

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 4368**

By Delegates McGeehan and Young

[Introduced January 10, 2024; 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, or used exclusively for divine worship and  
 11 the operation of a pre-K school, primary school, middle school, secondary school, daycare center,  
 12 or church camp for children, which school, daycare center, or church camp is operated by the  
 13 church which owns the property or is operated by another not-for-profit organization or entity;

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

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

19 (8) Cemeteries;

20 (9) Property belonging to, or held in trust for, colleges, seminaries, academies, and free

21 schools, if used for educational, literary, or scientific purposes, including books, apparatus,  
22 annuities, and furniture;

23 (10) Property belonging to, or held in trust for, colleges or universities located in West  
24 Virginia, or any public or private nonprofit foundation or corporation which receives contributions  
25 exclusively for such college or university, if the property or dividends, interest, rents, or royalties  
26 derived therefrom are used or devoted to educational purposes of such college or university;

27 (11) Public and family libraries;

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

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

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

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

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

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

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

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

46 (20) Fire engines and implements for extinguishing fires, and property used exclusively for

47 the safekeeping thereof, and for the meeting of fire companies;

48 (21) All property on hand to be used in the subsistence of livestock on hand at the  
49 commencement of the assessment year;

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

51 (23) Bank deposits and money;

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

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

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

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

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

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

73 to generate revenue for the nonprofit organization whether or not the property is used by the  
74 nonprofit organization for its nonprofit purpose, subject to the requirements, limitations, and  
75 conditions set forth in §11-3-9(h) of this code; and

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

80 ~~(30)~~ (31) Any other property or security exempted by any other provision of law.

81 (b) Notwithstanding the provisions of §11-3-9(a) of this code, no property is exempt from  
82 taxation which has been purchased or procured for the purpose of evading taxation whether  
83 temporarily holding the same over the first day of the assessment year or otherwise.

84 (c) Real property which is exempt from taxation by §11-3-9(a) of this code shall be entered  
85 upon the assessor's books, together with the true and actual value thereof, but no taxes may be  
86 levied upon the property or extended upon the assessor's books.

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

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

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

98 (g) The amendment to §11-3-9(a)(27) of this code, passed during the 2005 regular session

99 of the Legislature, shall apply to all applicable lease purchase agreements in existence upon the  
100 effective date of the amendment.

101 (h) Nonprofit youth organization exemption. — Limitations, conditions, collection, and  
102 administration of one and one quarter percent fee, limitations, and distribution of moneys.

103 (1) The exemption from ad valorem taxation provided pursuant to the provisions of §11-3-  
104 9(a)(29) of this code does not apply to a property owned by a nonprofit organization otherwise  
105 qualifying for the exemption but which property or facilities are used for profit or outside the  
106 primary purpose of the owner which result in unrelated business taxable income as defined by  
107 Section 512 of the Internal Revenue Code of 1986, as amended, unless the income is generated  
108 by an activity upon which the one and one quarter percent fee authorized by §11-3-9(h)(2) of this  
109 code is applied as provided in §11-3-9(h)(3) of this code.

110 (2) The owner of real property exempt from ad valorem taxation under §11-3-9(a)(29) of  
111 this code shall pay an amount equal to one and one quarter percent of the gross revenues the  
112 owner receives in accordance with this subsection. For purposes of this subsection, "gross  
113 revenues" means the gross amount received by the owner as payment for use of the property or  
114 the facilities thereon.

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

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

123 (B) Gross revenues derived from any retail store located at the facility that is open only to  
124 those persons who are attending meetings, spectator sports, recreational, celebratory, or

125 ceremonial events held onsite at the facility.

126 (C) Gross revenues derived from operations of gift shops at a welcome or information  
127 center located adjacent to a public highway operated by the nonprofit organization which is open  
128 to the general public.

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

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

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

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

151 one and one quarter percent fee.

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

161 (6) Administration. —

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

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

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

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

174 (E) All moneys so collected, net of refunds and adjustments, shall be paid into a special  
175 account in the State Treasury, which is hereby created, and the amount thereof shall be distributed  
176 and paid annually, by the State Treasurer, on October 1 of each year, into the funds and to the



177 distributees specified in of this code in the amounts specified therein.

