

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 2526**

By Delegates Hanshaw (Mr. Speaker) and Skaff

[By Request of the Executive]

[Originating in the Committee on Finance; January

13, 2023]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto three new  
2 sections, designated §11-21-4g, §11-21-4h, and §11-21-4i; and to amend and reenact §11-  
3 21-93 of said code, all relating to reducing the personal income tax; providing for reduced  
4 graduated income tax rates; reducing the rate of tax on composite returns; reducing the  
5 rate of withholding tax on nonresident income; reducing the rate of withholding tax on the  
6 nonresident sale of real estate; reducing the rate of withholding on gambling winnings;  
7 applying reduced rates retroactively to January 1, 2023; applying additional reduced rates  
8 on January 1, 2024 and January 1, 2025; requiring deposits of surplus revenues into  
9 personal income tax reserve fund; and generally providing effective dates.

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

## **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 by  
3 §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 file  
6 a joint return under this article; every individual who is entitled to file his or her federal income tax  
7 return for the taxable year as a surviving spouse; and every estate and trust shall be determined in  
8 accordance with the following table:

#### **If the West Virginia taxable**

#### **income is:**

#### **The tax is:**

11 Not over \$10,000

2.1% of the taxable income

12 Over \$10,000 but not over \$25,000

\$210 plus 2.8% of excess over \$10,000

13 Over \$25,000 but not over \$40,000

\$630 plus 3.15% of excess over \$25,000

14 Over \$40,000 but not over \$60,000

\$1,102.50 plus 4.2% of excess over \$40,000



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 file  
 6 a joint return under this article; every individual who is entitled to file his or her federal income tax  
 7 return for the taxable year as a surviving spouse; and every estate and trust shall be determined in  
 8 accordance with the following table:

9 **If the West Virginia taxable**

<b><u>income is:</u></b>	<b><u>The tax is:</u></b>
10 <u>Not over \$10,000</u>	<u>1.8% of the taxable income</u>
11 <u>Over \$10,000 but not over \$25,000</u>	<u>\$180 plus 2.4% of excess over \$10,000</u>
12 <u>Over \$25,000 but not over \$40,000</u>	<u>\$540 plus 2.7% of excess over \$25,000</u>
13 <u>Over \$40,000 but not over \$60,000</u>	<u>\$945 plus 3.6% of excess over \$40,000</u>
14 <u>Over \$60,000</u>	<u>\$1665 plus 3.9% of excess over \$60,000</u>

15  
 16 (b) Rate of tax on married individuals filing separate returns. — In the case of husband and  
 17 wife filing separate returns under this article for the taxable year, the tax imposed by §11-21-3 of  
 18 this code on the West Virginia taxable income of each spouse shall be determined in accordance  
 19 with the following table:

20 **If the West Virginia taxable**

<b><u>income is:</u></b>	<b><u>The tax is:</u></b>
21 <u>Not over \$5,000</u>	<u>1.8% of the taxable income</u>
22 <u>Over \$5,000 but not over \$12,500</u>	<u>\$90 plus 2.4% of excess over \$5,000</u>
23 <u>Over \$12,500 but not over \$20,000</u>	<u>\$270 plus 2.7% of excess over \$12,500</u>
24 <u>Over \$20,000 but not over \$30,000</u>	<u>\$472.50 plus 3.6% of excess over \$20,000</u>
25 <u>Over \$30,000</u>	<u>\$832.50 plus 3.9% of excess over \$30,000</u>

26  
 27 (c) Effect of rates on Nonresident Composite and Withholding Obligations —  
 28 Notwithstanding any provision of this article to the contrary, whenever the words "six and one-half  
 29 percent" appear in §11-21-51a, §11-21-71a, §11-21-71b, or §11-21-77 of this code, those words

30 shall mean 3.9%, with relation to a tax return of, or the tax rate imposed on income of individuals,  
31 individuals filing joint returns, heads of households, and estates and trusts.

32 (d) *Applicability of this section.* — The provisions of this section shall be applicable in  
33 determining the rates of tax imposed by this article and shall apply for all taxable years beginning  
34 on and after January 1, 2024, and shall be in lieu of the rates of tax specified in §11-21-4g of this  
35 code.

