal income tax based upon 50% of property tax timely paid on personal property  
19 owned by a small business; designating a short title; providing findings and purpose;  
20 defining terms; providing for the application of tax credits; allowing rulemaking; providing  
21 for annual reports to the legislature; and providing effective dates.

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

**ARTICLE 13MM. WEST VIRGINIA PROPERTY TAX ADJUSTMENT ACT.**

**§11-13MM-1. Findings and Purpose**

1 (a) This article shall be known and cited as the West Virginia Property Tax Adjustment  
2 Act.

3 (b) The Legislature finds that the encouragement of economic growth and development  
4 in this state is in the public interest and promotes the general welfare of the people of this state.  
5 In order to encourage capital investment in business and industry in this state and thereby  
6 increase economic development, there is hereby provided certain tax credits against the taxes  
7 imposed under §11-21-1 *et seq.* of this code, or against the tax imposed under §11-24-1 *et seq.*  
8 of this code based upon the amount of property tax timely paid on certain property subject to *ad*  
9 *valorem* property taxation.

**§11-13MM-2. Definitions.**

1 (a) *General.* — When used in this article, or in the administration of this article, terms  
2 defined in subsection (b) of this section have the meanings ascribed to them by this section unless  
3 a different meaning is clearly required by the context in which the term is used.

4 (b) *Terms defined.* —

5 (1) “*Ad valorem* property tax” means and is limited to the West Virginia *ad valorem* property  
6 tax.

7 (2) “Business” means any activity taxable under article §11-12-1 *et seq.* of this code, which  
8 is engaged in by any person in this State.

9 (3) “Disabled veteran taxpayer” means a person honorable discharged from any branch  
10 of the armed services of the United States and who is considered at least ninety percent totally  
11 and permanently disabled due solely to service-connected disabilities by the Department of  
12 Veterans Affairs.

13 (4) “Eligible motor vehicle” means a motor vehicle on which the *ad valorem* property tax  
14 has been paid for the taxable year by the eligible taxpayer, and which is a motor vehicle as defined  
15 in this article.

16 (5) “Flow-through entity,” “conduit entity,” or “pass through entity” means an S Corporation,  
17 partnership, limited partnership, limited liability partnership, or limited liability company. The term  
18 “flow-through entity,” “conduit entity,” or “pass through entity” includes a publicly traded

19 partnership as that term is defined in section 7704 of the Internal Revenue Code that has equity  
20 securities registered with the Securities and Exchange Commission under section 12 of Title I of  
21 the Securities Exchange Act of 1934, 15 USC §781: *Provided*, That a publicly traded partnership  
22 as defined in section 7704 of the Internal Revenue Code having equity securities registered with  
23 the Securities and Exchange Commission under section 12 of Title I of the Securities Exchange  
24 Act of 1934, 15 USC §781, and any other person or entity that is treated as a C corporation for  
25 federal income tax purposes, shall be treated as a corporation taxable under article §11-24-1 *et*  
26 *seq.* of this code for purposes of this article.

27 (6) "Motor Vehicle" means the following class of vehicles defined in §17A-10-1 of this  
28 code: Class A, Class B, Class G, Class H, Class T, Class V, Class X, and all-terrain vehicles and  
29 utility terrain vehicles as defined in §20-15-2 of this code.

30 (7) "Person" means and includes an individual, a trust, estate, partnership, pass through  
31 entity, association, company, or corporation.

32 (8) "Personal property" shall have the same meaning as in §11-5-1 *et seq.* of this code:  
33 *Provided*: That, for the purposes of this article, the term "personal property" shall not include a  
34 working interest in any oil, natural gas, or natural gas liquid producing property or any property of  
35 a public service company.

36 (9) "Personal property taxes paid" means the aggregate of regular levies, excess levies  
37 and bond levies extended against personal property that are paid during the calendar year and  
38 determined after any application of any discount for early payment of taxes. "Personal property  
39 taxes paid" does not include any untimely *ad valorem* property tax paid, or any payment of  
40 delinquent *ad valorem* property tax, or payment of "back tax" *ad valorem* property taxes, or any  
41 penalty or interest for late payment of property taxes.

