

STATE TAX COMMISSIONER
Charleston, West Virginia

June 29, 1964

Joe F. Burdett
Secretary of State
State of West Virginia
State Capitol
Charleston, West Virginia

Dear Sir:

Enclosed are two copies of regulations issued by this Department regarding the West Virginia Personal Income Tax Act. These regulations are designated Series V of Chapter 11-21 of the West Virginia Administrative Regulations.

I hereby certify that the attached regulations are true and accurate copies of official regulations adopted by this Department on June 29, 1964.

Very truly yours,



G. Thomas Battle
State Tax Commissioner

GTB/mem

Filed in Office of the Secretary of State
of West Virginia *June 30, 1964*
JOE F. BURDETT
SECRETARY OF STATE

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
State Tax Commissioner

Chapter 11-21
(1964)

GENERAL INDEX

For

SERIES V

PART I. GENERAL

Persons subject to tax.	§1.3
-----,Imposition of tax.	§1.3(a)
-----,Partners and partnerships.	§1.3(b)
-----,Associations taxable as corporations	§1.3(c)
-----,Exempt trusts and organizations.	§1.3(d)
-----,Cross references	§1.3(e)
Rate of tax; Taxable years ending prior to January 1, 1963	§1.4
-----,Rate of tax on individuals	§1.4(a)
-----,Rate of tax on heads of households	§1.4(b)
-----,Rates of tax in case of joint return or return of surviving spouse	§1.4(c)
-----,Effective date	§1.4(d)
Rate of tax; Taxable years beginning January 1, 1963.	§1.(4a)

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
State Tax Commissioner
Income Tax Division

-----,Rate of tax on individuals and heads of household	§1.4(a)(a)
-----,Rate of tax in case of joint return or return of surviving spouse	§1.4(a)(b)
-----,Effective date	§1.4(a)(c)
 Effect of rate changes during a taxable year.	§1.(4b)
 Optional tax for certain resident individuals	§1.5
-----,General.	§1.5(a)
-----,Tables	§1.5(b)
-----,Conditions for optional computation.	§1.5(c)
-----,Manner of election	§1.5(d)
-----,Husband and wife computing West Virginia taxes separately	§1.5(e)
 Accounting periods and methods.	§1.6
-----,Accounting periods	§1.6(a)
-----,Change of accounting periods	§1.6(b)
-----,Accounting methods	§1.6(c)
-----,Change of accounting methods	§1.6(d)
 Resident and nonresident defined.	§1.7
-----,Resident individual.	§1.7(a)
-----,Nonresident individual	§1.7(b)
-----,Resident estate or trust	§1.7(c)

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
State Tax Commissioner
Income Tax Division

-----,Nonresident estate or trust. §1.7(d)
-----,Cross reference. §1.7(e)

Credits against tax §1.8

-----,Business and occupation tax credit §1.8(a)
-----,Transportation privilege tax credit. §1.8(b)
-----,Federal credits not allowed. §1.8(c)

Meaning of terms. §1.9

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
State Tax Commissioner
Income Tax Division

PART II RESIDENTS

West Virginia taxable income of a resident individual.	§1.11
-----,General	§1.11(a)
-----,West Virginia taxable income of husband and wife	§1.11(b)
-----,West Virginia taxable income of husband and wife having different resident status.	§1.11(c)
West Virginia adjusted gross income of a resident individual	§1.12
-----,General	§1.12(a)
-----,Modifications increasing federal adjusted gross income.	§1.12(b)
-----,Modifications reducing federal adjusted gross income	§1.12(c)
-----,Modification for West Virginia fiduciary adjustment	§1.12(d)
-----,Partners.	§1.12(e)
-----,Husband and wife.	§1.12(f)
West Virginia deduction of a resident individual	§1.13
West Virginia standard deduction of a resident individual.	§1.14
-----,General	§1.14(a)
-----,Husband and wife.	§1.14(b)

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
 State Tax Commissioner
 Income Tax Division

West Virginia itemized deduction of a resident individual.	§1.15
-----,General	§1.15(a)
-----,Husband and wife	§1.15(b)
-----,Modifications reducing federal itemized deductions	§1.15(c)
-----,Partners.	§1.15(d)
 West Virginia personal exemptions of a resident individual.	 §1.16
-----,General	§1.16(a)
-----,Husband and wife.	§1.16(b)
 Resident partners.	 §1.17
-----,Partner's modifications	§1.17(a)
-----,Character of items.	§1.17(b)
-----,West Virginia tax avoidance or evasion.	§1.17(c)
 West Virginia taxable income of a resident estate or trust	 §1.18
-----,General	§1.18(a)
-----,Modifications of federal taxable income	§1.18(b)
 Share of resident estate, trust or beneficiary in West Virginia fiduciary adjustment	 §1.19
-----,General	§1.19(a)
-----,Definition of West Virginia fiduciary adjustment	§1.19(b)

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
State Tax Commissioner
Income Tax Division

-----,Shares of West Virginia fiduciary
adjustment. §1.19(c)

-----,Alternate attribution of modification. §1.19(d)

Credit for income tax of another state. §1.20

-----,General. §1.20(a)

-----,Limitations. §1.20(b)

-----,Exception. §1.20(c)

-----,Definition §1.20(d)

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
State Tax Commissioner
Income Tax Division

PART III NONRESIDENTS

West Virginia taxable income of a nonresident individual.	§1.31
-----,General	§1.31(a)
-----,Husband and wife.	§1.31(b)
West Virginia adjusted gross income of a nonresident individual	§1.32
-----,General	§1.32(a)
-----,Income and deductions from West Virginia sources.	§1.32(b)
-----,Income and deductions partly from West Virginia sources	§1.32(c)
-----,Purchase and sale for own account.	§1.32(d)
-----,Husband and wife.	§1.32(e)
-----,Military pay.	§1.32(f)
West Virginia deduction of a nonresident individual.	§1.33
West Virginia standard deduction of a nonresident individual.	§1.34
West Virginia itemized deductions of a nonresident individual.	§1.35
-----,General	§1.35(a)
-----,Requirements.	§1.35(b)

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
 State Tax Commissioner
 Income Tax Division

-----,Husband and wife.	§1.35(c)
West Virginia personal exemptions of a nonresident individual.	§1.36
-----,General	§1.36(a)
-----,Husband and wife (both nonresidents).	§1.36(b)
Nonresident partners	§1.37
-----,Portion derived from West Virginia sources	§1.37(a)
-----,Special rules as to West Virginia sources	§1.37(b)
-----,Partner's modifications	§1.37(c)
-----,Alternate methods	§1.37(d)
-----,Cross reference	§1.37(e)
West Virginia taxable income of a non- resident estate or trust.	§1.38
-----,General	§1.38(a)
-----,West Virginia source rules.	§1.38(b)
Share of a nonresident estate, trust or beneficiary in income from West Virginia sources	§1.39
-----,General	§1.39(a)
-----,Alternate methods of determining shares	§1.39(b)
Credit for income tax of state of residence.	§1.40

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
State Tax Commissioner
Income Tax Division

-----,General. §1.40(a)
-----,Limitations. §1.40(b)
-----,Exceptions §1.40(c)
-----,Definition §1.40(d)
-----,Nonresidents to which section
40 applies. §1.40(e)

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
State Tax Commissioner
Income Tax Division

PART IV

RETURNS, DECLARATIONS AND PAYMENT OF TAX

Returns and liabilities.	§1.51
-----,When the return is due.	§1.51(a)
-----,Returns of husband and wife	§1.51(b)
-----,Returns for decedents	§1.51(c)
-----,Individuals under a disability.	§1.51(d)
-----,Estates and trusts.	§1.51(e)
-----,Joint fiduciaries	§1.51(f)
-----,Tax a debt.	§1.51(g)
-----,Cross reference	§1.51(h)
Time and place for filing returns and paying tax.	§1.52
-----,Time for filing returns	§1.52(a)
-----,Place for filing returns or other documents.	§1.52(b)
-----,Payment of taxes.	§1.52(c)
Signing of returns and other documents	§1.53
-----,General	§1.53(a)
-----,Partnerships.	§1.53(b)
-----,Certifications.	§1.53(c)

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
 State Tax Commissioner
 Income Tax Division

-----,Signature of preparer.	§1.53(d)
Change of resident status during year	§1.54
-----,General.	§1.54(a)
-----,West Virginia taxable income as resident and nonresident	§1.54(b)
-----,Special accruals	§1.54(e)
-----,Minimum tax.	§1.54(d)
-----,Proration.	§1.54(e)
Declarations of estimated tax	§1.55
-----,Requirement of declaration	§1.55(a)
-----,Definition of estimated tax.	§1.55(b)
-----,Joint declaration of husband and wife.	§1.55(c)
-----,Time for filing declaration.	§1.55(d)
-----,Declaration of estimated tax by a farmer	§1.55(e)
-----,Declaration of estimated tax of forty dollars or less	§1.55(f)
-----,Amendments of declaration.	§1.55(g)
-----,Return as declaration or amendment	§1.55(h)
-----,Fiscal year.	§1.55(i)
-----,Short taxable periods.	§1.55(j)
-----,Declaration for individual under a disability.	§1.55(k)

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
 State Tax Commissioner
 Income Tax Division

