

ADMINISTRATIVE NOTICE 97-25R

SUBJECT: THE INCOME PERCENTAGE FOR WEST VIRGINIA NONRESIDENT/PART YEAR RESIDENT RETURNS WILL NOT EXCEED 100%.

1. The purpose of this revised notice is to advise individuals filing West Virginia Nonresident/ Part Year Resident income tax returns regarding the use of an "income percentage" that exceeds 100%. Administrative Notice 97-25 incorrectly used the words "greater than" in paragraph four (4) below. The correct words "less than" are incorporated in paragraph four (4) below.
2. When determining the tax liability of a West Virginia Nonresident / Part Year Resident the taxpayer must first calculate the tax as if the taxpayer were a resident for the entire taxable year to arrive at a "tentative tax" liability.
3. The tentative tax is then multiplied by a "fraction," the numerator of which is the taxpayers' West Virginia source income, and the denominator of which is the taxpayers' "Federal Adjusted Gross Income" for the taxable year.
4. In most cases the West Virginia source income will be **less than** the Federal Adjusted Gross Income resulting in a "fraction" or income percentage of less than 1, carried to the required four decimal places. However, in the situation where the taxpayer's West Virginia source income is equal to or in excess of the Federal Adjusted Gross Income, the resulting "fraction" or income percentage to be used would be equal to **but no more than 1**.
5. **EXAMPLE:** Mr. Jones is a resident of North Carolina who has \$16,000.00 net rental income from properties located in West Virginia. He also has a rental loss of \$4000.00 from properties located in North Carolina.
6. His West Virginia source income will be \$16,000.00. However, because of rental losses not attributable to West Virginia, his Federal Adjusted Gross Income will be \$12,000.00. This will result in an "income percentage" of 133% (\$16,000 divided by \$12,000). However, the "income percentage" to be used in calculating the amount of tax due is 100%.

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Richard E. Boyle, Jr.
State Tax Commissioner