42 (10) "Public service company" means a corporation or other business entity which delivers  
43 services considered essential to the public interest that are regulated by the applicable federal or  
44 state regulatory body, including, but not limited to, businesses furnishing electricity, natural gas,

45 telecommunications, and water, and those transporting personal property or passengers,  
46 including, but not limited to, airlines, railroads, trucking, and bus companies, and which are  
47 centrally assessed by the state for property tax purposes.

48 (11) "Real property taxes paid" means the aggregate of regular levies, excess levies and  
49 bond levies that are paid during the calendar year and determined after any application of any  
50 discount for early payment of taxes. "Real property taxes paid" does not include any untimely *ad*  
51 *valorem* property tax paid, or any payment of delinquent *ad valorem* property tax, or payment of  
52 "back tax" *ad valorem* property taxes, or any penalty or interest for late payment of property taxes.

**§11-13MM-3. Motor vehicle property tax adjustment credit.**

1 (a) *Credit allowed.* — There shall be allowed to every eligible taxpayer a credit, as  
2 determined under this section, against the tax imposed under §11-21-1 *et seq.* of this code, or  
3 against the tax imposed under §11-24-1 *et seq.* of this code, as applicable.

4 (b) "*Eligible taxpayer*" defined.—

5 (1) "Eligible taxpayer" – Owned motor vehicles — "Eligible taxpayer" means any person  
6 who owns a motor vehicle for which the *ad valorem* property tax has been paid during the  
7 corporation net income tax taxable year or the personal income tax taxable year, as applicable.  
8 For purposes of this definition, ownership of a motor vehicle includes ownership and possession  
9 of a motor vehicle for which a title has been issued by the Division of Motor Vehicles to the eligible  
10 taxpayer. For purposes of this definition, ownership of a motor vehicle also includes ownership  
11 and possession of a motor vehicle, subject to a purchase financing arrangement whereby a  
12 financial institution holds a lien on the motor vehicle, or for which ultimate issuance of title by the  
13 Division of Motor Vehicles to the taxpayer, as owner of the motor vehicle, is contingent upon  
14 payment in full of the purchase price of the motor vehicle pursuant to an installment payment  
15 financing arrangement.

16 (2) "Eligible taxpayer" – Leased motor vehicles — "Eligible taxpayer" also means and  
17 includes any lessor of a motor vehicle, as herein defined, who owns a motor vehicle for which the

18 *ad valorem* property tax has been paid during the corporation net income tax taxable year or the  
19 personal income tax taxable year, as applicable: *Provided*, That, the lessor shall pass on to the  
20 lessee the value of the tax credit asserted by the lessor by causing a decreasing in the amount of  
21 rent or lease payment payable by the lessee on the leased motor vehicle.

22 (3) "Eligible taxpayer" – Pass through entities — "Eligible taxpayer" also means and  
23 includes any owner, interest holder, partner or S corporation shareholder that derives conduit  
24 income from a pass-through entity.

25 (4) "Eligible taxpayer" – Prohibition for motor vehicle dealers — "Eligible taxpayer" does  
26 not mean or include any motor vehicle dealer, motor vehicle dealership, retailer or any business  
27 that sells new or used motor vehicles at the retail level, other than a lessor of motor vehicles. In  
28 circumstances where any such motor vehicle dealer, motor vehicle dealership, retailer or business  
29 that sells new or used motor vehicles at the retail level is engaged in both retail sales of motor  
30 vehicles, and leasing of motor vehicles as lessor, the tax credit authorized by this article may only  
31 be asserted by such business based upon the *ad valorem* property tax paid on leased motor  
32 vehicles, and only to the extent that the lessor has passed on, to the lessee, the value of the tax  
33 credit asserted by the lessor by causing a decreasing in the amount of rent or lease payment  
34 payable by the lessee on the leased motor vehicle. No credit may be asserted or applied by the  
35 business based upon *ad valorem* property tax paid on motor vehicle retail inventories, not actively  
36 leased to lessees. To the extent that motor vehicle retail inventories may be held as both motor  
37 vehicle retail inventories, and as motor vehicles potentially subject to lease during the taxable  
38 year, *ad valorem* property tax paid on such motor vehicles is excluded from eligibility for the tax  
39 credit authorized by this article.

