

§11-21-7. Resident and nonresident defined.

(a) Resident individual. -- Resident individual means an individual:

(1) Who is domiciled in this state, unless he or she maintains no permanent place of abode in this state, maintains a permanent place of abode elsewhere, and spends in the aggregate not more than thirty days of the taxable year in this state, or

(2) Who is not domiciled in this state but maintains a permanent place of abode in this state and spends in the aggregate more than one hundred eighty-three days of the taxable year in this state.

(b) Nonresident individual. -- A nonresident individual means an individual who is not a resident.

(c) Resident estate or trust. -- A resident estate or trust means:

(1) The estate of a decedent who at his or her death was domiciled in this state,

(2) A trust created by will of a decedent who at his or her death was domiciled in this state, or

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

(d) Nonresident estate or trust. -- A nonresident estate or trust means an estate or trust which is not a resident.

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

§11-21-8. Credits against tax.

(a) Business and occupation tax credit.--A credit shall be allowed against the tax imposed by section three of this article equal to the amount of the liability of the taxpayer for the taxable year for any tax imposed under article thirteen, chapter eleven of this code: *Provided*, That the amount of such business and occupation tax credit shall not exceed the portion of the tax imposed by this article which is attributable to the West Virginia taxable income derived by the taxpayer for the taxable year from the business or occupation with respect to which said tax under article thirteen was imposed. In case the West Virginia taxable income of a taxpayer includes income from a partnership, estate, trust or a corporation electing to be taxed under subchapter S of the Internal Revenue Code of 1954, as amended, a part of any tax liability of the partnership, estate, trust or corporation under said article thirteen shall be allowed to the taxpayer, in computing the credit provided for by this section, 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.