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SENATE BILL 36

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 1999

INTRODUCED BY

Carlos R. Cisneros

AN ACT

RELATING TO TAXATION; REDUCING INCOME TAX RATES.

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

Section 1. Section 7-2-2 NMSA 1978 (being Laws 1986, Chapter 20, Section 26, as amended) is amended to read:

"7-2-2. DEFINITIONS. -- For the purpose of the Income Tax Act and unless the context requires otherwise:

A. "adjusted gross income" means adjusted gross income as defined in Section 62 of the Internal Revenue Code, as that section may be amended or renumbered;

B. "base income":

(1) means, for estates and trusts, that part of the estate's or trust's income defined as taxable income and upon which the federal income tax is calculated in the Internal Revenue Code for income tax purposes plus, for

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1 taxable years beginning on or after January 1, 1991, the
2 amount of the net operating loss deduction allowed by Section
3 172(a) of the Internal Revenue Code, as that section may be
4 amended or renumbered, and taken by the taxpayer for that
5 year;

6 (2) means, for taxpayers other than estates
7 or trusts, that part of the taxpayer's income defined as
8 adjusted gross income plus, for taxable years beginning on or
9 after January 1, 1991, the amount of the net operating loss
10 deduction allowed by Section 172(a) of the Internal Revenue
11 Code, as that section may be amended or renumbered, and taken
12 by the taxpayer for that year; and

13 (3) includes, for all taxpayers, any other
14 income of the taxpayer not included in adjusted gross income
15 but upon which a federal tax is calculated pursuant to the
16 Internal Revenue Code for income tax purposes, except amounts
17 for which a calculation of tax is made pursuant to Section 55
18 of the Internal Revenue Code, as that section may be amended
19 or renumbered; "base income" also includes interest received
20 on a state or local bond;

21 C. "compensation" means wages, salaries,
22 commissions and any other form of remuneration paid to
23 employees for personal services;

24 D. "department" means the taxation and revenue
25 department, the secretary of taxation and revenue or any

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1 employee of the department exercising authority lawfully
2 delegated to that employee by the secretary;

3 E. "fiduciary" means a guardian, trustee,
4 executor, administrator, committee, conservator, receiver,
5 individual or corporation acting in any fiduciary capacity;

6 F. "filing status" means "married filing joint
7 returns", "married filing separate returns", "head of
8 household", "surviving spouse" and "single", as those terms
9 are generally defined for federal tax purposes;

10 G. "fiscal year" means any accounting period of
11 twelve months ending on the last day of any month other than
12 December;

13 H. "head of household" means "head of household"
14 as generally defined for federal income tax purposes;

15 I. "individual" means a natural person, an estate,
16 a trust or a fiduciary acting for a natural person, trust or
17 estate;

18 J. "Internal Revenue Code" means the United States
19 Internal Revenue Code of 1986, as amended;

20 K. "lump-sum amount" means an amount that, for the
21 purpose of determining liability for federal income tax, was
22 not included in adjusted gross income but upon which the five-
23 year-averaging or the ten-year-averaging method of tax
24 computation provided in Section 402 of the Internal Revenue
25 Code, as that section may be amended or renumbered, was

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1 applied;

2 L. "modified gross income" means all income of the
3 taxpayer and, if any, the taxpayer's spouse and dependents,
4 undiminished by losses and from whatever source derived,
5 including:

- 6 (1) compensation;
- 7 (2) net profit derived from business;
- 8 (3) gains derived from dealings in property;
- 9 (4) interest;
- 10 (5) net rents;
- 11 (6) royalties;
- 12 (7) dividends;
- 13 (8) alimony and separate maintenance

14 payments;

- 15 (9) annuities;
- 16 (10) income from life insurance and endowment

17 contracts;

- 18 (11) pensions;
- 19 (12) discharge of indebtedness;
- 20 (13) distributive share of partnership

21 income;

- 22 (14) income in respect of a decedent;
- 23 (15) income from an interest in an estate or

24 trust;

- 25 (16) social security benefits;

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- 1 (17) unemployment compensation benefits;
- 2 (18) workers' compensation benefits;
- 3 (19) public assistance and welfare benefits;
- 4 (20) cost-of-living allowances; and
- 5 (21) gifts;