40 (c) *Amount of credit*. – The amount of credit allowed under this article to the eligible  
41 taxpayer is the amount of West Virginia *ad valorem* property tax timely paid during the personal  
42 income taxable year or the corporation net income tax taxable year, as applicable, to a county  
43 sheriff on the value of a motor vehicle owned by the eligible taxpayer: *Provided*, That in no case

44 shall any credit be allowed under this article for any untimely *ad valorem* property tax paid, or any  
45 payment of delinquent *ad valorem* property tax, or payment of “back tax” *ad valorem* property  
46 taxes.

47 (d) *Application of credit against personal income tax and corporation net income tax.* —

48 (1) Personal income tax — If the eligible taxpayer is subject to the personal income tax  
49 imposed by §11-21-1 *et seq.* of this code, the amount of credit allowed shall be taken against the  
50 personal income tax liability of the eligible taxpayer for the current personal income tax taxable  
51 year.

52 (2) Corporation net income tax — If the eligible taxpayer is subject to the corporation net  
53 income tax imposed by §11-24-1 *et seq.* of this code, the amount of credit allowed shall be taken  
54 against the corporation net income tax liability of the eligible taxpayer for the current corporation  
55 net income tax taxable year.

56 (e) *Refundable portion of annual credit allowance.* — If annual tax credit allowed under  
57 this article exceeds the amount of personal income tax or corporation net income tax, as  
58 applicable, subject to offset under this article in any taxable year, the eligible taxpayer may claim,  
59 for that taxable year, the excess amount as a refundable tax credit.

60 (f) *Transfer or sale of the motor vehicle.* —

61 (1) Where there is a sale or transfer of the motor vehicle from an eligible taxpayer to any  
62 other person or entity, the transferor retains entitlement to the tax credit authorized under this  
63 article for the timely paid *ad valorem* property tax paid by the transferor in the transferor’s personal  
64 income tax taxable year or corporation net income tax taxable year, as applicable, on the  
65 transferred motor vehicle.

66 (2) If the transferee meets all requirements for qualification as an eligible taxpayer under  
67 this article and meets all requirements for entitlement to the tax credit authorized under this article,  
68 then the transferee shall be entitled to the tax credit authorized under this article for the timely



69 paid *ad valorem* property tax paid by the transferee in the transferee's personal income tax taxable  
70 year or corporation net income tax taxable year, as applicable on the eligible motor vehicle.

71 (3) In no case shall the transferor and the transferee take the tax credit authorized under  
72 this article for the same taxable year.

73 (g) *Annual schedule*. — The Tax Commissioner shall prescribe and supply all necessary  
74 instructions and forms for administration of this section. For purposes of asserting the credit  
75 against tax, the taxpayer shall prepare and file an annual schedule showing the amount of  
76 personal income tax paid for the taxable year, and the amount of property tax paid on the motor  
77 vehicle for the taxable year, and the amount of credit allowed under this article. The annual  
78 schedule shall set forth the information and be in the form prescribed by the Tax Commissioner.

**§11-13MM-4. Disabled veteran real property tax credit.**

1 (a) *Credit allowed*. — Disabled veterans may receive a tax credit against the tax imposed  
2 under §11-21-1 *et seq.* of this code in the amount of West Virginia *ad valorem* property tax timely  
3 paid on his or her homestead during the personal income taxable year.

4 (b) *Amount of credit*. — Any homeowner meeting the definition of a disabled veteran  
5 under this article, shall be allowed a refundable credit against the taxes imposed by §11-21-1 *et*  
6 *seq.* of this code equal to the amount of West Virginia *ad valorem* real property taxes timely paid  
7 a county sheriff on a homestead which is used or occupied exclusively for residential purposes,  
8 as those terms are defined in §11-6B-2, during the personal income taxable year: *Provided*, That  
9 in no case shall any credit be allowed under this article for any untimely real property tax paid, or  
10 any payment of delinquent real property tax, or payment of "back tax" real property taxes.