Payment of estimated tax.	§1.56
-----,General.	§1.56(a)
-----,Estimated income tax payments by a farmer	§1.56(b)
-----,Amendments of declaration.	§1.56(c)
-----,Short taxable years.	§1.56(d)
-----,Fiscal year.	§1.56(e)
-----,Installments paid in advance	§1.56(f)
-----,Death of taxpayer.	§1.56(g)
-----,Application of installment payments.	§1.56(h)
Extensions of time.	§1.57
-----,General.	§1.57(a)
-----,Amount determined as deficiency.	§1.57(b)
-----,Claims in bankruptcy or receivership proceedings.	§1.57(c)
-----,Furnishing of security	§1.57(d)
Requirement concerning returns, notices, records and statements	§1.58
-----,General.	§1.58(a)
-----,Partnerships	§1.58(b)
-----,Information at source.	§1.58(c)
-----,Notice of qualification as receiver, etc.	§1.58(d)

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
State Tax Commissioner
Income Tax Division

-----,Employers with nonresident employees working both within and without the state.	\$1.58(e)
Report of change in federal taxable income	\$1.59
-----,General	\$1.59(a)
Change of election	\$1.60
-----,General	\$1.60(a)
-----,Husband and wife.	\$1.60(b)
-----,Use of standard or itemized deduction.	\$1.60(c)
-----,Penalties and interest.	\$1.60(d)

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
State Tax Commissioner
Income Tax Division

PART V

WITHHOLDING OF TAX

Requirements of withholding tax from wages	§1.71
-----,General.	§1.71(a)
-----,Withholding exemptions	§1.71(b)
-----,Exemption for certain non- residents	§1.71(c)
-----,Wages paid to a nonresident.	§1.71(d)
-----,Wages paid to a resident	§1.71(e)
-----,Determining tax to be withheld	§1.71(f)
Information statement for employees	§1.72
-----,General.	§1.72(a)
-----,Information required on withholding statement	§1.72(b)
Credit for tax withheld	§1.73
-----,General.	§1.73(a)
-----,Year of credit	§1.73(b)
Employer's return and payment of withheld taxes.	§1.74
-----,General.	§1.74(a)
-----,Deposit in trust for tax commissioner.	§1.74(b)

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
State Tax Commissioner
Income Tax Division

Employer's liability for withheld taxes.	\$1.75
Employer's failure to withhold	\$1.76
-----,General	\$1.76(a)

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
STATE TAX COMMISSIONER

Chapter 11-21
Series V
1964

Subject: The following regulations concern the West Virginia Personal Income Tax. These regulations are an explanation and clarification of the West Virginia Income Tax Act (W. Va. Code ch. 11, art. 21, secs. 3-76).

PART I. GENERAL

IT. §1.3 Persons subject to tax. (a) Imposition of Tax. The West Virginia Personal Income Tax Act imposes a personal income tax on the West Virginia taxable income of every individual, estate, and trust for each taxable year ending on and after January 1, 1961. The tax imposed for taxable periods of less than a year shall be one-twelfth of the tax for an entire year multiplied by the number of months elapsed from January 1, 1961, until the end of such taxable period. (For rates, see sections 1.4 and 1.4(a)).

(b) Partners and partnerships. A partnership is not subject to the personal income tax, although individuals carrying on business as partners are liable for tax in their separate capacities. (See section 1.58(b) as to filing of returns by partnerships).

(c) Associations taxable as corporations. A corporation is not a taxable entity within the purview of the West Virginia Personal Income Tax Act. An association, trust or other unincorporated organization which is taxable as a corporation for federal income tax purposes is not subject to the personal income tax.

(d) Exempt trusts and organizations. A trust or other unincorporated organization which by reason of its purposes or activities is exempt from federal income tax is exempt from the personal income tax, regardless of whether such organization is subject to federal income tax on unrelated business taxable income.

(e) Cross references. (1) For definitions of West Virginia taxable income of resident individuals, see section 1.11 of these regulations.

(2) For definition of the West Virginia taxable income of resident estates and trusts, see section 1.18 of these regulations.

(3) For definition of the West Virginia taxable income of nonresident individuals, see section 1.31 of these regulations.

(4) For definition of the West Virginia taxable income of nonresident estates and trusts, see section 1.38 of these regulations.

IT. §1.4 Rate of Tax; Taxable years ending prior to January 1, 1963. (a) Rate of tax on individuals. The personal income tax imposed by the West Virginia Personal Income Tax Act (see section 1.3 (a)) on the West Virginia taxable income of every individual not a head of a household, and upon every estate and trust shall be six per centum of the federal income tax which would be imposed on an identical amount of federal taxable income under subsection (a) of section 1 of the United States Internal Revenue Code of 1954.

(b) Rate of tax on heads of households. The personal income tax imposed by the West Virginia Personal Income Tax Act on the West Virginia taxable income of every individual who is a head of a household (see section 1.9) shall be six per centum of the federal income tax which would be imposed upon an identical amount of federal taxable income under subsection (b) of section 1 of the United States Internal Revenue Code of 1954.

(c) Rates of tax in case of joint return or return of surviving spouse. The personal income tax imposed by the West Virginia Personal Income Tax Act (see section 1.3(a)) on the West Virginia taxable income of a husband and wife filing a joint return shall be six per centum of twice the tax which would be imposed upon half the identical amount of federal taxable income under subsection (a) of section 1 of the United States Internal Revenue Code of 1954. The return of an individual who is entitled to file his federal income tax return

for the taxable year as a surviving spouse shall be treated as a joint return of a husband and wife.

(d) Effective date. The personal income tax rate prescribed by the preceding subsections of this section shall be given effect only in determining the rate of tax imposed for taxable years or portions thereof ending prior to January 1, 1963.

§1.4a. Rate of Tax; Taxable years beginning on or after January 1, 1963. (a) Rate of tax on individuals and heads of household. The personal income tax imposed by the West Virginia Personal Income Tax Act (see section 1.3(a)) on the West Virginia taxable income of every individual, every individual who is a head of a household in the determination of his federal income tax for the taxable year, and every estate and trust shall be determined in accordance with the following table:

Schedule I—Individuals and Heads of Households

Not over \$2,000		1.2% of the taxable income	
<i>Over—</i>	<i>But not over—</i>		<i>of excess over—</i>
\$2,000	— \$4,000	\$24.00, plus 1.3%	— \$2,000
\$4,000	— \$6,000	\$50.00, plus 1.6%	— \$4,000
\$6,000	— \$8,000	\$82.00, plus 1.8%	— \$6,000
\$8,000	— \$10,000	\$118.00, plus 2.0%	— \$8,000
\$10,000	— \$12,000	\$158.00, plus 2.3%	— \$10,000
\$12,000	— \$14,000	\$204.00, plus 2.6%	— \$12,000
\$14,000	— \$16,000	\$256.00, plus 2.8%	— \$14,000
\$16,000	— \$18,000	\$312.00, plus 3.0%	— \$16,000
\$18,000	— \$20,000	\$372.00, plus 3.1%	— \$18,000
\$20,000	— \$22,000	\$434.00, plus 3.4%	— \$20,000
\$22,000	— \$26,000	\$502.00, plus 3.5%	— \$22,000
\$26,000	— \$32,000	\$642.00, plus 3.7%	— \$26,000
\$32,000	— \$38,000	\$864.00, plus 3.9%	— \$32,000
\$38,000	— \$44,000	\$1,098.00, plus 4.1%	— \$38,000
\$44,000	— \$50,000	\$1,344.00, plus 4.3%	— \$44,000
\$50,000	— \$60,000	\$1,602.00, plus 4.5%	— \$50,000
\$60,000	— \$70,000	\$2,052.00, plus 4.7%	— \$60,000
\$70,000	— \$80,000	\$2,522.00, plus 4.9%	— \$70,000
\$80,000	— \$90,000	\$3,012.00, plus 5.0%	— \$80,000
\$90,000	— \$100,000	\$3,512.00, plus 5.2%	— \$90,000
\$100,000	— \$150,000	\$4,032.00, plus 5.3%	— \$100,000
\$150,000	— \$200,000	\$6,682.00, plus 5.4%	— \$150,000
\$200,000	\$9,382.00, plus 5.5%	— \$200,000

(b) Rate of tax in case of joint return or return of surviving spouse. The personal income tax imposed by the West Virginia Personal Income Tax Act (see section 1.3 (a)) on the West Virginia taxable income of a husband and wife filing a joint return for the taxable year and the return of an individual entitled to file a federal income tax return for the taxable year, as a surviving spouse, shall be determined in accordance with the following table:

Schedule II—Joint Return Or Filing As the Surviving Spouse

Not over \$4,000 1.2% of the taxable income			
<i>Over—</i>	<i>But not over—</i>		<i>of excess over—</i>
\$4,000	— \$8,000	\$48.00, plus 1.3%	— \$4,000
\$8,000	— \$12,000	\$100.00, plus 1.6%	— \$8,000
\$12,000	— \$16,000	\$164.00, plus 1.8%	— \$12,000
\$16,000	— \$20,000	\$236.00, plus 2.0%	— \$16,000
\$20,000	— \$24,000	\$316.00, plus 2.3%	— \$20,000
\$24,000	— \$28,000	\$408.00, plus 2.6%	— \$24,000
\$28,000	— \$32,000	\$512.00, plus 2.8%	— \$28,000
\$32,000	— \$36,000	\$624.00, plus 3.0%	— \$32,000
\$36,000	— \$40,000	\$744.00, plus 3.1%	— \$36,000
\$40,000	— \$44,000	\$868.00, plus 3.4%	— \$40,000
\$44,000	— \$52,000	\$1,004.00, plus 3.5%	— \$44,000
\$52,000	— \$64,000	\$1,284.00, plus 3.7%	— \$52,000
\$64,000	— \$76,000	\$1,728.00, plus 3.9%	— \$64,000
\$76,000	— \$88,000	\$2,196.00, plus 4.1%	— \$76,000
\$88,000	— \$100,000	\$2,688.00, plus 4.3%	— \$88,000
\$100,000	— \$120,000	\$3,204.00, plus 4.5%	— \$100,000
\$120,000	— \$140,000	\$4,104.00, plus 4.7%	— \$120,000
\$140,000	— \$160,000	\$5,044.00, plus 4.9%	— \$140,000
\$160,000	— \$180,000	\$6,024.00, plus 5.0%	— \$160,000
\$180,000	— \$200,000	\$7,024.00, plus 5.2%	— \$180,000
\$200,000	— \$300,000	\$8,064.00, plus 5.3%	— \$200,000
\$300,000	— \$400,000	\$13,364.00, plus 5.4%	— \$300,000
\$400,000	\$18,764.00, plus 5.5%	— \$400,000

(c) Effective date. The personal income rate prescribed by the preceding subsections of this section shall be given effect in determining the rate of tax imposed for all taxable years or portions thereof beginning on or after January 1, 1963.

