Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (www.nmlegis.gov). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

**FISCAL IMPACT REPORT**

**SPONSOR**  Shendo  **ORIGINAL DATE**  02/10/21  **LAST UPDATED**  03/08/21  **HB**  

**SHORT TITLE**  Uniform Division of Income For Tax Purposes  **SB**  218/aSJC  **ANALYST**  Graezer

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

<table>
<thead>
<tr>
<th></th>
<th>FY21</th>
<th>FY22</th>
<th>FY23</th>
<th>3 Year Total Cost</th>
<th>Recurring or Nonrecurring</th>
<th>Fund Affected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>TRD Operating</td>
</tr>
<tr>
<td></td>
<td>$(.2)</td>
<td>$(.2)</td>
<td>$(.4)</td>
<td>Recurring</td>
<td></td>
<td>TRD Operating (RPD staff)</td>
</tr>
</tbody>
</table>

Parenthesis ( ) indicate expenditure decreases

**SOURCES OF INFORMATION**

LFC Files

Responses Received From
Taxation and Revenue Department (TRD)

**SUMMARY**

Synopsis of SJC amendment

The Senate Judiciary amendment to Senate Bill 218 deletes two lines which correct typographical errors.

Synopsis of Original Bill

Senate Bill 218 deletes a provision in the Multistate Tax Compact in Section 7-5-1 NMSA 1978 that allows a taxpayer to elect to apportion and allocate income in the manner provided by the compact. As a result, taxpayers would apportion and allocate income pursuant to the New Mexico’s Uniform Division of Income for Tax Purposes Act (Section 7-4-1 et seq NMSA 1978).

There is no effective date of this bill. It is assumed that the effective date is 90 days after this session ends. (June 18, 2021). Applicable to taxable years beginning on or after January 1, 2021.

**FISCAL IMPLICATIONS**

This bill has no revenue impact. It ensures that market-based sourcing changes for the Corporate Income Tax (CIT) enacted in 2019 (HB6) are implemented as intended.
SIGNIFICANT ISSUES

TRD notes the following:
New Mexico and 15 other states have joined the Multistate Tax Compact (“Compact”). To
to join the Compact, New Mexico adopted the Compact in Section 7-5-1, et seq. The Compact
establishes the Multistate Tax Commission and all of its functions and contains model law
for the Uniform Division of Income for Tax Purposes Act (UDITPA). Compact member
states also adopted UDITPA in statute, and New Mexico’s version of UDITPA is found in
section 7-4-1 et seq. The Compact found in Section 7-5-1 NMSA 1978 allows a taxpayer to
elect to use the model version of UDITPA found in Section 7-5-1 NMSA 1978 rather than
the version of UDITPA found in New Mexico’s Section 7-4-1 et seq.

In recent years, states including New Mexico have enacted changes to UDITPA that are
intended to be mandatory for taxpayers. New Mexico made changes to UDITPA (Section 7-
4-18) in 2019’s HB6 that ensure market-based sourcing for New Mexico’s CIT. Market-
based sourcing ensures that CIT is due from corporations based on their delivering services
or intangibles to a customer in New Mexico or if they are used in New Mexico. This bill
would delete the election for taxpayers to use the model UDITPA in the Compact rather than
the mandatory changes enacted in Section 7-4-18 NMSA 1978 in 2019.

As described in Section 7-5-1 NMSA 1978, purpose of the Multistate Tax Compact is to
facilitate determination of state and local tax liability of multistate taxpayers, to promote
uniformity or compatibility of tax systems across states, to facilitate taxpayer convenience
and compliance in tax, and to avoid duplicate taxation.

ADMINISTRATIVE IMPLICATIONS

TRD anticipates a low administrative impact implementing the provisions of SB218,
This bill will have a low impact on the Information Technology Division (ITD) requiring
approximately 300 hours of effort or approximately 2 months for an estimated staff workload
cost of $15,492. This requires updates to GenTax, Taxpayer Access Point (TAP), Mef and
GenKFI. This will be included in the annual tax year changes for tax year 2021. TRD’s
Revenue Processing Division (RPD) will experience slight savings of about $0.2 thousand per
year no longer reviewing and processing taxpayer elections.

LG/sb/al