11 (c) *Application of credit against personal income tax*. — The amount of credit allowed  
12 under this section shall be taken against the personal income tax liability, imposed by article §11-  
13 21-1 *et seq.* of this code, of the eligible taxpayer.

14 (d) *Refundable portion of annual credit allowance*. — If annual tax credit allowed under  
15 this article exceeds the amount of personal income tax subject to offset under this article in any

16 taxable year, the eligible taxpayer may claim, for that taxable year, the excess amount as a  
17 refundable tax credit.

18 (e) *Termination of tax credit.* — Any tax credit approved in accordance with the provisions  
19 of this section shall terminate immediately when any of the following events occur:

20 (1) The death of the owner of the property for which the tax credit was authorized;

21 (2) The sale of the property for which the tax credit was approved; or

22 (3) A determination by the assessor that the property for which the tax credit was approved  
23 no longer qualifies for the tax credit in accordance with the provisions of this section.

24 (f) *Forms and instructions.* — The Tax Commissioner shall prescribe and supply all  
25 necessary instructions and forms for administration of this section.

**§11-13MM-5. Small business property tax adjustment credit.**

1 (a) *Credit allowed.* — There shall be allowed to every eligible small business taxpayer a  
2 credit, as determined under this section, against the tax imposed under §11-21-1 *et seq.* of this  
3 code, or against the tax imposed under §11-24-1 *et seq.* of this code, as applicable.

4 (b) Definitions – The following definitions apply to this section:

5 (1) “Aggregate appraised value” means the true and actual value of all property in the  
6 state owned by the eligible taxpayer including the true and actual value of all property of any  
7 related entity;

8 (2) “Related entity” means:

9 (A) An individual, corporation, partnership, affiliate, association or trust or any combination  
10 or group thereof controlled by the taxpayer;

11 (B) An individual, corporation, partnership, affiliate, association or trust or any combination  
12 or group thereof that is in control of the taxpayer;

13 (C) An individual, corporation, partnership, affiliate, association or trust or any combination  
14 or group thereof controlled by an individual, corporation, partnership, affiliate, association or trust  
15 or any combination or group thereof that is in control of the taxpayer; or

16 (D) A member of the same controlled group as the taxpayer.

17 For purposes of this section, “control”, with respect to a corporation, means ownership,  
18 directly or indirectly, of stock possessing fifty percent or more of the total combined voting power  
19 of all classes of the stock of the corporation which entitles its owner to vote. “Control”, with respect  
20 to a trust, means ownership, directly or indirectly, of fifty percent or more of the beneficial interest  
21 in the principal or income of the trust. The ownership of stock in a corporation, of a capital or  
22 profits interest in a partnership or association or of a beneficial interest in a trust shall be  
23 determined in accordance with the rules for constructive ownership of stock provided in section  
24 267(c) of the United States Internal Revenue Code, as amended: *Provided*, That paragraph (3)  
25 of section 267(c) of the United States Internal Revenue Code shall not apply.

26 (3) “*Small business*” means a business with personal property located in this state with an  
27 aggregate appraised value of \$1 million or less; *Provided*, That, for the purposes of this section,  
28 “small business” does not include any person holding a working interest in any oil, natural gas, or  
29 natural gas liquid producing property or any public service company that is centrally assessed by  
30 the state for property tax purposes.

31 (c) *Amount of credit*. — The amount of credit allowed pursuant to this article to the eligible  
32 small business taxpayer is 50% of the amount of West Virginia *ad valorem* property tax due and  
33 owing and timely paid to a county sheriff by the eligible taxpayer on personal property, as that  
34 term is defined in this article: *Provided*, That in no case shall any credit be allowed under this  
35 article for any untimely *ad valorem* property tax paid, or any payment of delinquent *ad valorem*  
36 property tax, or payment of “back tax” *ad valorem* property taxes.

37 (d) *Application of credit against personal income tax and corporation net income tax*. —  
38 The amount of credit determined under this section is allowed as a credit against 100 percent of  
39 that portion of the taxpayer’s state income tax liability and applied as provided in subsections (1)  
40 and (2), and in that order.

