

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 462

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Ron Godbey

FOR THE COURTS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO TAXATION; AMENDING PROVISIONS OF THE TAX
ADMINISTRATION ACT AND THE CRIMINAL CODE WITH RESPECT TO
CRIMINAL VIOLATIONS OF THE TAX LAWS; AMENDING AND REPEALING
SECTIONS OF THE NMSA 1978.

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

Section 1. Section 7-1-72 NMSA 1978 (being Laws 1965,
Chapter 248, Section 73) is amended to read:

"7-1-72. ATTEMPTS TO EVADE OR DEFEAT TAX. -- ~~[Any]~~ In
addition to other penalties provided by law, a person who
willfully attempts to evade or defeat any tax or the payment
thereof is, ~~[in addition to other penalties provided by law,~~
~~guilty of a felony and, upon conviction thereof, shall be~~
~~fined not less than one thousand dollars (\$1,000) nor more~~
~~than ten thousand dollars (\$10,000), or imprisoned not less~~

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 ~~than one year nor more than five years, or both such fine and~~
2 ~~imprisonment, together with the costs of prosecution.] upon~~
3 conviction, guilty of a:

4 A. petty misdemeanor, as provided in Section
5 31-19-1 NMSA 1978, when the amount of the tax is one hundred
6 dollars (\$100) or less;

7 B. misdemeanor, as provided in Section 31-19-1
8 NMSA 1978, when the amount of the tax is more than one hundred
9 dollars (\$100) but not more than two hundred fifty dollars
10 (\$250);

11 C. fourth degree felony, as provided in Section
12 31-18-15 NMSA 1978, when the amount of the tax is more than
13 two hundred fifty dollars (\$250) but not more than two
14 thousand five hundred dollars (\$2,500);

15 D. third degree felony, as provided in Section
16 31-18-15 NMSA 1978, when the amount of the tax is more than
17 two thousand five hundred dollars (\$2,500) but not more than
18 twenty thousand dollars (\$20,000); and

19 E. second degree felony, as provided in Section
20 31-18-15 NMSA 1978, when the amount of the tax is more than
21 twenty thousand dollars (\$20,000). "

22 Section 2. Section 7-1-76 NMSA 1978 (being Laws 1965,
23 Chapter 248, Section 76, as amended) is amended to read:

24 "7-1-76. REVEALING INFORMATION CONCERNING TAXPAYERS. --
25 [Any] An employee of the department, [any] a former employee

. 134010. 2

underscored material = new
[bracketed material] = delete

1 of the department or any other person who reveals to another
2 individual any information [~~which~~] that he is prohibited from
3 lawfully revealing, [~~by provision of~~] as provided in Section
4 7-1-8 NMSA 1978, is guilty of a misdemeanor. [~~and shall, upon~~
5 ~~conviction thereof, be fined not more than one thousand~~
6 ~~dollars (\$1,000) or imprisoned not more than one year, or~~
7 ~~both, together with costs of prosecution~~] Upon conviction, the
8 offender shall be sentenced pursuant to the provisions of
9 Section 31-19-1 NMSA 1978 and shall not be employed by the
10 state for a period of five years after the date of the
11 conviction. "

12 Section 3. Section 7-1-78 NMSA 1978 (being Laws 1965,
13 Chapter 248, Section 81, as amended) is amended to read:

14 "7-1-78. BURDEN OF PROOF IN [~~FRAUD~~] TAX EVASION CASES. --
15 In any civil proceeding involving the issue of whether [~~any~~] a
16 person has [~~been guilty of fraud or corruption, the burden of~~
17 ~~proof in respect of such issue shall be upon the director or~~
18 ~~the state~~] evaded the reporting or payment of tax or has
19 assisted another person with evading the reporting or payment
20 of tax, the burden of proof shall be a preponderance of the
21 evidence. The secretary or the state shall bear the burden of
22 proof. "

23 Section 4. Section 30-1-8 NMSA 1978 (being Laws 1963,
24 Chapter 303, Section 1-8, as amended) is amended to read:

25 "30-1-8. TIME LIMITATIONS FOR COMMENCING PROSECUTION. --

underscored material = new
[bracketed material] = delete

1 No person shall be prosecuted, tried or punished in any court
2 of this state unless the indictment is found or information or
3 complaint is filed therefor within the time as provided:

4 A. for a second degree felony, within six years
5 from the time the crime was committed;

6 B. for a third or fourth degree felony, within
7 five years from the time the crime was committed;

8 C. for a misdemeanor, except a violation of the
9 tax laws, within two years from the time the crime was
10 committed;

11 D. for a petty misdemeanor, except a violation of
12 the tax laws, within one year from the time the crime was
13 committed;

14 E. for any [~~crime against or~~] petty misdemeanor or
15 misdemeanor offense in violation of the [revenue] tax laws of
16 this state or of Section 51-1-38 NMSA 1978, within three years
17 from the time the crime was committed;

18 F. for any crime not contained in the Criminal
19 Code, or where a limitation is not otherwise provided for,
20 within three years from the time the crime was committed; and

21 G. for a capital felony or a first degree violent
22 felony, no limitation period shall exist and prosecution for
23 these crimes may commence at any time after the occurrence of
24 the crime. "

25 Section 5. REPEAL. -- Section 7-1-75 NMSA 1978 (being Laws

. 134010. 2

underscored material = new
[bracketed material] = delete

1 1971, Chapter 276, Section 12, as amended) is repealed.

2 Section 6. EFFECTIVE DATE. -- The effective date of the
3 provisions of this act is July 1, 2001.

4 - 5 -

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25