§1.4b. Effect of Rate Changes During a Taxable Year. If the rate of personal income tax imposed by the West Virginia Personal Income Tax Act is changed to become effective after December 31, 1962, and if a taxpayer subject to the West Virginia Personal Income Tax Act has a taxable year which includes the effective date of the change (unless that date is the first day of his taxable year), then the following rules shall be observed in computing such taxpayer's rate of tax: (1) tentative taxes shall be computed by applying the rate for the period before the effective date of the change, and the rate for the period on and after such date, to the taxable income for the entire taxable year; and (2) the tax for such taxable year shall be the sum of that proportion of each tentative tax which the number of days in each period bears to the number of days in the taxable year.

IT. §1.5 Optional tax for certain resident individuals.

(a) General. Optional tax tables have been promulgated which enable resident individuals who meet the conditions of this regulation to compute their taxes on the basis of their federal adjusted gross income. By utilizing the optional tax tables, the taxpayer may eliminate the computations involved in arriving at West Virginia taxable income.

(b) Tables. The following optional tax tables show the amounts of tax due to the nearest dollar.

If your total income is—		And the number of exemptions is—				and the number of exemptions is		Your tax is—							If 9 or more, there is no tax					
At least	But less than	1	2	3	4	1	2	3	4	5	6	7	8	9	10	11	12	13	14	
						Single or filing separately	Filing jointly	Single or filing separately	Filing jointly	Single or filing separately	Filing jointly	Single or filing separately	Filing jointly	Single or filing separately	Filing jointly	Single or filing separately	Filing jointly	Single or filing separately	Filing jointly	
\$ 0	\$ 700	\$ 0	\$ 0	\$ 0	\$ 0	29	22	15	15	7	7	0	0	0	0	0	0	0	0	0
700	800	0	0	0	0	31	23	16	16	9	9	1	1	0	0	0	0	0	0	0
800	900	1	0	0	0	32	24	17	17	10	10	2	2	0	0	0	0	0	0	0
900	1000	2	0	0	0	33	25	18	18	11	11	3	3	0	0	0	0	0	0	0
1000	1100	3	0	0	0	34	26	19	19	12	12	4	4	0	0	0	0	0	0	0
1100	1200	4	0	0	0	35	27	20	20	13	13	5	5	0	0	0	0	0	0	0
1200	1300	5	0	0	0	37	29	21	21	14	14	6	6	0	0	0	0	0	0	0
1300	1400	6	0	0	0	38	30	22	22	15	15	7	7	0	0	0	0	0	0	0
1400	1500	7	0	0	0	39	31	23	23	16	16	8	8	0	0	0	0	0	0	0
1500	1600	8	0	0	0	40	32	24	24	17	17	9	9	0	0	0	0	0	0	0
1600	1700	9	0	0	0	41	33	25	25	18	18	10	10	0	0	0	0	0	0	0
1700	1800	10	0	0	0	42	34	26	26	19	19	11	11	0	0	0	0	0	0	0
1800	1900	11	0	0	0	44	35	27	27	20	20	12	12	0	0	0	0	0	0	0
1900	2000	12	0	0	0	44	36	28	28	21	21	13	13	0	0	0	0	0	0	0
2000	2100	13	0	0	0	45	37	29	29	22	22	14	14	0	0	0	0	0	0	0
2100	2200	14	0	0	0	46	38	30	30	23	23	15	15	0	0	0	0	0	0	0
2200	2300	15	0	0	0	47	39	31	31	24	24	16	16	0	0	0	0	0	0	0
2300	2400	16	0	0	0	47	40	32	32	25	25	17	17	0	0	0	0	0	0	0
2400	2500	17	0	0	0	48	41	33	33	26	26	18	18	0	0	0	0	0	0	0
2500	2600	18	0	0	0	49	42	34	34	27	27	19	19	0	0	0	0	0	0	0
2600	2700	19	0	0	0	51	43	35	35	28	28	20	20	0	0	0	0	0	0	0
2700	2800	20	0	0	0	52	44	36	36	29	29	21	21	0	0	0	0	0	0	0
2800	2900	21	0	0	0	54	45	37	37	30	30	22	22	0	0	0	0	0	0	0
2900	3000	22	0	0	0	55	46	38	38	31	31	23	23	0	0	0	0	0	0	0
3000	3100	23	0	0	0	57	47	40	40	32	32	24	24	0	0	0	0	0	0	0
3100	3200	24	0	0	0	58	48	41	41	33	33	25	25	0	0	0	0	0	0	0
3200	3300	25	0	0	0	59	49	42	42	34	34	26	26	0	0	0	0	0	0	0
3300	3400	26	0	0	0	61	50	43	43	35	35	27	27	0	0	0	0	0	0	0
3400	3500	27	0	0	0	62	51	44	44	36	36	28	28	0	0	0	0	0	0	0
3500	3600	28	0	0	0		52					29	29	0	0	0	0	0	0	0
3600	3700		0	0	0		53					30	30	0	0	0	0	0	0	0
3700	3800		0	0	0		54					31	31	0	0	0	0	0	0	0
3800	3900		0	0	0		55					32	32	0	0	0	0	0	0	0
3900	4000		0	0	0		56					33	33	0	0	0	0	0	0	0
4000	4100		0	0	0		57					34	34	0	0	0	0	0	0	0
4100	4200		0	0	0		58					35	35	0	0	0	0	0	0	0
4200	4300		0	0	0		59					36	36	0	0	0	0	0	0	0
4300	4400		0	0	0		60					37	37	0	0	0	0	0	0	0
4400	4500		0	0	0		61					38	38	0	0	0	0	0	0	0
4500	4600		0	0	0		62					39	39	0	0	0	0	0	0	0
4600	4700		0	0	0							40	40	0	0	0	0	0	0	0
4700	4800		0	0	0							41	41	0	0	0	0	0	0	0
4800	4900		0	0	0							42	42	0	0	0	0	0	0	0
4900	5000		0	0	0							43	43	0	0	0	0	0	0	0
5000	5100		0	0	0							44	44	0	0	0	0	0	0	0
5100	5200		0	0	0							45	45	0	0	0	0	0	0	0
5200	5300		0	0	0							46	46	0	0	0	0	0	0	0
5300	5400		0	0	0							47	47	0	0	0	0	0	0	0
5400	5500		0	0	0							48	48	0	0	0	0	0	0	0
5500	5600		0	0	0							49	49	0	0	0	0	0	0	0
5600	5700		0	0	0							50	50	0	0	0	0	0	0	0
5700	5800		0	0	0							51	51	0	0	0	0	0	0	0
5800	5900		0	0	0							52	52	0	0	0	0	0	0	0
5900	6000		0	0	0							53	53	0	0	0	0	0	0	0