41 (1) Corporation net income taxes. — If the eligible taxpayer is subject to the corporation  
42 net income tax imposed by §11-24-1 *et seq.* of this code, the amount of credit allowed shall be  
43 taken against the corporation net income tax liability of the eligible taxpayer for the current  
44 corporation net income tax taxable year.

45 (2) Personal income taxes. — If the small business taxpayer is an electing small business  
46 corporation, as defined in section 1361 of the United States Internal Revenue Code, a  
47 partnership, a limited liability company that is treated as a partnership for federal income tax  
48 purposes, or a sole proprietorship, then any unused credit is allowed as a credit against the taxes  
49 imposed by §11-21-1 *et seq.* of this code.

50 (3) Electing small business corporations, limited liability companies treated as  
51 partnerships for federal income tax purposes, partnerships, and other unincorporated  
52 organizations shall allocate the credit allowed by this article among its members in the same  
53 manner as profits and losses are allocated for the taxable year.

54 (4) No credit is allowed under this section against any employer withholding taxes imposed  
55 by §11-21-1 *et seq.* of this code.

56 (e) *Refundable portion of annual credit allowance.* — If the annual tax credit allowed under  
57 this article exceeds the amount of personal income tax or corporation net income tax, as  
58 applicable, subject to offset under this article in any taxable year, the eligible taxpayer may claim,  
59 for that taxable year, the excess amount as a refundable tax credit.

60 (f) *Annual schedule.* — The Tax Commissioner shall prescribe and supply all necessary  
61 instructions and forms for administration of this section. For purposes of asserting the credit  
62 against tax, the taxpayer shall prepare and file an annual schedule showing the amount of  
63 personal income tax paid for the taxable year, and the amount of property tax paid on the personal  
64 property subject to *ad valorem* property taxation pursuant to this chapter and pursuant to Article  
65 X of the Constitution of this State, as applicable for the taxable year, and the amount of credit

66 allowed pursuant to this article. The annual schedule shall set forth the information and be in the  
67 form prescribed by the Tax Commissioner.

**§11-13MM-6. Rulemaking.**

1 The Tax Commissioner may promulgate such interpretive, legislative, and procedural  
2 rules as the commissioner deems to be useful or necessary to carry out the purpose of §11-  
3 13MM-1 *et seq.* of this code and to implement the intent of the Legislature. All rules shall be  
4 promulgated in accordance with the provisions of §29A-3-1 *et seq.* of this code.

**§11-13MM-7. Annual Reports.**

1 The Tax Commissioner shall make an annual report, as soon as possible after the close  
2 of each tax year, of the actions taken by the West Virginia Tax Division with respect to the tax  
3 credits authorized pursuant to this article. This report shall be filed with the Joint Committee on  
4 Government and Finance. The report shall include at a minimum the amount of the credit claimed  
5 in the preceding tax year in each of the categories set forth in this article. Information set forth in  
6 the report shall be subject to the confidentiality restrictions of §11-10-1 *et seq.* of this code, and  
7 shall be redated and otherwise formatted and presented so as to preserve the confidentiality of  
8 taxpayers and tax information.

**11-13MM-8. Tax administration and procedures.**

1 (a) Each and every provision of the “West Virginia Tax Procedure and Administration Act”  
2 set forth in §11-10-1 *et seq.* of this code applies to the tax credits allowed under §11-13MM-1 *et*  
3 *seq.* of this code, except as otherwise expressly provided in this article, with like effect as if that  
4 act were applicable only to the tax credit allowed by §11-13MM-1 *et seq.* of this code and were  
5 set forth *in extenso* in this article.

6 (b) Each and every provision of the “West Virginia Tax Crimes and Penalties Act” set forth  
7 in §11-9-1 *et seq.* of this code applies to the tax credit allowed by §11-13MM-1 *et seq.* of this code  
8 with like effect as if that act were applicable only to the tax credit §11-13MM-1 *et seq.* of this code  
9 and were set forth *in extenso* in this article.