6 M "modified gross income" does not include:

7 (1) payments for hospital, dental, medical or
8 drug expenses whether made to or on behalf of the taxpayer;

9 (2) the value of room and board provided by
10 federal, state or local governments or by private individuals
11 or agencies based upon financial need and not as a form of
12 compensation;

13 (3) payments made pursuant to a federal,
14 state or local government program directly or indirectly to a
15 third party on behalf of the taxpayer when identified to a
16 particular use or invoice by the payer; or

17 (4) payments made pursuant to Sections
18 7-2-14, [~~7-2-14.1~~] 7-2-18, 7-2-18.1 and 7-3-9 NMSA 1978;

19 N. "net income" means, for estates and trusts,
20 base income adjusted to exclude amounts that the state is
21 prohibited from taxing because of the laws or constitution of
22 this state or the United States and means, for taxpayers other
23 than estates or trusts, base income adjusted to exclude:

24 (1) an amount equal to the standard deduction
25 allowed the taxpayer for the taxpayer's taxable year by

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1 Section 63 of the Internal Revenue Code, as that section may
2 be amended or renumbered;

3 (2) an amount equal to the itemized
4 deductions, as defined in Section 63 of the Internal Revenue
5 Code, as that section may be amended or renumbered, allowed
6 the taxpayer for the taxpayer's taxable year less the amount
7 excluded pursuant to Paragraph (1) of this subsection;

8 (3) an amount equal to the product of the
9 exemption amount allowed for the taxpayer's taxable year by
10 Section 151 of the Internal Revenue Code, as that section may
11 be amended or renumbered, multiplied by the number of personal
12 exemptions allowed for federal income tax purposes;

13 (4) income from obligations of the United
14 States of America less expenses incurred to earn that income;

15 (5) other amounts that the state is
16 prohibited from taxing because of the laws or constitution of
17 this state or the United States;

18 (6) for taxable years that began prior to
19 January 1, 1991, an amount equal to the sum of:

20 (a) net operating loss carryback
21 deductions to that year from taxable years beginning prior to
22 January 1, 1991 claimed and allowed, as provided by the
23 Internal Revenue Code; and

24 (b) net operating loss carryover
25 deductions to that year claimed and allowed; and

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1 (7) for taxable years beginning on or after
2 January 1, 1991, an amount equal to the sum of any net
3 operating loss carryover deductions to that year claimed and
4 allowed, provided that the amount of any net operating loss
5 carryover from a taxable year beginning on or after January 1,
6 1991 may be excluded only as follows:

7 (a) in the case of a timely filed
8 return, in the taxable year immediately following the taxable
9 year for which the return is filed; or

10 (b) in the case of amended returns or
11 original returns not timely filed, in the first taxable year
12 beginning after the date on which the return or amended return
13 establishing the net operating loss is filed; and

14 (c) in either case, if the net
15 operating loss carryover exceeds the amount of net income
16 exclusive of the net operating loss carryover for the taxable
17 year to which the exclusion first applies, in the next four
18 succeeding taxable years in turn until the net operating loss
19 carryover is exhausted; in no event shall a net operating loss
20 carryover be excluded in any taxable year after the fourth
21 taxable year beginning after the taxable year to which the
22 exclusion first applies;

23 0. "net operating loss" means any net operating
24 loss, as defined by Section 172(c) of the Internal Revenue
25 Code, as that section may be amended or renumbered, for a

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1 taxable year as further increased by the income, if any, from
2 obligations of the United States for that year less related
3 expenses;

4 P. "net operating loss carryover" means the
5 amount, or any portion of the amount, of a net operating loss
6 for any taxable year that, pursuant to Paragraph (6) or (7) of
7 Subsection N of this section, may be excluded from base
8 income;

9 Q. "nonresident" means every individual not a
10 resident of this state;

11 R. "person" means any individual, estate, trust,
12 receiver, cooperative association, club, corporation, company,
13 firm, partnership, limited liability company, joint venture,
14 syndicate or other association; "person" also means, to the
15 extent permitted by law, any federal, state or other
16 governmental unit or subdivision or agency, department or
17 instrumentality thereof;

