

**BILL ANALYSIS AND FISCAL IMPACT REPORT**  
**Taxation and Revenue Department**

**January 31, 2025**

**Bill:** HB-198

**Sponsor:** Representative Derrick J. Lente

**Short Title:** Tax Changes

**Description:** HB198 is a Tax & Rev agency bill that amends the tax administration act to adjust several penalties for inflation and make other changes to the tax code as follows:

- **Section 1:** Amends Section 7-1-21 NMSA 1978 to increase the dollar amount on delinquent tax installment agreements that are available for public inspection from \$1,000 to \$10,000.
- **Section 2:** Section 7-1-67 NMSA 1978 is amended to provide that interest will not be assessed against a delinquent taxpayer if the failure to pay tax due results from a mistake of law made in good faith and on reasonable grounds. In the case of failure to pay due to negligence or disregard of department rules, the amount of interest due at the time of payment that will be disregarded is increased from \$1 to \$10.
- **Section 3:** Section 7-1-68 NMSA 1978 is amended to increase the minimum amount of interest that Tax & Rev will pay to a taxpayer owed a refund from \$1 to \$10.
- **Section 4:** Section 7-1-69 NMSA 1978 is amended to increase the minimum penalty from \$5 to \$15 for failure to file or pay certain taxes, and from \$25 to \$75 for failure with willful intent to evade or defeat a tax.
- **Section 5:** Section 7-1-71.3 NMSA 1978 is amended to increase the maximum fine from \$5,000 to \$10,000 for willful failure, with intent to defraud, to collect and pay over a tax due.
- **Section 6:** Section 7-1-71.4 NMSA 1978 requires tax preparers who prepare more than 25 returns to file them electronically. This section is amended to increase the penalty for tax preparers from a maximum of \$5 to \$10 for each tax return that is required to be filed electronically but that is filed in paper.
- **Section 7:** Section 7-1-72 NMSA 1978 is amended to increase the minimum fine from \$1,000 to \$10,000 and the maximum fine from \$10,000 to \$50,000 for willful attempts to evade or defeat a tax.
- **Section 8:** Section 7-1-73 NMSA 1978 is amended change the brackets applicable to different levels of tax criminal tax fraud, from petty misdemeanor up to a second-degree felony. Criminal tax fraud penalties rise from a range of \$250 to \$20,000 to a new range of \$500 to \$50,000, depending on the amount of fraud committed.
- **Section 9:** Section 7-1-74 NMSA 1978 is amended to increase the fines for attempts to forcibly or corruptly obstruct or impede the administration of taxes, or to attempt to do either of those things, from a range of \$250 to \$10,000 to a new range of \$1,000 to \$25,000.
- **Section 10:** Section 7-1-75 NMSA 1978 is amended to increase the fines for assault and battery of a Tax & Rev employee from a range of \$100 to \$500 to a new range of \$1,000 to \$5,000.
- **Section 11:** Section 7-1-76 NMSA 1978 is amended to increase the crime of revealing taxpayer information from a misdemeanor to a fourth-degree felony, and increase the fine from a maximum of \$1,000 to \$5,000.

**Effective Date:** The effective date of Section 1 is July 1, 2025, and the effective date of Sections 2 through 11 is January 1, 2026.

**Taxation and Revenue Department Analyst:** Lucinda Sydow, Pedro Clavijo, and Sara Grubbs

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2025	FY2026	FY2027	FY2028	FY2029		
--	Slightly Negative	Slightly Negative	Slightly Negative	Slightly Negative	R	Section 2: All associated funds, including the General Fund, and local government distributions (Interest – all Tax Programs)
--	Slightly Positive	Slightly Positive	Slightly Positive	Slightly Positive	R	Sections 3, 5-11: General Fund (Interest pay-out all tax programs, criminal fines and penalties)
--	\$700	\$1,500	\$1,600	\$1,700	R	Section 4: General Fund (Penalty – various tax programs)
--	\$302	\$625	\$643	\$665	R	Section 4: Local Governments (Penalty - GRT, Compensating Tax and Cannabis)
--	\$2	\$5	\$5	\$5	R	Section 4: Local DWI Grant Fund (Penalty - Liquor Excise Tax)
--	<\$1	\$1	\$1	\$1	R	Section 4: Drug Court Fund (Penalty - Liquor Excise Tax)
--	\$39	\$80	\$82	\$83	R	Section 4: State Road Fund (Penalty- Combined Fuel Taxes)
--	\$1	\$2	\$2	\$2	R	Section 4: Local Government Road Fund (Penalty – Alternative Fuel Tax)
--	\$1	\$1	\$1	\$1	R	Section 4: County Government Road Fund (Penalty – Gasoline Tax)
--	<\$1	<\$1	<\$1	<\$1	R	Section 4: Motorboat Fuel Tax Fund (Penalty – Gasoline Tax)
--	\$1	\$1	\$1	\$1	R	Section 4: Municipalities (Penalty - Gasoline Tax)
--	<\$1	<\$1	<\$1	\$2	R	Section 4: Municipal Arterial Program (MAP - Local Governments Road Fund) (Penalty – Gasoline Tax)
--	\$2	\$4	\$4	\$4	R	Section 4: Corrective Action Fund (Penalty – PPL)
--	\$22	\$45	\$47	\$48	R	Section 4: Health Care

