

AN ACT

RELATING TO TAXATION; AMENDING VARIOUS TAX ACTS TO MAKE
CORRECTIONS AND RECONCILE PROVISIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-2-14.4 NMSA 1978 (being Laws
1994, Chapter 111, Section 2) is amended to read:

"7-2-14.4. AUTHORIZATION TO FUND PROPERTY TAX REBATE
FOR LOW-INCOME TAXPAYERS--TAX IMPOSITION--ELECTION.--

A. The board of county commissioners of any
county may adopt a resolution to submit to the qualified
electors of the county the question of whether a property
tax at a rate not to exceed one dollar (\$1.00) per thousand
dollars (\$1,000) of taxable value of property should be
imposed for the purpose of providing the necessary funding
for the property tax rebate for low-income taxpayers
provided in the Income Tax Act if
the county has adopted an ordinance providing the property
tax rebate.

B. The resolution shall:

(1) specify the rate of the proposed tax,
which shall not exceed one dollar (\$1.00) per thousand
dollars (\$1,000) of taxable value of property;

(2) specify the date an election will be
held to submit the question of imposition of the tax to the

qualified electors of the county;

(3) impose the tax for one, two, three, four or five property tax years and limit the imposition of the proposed tax to no more than five property tax years; and

(4) pledge the revenue from the tax solely for the payment of the income tax revenue reduction resulting from the implementation of the property tax rebate for low-income taxpayers.

C. The resolution authorized in Subsection A of this section shall be adopted no later than May 15 in the year prior to the year in which the tax is proposed to be imposed. By adoption of an appropriate resolution, the board of county commissioners may submit the question of imposing the tax for successive periods of one, two, three, four or five years to the qualified electors of the county. The procedures for the election and for the imposition of the tax for subsequent periods shall be the same as those applying to the initial imposition of the tax. The election shall be scheduled so that the imposition of the tax for successive periods results in continuity of the tax.

D. An election on the question of imposing the tax authorized pursuant to this section may be held in conjunction with a general election or may be conducted as

or held in conjunction with a special election, but the election shall be held by the date necessary to assure that the results of the election on the question of imposing the tax may be certified no later than July 1 of the first property tax year in which the tax is proposed to be imposed. Conduct of the election shall be as provided by the Election Code.

E. As used in this section, "taxable value of property" means the combined total of net taxable value of property allocated to the county under the Property Tax Code; the assessed value of products severed and sold in the county for the calendar year preceding the year for which a determination is made as determined under the Oil and Gas Ad Valorem Production Tax Act; the assessed value of equipment in the county as determined under the Oil and Gas Production Equipment Ad Valorem Tax Act; and the taxable value of copper mineral property in the county pursuant to Section 7-39-7 NMSA 1978."

Section 2. Section 7-2E-2 NMSA 1978 (being Laws 1999, Chapter 183, Section 2) is amended to read:

"7-2E-2. CONTINUED APPLICABILITY OF RURAL JOB TAX CREDIT.--The balance of any rural job tax credit granted with respect to qualifying periods occurring after July 1, 2006 or remaining on a tax credit document issued prior to that date may be applied after that date in the manner

provided in Section 7-2E-1 NMSA 1978 against the holder's modified combined tax liability or corporate or personal income tax liability as if the provisions of Section 7-2E-1 NMSA 1978 were still in effect."

Section 3. Section 7-3-2 NMSA 1978 (being Laws 1990, Chapter 64, Section 1, as amended) is amended to read:

"7-3-2. DEFINITIONS.--As used in the Withholding Tax Act:

A. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

B. "employee" means either an individual domiciled within the state who performs services either within or without the state for an employer or, to the extent permitted by law, an individual domiciled outside of the state who performs services within the state for an employer;

C. "employer" means a person, or an officer, agent or employee of that person, having control of the payment of wages, doing business in or deriving income from sources within the state for whom an individual performs or performed any service as the employee of that person, except that if the person for whom the individual performs or performed the services does not have control over the

payment of the wages for such services, "employer" means the person having control of the payment of wages;

D. "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended;

E. "owner" means a partner in a partnership not taxed as a corporation for federal income tax purposes for the taxable year, a shareholder of an S corporation or of a corporation other than an S corporation that is not taxed as a corporation for federal income tax purposes for the taxable year, a member of a limited liability company or any similar person holding an ownership interest in any pass-through entity;

F. "pass-through entity" means any business association other than:

(1) a sole proprietorship;

(2) an estate or trust; or

(3) a corporation, limited liability

company, partnership or other entity not a sole proprietorship taxed as a corporation for federal income tax purposes for the taxable year;

G. "payor" means any person making payment of a pension or annuity to an individual domiciled in New Mexico;

H. "payroll period" means a period for which a payment of wages is made to the employee by his employer;

I. "person" means any individual, club, company,

cooperative association, corporation, estate, firm, joint venture, partnership, receiver, syndicate, trust or other association and, to the extent permitted by law, any federal, state or other governmental unit or subdivision or an agency, department or instrumentality thereof;

J. "wagerer" means any person who receives winnings that are subject to withholding;

K. "wages" means remuneration in cash or other form for services performed by an employee for an employer;

L. "winnings that are subject to withholding" means "winnings which are subject to withholding" as that term is defined in Section 3402 of the Internal Revenue Code;

M. "withholdee" means:

(1) an individual domiciled in New Mexico receiving a pension or annuity from which an amount of tax is deducted and withheld pursuant to the Withholding Tax Act;

(2) an employee; and

(3) a wagerer; and

N. "withholder" means a payor, an employer or any person required to deduct and withhold from winnings that are subject to withholding."