18 S. "resident" means an individual who is domiciled
19 in this state during any part of the taxable year; but any
20 individual who, on or before the last day of the taxable year,
21 changed his place of abode to a place without this state with
22 the bona fide intention of continuing actually to abide
23 permanently without this state is not a resident for the
24 purposes of the Income Tax Act;

25 T. "secretary" means the secretary of taxation and

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1 revenue or the secretary's delegate;

2 U. "state" means any state of the United States,
3 the District of Columbia, the commonwealth of Puerto Rico, any
4 territory or possession of the United States or any political
5 subdivision of a foreign country;

6 V. "state or local bond" means a bond issued by a
7 state other than New Mexico or by a local government other
8 than one of New Mexico's political subdivisions, the interest
9 from which is excluded from income for federal income tax
10 purposes under Section 103 of the Internal Revenue Code, as
11 that section may be amended or renumbered;

12 W. "surviving spouse" means "surviving spouse" as
13 generally defined for federal income tax purposes;

14 X. "taxable income" means net income less any
15 lump-sum amount;

16 Y. "taxable year" means the calendar year or
17 fiscal year upon the basis of which the net income is computed
18 under the Income Tax Act and includes, in the case of the
19 return made for a fractional part of a year under the
20 provisions of the Income Tax Act, the period for which the
21 return is made; [~~and~~]

22 Z. "taxpayer" means any individual subject to the
23 tax imposed by the Income Tax Act; and

24 AA. "zero bracket amount" means the maximum amount
25 of taxable income in the first bracket of the tax rate table

1 for a filing status for which bracket the amount of tax due is
2 zero. "

3 Section 2. Section 7-2-7 NMSA 1978 (being Laws 1994,
4 Chapter 5, Section 20, as amended) is amended to read:

5 "7-2-7. INDIVIDUAL INCOME TAX RATES. --The tax imposed by
6 Section 7-2-3 NMSA 1978 shall be at the following rates for
7 any taxable year beginning on or after January 1, 1998:

8 A. For married individuals filing separate
9 returns:

10	If the taxable income is:	The tax shall be:
11	[Not over \$4,000	1.7% of taxable income
12	Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of
13		excess over \$ 4,000
14	Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of
15		excess over \$ 8,000
16	Over \$ 12,000 but not over \$ 20,000	\$ 384 plus 6.0% of
17		excess over \$ 12,000
18	Over \$ 20,000 but not over \$ 32,000	\$ 864 plus 7.1% of
19		excess over \$ 20,000
20	Over \$ 32,000 but not over \$ 50,000	\$ 1,716 plus 7.9% of
21		excess over \$ 32,000
22	Over \$ 50,000	\$ 3,138 plus 8.2% of
23		excess over \$ 50,000.]
24	<u>Not over \$2,300</u>	<u>\$ 0</u>
25	<u>Over \$2,300 but not over \$4,000</u>	<u>1.7% of taxable income</u>

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1	<u>Over \$ 4,000 but not over \$ 8,000</u>	<u>\$ 28.90 plus 3.2% of</u>
2		<u>excess over \$ 4,000</u>
3	<u>Over \$ 8,000 but not over \$ 12,000</u>	<u>\$ 156.90 plus 4.7% of</u>
4		<u>excess over \$ 8,000</u>
5	<u>Over \$ 12,000 but not over \$ 20,000</u>	<u>\$ 344.90 plus 6.0% of</u>
6		<u>excess over \$ 12,000</u>
7	<u>Over \$ 20,000 but not over \$ 32,000</u>	<u>\$ 824.90 plus 7.1% of</u>
8		<u>excess over \$ 20,000</u>
9	<u>Over \$ 32,000 but not over \$ 50,000</u>	<u>\$ 1,676.90 plus 7.9% of</u>
10		<u>excess over \$ 32,000</u>
11	<u>Over \$ 50,000</u>	<u>\$ 3,098.90 plus 8.2% of</u>
12		<u>excess over \$ 50,000.</u>