						Affordability Fund (Penalty – Insurance Surtax)
--	\$3	\$7	\$7	\$7	R	Section 4: Law Enforcement Protection Fund (Penalty – Insurance Premium Tax)
--	\$13	\$26	\$27	\$28	R	Section 4: Fire Protection Fund (Penalty – Insurance Premium Tax)
--	\$2	\$4	\$4	\$4	R	Section 4: Emergency Medical Services Fund (Penalty – Insurance Premium Tax)
--	<\$1	\$1	\$1	\$1	R	Section 4: Disability Health Care Facility Fund (Penalty – Health Care Quality Surcharge)
--	\$4	\$9	\$10	\$11	R	Section 4: Health Care Facility Fund (Penalty – Health Care Quality Surcharge)
--	Unknown	Unknown	Unknown	Unknown	R	Section 4: Health Care Delivery and Access Fund (Penalty – new Health Care Delivery and Access Assessment)
--	\$1	\$3	\$3	\$3	R	Section 4: Worker’s Compensation Administration Fund (Penalty - Worker’s Compensation Fee)
--	<\$1	<\$1	<\$1	<\$1	R	Section 4: Uninsured Employee Fund (Penalty – Worker’s Compensation Fee)
--	<\$1	<\$1	<\$1	<\$1	R	Section 4: Tax & Rev (Penalty – Worker’s Compensation Fee)
--	\$1	\$3	\$3	\$3	R	Section 4: Enhanced 911 Fund (Penalty – 911 Surcharge)

\* In thousands of dollars. Parentheses ( ) indicate a revenue loss. \*\* Recurring (R) or Non-Recurring (NR).

**Methodology for Estimated Revenue Impact: [Section 2]:** Tax & Rev will see a reduction in the amount of interest revenue owed by delinquent taxpayers for all tax programs with the raising of the minimum threshold of interest paid on refunds from \$1 to \$10. Tax & Rev cannot predict the volume of interest payments that will be deferred in the future, but it is unlikely to be substantial. Conversely, revenue will also be decreased in waiving interest under \$10 owed by taxpayers that in good faith do not file and pay timely.

**[Section 4]:** Tax & Rev’s estimates the revenue impact of raising the \$5 minimum late filing penalty to \$15. For tax programs that had readily available individual return data that included penalty amounts, Tax & Rev aggregated the total amount of penalty from taxpayers’ penalty amounts of \$5 for the last three fiscal years. Tax & Rev then determined the percentage of this amount of revenue to total fiscal year revenues. Tax & Rev then averaged across the sample of tax programs to arrive at 0.01% of total fiscal year revenues. Tax & Rev then applied this percentage to all the applicable tax programs under 7-1-69(A)(3) NMSA 1978, based on the Consensus Revenue Estimating Group’s (CREG) December 2024 forecast and the Department of Transportation’s forecast for various fuel and motor-way taxes that flow into various road funds. (Note: this minimum late filing penalty does not apply to Income Taxes and to Severance Taxes.) Finally, Tax & Rev calculated the difference in revenue to increase the minimum penalty amount to \$15. Tax & Rev notes that FY26 is a half-year impact with an effective date of January 1, 2026 for the change in the penalty.

To the extent that increasing the minimum penalty to \$15 or in the case of willful intent to evade taxes, increasing the penalty from \$25 to \$75, has the intended effect of encouraging taxpayer compliance, these proposed changes may decrease the estimated impact to revenue from penalties presented above.

**[Sections 3, 5-11]:** For Section 3, Tax & Rev will pay less interest to taxpayers by raising the threshold of interest paid on refunds from \$1 to \$10. Tax & Rev cannot predict the volume of interest payments that will be deferred in the future, but it is unlikely to be substantial.