If your total income is—	and the number of exemptions is—																									
	At Least	But Less Than	1	2	3	4	5	6	7	8	9	10	11	12	13	14										
			Your tax is—																							
			Filing Single or sep- arately	Filing Jointly	Filing Single or sep- arately	Filing Jointly	Filing Single or sep- arately	Filing Jointly	Filing Single or sep- arately	Filing Jointly	Filing single or sep- arately	Filing Jointly	Filing single or sep- arately	Filing Jointly	Filing single or sep- arately	Filing Jointly	Filing single or sep- arately	Filing Jointly	Filing single or sep- arately	Filing Jointly	Filing single or sep- arately	Filing Jointly	Filing single or sep- arately	Filing Jointly	If 15 or more, here is no tax	
\$ 6000	\$ 6100	\$ 6200	\$ 54	\$ 51	\$ 45	\$ 44	\$ 38	\$ 37	\$ 30	\$ 29	\$ 22	\$ 22	\$ 15	\$ 15	\$ 8	\$ 8	\$ 1	\$ 1	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
6100	6200	6300	55	52	47	45	39	38	31	30	23	23	16	16	9	9	2	2	0	0	0	0	0	0	0	0
6200	6300	6400	56	54	48	46	40	39	32	32	24	24	17	17	10	10	3	3	0	0	0	0	0	0	0	0
6300	6400	6500	57	55	49	47	41	40	33	33	26	25	18	18	11	11	4	4	0	0	0	0	0	0	0	0
6400	6500	6600	58	56	50	48	42	41	35	34	27	27	19	19	12	12	5	5	0	0	0	0	0	0	0	0
6500	6600	6700	59	57	52	49	44	42	36	35	28	28	20	20	13	13	6	6	0	0	0	0	0	0	0	0
6600	6700	6800	60	58	53	50	45	43	37	36	29	29	21	21	14	14	7	7	0	0	0	0	0	0	0	0
6700	6800	6900	61	59	54	51	46	44	38	37	30	30	22	22	15	15	8	8	0	0	0	0	0	0	0	0
6800	6900	7000	62	60	55	52	47	45	39	38	31	31	23	23	16	16	9	9	0	0	0	0	0	0	0	0
6900	7000	7100	63	61	56	53	48	46	40	39	32	32	24	24	17	17	10	10	0	0	0	0	0	0	0	0
7000	7100	7200	64	62	57	54	49	47	41	40	33	33	25	25	18	18	11	11	0	0	0	0	0	0	0	0
7100	7200	7300	65	63	58	55	50	48	42	41	34	34	26	26	19	19	12	12	0	0	0	0	0	0	0	0
7200	7300	7400	66	64	59	56	51	49	43	42	35	35	27	27	20	20	13	13	0	0	0	0	0	0	0	0
7300	7400	7500	67	65	60	57	52	50	44	43	36	36	28	28	21	21	14	14	0	0	0	0	0	0	0	0
7400	7500	7600	68	66	61	58	53	51	45	44	37	37	29	29	22	22	15	15	0	0	0	0	0	0	0	0
7500	7600	7700	69	67	62	59	54	52	46	45	38	38	30	30	23	23	16	16	0	0	0	0	0	0	0	0
7600	7700	7800	70	68	63	60	55	53	47	46	39	39	31	31	24	24	17	17	0	0	0	0	0	0	0	0
7700	7800	7900	71	69	64	61	56	54	48	47	40	40	32	32	25	25	18	18	0	0	0	0	0	0	0	0
7800	7900	8000	72	70	65	62	57	55	49	48	41	41	33	33	26	26	19	19	0	0	0	0	0	0	0	0
7900	8000	8100	73	71	66	63	58	56	50	49	42	42	34	34	27	27	20	20	0	0	0	0	0	0	0	0
8000	8100	8200	74	72	67	64	59	57	51	50	43	43	35	35	28	28	21	21	0	0	0	0	0	0	0	0
8100	8200	8300	75	73	68	65	60	58	52	51	44	44	36	36	29	29	22	22	0	0	0	0	0	0	0	0
8200	8300	8400	76	74	69	66	61	59	53	52	45	45	37	37	30	30	23	23	0	0	0	0	0	0	0	0
8300	8400	8500	77	75	70	67	62	60	54	53	46	46	38	38	31	31	24	24	0	0	0	0	0	0	0	0
8400	8500	8600	78	76	71	68	63	61	55	54	47	47	39	39	32	32	25	25	0	0	0	0	0	0	0	0
8500	8600	8700	79	77	72	69	64	62	56	55	48	48	40	40	33	33	26	26	0	0	0	0	0	0	0	0
8600	8700	8800	80	78	73	70	65	63	57	56	49	49	41	41	34	34	27	27	0	0	0	0	0	0	0	0
8700	8800	8900	81	79	74	71	66	64	58	57	50	50	42	42	35	35	28	28	0	0	0	0	0	0	0	0
8800	8900	9000	82	80	75	72	67	65	59	58	51	51	43	43	36	36	29	29	0	0	0	0	0	0	0	0
8900	9000	9100	83	81	76	73	68	66	60	59	52	52	44	44	37	37	30	30	0	0	0	0	0	0	0	0
9000	9100	9200	84	82	77	74	69	67	61	60	53	53	45	45	38	38	31	31	0	0	0	0	0	0	0	0
9100	9200	9300	85	83	78	75	70	68	62	61	54	54	46	46	39	39	32	32	0	0	0	0	0	0	0	0
9200	9300	9400	86	84	79	76	71	69	63	62	55	55	47	47	40	40	33	33	0	0	0	0	0	0	0	0
9300	9400	9500	87	85	80	77	72	70	64	63	56	56	48	48	41	41	34	34	0	0	0	0	0	0	0	0
9400	9500	9600	88	86	81	78	73	71	65	64	57	57	49	49	42	42	35	35	0	0	0	0	0	0	0	0
9500	9600	9700	89	87	82	79	74	72	66	65	58	58	50	50	43	43	36	36	0	0	0	0	0	0	0	0
9600	9700	9800	90	88	83	80	75	73	67	66	59	59	51	51	44	44	37	37	0	0	0	0	0	0	0	0
9700	9800	9900	91	89	84	81	76	74	68	67	60	60	52	52	45	45	38	38	0	0	0	0	0	0	0	0
9800	9900	10000	92	90	85	82	77	75	69	68	61	61	53	53	46	46	39	39	0	0	0	0	0	0	0	0
			103	101	100	99	92	91	82	82	72	72	62	62	50	50	44	44	0	0	0	0	0	0	0	0
			126	124	122	121	112	112	101	101	90	90	77	77	65	65	55	55	0	0	0	0	0	0	0	0

(c) Conditions for optional computation. The optional tax tables may be used only if all the following conditions are satisfied by the taxpayer, or by both husband and wife whose federal income tax is determined on a joint return:

(1) The taxpayer has elected to use the standard deduction for federal income tax purposes or to pay the federal optional tax.

(2) The taxpayer has no items of income or deduction described in section 12 (b) or (d) as an individual, as a partner, or as a beneficiary of an estate or trust.

(3) The taxpayer's federal income tax is not reduced by operation of:

(a) The federal alternative tax on long term capital gains, or

(b) A federal provision which has the effect of taxing income of the taxable year as if it were partly or wholly income of a prior taxable year.

(4) A taxpayer who elects to use the optional tax tables must file his return on the West Virginia short form and must have gross income of less than \$10,000.

(5) In order to qualify to use the short form and optional tax tables, the taxpayer must not

(a) file for a taxable period other than the calendar year,

(b) be a resident for only part of the calendar year,

- (c) have a spouse who files a separate West Virginia return,
- (d) claim an exclusion for sick pay,
- (e) claim a deduction for employee business expense on his federal return,
- (f) have income which is exempt from federal income tax but is subject to West Virginia income tax,
- (g) have income which is exempt from West Virginia income tax but is subject to federal income tax,
- (h) file an estimated tax return,
- (i) itemize deductions, in lieu of standard deduction,
- (j) claim a credit for business and occupation tax and transportation privilege tax,
- (k) claim a credit for income tax imposed for the taxable year by another state or by the District of Columbia,
- (l) file his return as the surviving spouse.

(d) Manner of election. By electing to file the West Virginia short form, the taxpayer becomes eligible to use the optional tax table. A taxpayer may use the short form if he meets the following conditions:

(1) If the taxpayer's total income (or, if married, the combined total income of husband and wife) consists only of wages, salaries, interest and dividends, and

(2) The total amount of interest and dividends does not exceed \$200, and

(3) The taxpayer claims the 10% standard deduction, and

(4) If the taxpayer is married and filed a joint federal return, he may also file a joint West Virginia income tax return on the West Virginia short form.

(e) Husband and wife computing West Virginia taxes separately. (Reserved).

IT. §1.6 Accounting Periods and Methods.

(a) Accounting Periods. A taxpayer's taxable year under these regulations shall be the same as his taxable year for federal tax purposes.

(b) Change of Accounting Periods. If a taxpayer's taxable year is changed for federal income tax purposes, his taxable year for purposes of these regulations shall be similarly changed. If a taxable year of less than twelve months results from a change of taxable year, the West Virginia standard deduction, the West Virginia personal exemptions, and the credits allowed under section eight (8) of the West Virginia Income Tax Act shall be prorated to reflect the portion of the year which is being covered by the return being filed due to the change of accounting periods.

(c) Accounting Methods. A taxpayer's method of accounting for West Virginia tax purposes shall be the same as that used for federal tax purposes. In the absence of any method for federal tax purposes, his taxable income for West Virginia tax purposes shall be computed under a method which will clearly reflect income.

(d) Change of Accounting Methods. (1) If a taxpayer's method of accounting is changed for federal tax purposes, his method of accounting shall be similarly changed for West Virginia tax purposes.

(2) If a taxpayer's method of accounting is changed, other than from an accrual to an installment method, any additional tax which

results from adjustments determined to be necessary solely by reason of the change shall not be greater than if such adjustments were ratably allocated and included for the taxable year of the change and the preceding taxable years, not in excess of two, during which the taxpayer used the method of accounting from which the change is made.

(3) If a taxpayer's method of accounting is changed from an accrual to an installment method, any additional tax for the year of such change of method and for any subsequent year which is attributable to the receipt of installment payments properly accrued in a prior year shall be reduced by the portion of tax for any prior taxable year attributable to the accrual of such installment payments.

IT. §1.7 Resident and nonresident defined. (a) Resident individual. (1) General. An individual may be a resident of West Virginia for income tax purposes, and be taxable as a resident, even though he would not be deemed a resident for other purposes. As used in these regulations, the term "resident individual" includes (A) all persons domiciled in this state, subject to the exceptions set forth in paragraph (2) below, and (B) any individual, other than a member of the Armed Forces of the United States, who is not domiciled in this state but who maintains a permanent place of abode in this state and spends in the aggregate more than 183 days of the taxable year in this state.

(2) Certain persons not deemed residents although domiciled in West Virginia. Any person domiciled in West Virginia is a resident for income tax purposes for a specific taxable year, unless for that year he satisfies all three of the following conditions: (A) he maintains no permanent place of abode in this state, (B) he maintains a permanent place of abode elsewhere, and (C) he spends in the aggregate not more than 30 days of the taxable year in this state. For example, an individual, although retaining his West Virginia domicile, may maintain his only permanent place of abode in New York. As long as he continues to meet all three of the conditions stated above, he will be a nonresident of West Virginia for income tax purposes. However, if for any taxable year he fails to meet any one of these three conditions, he is subject to West Virginia income tax as a resident for that year.

Where an individual domiciled in West Virginia claims to be a non-resident for any taxable year, the burden is upon him to show that during that year he satisfied all three of the conditions above set forth.