Section 4. Section 7-3-6 NMSA 1978 (being Laws 1969, Chapter 25, Section 1) is amended to read:

"7-3-6. DATE PAYMENT DUE.--Except for amounts withheld pursuant to the provisions of Section 7-3-12 NMSA 1978, taxes withheld under the provisions of the Withholding Tax Act must be paid on or before the twenty-fifth day of the month following the month when the taxes were required to be withheld. Amounts withheld pursuant to Section 7-3-12 NMSA 1978 must be paid on or before the due date of the return for the pass-through entity."

Section 5. Section 7-3-12 NMSA 1978 (being Laws 1999, Chapter 14, Section 3) is amended to read:

"7-3-12. INFORMATION RETURN REQUIRED FROM PASS-THROUGH ENTITY--WITHHOLDING.--

A. A pass-through entity doing business in this state shall file an annual information return with the department on or before the due date of the entity's federal return for the taxable year. The information return shall be signed by the business manager or one of the owners of the pass-through entity.

B. The information return required by this section shall contain all information required by the department, including:

- (1) the pass-through entity's gross income;
- (2) the pass-through entity's net income;
- (3) the amount of each owner's share of the pass-through entity's net income; and

(4) the name, address and tax identification number of each owner entitled to a share of net income.

C. A pass-through entity shall provide to each of its owners sufficient information to enable the owner to comply with the provisions of the Income Tax Act and the Corporate Income and Franchise Tax Act with respect to the owner's share of net income.

D. The pass-through entity shall deduct and withhold from each nonresident owner's share of net income an amount equal to the owner's share of net income multiplied by a rate set by department regulation. In the case of an owner who is an individual or entity not taxed as a corporation for federal income tax purposes for the taxable year, the rate shall not exceed the rate for composite returns. In the case of an owner that is a corporation or other entity taxed as a corporation for the taxable year, the rate shall not exceed the maximum rate for corporate income tax.

E. The provisions of Subsection D of this section shall not apply with regard to the share of net income of a nonresident owner who has executed an agreement in accordance with regulations or instructions of the department that the owner will report and pay tax, if required, on its own return pursuant to the Income Tax Act

or the Corporate Income and Franchise Tax Act.

F. Amounts deducted from the owner's share of net income under the provisions of this section shall be a collected tax. No owner shall have a right of action against the pass-through entity for any amount deducted and withheld from the owner's share of net income."

Section 6. Section 7-20C-2 NMSA 1978 (being Laws 1991, Chapter 176, Section 2, as amended by Laws 1997, Chapter 54, Section 1 and also by Laws 1997, Chapter 129, Section 1) is amended to read:

"7-20C-2. DEFINITIONS.--As used in the Local Hospital Gross Receipts Tax Act:

A. "county" means:

(1) a class B county having a population of less than twenty-five thousand according to the most recent federal decennial census and having a net taxable value for rate-setting purposes for the 1990 property tax year or any subsequent year of more than two hundred fifty million dollars (\$250,000,000);

(2) a class B county having a population of less than forty-seven thousand but more than forty-four thousand according to the 1990 federal decennial census and having a net taxable value for rate-setting purposes for the 1992 property tax year of more than three hundred million dollars (\$300,000,000) but less than six hundred million

dollars (\$600,000,000);

(3) a class B county having a population of less than ten thousand according to the most recent federal decennial census and having a net taxable value for rate-setting purposes for the 1990 property tax year or any subsequent year of more than one hundred million dollars (\$100,000,000);

(4) a class B county having a population of less than twenty-five thousand according to the 1990 federal decennial census and having a net taxable value for rate-setting purposes for the 1993 property tax year of more than ninety-one million dollars (\$91,000,000) but less than one hundred twenty-five million dollars (\$125,000,000);

(5) a class B county having a population of more than seventeen thousand but less than twenty thousand according to the 1990 federal decennial census and having a net taxable value for rate-setting purposes for the 1993 property tax year of more than one hundred fifty-three million dollars (\$153,000,000) but less than one hundred fifty-six million dollars (\$156,000,000); or

(6) a class B county having a population of more than fifteen thousand according to the 1990 federal decennial census and having a net taxable value for rate-setting purposes for the 1996 property tax year of more than one hundred fifty million dollars (\$150,000,000) but

less than one hundred seventy-five million dollars
(\$175,000,000);

B. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

C. "governing body" means the board of county commissioners of a county;

D. "health care facilities contract" means an agreement between a hospital or health clinic not owned by the county and a county imposing the tax authorized by the Local Hospital Gross Receipts Tax Act that obligates the county to pay to the hospital revenue generated by the tax authorized in that act as consideration for the agreement by the hospital or health clinic to use the funds only for nonsectarian purposes and to make health care services available for the benefit of the county;

E. "hospital facility revenues" means all or a portion of the revenues derived from a lease of a hospital facility acquired, constructed or equipped pursuant to and operated in accordance with the Local Hospital Gross Receipts Tax Act;

F. "local hospital gross receipts tax" means the tax authorized to be imposed under the Local Hospital Gross Receipts Tax Act;

G. "person" means an individual or any other legal entity; and

H. "state gross receipts tax" means the gross receipts tax imposed under the Gross Receipts and Compensating Tax Act." _____