178 (7) Distribution. —

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

181 (B) Twenty-five percent of moneys so collected, net of refunds and adjustments, shall be  
182 paid annually to the sheriff of the county where the property is located which, but for the exemption  
183 provided in §11-3-9(a)(29) of this code, would be entitled to receive ad valorem taxes on the  
184 property. The sheriff shall treat all such payments in the same manner as payments in lieu of taxes,  
185 and ~~such~~ those payments are subject to the adjustment mandated under §18-9A-12 of this code.  
186 For properties located in more than one county, the amount paid to the sheriff of the county shall  
187 be in proportion to the total number of acres located in each county at the close of the fiscal year,  
188 as specified in the deed to ~~such~~ that property.

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

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

202 (9) If merchants are allowed to do business on the property, the owner or lessee of the

203 property shall offer space to local merchants on terms at least as favorable as are offered to other  
204 merchants.

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

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

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

219 (i) To assure the implementation of §11-3-9(h) of this code does not harm local and  
220 regionally located businesses by use of the tax-exempt facility in a manner that cause unfair  
221 competition and unreasonable loss of revenue to those businesses, studies shall be periodically  
222 conducted to assure that further legislation is in order regarding the uses of the tax-exempt facility.  
223 The county commission of any county where such a property is located shall report to the Joint  
224 Committee on Government and Finance by the first day of January every five years after the  
225 effective date of this section. The report shall include information on any unfair business  
226 competition resulting from the establishment of the nonprofit status, and include a report of the  
227 costs and benefits to its county of the tax exemption and associated fee, including an audit of that  
228 county's use of the net revenues. The West Virginia University Bureau of Business and Economic

229 Research in coordination of the Center for Business and Economic Research at Marshall  
 230 University, by January 1, 2020, shall undertake a study and report to the committee, the economic  
 231 impact of this tax exemption and fee to the county and that region of the state, and make any  
 232 recommendations regarding the benefits and disadvantages for continuing the provision of this tax  
 233 exemption and fee, included, but not limited to, the impacts to other small and large businesses in  
 234 the county, the costs to the county has incurred as a result of use of the facility, and any other  
 235 relevant data that the universities may deem relevant.

**ARTICLE                    21.                    PERSONAL                    INCOME                    TAX.**

1 **§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  
28 from 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 not exceed \$2,000 per person receiving retirement benefits and this limitation  
54 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. For taxable years  
77 beginning after December 31, 2018, retirement income from the uniformed services, including the  
78 Army, Navy, Marines, Air Force, Coast Guard, Public Health Service, National Oceanic  
79 Atmospheric Administration, reserves, and National Guard, paid by the United States or by this  
80 state after December 31, 2018, including any survivorship annuities, to the extent included in  
81 federal adjusted gross income for the taxable year.

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

86 (8) Decreasing modification for social security income.

87 (A) For taxable years beginning on and after January 1, 2020, 35 percent of the amount of  
88 social security benefits received pursuant to Title 42 U.S.C., Chapter 7, including, but not limited  
89 to, social security benefits paid by the Social Security Administration as Old Age, Survivors and  
90 Disability Insurance Benefits as provided in §42 U.S.C. 401 *et. seq.* or as Supplemental Security  
91 Income for the Aged, Blind, and Disabled as provided in §42 U.S.C. 1381 *et. seq.*, included in  
92 federal adjusted gross income for the taxable year shall be allowed as a decreasing modification

93 from federal adjusted gross income when determining West Virginia taxable income subject to the  
94 tax imposed by this article, subject to the limitation in §11-21-12(c)(8)(D) of this code.

95 (B) For taxable years beginning on or after January 1, 2021, 65 percent of the social  
96 security benefits received pursuant to Title 42 U.S.C., Chapter 7, including, but not limited to,  
97 social security benefits paid by the Social Security Administration as Old Age, Survivors and  
98 Disability Insurance Benefits as provided in §42 U.S.C. 401 *et. seq.* or as Supplemental Security  
99 Income for the Aged, Blind, and Disabled as provided in §42 U.S.C. 1381 *et. seq.*, included in  
100 federal adjusted gross income for the taxable year shall be allowed as a decreasing modification  
101 from federal adjusted gross income when determining West Virginia taxable income subject to the  
102 tax imposed by this article, subject to the limitation in §11-21-12(c)(8)(D) of this code.