(3) Rules for days within and without the state. In counting the number of days spent within and without this state, presence within the state for any part of a calendar day constitutes a day spent within the state except that such presence within the state may be disregarded if it is solely for the purpose of boarding a plane, train or bus for travel to a destination outside of the state, or while traveling by motor, plane or train through the state to a destination outside the state. Any person domiciled outside this state who maintains a permanent place of abode within this state during any taxable year and claims to be a nonresident must keep and have available for examination by the Tax Commissioner adequate records to substantiate the fact that he did not spend more than 183 days of such taxable year within the state.

(4) Domicile. Domicile, in general, is the place which an individual intends to be his permanent home; the place to which he intends to return whenever he may be absent.

A domicile once established continues until the person in question moves to a new location with the bona fide intention of making his fixed and permanent home there. No change of domicile results from a removal

to a new location if the intention is to remain there only for a limited time; this rule applies even though the individual may have sold or disposed of his former home. The burden is upon any person asserting a change of domicile to show that the necessary intention existed. In determining an individual's intention in this regard, his declarations will be given due weight, but they will not be conclusive if they are contradicted by his conduct. The fact that a person registers and votes in one place is important but not necessarily determinative, especially if the facts indicate that he did this merely to escape taxation in some other jurisdiction.

Domicile is not dependent on citizenship. For example, an alien who has permanently established his home in West Virginia is domiciled in this state regardless of whether he has become a United States citizen or has applied for citizenship. However, a United States citizen will not ordinarily be deemed to have changed his domicile by going to a foreign country unless it is clearly shown that he intends to remain there permanently. For example, a United States citizen domiciled in West Virginia, who goes abroad because of an assignment by his employer or for study, research or recreation, does not lose his West Virginia domicile unless it is clearly shown that he intends to remain abroad permanently and not to return.

A person can have only one domicile. If he has two or more homes, his domicile is at the one which he regards and uses as his principal

and permanent home. In determining his intention in the matter, the length of time customarily spent at each location is important but not necessarily conclusive. As pointed out above, a person who maintains a permanent place of abode in this state and spends more than 183 days of the taxable year in this state is taxable as a resident regardless of his domicile.

Ordinarily a wife's domicile follows that of her husband. Likewise, a child's domicile ordinarily follows that of his father, or of his mother after the father's death, until he reaches the age of self-support and actually establishes his own separate domicile.

(5) Permanent place of abode. A permanent place of abode means a dwelling place permanently maintained by the taxpayer, whether or not owned by him, and will generally include a dwelling place owned or leased by his or her spouse. However, a mere camp or cottage, which is suitable and used only for vacations, is not a permanent place of abode. Also, a place of abode, whether in this state or elsewhere, is not deemed permanent if it is maintained only during a temporary stay for the accomplishment of a particular purpose. Thus, an individual domiciled in an other state may be assigned to his employer's West Virginia office for a fixed and limited period, after which he is to return to his permanent location. If such an individual takes an apartment in West Virginia during this period, he will not be deemed a resident, even though he spends more than 183 days of the taxable year in West Virginia,

because his place of abode here is not permanent. He will, of course, be taxable as a nonresident on his income from West Virginia sources, including his salary or other compensation for services performed in West Virginia. However, if his assignment to his employer's West Virginia office is not for a fixed or limited period, but is for an indefinite period, his West Virginia apartment will be deemed a permanent place of abode and he will be a resident for tax purposes if he spends more than 183 days of the year in West Virginia.

In the case of a person domiciled in West Virginia, the maintenance of a permanent place of abode in this state is alone sufficient to make him a resident for tax purposes, even though he remains outside the state for the entire year; the 183-day rule applies only to taxpayers who are not domiciled in West Virginia.

(b) Nonresident individual. For income tax purposes, a nonresident individual is anyone who is not a resident as defined in subsection (a) of this regulation. Except where these regulations specifically provide otherwise, all references to nonresidents are equally applicable to nonresident aliens.

(c) Resident estate or trust. A resident estate or trust is

- (1) the estate of a decedent who at his death was domiciled in this state;
- (2) a trust created by will of a decedent who at his death was domiciled in this state; or

- (3) a trust created by, or consisting of property of, a person domiciled in this state.

Example 1. A, who is domiciled in Canada, creates a trust with the X Trust Company in Charleston, as trustee. The corpus of the trust consists of securities of American corporations, which are actively traded by the trustee on the several Stock Exchanges and consists of rental property located within this State. The beneficiaries of the trust are all West Virginia residents. Regardless of whether the trust is held to be a resident of the United States for federal income tax purposes, it is, for West Virginia income tax purposes, a nonresident trust.

Example 2. A, who is a domiciliary of West Virginia, creates a trust with the Y Trust Company in Pittsburg, Pennsylvania, as trustee. The trust corpus consists of West Virginia rental property and Pennsylvania rental property. The beneficiaries of the trust are all Pennsylvania residents. The trust, for West Virginia income tax purposes, is a resident trust.

(d) Nonresident estate or trust. A nonresident estate or trust is an estate or trust which is not a resident estate or trust as defined in subsection (c) of this regulation.

(e) Cross reference. For effect of change of an individual's resident status, see section 1.54.

IT. §1.8 Credits against tax. (a) Business and occupation tax credit. If the taxpayer is subject to the business and occupation tax imposed by West Virginia Code ch. 11, art. 13, he may be entitled to a tax credit against his West Virginia income tax. However, the amount of the credit shall not exceed the amount of income tax attributable to West Virginia taxable income derived from the business or activity subjected to such other tax. If the West Virginia taxable income of the taxpayer includes income from a partnership, estate, trust or a subchapter S corporation, a part of any business and occupation tax liability of the partnership, estate, trust or subchapter S corporation shall be allowed, in computing the credit, in an amount proportionate to the income of such partnership, estate, trust or subchapter S corporation, which is included in the taxpayer's West Virginia taxable income.

The credit shall be limited to the smallest of the following:

- (1) The amount of business and occupation tax imposed
- (2) The amount of West Virginia income tax before credits
- (3) The amount of West Virginia income tax imposed on income from the business subject to the business and occupation tax.

Limitation #3 is placed upon the amount of the credit to preclude exempting from personal income tax such of the taxpayer's income as is not derived from a business subject to business and occupation tax.

Stated another way, the credit for business and occupation tax cannot offset the income tax imposed on income derived from sources which are not subject to business and occupation tax.

There can be no credit against personal income tax for business and occupation tax imposed on a business which operated at a loss, because no income from a business which operates at a loss enters into a taxpayer's West Virginia taxable income. Likewise, there can be no credit against personal income tax for business and occupation tax imposed, unless the West Virginia taxable income of a taxpayer includes business income. The West Virginia taxable income of a taxpayer is determined by offsetting business losses against business gains.

(1) Who may claim the credit. The credit is allowable to taxpayers engaged in activities subject to the business and occupation tax in their capacities as proprietors, members of partnerships, beneficiaries and fiduciaries of estates and trusts, and stockholders of corporations, if and only if, they elected to be taxed under Subchapter S of the Internal Revenue Code. The credit allowed these taxpayers is based on their share of the business and occupation tax imposed and is limited to the amount of personal income tax imposed on business income of the proprietorship, partnership, Subchapter S corporation, estate or trust. Salaries that are not, in fact, part of the distributive share of the partnership income, (for example, salaries guaranteed to partners by the articles of partnership), and salaries paid

to stockholders of Subchapter S corporations, are not income of partnerships or Subchapter S corporations for the purpose of computing the credit.

Example 1. The taxpayer is engaged in a sole proprietorship which is subject to the business and occupation tax. The amount of business and occupation tax liability imposed for the taxable year was \$75.00. The taxpayer's net income from the business was \$12,000. He received no other income during the year. The taxpayer filed a joint return and claimed the standard deduction and five (5) exemptions. Therefore, his West Virginia income tax before credits would be \$100.00. The business and occupation tax credit is limited to \$75.00, the amount of business and occupation tax imposed.

Example 2. Assume the same facts as in example 1 except that the amount of business and occupation tax imposed was \$300.00. The West Virginia income tax before credits is \$100.00; therefore, the business and occupation tax credit is limited to \$100.00, the amount of income tax before credits.

Example 3. The taxpayer was engaged in a business (partnership) subject to the business and occupation tax. His share of the distributive profits was \$8,000, and his share of the business and occupation tax liability was \$400.00. In addition to his business income, the taxpayer received a salary of \$4,000.00 from a local bank; therefore, his total income for the taxable year was \$12,000.00. Using the

standard deduction and five (5) exemptions, the West Virginia income tax liability before credits would be \$100.00. The business and occupation tax credit is limited to \$66.67, the amount of income tax imposed on income from the business subject to the business and occupation tax credit.

