

# WEST VIRGINIA DEPARTMENT OF TAX AND REVENUE

## LOW-INCOME EARNED INCOME EXCLUSION

### ELECTION OUT-OF-STATE WITHHOLDING INSTRUCTIONS

Senate Bill 17, enacted during the 1996 regular session of the West Virginia Legislature, amends the West Virginia personal income tax law by giving an earned income exclusion to individuals, head of households, and married couples (who file a joint return), who have **federal adjusted gross income of \$10,000 or less** for the taxable year. (If married and filing separately, federal adjusted gross income may not exceed \$5,000).

*Earned income includes wages, salaries, tips, commissions and other employee compensation. Unearned income includes interest, dividends, retirement income in the form of pensions or annuities, and other income that is not employee compensation.*

**ELECTION:** A taxpayer who qualifies for this low-income earned income exclusion may elect to have his or her employer **NOT** withhold West Virginia income tax by taking this income exclusion into consideration when determining the amount of **West Virginia personal income taxes** the employer is required to withhold from the employee's paycheck. This election is made by completing the certificate below and giving it to your employer or payroll officer. The completed certificate is authorization for your employer to stop withholding West Virginia Personal Income Tax from your paycheck.

**CAUTION:** When deciding whether to elect out of state income tax withholding, you should keep in mind that if your federal adjusted gross income for the year exceeds \$10,000, the earned income exclusion does not apply, and your state income tax bill on April 15th could be \$240 or more. Events that could result in your federal adjusted gross income exceeding \$10,000 even though your annual wages are currently less than \$10,000 include: the likelihood of working overtime hours; whether you have a second job or will take a second job; whether you will receive a pay raise during the year; if married, whether your spouse works; whether your spouse's earned income will increase during the year; whether you have unearned income, the amount of your unearned income and whether that amount will increase during the year.

If you **reasonably believe** your federal adjusted gross income for the year will be \$10,000 or less and you actually receive federal adjusted gross income that is more than \$10,000, you will owe interest on the amount of West Virginia tax that should have been withheld by your employer.

Should you need further information, you should call the Taxpayer Services Division at (304)558-3333, or, Toll-Free (in West Virginia and area code 614) at 1-800-982-8297. TDD service for the hearing impaired: 1-800-292-9833.

----- CUT HERE -----

## WEST VIRGINIA DEPARTMENT OF TAX AND REVENUE LOW-INCOME EARNED INCOME EXCLUSION CERTIFICATE ELECTION TO NOT WITHHOLD STATE INCOME TAX

GIVE THIS CERTIFICATE TO YOUR EMPLOYER

PRINT OR TYPE FULL NAME HERE

SOCIAL SECURITY NUMBER

HOME ADDRESS

CITY OR TOWN

STATE

ZIP CODE

I believe my federal adjusted gross income for the current calendar year will be \$10,000 or less (\$5,000 or less if married and filing separately). By signing this certificate, I authorize my employer to not withhold West Virginia income taxes on up to \$10,000 of wages and salaries paid to me during the calendar year, (\$5,000 if employee is married and files on a separate return basis).

I certify, under penalties provided by law, that the information and representations set forth herein are true and correct.

Date \_\_\_\_\_ Employee Signature \_\_\_\_\_



## **NOTICE TO EMPLOYERS ADJUSTMENT TO WITHHOLDING FOR LOW-INCOME EARNED INCOME EXCLUSION**

---

Senate Bill 17, enacted during the 1996 regular session of the West Virginia Legislature, amends the West Virginia Personal Income Tax Act by providing a low-income earned income exclusion that was effective beginning July 1, 1996.

This earned income exclusion is available to employees whose federal adjusted gross income for the calendar year will be **\$10,000 or less**. (If the employee is married and files a separate income tax return, his or her federal adjusted gross income must be \$5,000 or less).

SB 17 allows employees eligible to claim this low-income earned income exclusion to elect to have their employers **NOT** withhold West Virginia income taxes from their payroll checks. Employees are not required to elect out of withholding for West Virginia income taxes in order to claim this low-income earned income exclusion. If there is any possibility that the employee's federal adjusted gross income for the calendar year will be greater than \$10,000, the employee should not make this election without understanding that the employee may owe West Virginia personal income tax plus 9 percent interest, which will be due April 15.

Employers should review payroll records and advise employees who will earn less than \$10,000 during the calendar year that they may be eligible for this low-income earned income exclusion. An employee who is eligible for this low-income earned income exclusion may exercise the employee's election to not have his employer withhold West Virginia income taxes by completing FORM WV/IT-104.1, **LOW-INCOME EARNED INCOME EXCLUSION CERTIFICATE**, and giving it to his employer. The completed form must be retained by the employer.

Enclosed is Form WV/IT-104.1, **LOW-INCOME EARNED INCOME EXCLUSION CERTIFICATE**, which should be distributed to those employees who will have federal adjusted gross income for the calendar year of \$10,000 or less. **NOTE:** If the employee is married and files a separate income tax return, federal adjusted gross income may not exceed \$5,000.

Should you or the employee need additional information, please contact the Taxpayers Services Division, Toll-Free (within West Virginia and area code 614) 1-800-982-8297 or (304)558-3333. TDD service for the hearing impaired 1-800-282-9833.