**§11-21-4i Rate of tax — Taxable years beginning on and after January 1, 2025.**

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 by  
3 §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 file  
6 a joint return under this article; every individual who is entitled to file his or her federal income tax  
7 return for the taxable year as a surviving spouse; and every estate and trust shall be determined in  
8 accordance with the following table:

<b><u>If the West Virginia taxable</u></b>	
<b><u>income is:</u></b>	<b><u>The tax is:</u></b>
<u>Not over \$10,000</u>	<u>1.5% of the taxable income</u>
<u>Over \$10,000 but not over \$25,000</u>	<u>\$150 plus 2.0% of excess over \$10,000</u>
<u>Over \$25,000 but not over \$40,000</u>	<u>\$450 plus 2.25% of excess over \$25,000</u>
<u>Over \$40,000 but not over \$60,000</u>	<u>\$787.50 plus 3.0% of excess over \$40,000</u>
<u>Over \$60,000</u>	<u>\$1387.50 plus 3.25% of excess over \$60,000</u>

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

20 **If the West Virginia taxable**

21 **income is:**

**The tax is:**

22 Not over \$5,000

1.5% of the taxable income

23 Over \$5,000 but not over \$12,500

\$75 plus 2.0% of excess over \$5,000

24 Over \$12,500 but not over \$20,000

\$225 plus 2.25% of excess over \$12,500

25 Over \$20,000 but not over \$30,000

\$393.75 plus 3.0% of excess over \$20,000

26 Over \$30,000

\$693.75 plus 3.25% of excess over \$30,000

27 (c) Effect of rates on Nonresident Composite and Withholding Obligations –

28 Notwithstanding any provision of this article to the contrary, whenever the words "six and one-half  
29 percent" appear in §11-21-51a, §11-21-71a, §11-21-71b, or §11-21-77 of this code, those words  
30 shall mean 3.25%, with relation to a tax return of, or the tax rate imposed on income of individuals,  
31 individuals filing joint returns, heads of households, and estates and trusts.

32 (d) Applicability of this section. — The provisions of this section shall be applicable in  
33 determining the rates of tax imposed by this article and shall apply for all taxable years beginning  
34 on and after January 1, 2025, and shall be in lieu of the rates of tax specified in §11-21-4h of this  
35 code.

**§11-21-93. Personal income tax reserve fund.**

1 (a) Of the revenue collected under this article the State Treasurer shall credit the amount  
2 as the Tax Commissioner may determine to be necessary for refunds to which taxpayers shall be  
3 entitled under this article to the personal income tax reserve fund described in subsection (b) of  
4 this section. The State Treasurer shall credit all remaining interest, penalties and taxes collected  
5 under this article to the General Revenue Fund of the State Treasury.

6 (b) The fund established by the prior enactment of this section is hereby reestablished as  
7 an account in the State Treasury designated the "personal income tax reserve fund." The fund  
8 shall be administered by the secretary of ~~administration~~ revenue and expended only for the  
9 purpose specified in subsection (c) of this section. Notwithstanding any provision of ~~section two,~~

10 ~~article two, chapter twelve~~ §12-2-2 of this code to the contrary, the moneys of the fund are not part  
11 of the General Revenue Fund of the State Treasury.

12 (c) Notwithstanding the provisions of §11B-2-20 or any other provision of this code to the  
13 contrary:

14 (1) Within 60 days of the end of the fiscal year ending June 30, 2023, the secretary shall,  
15 prior to any deposits required under §11B-2-20 of this code, cause to be deposited into the fund  
16 the first \$700 million of all surplus revenues, if any, determined to have accrued during the fiscal  
17 year just ended.

18 (2) Within 60 days of the end of each fiscal year thereafter, the secretary shall, prior to any  
19 deposits required under §11B-2-20 of this code, cause to be deposited into the fund from all  
20 surplus revenues, if any, determined to have accrued during the fiscal year just ended the amount  
21 as the secretary may determine to be necessary to meet any anticipated shortfalls below official  
22 general revenue collection estimates for the then current fiscal year.

23 ~~(e)~~ (d) The moneys of the personal income tax reserve fund must be expended:

24 (1) to To make timely refunds of moneys to which taxpayers may be entitled under this  
25 article as certified by the Tax Commissioner or;

26 (2) Transferred to the balance of general revenue collections in amounts as the secretary  
27 may determine to be necessary to meet any anticipated shortfalls below official general revenue  
28 collection estimates for the then current fiscal year upon appropriation of the Legislature.

29 Amounts in the fund which are found from time to time to exceed funds needed for the  
30 purposes set forth in this section may be transferred to other accounts or funds and redesignated  
31 for other purposes by appropriation of the Legislature.