The taxpayer's business and occupation tax credit is determined by the completion of the following schedule:

IT-140 WEST VIRGINIA RESIDENT INCOME TAX RETURN-1963

State Tax Department
Income Tax Division

On other taxable year beginning Jan. 1, 1963 ending Dec. 31, 1963

PLEASE PRINT OR TYPE

First name and middle initial Last name
 Home Address
 City, town or post office County State

If this is a joint return of husband and wife, use first names and middle initials of both.
 Number and street or road route

Your Social Security Number
 Occupation
 Your Social Security Number
 Occupation

1. Total Income (from line 15, Schedule A)	\$ 12,000.00
2. Interest income on state and local bonds other than West Virginia	
3. Other additions (Specify)	
4. Sum of lines 1-3	
5. Interest income on United States obligations	
6. Modification for the sale of property (Schedule E)	
7. Other subtractions (Specify)	
8. Sum of lines 5-7	
9. Line 4 less line 8 (Total West Virginia income)	\$ 12,000.00
10. Standard deduction: 10% of amount on line 9, but not in excess of \$1,000	\$ 1,000.00
11. Total itemized deductions (from line 7, Schedule B)	
12. West Virginia and other income taxes itemized on federal return	
13. Line 11 less line 12	
14. Interest paid to carry bonds exempt from West Virginia income tax	
15. Line 13 less line 14 (West Virginia itemized deductions)	
16. Line 9 less line 10 or line 15	\$ 11,000.00
17. Exemptions: Enter number claimed on federal return... \$400.	\$ 400.00
18. Line 16 less line 17 (West Virginia taxable income)	\$ 10,600.00
19. West Virginia income tax (Calculated from rate schedule on page 4)	\$ 100.00
20. West Virginia tax withheld (If joint return, enter combined total for both husband and wife. Attach Form 1040 for total state or federal and for local amounts withheld)	\$ 25.00
21. Estimated tax payments	\$ 67.00
22. EOC or TP tax credits (line 5, Schedule C)	
23. Income taxes paid other states (line 11, Schedule D)	
24. Total payment and credits (line 20 plus 21, 22 and 23)	\$ 91.00
25. Is line 19's larger than line 24, enter the difference as overpayment (line 26) or amount due (line 27)	\$ 8.00
26. If line 24 is larger than line 19, enter the difference as overpayment (line 25) or tax is refundable only amount (amount attached is return)	\$ 18.00
27. Amount on line 25 is to be credited on 1964 Estimated Tax	
28. Amount on line 26 is to be refunded	

BALANCE DUE
\$ 91.00

OVERPAYMENT
\$ 18.00

Do Not Use Space Below

A. Were you a West Virginia resident during the entire year?
 Yes No
 If you are a resident of another state, you must file a return in that state as well as in West Virginia. If you are a resident of another state, you must file a return in that state as well as in West Virginia. If you are a resident of another state, you must file a return in that state as well as in West Virginia.

B. Do you file a return for 1963?
 Yes No
 If you did not file a return for 1963, you must file one now.

I certify that this is a correct return. If prepared by a person other than taxpayer, the certifier on it listed as preparer or preparer's grantor and date. If a joint return, BOTH HUSBAND AND WIFE MUST SIGN. If preparer's grantor and date. If a joint return, BOTH HUSBAND AND WIFE MUST SIGN.

Taxpayer's grantor and date _____ Wife's signature and date _____
 Signature of preparer other than taxpayer _____ address _____

SCHEDULE A. INCOME FROM FEDERAL RETURN (Enter total amount of each item)

1. Wages, salaries, tips, and other compensation. Local Bank	Employer's Name Auction, West Virginia	West Virginia Tax Withheld 25	Green Wages 4,000
2. Sick pay and employee business expense as shown on federal return.	Enter total here → \$		
3. Taxable compensation (Total wages or salaries, etc., less line 2)			
4. Business profit or loss			
5. Farming profit or loss			
6. Dividend income (less federal exclusions)			
7. Interest income			
8. Capital asset gains and losses			
9. Non-capital asset gains and losses			
10. Pension and annuity income			
11. Rent and royalty income			
12. Partnership(s) income and loss			
13. Estate or trust income			
14. Other income or loss (state nature)			
15. Total of lines 3 through 14			12,000

SCHEDULE B. ITEMIZED DEDUCTIONS FROM FEDERAL RETURN (Enter total amount of each deduction)

1. Contributions	
2. Interest	
3. Taxes	
4. Medical and dental expenses	
5. Casualty losses (month and year of loss)	19
6. Other deductions	
7. Total of lines 1 through 6	

SCHEDULE C. COMPUTATION OF CREDIT FOR BUSINESS AND OCCUPATION OR TRANSPORTATION PRIVILEGE TAX PAYABLE

1. Business and occupation or transportation privilege tax payable for the taxable year	400
2. West Virginia income tax (line 19, page 1)	100
3. Allowable income from above business(es) included in Schedule A (See instructions)	8,000
4. West Virginia total income (line 9, page 1)	12,000
5. Limitation of credit (line 2 multiplied by line 3 and divided by line 4)	66
6. Total credit (the smallest of lines 1, 2 or 5)	66

SCHEDULE D. COMPUTATION OF CREDIT FOR INCOME TAX IMPOSED BY ANOTHER STATE

1. Income tax imposed by the State of	
2. West Virginia income tax (line 19, page 1)	
3. Net income derived from above state included in West Virginia total income	
4. West Virginia total income (line 9, page 1)	
5. Limitation of credit (line 2 multiplied by line 3 and divided by line 4)	
6. West Virginia taxable income (line 18, page 1)	
7. Alternative West Virginia taxable income (line 6 minus line 5)	
8. Alternative West Virginia income tax (West Virginia rate schedule applied to amount shown on line 7)	
9. Limitation of credit (line 2 minus line 8)	
10. Maximum credit (line 2 minus line 6 of schedule C above)	
11. Total credit (the smallest of lines 1, 2, 5, 7 or 10)	

SCHEDULE E. MODIFICATION FOR GAINS FROM SALE OR EXCHANGE OF PROPERTY ACQUIRED PRIOR TO JANUARY 1, 1961

1. Date Acquired	2. Date Sold	3. Basis	4. Proceeds	5. Net Profit	6. Value of Property	7. Basis of Property	8. Net Gain	9. Net Loss	10. Total Gain	11. Total Loss

(2) No credit shall be allowed against the West Virginia income tax unless the West Virginia taxable income of a taxpayer includes positive amounts of income from a business subject to the business and occupation tax. In computing the business income for purposes of applying the ratio of income from business, subject to the business and occupation tax to the total West Virginia adjusted gross income for determining the limitation of credit; business losses must be offset against business gains to reflect the positive amount of business income, subject to business and occupation tax, in West Virginia taxable income. The purpose of the business and occupation tax credit is to avoid the imposition of income tax on income derived from business, subject to the business and occupation tax, and not to relieve the taxpayer from the imposition of income tax on income not subject to the business and occupation tax that would otherwise have been imposed in the absence of business activity.

Example 1. Taxpayer is engaged in a business subject to the business and occupation tax. Business and occupation tax in the amount of \$500.00 was imposed on gross receipts of \$40,000.00. His business operated at a loss of \$10,000.00. The taxpayer had income, from a source other than his business, in the amount of \$30,000.00 for the taxable year. This taxpayer is not entitled to a business and occupation tax credit on his personal income tax return, for his West Virginia taxable income does not include a positive amount of income from business subject to the business and occupation tax.

Example 2. The taxpayer is engaged in two businesses, grocery and rental, which are subject to business and occupation tax. His grocery business operated at a \$5,000.00 loss and had business and occupation tax in the amount of \$107.50 imposed on it. His rental business had net income of \$5,000 and had business and occupation tax in the amount of \$350.00 imposed on it. Also, he received a salary of \$6,000.00 from a local bank. Assuming no modifications or adjustments, the taxpayer has West Virginia adjusted gross income of \$6,000.00. The taxpayer is single and claims the standard deduction; therefore, his West Virginia income tax liability before credits is \$60.80. He is not entitled to a business and occupation tax credit on his West Virginia personal income tax return, for his West Virginia taxable income does not include a positive amount of income from business subject to the business and occupation tax. See the following schedule.

SCHEDULE C COMPUTATION OF CREDIT FOR BUSINESS AND OCCUPATION OR TRANSPORTATION PRIVILEGE TAX PAYABLE

1. Business and occupation or transportation privilege tax payable for the taxable year		\$	350	00
Business Name(s)				
Account Identification Number(s)			60	80
2. West Virginia Income tax (line 19, page 1)		\$	-0-	
3. Allowable Income from above business(es) included in Schedule A (See instructions)		\$	6,000	00
4. West Virginia total income (line 9, page 1)				
5. Limitation of credit (line 2 multiplied by line 3 and divided by line 4)		\$	-0-	
6. Total credit (the smallest of lines 1, 2 or 5)		\$	-0-	

(3) In case the West Virginia taxable income of a taxpayer includes income from a partnership, estate, trust or a subchapter S corporation, a part of any business and occupation tax liability of the partnership estate, trust or corporation shall be allowed to the taxpayer, in computing the business and occupation tax credit, in an amount proportionate to the income of such partnership, estate, trust or corporation, which is included in the taxpayer's West Virginia taxable income.

EXAMPLE:

A and B operated the AB partnership, which was subject to business and occupation tax. The partnership had \$150.00 business and occupation tax imposed on \$40,000.00 of gross receipts. Each partner's distributable net profit was \$10,000.00. This \$10,000.00 constituted the sole source of income to A. However, B had income from a source other than a business subject to business and occupation tax, as follows: \$5,000.00 salary from XYZ National Bank. Both partners filed joint returns, claiming the standard deduction of \$1,000.00, and each partner had five exemptions. Assuming no modifications or other adjustments for these partners, the total credit for business and occupation tax imposed for partner A would be \$74.00 and for partner B, \$75.00. Please see the following completed schedules for a determination of each partner's business and occupation tax credit.