103 (C) For taxable years beginning on or after January 1, 2022, 100 percent of the social  
104 security benefits received pursuant to Title 42 U.S.C., Chapter 7, including, but not limited to,  
105 social security benefits paid by the Social Security Administration as Old Age, Survivors and  
106 Disability Insurance Benefits as provided in §42 U.S.C. 401 *et. seq.* or as Supplemental Security  
107 Income for the Aged, Blind, and Disabled as provided in §42 U.S.C. 1381 *et. seq.*, included in  
108 federal adjusted gross income for the taxable year shall be allowed as a decreasing modification  
109 from federal adjusted gross income when determining West Virginia taxable income subject to the  
110 tax imposed by this article, subject to the limitation in §11-21-12(c)(8)(D) of this code.

111 (D) The deduction allowed by §11-21-12(c)(8)(A), §11-21-12(c)(8)(B), and §11-21-  
112 12(c)(8)(C) of this code are allowable only when the federal adjusted gross income of a married  
113 couple filing a joint return does not exceed \$100,000, or \$50,000 in the case of a single individual  
114 or a married individual filing a separate return.

115 (9) Federal adjusted gross income in the amount of \$8,000 received from any source after  
116 December 31, 1986, by any person who has attained the age of 65 on or before the last day of the  
117 taxable year, or by any person certified by proper authority as permanently and totally disabled,  
118 regardless of age, on or before the last day of the taxable year, to the extent includable in federal

119 adjusted gross income for federal tax purposes: *Provided*, That if a person has a medical  
120 certification from a prior year and he or she is still permanently and totally disabled, a copy of the  
121 original certificate is acceptable as proof of disability. A copy of the form filed for the federal  
122 disability income tax exclusion is acceptable: *Provided, however*, That:

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

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

130 (10) Federal adjusted gross income in the amount of \$8,000 received from any source after  
131 December 31, 1986, by the surviving spouse of any person who had attained the age of 65 or who  
132 had been certified as permanently and totally disabled, to the extent includable in federal adjusted  
133 gross income for federal tax purposes: *Provided*, That:

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

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

140 (11) Contributions from any source to a medical savings account established by or for the  
141 individual pursuant to §33-15-20 or §33-16-15 of this code, plus interest earned on the account, to  
142 the extent includable in federal adjusted gross income for federal tax purposes: *Provided*, That the  
143 amount subtracted pursuant to this subdivision for any one taxable year may not exceed \$2,000



144 plus interest earned on the account. For married individuals filing a joint return, the maximum  
145 deduction is computed separately for each individual; and

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

149 ~~(12)~~ (13) Any other income which this state is prohibited from taxing under the laws of the  
150 United States including, but not limited to, tier I retirement benefits as defined in Section 86(d)(4) of  
151 the Internal Revenue Code.

152 (d) Modification for West Virginia fiduciary adjustment. — There shall be added to or  
153 subtracted from federal adjusted gross income, as the case may be, the taxpayer's share, as  
154 beneficiary of an estate or trust, of the West Virginia fiduciary adjustment determined under §11-  
155 21-19 of this code.

156 (e) Partners and S corporation shareholders. — The amounts of modifications required to  
157 be made under this section by a partner or an S corporation shareholder, which relate to items of  
158 income, gain, loss or deduction of a partnership or an S corporation, shall be determined under  
159 §11-21-17 of this code.

160 (f) Husband and wife. — If husband and wife determine their federal income tax on a joint  
161 return but determine their West Virginia income taxes separately, they shall determine their West  
162 Virginia adjusted gross incomes separately as if their federal adjusted gross incomes had been  
163 determined separately.

164 (g) Effective date. —

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

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

169           (3) Changes in the language of this section enacted in the year 2019 shall apply to taxable  
170 years beginning after December 31, 2018.

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.