13 B. For surviving spouses and married individuals
14 filing joint returns:

15	If the taxable income is:	The tax shall be:
16	[Not over \$8,000	1.7% of taxable income
17	Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of
18		excess over \$ 8,000
19	Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of
20		excess over \$ 16,000
21	Over \$ 24,000 but not over \$ 40,000	\$ 768 plus 6.0% of
22		excess over \$ 24,000
23	Over \$ 40,000 but not over \$ 64,000	\$ 1,728 plus 7.1% of
24		excess over \$ 40,000
25	Over \$ 64,000 but not over \$100,000	\$ 3,432 plus 7.9% of

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1		excess over \$ 64,000
2	Over \$100,000	\$ 6,276 plus 8.2% of
3		excess over 100,000.]
4	<u>Not over \$4,600</u>	<u>\$ 0</u>
5	<u>Over \$ 4,600 but not over \$8,000</u>	<u>1.7% of taxable income</u>
6	<u>Over \$ 8,000 but not over \$ 16,000</u>	<u>\$ 57.80 plus 3.2% of</u>
7		<u>excess over \$ 8,000</u>
8	<u>Over \$ 16,000 but not over \$ 24,000</u>	<u>\$ 313.80 plus 4.7% of</u>
9		<u>excess over \$ 16,000</u>
10	<u>Over \$ 24,000 but not over \$ 40,000</u>	<u>\$ 689.80 plus 6.0% of</u>
11		<u>excess over \$ 24,000</u>
12	<u>Over \$ 40,000 but not over \$ 64,000</u>	<u>\$ 1,649.80 plus 7.1% of</u>
13		<u>excess over \$ 40,000</u>
14	<u>Over \$ 64,000 but not over \$100,000</u>	<u>\$ 3,353.80 plus 7.9% of</u>
15		<u>excess over \$ 64,000</u>
16	<u>Over \$ 100,000</u>	<u>\$ 6,197.80 plus 8.2% of</u>
17		<u>excess of over \$100,000.</u>

18 C. For single individuals and for estates and
19 trusts:
20 If the taxable income is: The tax shall be:
21 ~~[Not over \$5,500~~ ~~1.7% of taxable income~~
22 ~~Over \$ 5,500 but not over \$ 11,000~~ ~~\$ 93.50 plus 3.2% of~~
23 ~~excess over \$ 5,500~~
24 ~~Over \$ 11,000 but not over \$ 16,000~~ ~~\$ 269.50 plus 4.7% of~~
25 ~~excess over \$ 11,000~~

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1	Over \$ 16,000 but not over \$ 26,000	\$ 504.50 plus 6.0% of
2		excess over \$ 16,000
3	Over \$ 26,000 but not over \$ 42,000	\$1,104.50 plus 7.1% of
4		excess over \$ 26,000
5	Over \$ 42,000 but not over \$ 65,000	\$2,240.50 plus 7.9% of
6		excess over \$ 42,000
7	Over \$ 65,000	\$4,057.50 plus 8.2% of
8		excess over \$ 65,000.]
9	<u>Not over \$2,300</u>	<u>\$ 0</u>
10	<u>Over \$ 2,300 but not over \$5,500</u>	<u>1.7% of taxable income</u>
11	<u>Over \$ 5,500 but not over \$ 11,000</u>	<u>\$ 54.40 plus 3.2% of</u>
12		<u>excess over \$ 5,500</u>
13	<u>Over \$ 11,000 but not over \$ 16,000</u>	<u>\$ 230.40 plus 4.7% of</u>
14		<u>excess over \$ 11,000</u>
15	<u>Over \$ 16,000 but not over \$ 26,000</u>	<u>\$ 465.40 plus 6.0% of</u>
16		<u>excess over \$ 16,000</u>
17	<u>Over \$ 26,000 but not over \$ 42,000</u>	<u>\$1,065.40 plus 7.1% of</u>
18		<u>excess over \$ 26,000</u>
19	<u>Over \$ 42,000 but not over \$ 65,000</u>	<u>\$2,201.40 plus 7.9% of</u>
20		<u>excess over \$ 42,000</u>
21	<u>Over \$ 65,000</u>	<u>\$4,018.40 plus 8.2% of</u>
22		<u>excess over \$ 65,000.</u>

