

2016 Tax Expenditure Report

New Mexico Taxation & Revenue Department
September 15, 2017

Where is it?

- ▶ http://tax.newmexico.gov/uploads/PressRelease/e19f5d4c8b014c6d870f8073d673341b/2016_Tax_Expenditure_Report_Final.pdf

- ▶ **tax.newmexico.gov**
 - Click on "Forms & Publications"
 - Click on "Publications"
 - Click on "Tax Expenditure Reports"
 - Click on "2016 Tax Expenditure Report"

- ▶ **tax.newmexico.gov**
 - Click on the magnifying glass (ie: search)
 - Type in "tax expenditure report"
 - Click on the link for the 2016 version (fourth one in list)

Exclusions, Exemptions, Deductions and Credits

- ▶ **Exclusions** – amounts of gross receipts, gross income, or other amount that is removed in order to define the tax base.
 - Example: Taxpayers exclude certain amounts of their "base income" to derive "net income" on which tax is imposed. § 7-2-2(N).
- ▶ **Exemptions** – eliminate a legal obligation to register, report, and/or pay.
 - Exemptions can hinge on the nature or character of the taxpayer.
 - Insurance companies exempt from CIT because they pay premium tax; § 7-2A-4;
 - Nonprofits and disabled street vendors exempt from GRT. § 7-9-29.
 - Exemptions can hinge on the nature of the transaction.
 - Gross receipts from sales of livestock or unprocessed agricultural products exempt from GRT. § 7-9-18.
 - Exemptions can be full or partial.
 - Generally, if the exemption is full and applies to the nature of the taxpayer, or if a taxpayer solely engages in exempt transactions, there is no registration or filing obligation.
 - For GRT, if a taxpayer is required to register and file returns, but some of its transactions are exempt, the exempt amounts are not included anywhere on the return.

Exclusions, Exemptions, Deductions and Credits (Cont.)

- ▶ **Deductions** – reduce liability by eliminating certain transactions or income from amounts taxpayers are required to report on returns.
- ▶ **Deductions deviate from the normal tax base and lower the tax base before calculating tax due.**
 - For GRT, taxpayers report a gross amount on the face of the return, then also show the amount of the subtraction.
 - Some deductions are "lumped" on a return; others are separately itemized by code.
 - Many GRT deductions statutorily require the seller to be in possession of a Nontaxable Transaction Certificate (NTTC) at the time the return is filed or within sixty days of a TRD audit request.

Exclusions, Exemptions, Deductions and Credits (Cont.)

- ▶ **Credits** – are dollar for dollar credits against the tax determined due.
 - Most credits are business activity credits that require an application for approval to either TRD or another certifying agency before the credit is allowed.

Tax Expenditures

- ▶ Tax Expenditure is a particular type of exemption, deduction, or credit.
- ▶ A tax expenditure is:
 - (1) a deviation from the baseline system of taxation under the tax program;
 - (2) that provides special or preferential treatment to a taxpayer or group of taxpayers.

Baseline System of Taxation

- ▶ Any tax program or baseline system of taxation is the application of a “tax rate” against a “tax base.”
 - Common tax bases for New Mexico tax programs:
 - “Gross receipts” from sales of property or services or the “purchase value” of property (GRT/Comp);
 - “Net income” (CIT/PIT);
 - “Taxable value” (Severance-related taxes).
 - A percentage of “fair market value” for locally assessed property taxes.
 - “Tax rate” is simply a percentage applied to the tax base.

Tax Expenditures

Requirement 1 – Deviation from the Tax Base

- ▶ Exclusions to derive the tax base are not deviations.
- ▶ TRD analysis: structure of statute governs.
- ▶ Deviations can occur for many reasons:
 - “in lieu of” taxation;
 - US constitutional prohibition or federal pre-emption;
 - Government-to-government comity;
 - To “true” a tax base – anti-pyramiding, bad debts;
 - To provide special or preferential treatment to achieve a policy objective – i.e. a “tax expenditure.”

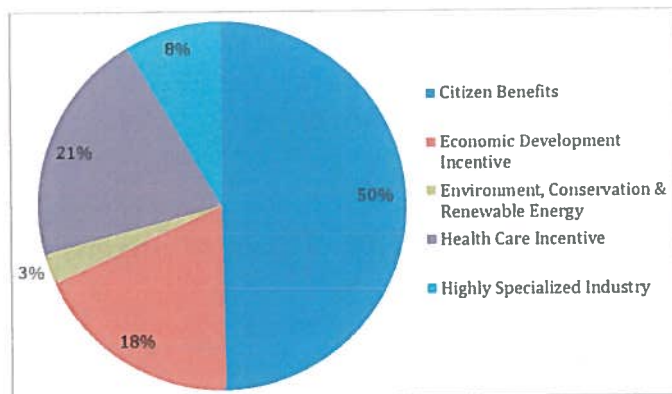
Tax Expenditures Requirement 2 – Special Treatment

- ▶ Special treatment typically evidenced by a policy choice regarding:
 - a subset of the tax base;
 - a subset of the population; or
 - both.
- ▶ Policy choices:
 - To benefit all, or a specific subset, of citizens;
 - Economic development;
 - Conservation;
 - Special industries.

Reporting Tax Expenditures

- ▶ Annual Tax Expenditure Report (TER) has been produced by TRD since 2012;
- ▶ The report:
 - Separately identifies each “deviation” from the tax base;
 - Categorizes each deviation as expenditure, non-expenditure, or “arguable;”
 - Provides a description of each expenditure, the statutory reference, purpose, amendment history, cost, evaluation, and recommendations;
 - Categorizes each expenditure (citizen benefit, conservation, economic development, highly-specialized industries, health care).