**§ 11-13MM-9. Severability.**

1 (a) If any provision of §11-13MM-1 *et seq.* of this code, or the application thereof, is for  
2 any reason adjudged by any court of competent jurisdiction to be invalid, the judgment may not  
3 affect, impair, or invalidate the remainder of §11-13MM-1 *et seq.* of this code, but shall be confined  
4 in its operation to the provision thereof directly involved in the controversy in which the judgment  
5 shall have been rendered, and the applicability of the provision to other persons or circumstances  
6 may not be affected thereby.

7 (b) If any provision of §11-13MM-1 *et seq.* of this code, or the application thereof, is made  
8 invalid or inapplicable by reason of the repeal or any other invalidation of any statute therein  
9 addressed or referred to, such invalidation or inapplicability may not affect, impair, or invalidate  
10 the remainder of §11-13MM-1 *et seq.* of this code, but shall be confined in its operation to the  
11 provision thereof directly involved with, pertaining to, addressing, or referring to the statute, and  
12 the application of the provision with regard to other statutes or in other instances not affected by  
13 any such repealed or invalid statute may not be abrogated or diminished in any way.

**§11-13MM-10. Effective Date.**

1 This article shall be effective for personal income taxable years beginning on or after  
2 January 1, 2024, and for corporation net income tax taxable years beginning on or after January  
3 1, 2024. Subject to the restrictions, limitations and requirements set forth in this article, *ad*  
4 *valorem* property tax timely paid in the personal income tax taxable year, or the corporation net  
5 income tax taxable year, as applicable, beginning on or after January 1, 2024, may qualify for the  
6 tax credits specified in this article.

**ARTICLE 21. PERSONAL INCOME TAX**

**§11-21-4g Rate of tax — Taxable years beginning on and after January 1, 2023.**

1 (a) *Rate of tax on individuals (except married individuals filing separate returns),*  
2 *individuals filing joint returns, heads of households, and estates and trusts.* — The tax imposed  
3 by §11-21-3 of this code 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 taxable**

10 <b>income is:</b>	<b>The tax is:</b>
11 Not over \$10,000	2.36% of the taxable income
12 Over \$10,000 but not over \$25,000	\$236 plus 3.15% of excess over \$10,000
13 Over \$25,000 but not over \$40,000	\$708.50 plus 3.54% of excess over \$25,000
14 Over \$40,000 but not over \$60,000	\$1,239.50 plus 4.72% of excess over
15	\$40,000
16 Over \$60,000	\$2,183.50 plus 5.12% of excess over
17	\$60,000

18 (b) *Rate of tax on married individuals filing separate returns.* — In the case of husband  
 19 and wife filing separate returns under this article for the taxable year, the tax imposed by §11-21-  
 20 3 of this code on the West Virginia taxable income of each spouse shall be determined in  
 21 accordance with the following table:

22 **If the West Virginia taxable**

23 <b>income is:</b>	<b>The tax is:</b>
24 Not over \$5,000	2.36% of the taxable income
25 Over \$5,000 but not over \$12,500	\$118 plus 3.15% of excess over \$5,000
26 Over \$12,500 but not over \$20,000	\$354.25 plus 3.54% of excess over \$12,500
27 Over \$20,000 but not over \$30,000	\$619.75 plus 4.72% of excess over \$20,000
28 Over \$30,000	\$1,091.75 plus 5.12% of excess over
29	\$30,000

30 (c) Effect of rates on Nonresident Composite and Withholding Obligations —  
31 Notwithstanding any provision of this article to the contrary, for taxable years beginning on and  
32 after the retroactive date specific in §11-21-4g(d) of this code, whenever the words “six and one-  
33 half percent” appear in §11-21-51a, §11-21-71a, §11-21-71b, or §11-21-77, of this article, with  
34 relation to a tax return of, or the tax rate imposed on income of individuals, individuals filing joint  
35 returns, heads of households, and estates and trusts, the stated percentage shall be changed to  
36 5.12%.

37 (d) *Applicability of this section.* — The provisions of this section shall be applicable in  
38 determining the rates of tax imposed by this article and shall apply retroactively for all taxable  
39 years beginning on and after January 1, 2023, and shall be in lieu of the rates of tax specified in  
40 §11-21-4e of this code.