D. For heads of household filing returns:

If the taxable income is: The tax shall be:

~~[Not over \$7,000~~ 1.7% of taxable income

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1	Over \$ 7,000 but not over \$ 14,000	\$ 119 plus 3.2% of
2		excess over \$ 7,000
3	Over \$ 14,000 but not over \$ 20,000	\$ 343 plus 4.7% of
4		excess over \$ 14,000
5	Over \$ 20,000 but not over \$ 33,000	\$ 625 plus 6.0% of
6		excess over \$ 20,000
7	Over \$ 33,000 but not over \$ 53,000	\$1,405 plus 7.1% of
8		excess over \$ 33,000
9	Over \$ 53,000 but not over \$ 83,000	\$2,825 plus 7.9% of
10		excess over \$ 53,000
11	Over \$ 83,000	\$5,195 plus 8.2% of
12		excess over \$ 83,000.]
13	<u>Not over \$3,600</u>	<u>\$ 0</u>
14	<u>Over \$ 3,600 but not over \$7,000</u>	<u>1.7% of taxable income</u>
15	<u>Over \$ 7,000 but not over \$ 14,000</u>	<u>\$ 57.80 plus 3.2% of</u>
16		<u>excess over \$ 7,000</u>
17	<u>Over \$ 14,000 but not over \$ 20,000</u>	<u>\$ 281.80 plus 4.7% of</u>
18		<u>excess over \$ 14,000</u>
19	<u>Over \$ 20,000 but not over \$ 33,000</u>	<u>\$ 563.80 plus 6.0% of</u>
20		<u>excess over \$ 20,000</u>
21	<u>Over \$ 33,000 but not over \$ 53,000</u>	<u>\$1,343.80 plus 7.1% of</u>
22		<u>excess over \$ 33,000</u>
23	<u>Over \$ 53,000 but not over \$ 83,000</u>	<u>\$2,763.80 plus 7.9% of</u>
24		<u>excess over \$ 53,000</u>
25	<u>Over \$ 83,000</u>	<u>\$5,133.80 plus 8.2% of</u>

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1 excess over \$ 83,000.

2 E. The tax on the sum of any lump-sum amounts
3 included in net income is an amount equal to five multiplied
4 by the difference between:

5 (1) the amount of tax due on the taxpayer's
6 taxable income; and

7 (2) the amount of tax that would be due on an
8 amount equal to the taxpayer's taxable income and twenty
9 percent of the taxpayer's lump-sum amounts included in net
10 income. "

11 Section 3. Section 7-2-12 NMSA 1978 (being Laws 1965,
12 Chapter 202, Section 10, as amended) is amended to read:

13 "7-2-12. TAXPAYER RETURNS--PAYMENT OF TAX. --

14 A. Every resident of this state and every
15 individual deriving income from any business transaction,
16 property or employment within this state and not exempt from
17 tax under the Income Tax Act [who] shall file a complete tax
18 return with the department in form and content as prescribed
19 by the secretary if the individual:

20 (1) is required by the laws of the United
21 States to file a federal income tax return [~~shall file a~~
22 ~~complete tax return with the department in form and content as~~
23 ~~prescribed by the secretary~~] or files a federal income tax
24 return; and

25 (2) the taxpayer's taxable income exceeds the

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1 zero bracket amount for the taxpayer's filing status.

2 B. Unless otherwise required under the Income Tax
3 Act or prescription of the secretary, in completing a return
4 for a taxable year, the taxpayer shall declare the same filing
5 status and number of personal exemptions as the taxpayer
6 declared for federal income tax purposes for that same taxable
7 year or, if the taxpayer was not required to file a federal
8 income tax return for the taxable year, the filing status and
9 number of personal exemptions that would have been required or
10 allowed for that taxpayer by the Internal Revenue Code and
11 regulations thereunder for that taxable year.

12 C. The return required and the tax imposed on
13 individuals under the Income Tax Act are due, and payment is
14 required on or before the fifteenth day of the fourth month
15 following the end of the taxable year. "

16 Section 4. APPLICABILITY. --The provisions of this act
17 apply to taxable years beginning on or after January 1, 1999.