Partner A's Computation for Business and Occupation Tax Credit

SCHEDULE C COMPUTATION OF CREDIT FOR BUSINESS AND OCCUPATION OR TRANSPORTATION PRIVILEGE TAX PAYABLE

1. Business and occupation or transportation privilege tax payable for the taxable year		\$	75	00
<i>AB Partnership</i>				
	Business Name(s)			
	Account Identification Number(s)			
2. West Virginia income tax (line 19, page 1)			74	00
3. Allowable income from above businesses) included in Schedule A (See instructions)		\$	10,000	00
4. West Virginia total income (line 9, page 1)		\$	10,000	00
5. Limitation of credit (line 2 multiplied by line 3 and divided by line 4)			74	00
6. Total credit (the smallest of lines 1, 2 or 5)		\$	74	00

Partner B's Computation for Business and Occupation Tax Credit

SCHEDULE C COMPUTATION OF CREDIT FOR BUSINESS AND OCCUPATION OR TRANSPORTATION PRIVILEGE TAX PAYABLE

1. Business and occupation or transportation privilege tax payable for the taxable year		\$	75	00
<i>AB Partnership</i>				
	Business Name(s)			
	Account Identification Number(s)			
2. West Virginia income tax (line 19, page 1)			148	00
3. Allowable income from above businesses) included in Schedule A (See instructions)		\$	10,000	00
4. West Virginia total income (line 9, page 1)		\$	15,000	00
5. Limitation of credit (line 2 multiplied by line 3 and divided by line 4)			98	67
6. Total credit (the smallest of lines 1, 2 or 5)		\$	75	00

Partner A's total credit is limited to the amount of West Virginia income tax imposed on the income derived from the business which was subject to the business and occupation tax.

Partner B's total credit is limited to the amount of business and occupation tax imposed on the business from which the income was derived, and is limited to the portion of the income tax imposed which is attributable to West Virginia taxable income derived by the taxpayer from the business or occupation which was subject to the business and occupation tax.

A and B are entitled to a part of the business and occupation tax liability imposed on the partnership in proportion to the income of the partnership included in each partner's West Virginia taxable income. Since each partner received 50% of the distributable net profit, each partner was entitled to use 50% of the business and occupation tax liability of the partnership in computing his total credit for business and occupation tax; therefore, each partner's share of the business and occupation tax liability to be used as a limiting factor in the computation of the credit is \$75.00.

(4) In determining the income from a business or occupation which is subject to the business and occupation tax, the net income, from such business or occupation, as reported in federal adjusted gross income without reference to the component items of income from the business or occupation, shall be considered prima facie evidence of the income of the subject business. For purposes of determining

net income, gross income may include, but is not limited to: gross income from sales, interest income, bad debt recoveries, rents and royalties, earned discounts and miscellaneous income.

Salaries which have been deducted as a business expense for federal income tax purposes, in determining net income from the business or occupation subject to the business and occupation tax, shall not thereafter be included as income from the business in determining the individual's business and occupation tax credit.

(5) Partnerships. In determining the income from a partnership which is subject to the business and occupation tax, the salaries paid to the partners which are not considered a draw against the distributive share of profits shall be deducted in arriving at the net income of the partnership; and such salaries shall not be included in the basis for computing the business and occupation tax credit of the individual partner. If the salary is not a guaranteed salary, provided in the articles of partnership, the Income Tax Division will accept as prima facie evidence that the salary is considered a draw against distributive share of profits; therefore, the salary will be allowed in the basis for computing the business and occupation tax credit of the individual partner.

(6) Subchapter S corporations. In determining the income from a subchapter S corporation which is subject to the business and occupation tax, salaries paid to stockholders shall be deducted in arriving at the net income of said corporation. The taxpayer, who

is a stockholder and receives a salary from such corporation, is not permitted to use said salary in the computation of his business and occupation tax credit on his West Virginia personal income tax return, for such salaries are not income of a subchapter S corporation (as required by West Virginia Code ch. 11, art. 21, sec. 8) but are expenses of a corporation deductible in arriving at the net income of such corporation.

EXAMPLE:

Mr. X is a stockholder in a subchapter S corporation and is also an employee of the corporation. Mr. X receives a salary of \$6,000.00 from the corporation. At the end of the corporation's taxable year, Mr. X receives \$2,000.00 as his distributive share of profits from the corporation. In computing his business and occupation tax credit on his West Virginia personal income tax return, Mr. X is permitted to use only his distributive share of profits (\$2,000) as his basis.

(b) Transportation Privilege Tax Credit. The preceding regulation (Reg. §1.8(a)) is equally applicable to the transportation privilege tax credit; therefore, no lengthy regulation in regard to transportation privilege tax credit is presented.

(c) Federal credits not allowed. The credits against income tax allowed by the federal government; such as, retirement income credit, any dividends received credit, etc., are not allowable credits against the West Virginia personal income tax. West Virginia allows

credits against income tax only for:

- (1) West Virginia income taxes withheld (Reg. §1.73),
- (2) West Virginia estimated taxes paid (Reg. §1.55),
- (3) Business and occupation tax imposed (Reg. §1.8),
- (4) Transportation privilege tax imposed (Reg. §1.8),
- (5) Income taxes paid another state (Reg. §1.20), and
- (6) Income taxes paid state of residence (Reg. §1.40).

IT. §1.9 Meaning of terms. Any term used in the West Virginia Personal Income Tax Act and these regulations shall have the same meaning as when used in a comparable context in the laws of the United States relating to income taxes, unless a different meaning is clearly required. Any reference in the West Virginia Income Tax Act and these regulations to the laws of the United States shall mean the provisions of the Internal Revenue Code of 1954, as amended, and such other provisions of the laws of the United States as relate to the determination of income for federal income tax purposes. All amendments made to the laws of the United States prior to January 1, 1963, shall be given effect in determining the taxes imposed by the West Virginia Income Tax Act for the tax period beginning January 1, 1962, and thereafter. No amendment made to the laws of the United States relating to income taxes on or after January 1, 1963, shall be given effect.

For example: If on December 6, 1963, Congress passed a law making workmen's compensation benefits subject to federal income tax, the law will have no effect on the West Virginia Income Tax Act; for no amendment made to the laws of the United States on or after January 1, 1963, shall be given effect.

PART II RESIDENTS

IT. §1.11 West Virginia taxable income of a resident individual. (a) General. The tax rates specified in sections 1.4 (a), 1.4 a (a), and 1.4 a (b) of these regulations are applied against the taxpayer's West Virginia taxable income. The taxpayer's federal adjusted gross income is the actual starting point each year for computing the West Virginia taxable income on which his West Virginia tax is based. The West Virginia taxable income of a resident individual means his federal adjusted gross income with the modifications stated in section 1.12 of these regulations, less his West Virginia standard or itemized deduction and personal exemption.

(b) West Virginia taxable income of husband and wife.

(1) If a husband and wife file separate federal returns for a particular year, they must also file separate West Virginia returns for that year.

(2) If a husband and wife file a joint federal income tax return for a particular year, or if neither files a federal return:

(A) They may file a joint West Virginia income tax return,
or

(B) They may file separate West Virginia income tax returns.

(3) If both spouses are residents of West Virginia and choose to file separate West Virginia returns, each must determine his or her West

Virginia income, exemptions, and itemized deductions, as if his or her total federal income, exemptions, and itemized deductions had been determined separately; if the standard deduction is claimed in this case, it must not exceed 10% of the aggregate of their separate West Virginia total incomes or \$1,000, whichever is less, but may be taken by either or divided in such portions as they may choose.

(c) West Virginia taxable income of husband and wife having different resident status. Irrespective of the provisions of subsection 3 above, if either the husband or wife is a resident of West Virginia and the other is a nonresident, they must file separate West Virginia returns unless they (1) file a joint federal return and (2) elect to file a joint state return computing their joint West Virginia taxable income as if both spouses were residents of West Virginia. This option applies only in those cases where one spouse was a resident of West Virginia for the entire taxable year and the other spouse was a nonresident for the entire taxable year. This option does not apply in cases where either the husband or wife separately changed his or her residence during the taxable year. (For change of resident status during the year, see Reg. §1.54.)

IT. §1.12 West Virginia adjusted gross income of a resident individual. (a) General. The West Virginia adjusted gross income of a resident individual means his federal adjusted gross income with certain modifications. These modifications relate to items which are treated differently under the West Virginia Personal Income Tax Act than under the United States Internal Revenue Code of 1954. Subsection (b) below lists the modifications which increase West Virginia adjusted gross income in comparison with federal adjusted gross income, while subsection (c) below lists the modification items which in such comparison reduce the West Virginia adjusted gross income. When the net amount of applicable modifications is added to or subtracted from federal adjusted gross income, the result is the taxpayer's West Virginia adjusted gross income. It should be noted, that in certain instances the federal tax is computed by use of the alternative capital gains tax or by allocating all or part of specific income items received in one year to one or more preceding years. Adjustments of this variety affect the computation of the federal tax itself rather than the amount of federal adjusted gross income reportable for the taxable year and are to be disregarded in computing a taxpayer's West Virginia adjusted gross income or West Virginia tax.

(1) Depreciation. West Virginia follows the federal rules of depreciation; therefore, the depreciation of property for federal income tax purposes by methods permitted under the laws of the United States relating to the determination of income will be reflected

automatically in West Virginia adjusted gross income, without modification, to the extent reflected in the taxpayer's federal adjusted gross income.

(b) Modifications increasing federal adjusted gross income. The following items are to be added to federal adjusted gross income in arriving at West Virginia adjusted gross income of a resident individual:

(1) Interest income on obligations of any state, other than obligations of the State of West Virginia, or of a political subdivision of any other state, unless created by compact or agreement to which West Virginia is a party. The amount to be added to federal adjusted gross income is the gross amount of such interest, without reduction for incidental expenses incurred by the taxpayer; such as, custodian fees, investment advisory fees, or similar expenses.

