

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 236

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

AN ACT

RELATING TO TAXATION; AMENDING THE INCOME TAX ACT TO PROVIDE A
DEDUCTION FOR NET CAPITAL GAIN INCOME ATTRIBUTABLE TO SALES OF
ASSETS, STOCK OR OTHER EQUITY OF CLOSELY HELD BUSINESSES.

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

Section 1. Section 7-2-34 NMSA 1978 (being Laws 1999,
Chapter 205, Section 1) is amended to read:

"7-2-34. DEDUCTION--CERTAIN NET CAPITAL GAIN INCOME.--

A. Except as provided in Subsection [B] C of this
section, a taxpayer may claim a deduction from net income in
an amount equal to the greater of:

(1) the taxpayer's net capital gain income
for the taxable year for which the deduction is being claimed,
but not to exceed one thousand dollars (\$1,000); or

(2) the taxpayer's net capital gain income

1 from the sales of closely held businesses if the income is
2 included in net income and allocated or apportioned to New
3 Mexico.

4 B. A husband and wife who file separate returns
5 for a taxable year in which they could have filed a joint
6 return may each claim only one-half of the deduction provided
7 by this section that would have been allowed on the joint
8 return.

9 ~~[B.]~~ C. A taxpayer may not claim the deduction
10 provided in Subsection A of this section if the taxpayer has
11 claimed the credit provided in Section 7-2D-8.1 NMSA 1978.

12 ~~[C.]~~ D. As used in this section:

13 (1) "closely held business" means a trade or
14 business operated:

15 (a) as a sole proprietorship; or

16 (b) by a corporation, partnership,
17 limited partnership, limited liability company or any other
18 legal entity whose outstanding equity interests are owned by
19 seventy-five or fewer individuals;

20 (2) "equity interests" means the equity of a
21 legal entity, including the capital stock of a corporation,
22 the interests of a general or limited partner in a partnership
23 or the interest of a member of a limited liability company;
24 and

25 (3) "net capital gain income from the sales

1 of a closely held business" means "net capital gain" as
2 defined in Section 1222 (11) of the Internal Revenue Code to
3 the extent attributable to the sale or exchange of
4 substantially all of the property used in a closely held
5 business or to the sale or exchange of the taxpayer's entire
6 interest in the equity interests of a closely held business in
7 a transaction in which substantially all of the equity
8 interests of the closely held business are sold or exchanged. "

9 Section 2. APPLICABILITY. -- The provisions of this act
10 apply to taxable years beginning on or after January 1, 2001.

underscored material = new
[bracketed material] = delete