

1 HOUSE BILL 358

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Sarah Maestas Barnes

5
6
7
8
9
10 AN ACT

11 RELATING TO TAXATION; CREATING A DEDUCTION FROM INCOME TAX FOR
12 A BUSINESS WITH ANNUAL BUSINESS INCOME LESS THAN THREE HUNDRED
13 FIFTY THOUSAND DOLLARS (\$350,000) THAT EMPLOYS AT LEAST ONE
14 FULL-TIME EQUIVALENT EMPLOYEE.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. A new section of the Income Tax Act is enacted
18 to read:

19 "[NEW MATERIAL] DEDUCTION--PERCENTAGE OF BUSINESS
20 INCOME.--

21 A. A taxpayer who is not a dependent of another
22 individual may claim a deduction from net income in an amount
23 provided in Subsection B of this section; provided that, in the
24 taxable year for which the deduction is claimed:

25 (1) the taxpayer's business income from all

.199684.1

underscored material = new
[bracketed material] = delete

underscoring material = new
~~[bracketed material] = delete~~

1 businesses for which the taxpayer has an equity interest is
2 three hundred fifty thousand dollars (\$350,000) or less;

3 (2) the taxpayer's base income is two hundred
4 thousand dollars (\$200,000) or less; and

5 (3) any one business for which the taxpayer
6 has an equity interest, and for which the deduction is being
7 claimed, employs at least one full-time equivalent employee
8 that is a New Mexico resident for at least forty-eight weeks;
9 provided that the full-time equivalent employee is not the
10 taxpayer or any person with an equity interest in the business
11 for which the taxpayer has recognized business income.

12 B. The amount of deduction pursuant to this section
13 that may be claimed for a taxable year shall equal the
14 following percentages of business income otherwise included in
15 the taxpayer's net income:

16 (1) for the first fifty thousand dollars
17 (\$50,000) of business income, one hundred percent;

18 (2) for the second fifty thousand dollars
19 (\$50,000) of business income, eighty-five percent;

20 (3) for the third fifty thousand dollars
21 (\$50,000) of business income, seventy percent;

22 (4) for the fourth fifty thousand dollars
23 (\$50,000) of business income, fifty-five percent;

24 (5) for the fifth fifty thousand dollars
25 (\$50,000) of business income, forty percent;

.199684.1

underscored material = new
[bracketed material] = delete

1 (6) for the sixth fifty thousand dollars
2 (\$50,000) of business income, twenty-five percent; and

3 (7) for the seventh fifty thousand dollars
4 (\$50,000) of business income, ten percent.

5 C. Married individuals filing separate returns for
6 a taxable year for which they could have filed a joint return
7 may each claim only one-half of the deduction provided by this
8 section that would have been claimed on a joint return.

9 D. A taxpayer allowed a deduction pursuant to this
10 section shall report the amount of the deduction to the
11 department in a manner required by the department.

12 E. The department shall compile an annual report on
13 the deduction provided by this section that shall include the
14 number of taxpayers that claimed the deduction, the aggregate
15 amount of deductions claimed and any other information
16 necessary to evaluate the effectiveness of the deduction.
17 Beginning in 2017 and every year thereafter that the deduction
18 is in effect, the department shall compile and present the
19 annual reports to the revenue stabilization and tax policy
20 committee and the legislative finance committee.

21 F. As used in this section:

22 (1) "business income" means that part of a
23 taxpayer's income from a business that maintains its principal
24 place of business in New Mexico that:

25 (a) is defined as taxable income upon

underscored material = new
[bracketed material] = delete

1 which the federal income tax is calculated in the Internal
2 Revenue Code for income tax purposes and claimed by the
3 taxpayer for that year;

4 (b) includes interest received on a
5 state or local bond; and

6 (c) is treated as nonpassive income
7 pursuant to Section 469 of the Internal Revenue Code, as that
8 section was in effect on January 1, 2015, or net earnings from
9 self-employment as that term is defined in Section 1402 of the
10 Internal Revenue Code; and

11 (2) "full-time equivalent employee" means:

12 (a) an employee that works an average of
13 at least thirty-two hours per week; or

14 (b) a combination of employees, each of
15 whom do not individually work an average of at least thirty-two
16 hours per week, but collectively work an average of at least
17 thirty-two hours per week."

18 SECTION 2. APPLICABILITY.--The provisions of this act
19 apply to taxable years beginning on or after January 1, 2016.