**§11-21-4h Future personal income tax reductions.**

1 (a) For the purposes of this section, the terms defined in this section have the meanings  
2 ascribed to them unless a different meaning is clearly required by the context in which the term is  
3 used:

4 (1) “Adjusted consumer price ratio” means the fiscal year consumer price index divided by  
5 the base year consumer price index.

6 (2) “Adjusted general revenue fund collections” means all net general revenue fund  
7 collections minus the net general revenue fund collections related to the imposition of the taxes  
8 imposed under the provisions of §11-13A-1, *et seq.* of this code.

9 (3) “Base year revenues” means actual general revenue fund collections for 2019 fiscal  
10 year, which is \$4,293,884,754

11 (4) “Base year consumer price index” means a 12-month average of the not seasonally  
12 adjusted Consumer Price Index for all urban consumers for the months between July 2018 and  
13 June 2019.



14 (5) "Excess fiscal year general revenue fund collections" means the positive difference  
15 from subtracting the inflation adjusted base year revenues from the adjusted general revenue  
16 fund collections from the immediately preceding fiscal year.

17 (6) "Fiscal year consumer price index" means a 12-month average of the not seasonally  
18 adjusted Consumer Price Index for all urban consumers for the months between July and June  
19 of the immediately preceding fiscal year.

20 (7) "Inflation adjusted base year revenues" means the base year general revenue fund  
21 collections multiplied by the adjusted consumer price ratio.

22 (b) *Future personal income tax rate reductions.* — Beginning on August 15, 2024, and  
23 every August 15 thereafter, the Secretary of Revenue will determine whether the total fiscal year  
24 adjusted general revenue fund collections from the immediately preceding fiscal year are in  
25 excess of the inflation adjusted base year revenues. If the total fiscal year adjusted  
26 general revenue fund collections from the immediately preceding fiscal year are in excess of the  
27 inflation adjusted base year revenues, then there will be a reduction in the personal income tax  
28 rates as determined under this section beginning in the next taxable year.

29 (c) *Determination of rate.* — In order to determine the amount of a personal income tax  
30 reduction, the excess fiscal year general revenue fund collections will be divided by the amount  
31 of the immediately preceding fiscal year's total personal income tax collections for all funds and  
32 will be rounded down to the nearest whole percentage. The amount of the percentage of reduction  
33 will be applied equally across the tax rates applicable in the tax year immediately preceding the  
34 rate reduction: *Provided*, That reduction in personal income tax rates may not result in an amount  
35 larger than a 10% reduction in the rates set forth in §11-21-4e of this code.

36 (d) *Certification of reduction.* — The Secretary of Revenue and the State Auditor will certify  
37 to the Tax Commissioner that a rate change is required under this section as soon as possible  
38 after August 15 so that the Tax Commissioner may notify taxpayers of any change in personal  
39 income tax rates. The certification will provide base year revenues, the total fiscal year

40 general revenue fund collections from the immediately preceding fiscal year, the base year  
41 consumer price index, the fiscal year consumer price index, the adjusted consumer price ratio,  
42 the amount of inflation adjusted base year revenues, the amount of excess fiscal year general  
43 revenue fund collections and the amount of the immediately preceding fiscal year's total personal  
44 income tax collections for all funds.

45 (e) *Applicability of this section.* — The provisions of this section shall be applicable in  
46 determining the rates of tax imposed by this article and shall apply for all taxable years beginning  
47 on and after January 1, 2025, and shall be in lieu of the rates of tax specified in §11-21-4g of this  
48 code.

49 (f) *Annual Reports.* — The Tax Commissioner shall prepare an annual report to the Joint  
50 Committee on Government and Finance detailing any relevant modifications to the personal  
51 income tax.

52 (g) *Rulemaking.* — Notwithstanding any provision of this code to the contrary, the Tax  
53 Commissioner may propose rules for legislative approval in accordance with the provisions of  
54 §29A-3-1 *et seq.* of this code explaining and implementing this section.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

.....  
*Clerk of the House of Delegates*

.....  
*Clerk of the Senate*

Originated in the House of Delegates.

In effect from passage.

.....  
*Speaker of the House of Delegates*

.....  
*President of the Senate*

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The within is ..... this the.....  
Day of ....., 2023.

.....  
*Governor*