For sections 5 through 11, in the event of future criminal intent including evading taxes, tax fraud, or obstruction of tax laws, the inflation-adjusted penalties and fines will increase revenue to the General Fund. But because part of the goal of raising the level of penalty is to deter violations of the tax code, the revenue impact may be lessened.

**Policy Issues:** For all the sections the proposed amendments include inflation adjustments of various dollar thresholds in the tax code. These thresholds are associated with amounts of interest; civil penalties; and fines. Some of these dollar figures have not been adjusted for inflation in 60 years, as detailed on the table below. More descriptions and purpose behind the proposed amendments by section are described in the tables below.

Sections 2 and 3 that increase the amount of interest paid to and due from taxpayers from a minimum of \$1 to \$10 will build goodwill between taxpayers and Tax & Rev, make Tax & Rev more efficient, and aid in incentivizing taxpayers to reach out to the department for assistance in completing timely and properly filing returns. In overall terms, these changes will aid in improving compliance and the tax gap.

Bill Section	Section Amended	Summary of Amendments
1	7-1-21	Increase amount of delinquent tax installment agreements available for public inspection from \$1,000 to \$10,000 to adjust for inflation since 1979
2	7-1-67	Increase minimum amount of interest taxpayers will owe to TRD from \$1 to \$10 to adjust for inflation since 1982. No longer impose interest on delinquent taxes unless the taxpayer is negligent or disregarded Tax & Rev rules and regulations
3	7-1-68	Increase minimum amount of interest TRD will pay to taxpayer from \$1 to \$10 to adjust for inflation since 1971

4	7-1-69	Increase civil penalty for failure to pay from a \$5 minimum to a \$15 minimum. Where there is willful intent to evade tax, increase minimum penalty from \$25 to \$75. These are inflation adjustments since 1970
5	7-1-71.3	Increase maximum fine for willful failure to collect and pay taxes from \$5,000 to \$10,000 to adjust for inflation since 2005
6	7-1-71.4	Increase penalty on tax preparers who prepare over 25 returns per year who do not e-file the returns from \$5 to \$10 to adjust for inflation since 2007
7	7-1-72	Increase criminal tax fraud and evasion fine from a range of \$1,000 - \$10,000 to a range of \$10,000 - \$50,000 to adjust for inflation since 1965. This is particularly important to get DAs to prosecute tax fraud and evasion that Tax & Rev investigates
8	7-1-73	Increase tax owed thresholds for criminal tax fraud sentencing. Increase each sentencing threshold by 100% for inflation since 2006
9	7-1-74	Increase fine for obstruction of tax laws for inflation since 1965. The range would increase from \$250 - \$10,000 to \$1,000 - \$25,000
10	7-1-75	Increase fine for assault or battery on a Tax & Rev employee for inflation since 1965. Increase range of fine from \$100 - \$500 to \$1,000 - \$5,000
11	7-1-76	Increase fine for revealing confidential taxpayer information from \$1,000 to \$5,000 to adjust for inflation since 1965
12	EFFECTIVE DATES	

**Technical Issues:** None.

**Administrative & Compliance Impact:** Tax and Rev will update forms, instructions and publications and make information system changes to reflect the changes in the tax code. The implementation of these changes will be included in the annual tax year changes. Additionally, Tax & Rev will provide staff training on the changes and educate taxpayers on the changes. While these changes reflect one-time costs as summarized below, in the long-term, Tax & Rev will experience efficiency, and system and staff savings in particular under Sections 2 and 3.

**[Sections 2 and 3]:** By increasing the threshold of imposed interest and the pay-out of interest to \$10, Tax & Rev will see savings in system processing of the interest application for all tax programs.

Implementation of the bill will require approximately 300 hours or approximately 2 months and \$69,000 of contractual services costs for the Information Technology Division (ITD). Tax & Rev's Administrative Services Division (ASD) will test current revenue reports to ensure penalty and interest revenue continues to flow correctly. It is anticipated this work will take approximately 40 hours split between 2.0 FTE of a pay band 70 and a pay band 80 at a cost of approximately \$2,500. Pay band 70 hours are estimated at time and 1/2 due to extra hours worked required for implementation.

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2025	FY2026	FY2027	3 Year Total Cost		
--	\$2.5	--	\$2.5	NR	Tax & Rev – ASD - Operating
\$69	--	--	\$69	NR	Tax & Rev – ITD – Contractual Costs

\* In thousands of dollars. Parentheses ( ) indicate a cost saving. \*\* Recurring (R) or Non-Recurring (NR).