Example: The gross amount of interest received by a resident individual on bonds of the State of California¹ must be added to his federal adjusted gross income in arriving at his West Virginia adjusted gross income, for this interest is subject to the West Virginia income tax but not the federal income tax. If a resident individual receives interest income on obligations of the State of West Virginia, the interest is not subject to West Virginia income tax, for interest income on West Virginia obligations is specifically excluded from taxation by the West Virginia Income Tax Act.

(2) Interest or dividend income on obligations or securities of any authority, commission, or instrumentality of the United States, which the laws of the United States exempt from federal income tax but not from state income taxes.

(3) Income taxes imposed by West Virginia or any other taxing jurisdiction to the extent deductible in determining federal adjusted gross income and not credited against the federal income tax.

Example: If the New York unincorporated business income tax was deducted in computing federal adjusted gross income by a resident who incurred a liability to that state, the amount of this tax must be added back to the federal adjusted gross income as a modification item, for income taxes are not deductible for West Virginia income tax purposes. Where, however, a particular tax is not deducted in computing federal adjusted gross income but is credited against the amount of federal income tax, no modification is necessary. For example, if the amount of foreign income tax is credited against the total federal income tax of a taxpayer, no modification is to be made for the amount of such income tax credited, since it was not deducted in computing federal adjusted gross income.

(4) Interest on indebtedness incurred or continued to purchase or carry obligations or securities the income from which is exempt from West Virginia tax, to the extent that such interest is deductible in determining federal adjusted gross income.

Example: An individual borrowed \$50,000 from his bank to purchase a new issue of the United States Treasury certificates. In computing his federal adjusted gross income he includes the interest income received on these certificates and deducts as a business expense the interest payable on the bank loan. However, the interest income received on the certificates is not subject to West Virginia tax and is subtracted from federal adjusted gross income in computing his West Virginia adjusted gross income. (See subsection (c) (1) below). Conversely, the interest on the bank loan incurred to purchase these certificates is not deductible for purposes of the West Virginia income tax and must be added back to federal adjusted gross income in computing West Virginia adjusted gross income.

(c) Modifications reducing federal adjusted gross income.

The following items are to be subtracted from federal adjusted gross income in order to properly compute the West Virginia adjusted gross income of a resident individual:

(1) Interest income on obligations of the United States and its possessions, to the extent includible in gross income for federal income tax purposes.

Example: Interest on United States savings bonds is subject to federal income tax but not to state income tax. Therefore, the amount of such interest should be subtracted from federal adjusted gross income in computing West Virginia adjusted gross income.

(2) Interest or dividend income on obligations or securities of any authority, commission, or instrumentality of the United States, to the extent includible in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States.

Example: Dividend income received from National Bank stock must be subtracted from federal adjusted gross income. Also, interest on obligations of the Home Owners' Loan Corporation must be subtracted from federal adjusted gross income as a modification item in computing West Virginia adjusted gross income of a resident individual, for an Act of Congress exempts this interest from state income taxation but not from federal income taxation. However, interest income received from a Federal Savings and Loan Association is not a proper modification and is taxable by West Virginia.

(3) If a taxpayer's federal adjusted gross income includes any gain from a sale or other disposition of property acquired prior to January 1, 1961, which had a higher fair market value on January 1, 1961, than its adjusted basis for federal income tax purposes on that date, a modification must be made to adjust for this difference.

A. Computing the modification for difference between fair market value and federal adjusted basis. This modification is computed by subtracting from federal adjusted gross income that portion of the gain reported for federal income tax purposes which is not in excess of the difference between the higher fair market value and, the

adjusted basis for federal income tax purposes, on January 1, 1961, except that if the gain is a long-term capital gain for federal tax purposes only 50% of such portion of the gain is to be subtracted. This 50% limitation applies regardless of whether any short-term capital losses were offset against the long-term capital gain in the taxpayer's federal return. The purpose of this modification is to prevent the imposition of West Virginia income tax on the property's appreciation in value prior to the effective date (January 1, 1961) of the West Virginia Income Tax Act.

Example 1: A taxpayer who reported his 1961 income on a calendar year basis sold securities in 1962 and realized a gain of \$3,000. However, on January 1, 1961, the fair market value of these securities was \$2,000 higher than the federal adjusted basis. If this was a short-term capital gain for federal tax purposes, the amount to be subtracted from federal adjusted gross income is \$2,000 being the portion of the gain not in excess of the difference between fair market value and federal adjusted basis. However, if this was a long-term capital gain for federal tax purposes, the amount to be subtracted is 50% of such portion of the gain, or \$1,000.

Example 2: The taxpayer purchased XY stock in 1954 for \$32,000. The fair market value of the stock on January 1, 1961, was \$49,000. The taxpayer sold the stock on July 10, 1963, for \$60,000. In order to determine the amount of his modification, the taxpayer should complete the following schedule:

SCHEDULE E MODIFICATION FOR GAINS FROM SALE OR EXCHANGE OF PROPERTY ACQUIRED PRIOR TO JANUARY 1, 1961

Kind of Property	1. Date Acquired	2. Date Sold	3. Profit Per Federal Return	4. Market Value 1/1/61	5. Depreciation etc., to 1/1/61	6. Original Cost or Other Federal Basis	7. Total of Col. 4, plus Col. 5, Minus Col. 6	8. Modification (see Instructions)
XY Stock	1954	7/10/63	28,000	49,000	-0-	32,000	17,000	8,500

Since the profit on the sale was reported on the taxpayer's federal return as long-term capital gain, 50% of the amount in column 7 is entered in column 8. The taxpayer then subtracts either his profit or the modification amount, whichever is less, from federal adjusted gross income to arrive at West Virginia adjusted gross income.

B. No modification allowed if property acquired after December 31, 1960. If a taxpayer realizes a gain on the sale of property which he received by an acquisition other than one which gives him a substituted basis before December 31, 1960, the modification explained in this subsection is not allowed; for appreciation on such property will have occurred after the imposition of the West Virginia Income Tax Act and there is no appreciation prior to the effective date of the Act requiring exclusion.

C. Separate computation required for each transaction. Where two or more assets are sold at a profit during the same taxable year, and the fair market value of each was higher than its federal adjusted basis on January 1, 1961, the amount to be subtracted from federal adjusted gross income must be computed separately for each asset sold.

D. Modification not allowed where loss occurs. No modification is allowed where property was sold at a loss during the taxable year, even though such property had a higher fair market value on January 1, 1961, than the adjusted basis for federal income tax purposes on that date.

E. Fair market value. The fair market value of stock shall be the closing price, as listed on one of the stock exchanges, at the close of business on December 30, 1960 (the last day of business in 1960). The fair market value of over the counter stocks shall be the bid price on the last day of business of the year 1960.

(4) Any refund or credit for overpayment of income taxes imposed by this state or any other taxing jurisdiction, to the extent properly included in gross income for federal income tax purposes. This modification applies to any refund of income taxes which was actually included in federal adjusted gross income, whether the refund represented West Virginia income taxes or the income taxes of another state, a political subdivision of any state or any foreign government. However, the modification does not include any portion of the total refund which represents interest received. Such interest whether received in connection with a state, federal or other tax refund, is not exempt from tax since it is paid on a claim against the particular government, rather than paid on an obligation thereof arising from the exercise of its borrowing powers.

(d) Modification for West Virginia fiduciary adjustment. Where a resident individual is a beneficiary of an estate or trust, his federal adjusted gross income should be increased or decreased (as the case may be) by his share of the West Virginia fiduciary adjustment applicable to the estate or trust. This fiduciary adjustment is the

net amount of modifications relating to estate or trust items of income, gain, loss or deduction, and is computed by the fiduciary in his return for the estate or trust. The fiduciary also allocates to each beneficiary his proportionate share of this fiduciary adjustment. (See section 1.19 (a), (b), (c) and (d) of these regulations). Each beneficiary, on his individual West Virginia return, must apply his share of the fiduciary adjustment as a modification of his federal adjusted gross income in order to determine his West Virginia adjusted gross income.

(e) Modification of federal adjusted gross income for partnership income or loss reportable by a partner. Where a resident individual is a member of a partnership, the modifications prescribed by subsections (b) and (c) of this section of the regulations are to be made with reference to items of partnership income, gain, loss or deduction which are reflected in his federal adjusted gross income. These modifications are applicable, since under the West Virginia Personal Income Tax Act, each item of partnership income, gain, loss or deduction has the same character for a partner as for federal income tax purposes. If the partnership item is not characterized for federal income tax purposes it has the same character for a partner as if it were realized directly by him from the source from which realized by the partnership, or incurred by him in the same manner as incurred by the partnership. The amount of the applicable modifications for each partner

should be computed in accordance with section 1.17 of these regulations. It should be noted that these modifications pertain to partnership items included in federal adjusted gross income; modifications to be made by a partner pertaining to items of deduction of a partnership are covered by subsection 1.15 (e) of these regulations.

(f) West Virginia adjusted gross income of a husband and wife. Where a husband and wife determine their federal income tax for a particular year on a joint return but determine their West Virginia income taxes separately, they are then required to compute their West Virginia adjusted gross incomes separately; that is, in the same manner as if the federal adjusted gross income of each had been determined on separate federal returns filed by them.

SCHEDULE E MODIFICATION FOR GAINS FROM SALE OR EXCHANGE OF PROPERTY ACQUIRED PRIOR TO JANUARY 1, 1961

Kind of Property	1. Date Acquired	2. Date Sold	3. Profit Per Federal Return	4. Market Value 1/1/61	5. Depreciation etc. 1/1/61	6. Original Cost or Other Federal Basis	7. Total of Col. 4, plus Col. 5, Minus Col. 6	8. Modification (see Instructions)
XY Stock	1954	7/10/63	28,000	49,000	-0-	32,000	17,000	8,500