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HOUSE BILL 424

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Anna M Crook

AN ACT

RELATING TO INCOME TAX REVENUE; AMENDING THE CORPORATE INCOME
AND FRANCHISE TAX ACT TO CHANGE CERTAIN PREREQUISITES FOR
FILING ESTIMATED TAX PAYMENTS.

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

Section 1. Section 7-2A-9.1 NMSA 1978 (being Laws 1986,
Chapter 5, Section 1, as amended) is amended to read:

"7-2A-9.1. ESTIMATED TAX DUE-- PAYMENT OF ESTIMATED TAX--
PENALTY-- EXEMPTION. --

A. Every taxpayer shall pay estimated corporate
income tax to the state of New Mexico during its taxable year
if its tax after applicable credits [~~for such taxable year can~~
~~reasonably be expected to be~~] has been five thousand dollars
(\$5,000) or more in any one of the three previous taxable
years. A taxpayer to which this section applies shall

underscored material = new
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1 calculate estimated tax by one of the following methods:

2 (1) estimating the amount of tax due, net of
3 any credits, for the current taxable year, provided that the
4 estimated amount is at least eighty percent of the amount
5 determined to be due for the taxable year;

6 (2) using as the estimate an amount equal to
7 one hundred percent of the tax due for the previous taxable
8 year, if the previous taxable year was a full twelve-month
9 year [~~and if the amount due for that previous taxable year was~~
10 ~~at least five thousand dollars (\$5,000)~~]; or

11 (3) using as the estimate an amount equal to
12 one hundred ten percent of the tax due for the taxable year
13 immediately preceding the previous taxable year, if the
14 taxable year immediately preceding the previous taxable year
15 was a full twelve-month year [~~the amount due for the taxable~~
16 ~~year immediately preceding the previous taxable year was at~~
17 ~~least five thousand dollars (\$5,000)~~] and the return for the
18 previous taxable year has not been filed and the extended due
19 date for filing that return has not occurred at the time the
20 first installment is due for the taxable year.

21 B. If Subsection A of this section applies, the
22 amount of estimated tax shall be paid in installments as
23 follows: twenty-five percent of the estimated tax is due on
24 or before the fifteenth day of the fourth month of the taxable
25 year, another twenty-five percent is due on or before the

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1 fifteenth day of the sixth month of the taxable year, another
2 twenty-five percent is due on or before the fifteenth day of
3 the ninth month of the taxable year and the final twenty-five
4 percent is due on or before the fifteenth day of the twelfth
5 month of the taxable year. Application of this subsection to
6 a taxable year that is a fractional part of a year shall be
7 determined by regulation of the secretary.

8 C. Every taxpayer to which Subsection A of this
9 section applies that fails to pay the estimated tax when due
10 or that makes estimated tax payments during the taxable year
11 that are less than the lesser of eighty percent of the income
12 tax imposed on the taxpayer under the Corporate Income and
13 Franchise Tax Act or the amount required by Paragraph (2) or
14 (3) of Subsection A of this section shall be subject to the
15 interest and penalty provisions of Sections 7-1-67 and 7-1-69
16 NMSA 1978 on the underpayment.

17 D. For purposes of this section, the amount of
18 underpayment shall be the excess of the amount of the
19 installment that would be required to be paid if the estimated
20 tax were equal to eighty percent of the tax shown on the
21 return for the taxable year or the amount required by
22 Paragraph (2) or (3) of Subsection A of this section or, if no
23 return was filed, eighty percent of the tax for the taxable
24 year for which the estimated tax is due less the amount, if
25 any, of the installment paid on or before the last date

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[bracketed material] = delete

1 prescribed for payment.

2 E. For purposes of this section, the period of
3 underpayment shall run from the date the installment was
4 required to be paid to whichever of the following dates is
5 earlier:

6 (1) the fifteenth day of the third month
7 following the end of the taxable year; or

8 (2) with respect to any portion of the
9 underpayment, the date on which such portion is paid. For the
10 purposes of this paragraph, a payment of estimated tax on any
11 installment date shall be applied as a payment of any previous
12 underpayment only to the extent such payment exceeds the
13 amount of the installment determined under Subsection D of
14 this section due on such installment date. "

15 Section 2. APPLICABILITY. -- The provisions of this act
16 are applicable to taxable years beginning on or after January
17 1, 2002.