



State Tax Department
of West Virginia

Charleston 25305

HERSCHEL H. ROSE III
COMMISSIONER

January 9, 1981

The Honorable A. James Manchin
Secretary of State
State Capitol Building
Charleston, West Virginia 25305

Dear Mr. Manchin:

Pursuant to the provisions of Chapter 29A, Article 3 of the West Virginia Code of 1931, as amended, I hereby submit three (3) copies of the proposed rules and regulations as adopted by the Tax Department, which explain and implement the provisions of W. Va. Code § 11-21-12, which deals with income received by persons 65 and over or persons totally and permanently disabled.

These proposed regulations were originally filed in your office on July 7, 1980. A public hearing was held, as required by W. Va. Code § 29A-3-8, on August 11, 1980 in Charleston, West Virginia. No one appeared and no written comments were received.

Copies of these adopted regulations are also being filed with the Legislative Rulemaking Review Committee as required by W. Va. Code § 29A-3-11.

These regulations will take effect thirty (30) days after they are approved by the Legislative Rulemaking Committee.

Very truly yours,

Herschel H. Rose III
State Tax Commissioner

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Enclosure

SECRETARY OF STATE
OFFICE

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WEST VIRGINIA PERSONAL INCOME TAX ACT

RULES AND REGULATIONS

CHAPTER 11, ARTICLE 21

SERIES V

AMENDED 1980

FILED BY THE OFFICE OF
STATE REGISTER
THIS DATE 1-15-81

Submitted to State Register:

July 7, 1980

Effective:

WEST VIRGINIA PERSONAL INCOME TAX ACT

RULES AND REGULATIONS

CHAPTER 11, ARTICLE 21

SERIES V

Amended 1980

IT Reg. § 1.12.1. Income Received by persons 65 and over or permanently and totally disabled. Beginning January 1, 1980, an individual, regardless of age, who was certified as being permanently and totally disabled during the taxable year, or an individual who attained the age of 65 before the end of the taxable year may be eligible for certain modifications which will reduce their federal adjusted gross income up to \$8000.00 for West Virginia income tax purposes. The following definitions shall be used to determine the taxpayer's eligibility for this modification.

(a) Definition of permanently and totally disabled. An individual is permanently and totally disabled if he or she is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental condition which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months.

(b) Definition of proper authority to certify permanent and total disability. A physician licensed to practice medicine, is the proper authority to certify that individuals are permanently and totally disabled. A certification of permanent and total disability issued by a qualified physician applicable to the current tax year must accompany each tax return for which the exclusion is claimed.

(c) Definition of surviving spouse. Surviving spouse shall mean the husband or wife (regardless of age) remaining alive after the death during the current tax year of a permanently and totally disabled individual or an individual who had attained the age of 65 prior to his or her death during the current tax year, provided such surviving spouse does not remarry.

(d) All certifications of permanent and total disability shall be given subject to penalties of perjury as set forth in West Virginia Code § 61-5-3, 1931, as amended.

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