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HOUSE BILL 778

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

INTRODUCED BY

Ted Hobbs

AN ACT

RELATING TO TAXATION; ENACTING SECTIONS OF THE INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT TO PROVIDE A CREDIT FOR GROSS RECEIPTS TAX PAID ON RECEIPTS FROM THE PROVISION OF MEDICAL AND OTHER HEALTH SERVICES BY LICENSED HEALTH PRACTITIONERS.

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

Section 1. A new section of the Income Tax Act is enacted to read:

" NEW MATERIAL CREDIT-- LICENSED HEALTH PRACTITIONERS-- GROSS RECEIPTS TAX PAID ON RECEIPTS FROM THE PROVISION OF MEDICAL AND OTHER HEALTH SERVICES-- REFUND. --

A. A licensed health practitioner who files an individual New Mexico income tax return may claim a credit for state and local option gross receipts taxes paid in the

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1 taxable year for which the credit is claimed on receipts of
2 the taxpayer or of a pass-through business entity of which the
3 taxpayer is an owner from the provision of medical and other
4 health services. If the taxes were paid by a pass-through
5 business entity of which the taxpayer is an owner, the amount
6 of the gross receipts taxes paid by the taxpayer shall be
7 determined to be the taxes paid on that portion of the taxable
8 gross receipts of the pass-through business entity from the
9 provision of medical and other health services by licensed
10 health practitioners that represents the taxpayer's
11 proportionate ownership share of the pass-through business
12 entity.

13 B. The credit provided in this section may be
14 deducted from the taxpayer's New Mexico income tax liability
15 for the taxable year. If the credit exceeds the taxpayer's
16 income tax liability for the taxable year, the excess shall be
17 refunded to the taxpayer.

18 C. As used in this section:

19 (1) "licensed health practitioner" means:

20 (a) a chiropractic physician licensed
21 pursuant to the provisions of the Chiropractic Physician
22 Practice Act;

23 (b) a dentist or dental hygienist
24 licensed pursuant to the provisions of the Dental Health Care
25 Act;

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1 (c) a physician or physician assistant
2 licensed pursuant to the provisions of Chapter 61, Article 6
3 NMSA 1978;

4 (d) an osteopathic physician licensed
5 pursuant to the provisions of Chapter 61, Article 10 NMSA 1978
6 or an osteopathic physician's assistant licensed pursuant to
7 the provisions of the Osteopathic Physicians' Assistants Act;

8 (e) a doctor of oriental medicine
9 licensed pursuant to the provisions of the Acupuncture and
10 Oriental Medicine Practice Act;

11 (f) a podiatrist licensed pursuant to
12 the provisions of the Podiatry Act;

13 (g) an optometrist licensed pursuant to
14 the provisions of the Optometry Act;

15 (h) a psychologist licensed pursuant to
16 the provisions of the Professional Psychologist Act;

17 (i) a registered nurse or licensed
18 practical nurse licensed pursuant to the provisions of the
19 Nursing Practice Act;

20 (j) a registered lay midwife registered
21 by the department of health;

22 (k) a physical therapist licensed
23 pursuant to the provisions of the Physical Therapy Act;

24 (l) a registered occupational therapist
25 licensed pursuant to the provisions of the Occupational

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1 Therapy Act; and

2 (m) a respiratory care practitioner
3 licensed pursuant to the provisions of the Respiratory Care
4 Act; "

5 (2) "owner" means a partner in a partnership
6 not taxed as a corporation for federal income tax purposes for
7 the taxable year, a shareholder of an S corporation or of a
8 corporation other than an S corporation that is not taxed as a
9 corporation for federal income tax purposes for the taxable
10 year, a member of a limited liability company or any similar
11 person holding an ownership interest in a pass-through
12 business entity; and

13 (3) "pass-through business entity" means any
14 business association other than:

15 (a) a sole proprietorship;
16 (b) an estate or trust; or
17 (c) a corporation, limited liability
18 company, partnership or other entity not a sole proprietorship
19 taxed as a corporation for federal income tax purposes for the
20 taxable year. "

21 Section 2. A new section of the Corporate Income and
22 Franchise Tax Act is enacted to read:

23 "[NEW MATERIAL] CREDIT--GROSS RECEIPTS TAX PAID ON
24 RECEIPTS FROM MEDICAL AND HEALTH SERVICES PROVIDED BY LICENSED
25 HEALTH PRACTITIONERS-- REFUND. --

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1 A. A taxpayer who files a corporate income tax
2 return may claim a credit for state and local option gross
3 receipts taxes paid in the taxable year for which the credit
4 is being claimed on receipts of the taxpayer from the
5 provision of medical and other health services by licensed
6 health practitioners.

7 B. The credit provided in this section may be
8 deducted from the taxpayer's corporate income tax liability
9 for the taxable year. If the credit exceeds the taxpayer's
10 corporate income tax liability for the taxable year, the
11 excess shall be refunded to the taxpayer.

12 C. As used in this section, "licensed health
13 practitioner" means:

14 (1) a chiropractic physician licensed
15 pursuant to the provisions of the Chiropractic Physician
16 Practice Act;

17 (2) a dentist or dental hygienist licensed
18 pursuant to the provisions of the Dental Health Care Act;

19 (3) a physician or physician assistant
20 licensed pursuant to the provisions of Chapter 61, Article 6
21 NMSA 1978;

22 (4) an osteopathic physician licensed
23 pursuant to the provisions of Chapter 61, Article 10 NMSA 1978
24 or an osteopathic physician's assistant licensed pursuant to
25 the provisions of the Osteopathic Physicians' Assistants Act;

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1 (5) a doctor of oriental medicine licensed
2 pursuant to the provisions of the Acupuncture and Oriental
3 Medicine Practice Act;

4 (6) a podiatrist licensed pursuant to the
5 provisions of the Podiatry Act;

6 (7) an optometrist licensed pursuant to the
7 provisions of the Optometry Act;

8 (8) a psychologist licensed pursuant to the
9 provisions of the Professional Psychologist Act;

10 (9) a registered nurse or licensed practical
11 nurse licensed pursuant to the provisions of the Nursing
12 Practice Act;

13 (10) a registered lay midwife registered by
14 the department of health;

15 (11) a physical therapist licensed pursuant
16 to the provisions of the Physical Therapy Act;

17 (12) a registered occupational therapist
18 licensed pursuant to the provisions of the Occupational
19 Therapy Act; and

20 (13) a respiratory care practitioner licensed
21 pursuant to the provisions of the Respiratory Care Act. "

22 Section 3. APPLICABILITY. -- The provisions of this act
23 apply to taxable years beginning on or after January 1, 2001.