Categorizing Expenditures



Categorizing Expenditures

Citizen Benefits

- Benefit all taxpayers or specific population
- Lessen the burdens of government

Economic Development

- Stimulate investment or job creation
- Attract industries

Environment, Conservation, and Renewable Energy

- Support environmental health
- Promote conservation and renewable energy

Categorizing Expenditures

Health Care





- Increase accessibility to health care
- Lower costs of health care

Highly Specialized Industries

- Target specific or highly specified industries

Expenditure Estimates – Data Reliability

- ▶ Fiscal impact should be evaluated in conjunction with reliability factor.

Reliability Factor	Description	No. of Expenditures
1 	Most reliable. No estimation	68
2 	Estimated from GenTax data	16
3 	Estimated from national data	15
4 	Least reliable. Estimated from limited data	8
Unknown	No data available	16

Top Ten FY2016 Expenditures by Cost

Name	Amount (000s)	Priority
Sale of Food at Retail Food Stores GRT Deduction and Hold Harmless Distribution	242,605	1
Nonprofit Organizations Exemption from GRT	90,000	4
Prescription Drugs and Oxygen GRT AND GGRT Deduction	74,000	3
Health Care Practitioner Services GRT Deduction and Hold Harmless Distribution	66,312	1
Working Families Credit against PIT	51,552	1
High-Wage Jobs Credit against Modified Combined Tax	50,902	1
Film and Television Credit Against PIT and CIT	50,000	1
Capital Gain Deduction From PIT	47,241	1
Medical and Health Care Services GRT Deduction	38,496	1
Low-Income Comprehensive Tax Rebate and Property Tax Rebate against PIT	20,746	1

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Redacted Expenditures

Advanced Energy Credit against GRT, Compensating Tax, Withholding Tax, PIT, or CIT

Agricultural Water Conservation Expenses Credit against PIT and CIT

Aircraft Sales or Services GRT Deduction

Blended Biodiesel Fuel Credit against PIT and CIT

Business Facility Rehabilitation Credit against PIT and CIT

Construction of Sole Community Provider Hospitals GRT Deduction

Corporate-Supported Child Care Credit against CIT

Goods and Services for the DOD Related to Directed Energy and Satellites GRT Deduction

Laboratory Partnership with Small Business Credit against GRT

Research and Development Small Business Credit against GRT or Fifty Percent Credit against Withholding Tax

Uranium Hexafluoride and Uranium Enrichment GRT Deduction

Veteran Employment Credit against PIT and CIT

Welfare-to-Work Credit against PIT and CIT

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Recently or Soon to Expire

Name	Date
Solar Market Development Credit against PIT	12/31/2016
Jet Fuel Fifty-Five Percent GRT and Compensating Tax Deduction (Partial: Deduction reduces to 40%)	6/30/2017
Nonathletic Special Events at NMSU GRT Deduction	12/31/2017

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Unused Expenditures

*Agricultural Water Conservation Expenses Credit against PIT and CIT

Biodiesel Blending Facility Tax Thirty Percent Credit against GRT and Compensating Tax

*Blended Biodiesel Fuel Credit against PIT and CIT

*Business Facility Rehabilitation Credit against PIT and CIT

Construction Equipment and Materials Used in the Construction of Sole Community Provider Hospitals
GRT Deduction

Electricity Conversion GRT Deduction

Electricity Exchange GRT Deduction

*Hybrid Vehicle Exemption from MVX

*Military Construction Services GRT Deduction

Military Transformational Acquisition Programs GRT Deduction

Oil and Natural Gas Exemptions and Rate Differentials (six expenditures)

*Penalty Pursuant to Section 7-1-71.2 NMSA 1978 Credit against GRT, Compensating Tax and
Withholding Tax

*Physician Participating in Cancer Treatment Clinical Trials Credit against PIT

*Research and Development Small Business Credit against GRT or Fifty Percent Credit against
Withholding Tax

Venture Capital Investment Credit against PIT

*Welfare-to-Work Credit against PIT and CIT

*expired or unavailable

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Expenditures Moved or Eliminated from 2015 Report

Eliminated	
Base defining and Rate	Comity
Molybdenum, Potash, and Timber Rate Differentials from Resources Tax and Processors Tax Components of Resources Excise Tax	Sale of Alternative Fuel to the Federal Government, State of New Mexico, or New Mexico Tribes exemption from Alternative Fuel Excise Tax
Sales to Tax-Exempt Entities Deduction against Processors Tax Component of Resources Excise Tax	Sale of Gasoline to the Federal Government or New Mexico Tribes Deduction from Gasoline Tax
Sales to Tax-Exempt Entities Deduction against Resources Tax Component of Resources Excise Tax	Sale of Special Fuel to the Federal Government, State of New Mexico, or New Mexico Tribes Deduction from Special Fuel Excise Tax
Uranium Deduction From Oil and Gas Conservation Tax	
Uranium Fifty Percent Deduction from Severance Tax	
Moved	
Not Tax Expenditures	Arguable
Food Stamps/SNAP Exemption from GRT	Sale or Lease of Real Property & Lease of Manufactured Homes GRT Deduction
One-way Haul and Empty Travel Rate Differential from WDT	
Vegetable Oil or Animal Fat Biodiesel Deduction from Special Fuel Excise Tax	

Expenditures Added Since from 2015 Report

Citizen Benefits
Unreimbursed or Uncompensated Medical Care Expenses Credit From PIT
Unreimbursed or Uncompensated Medical Care Expenses Deduction From PIT
Unreimbursed or Uncompensated Medical Care Expenses Exemption From PIT

Some Impacts Also Changed Since 2015 Report

- ▶ Improved access to constantly changing returns data (late reporting, amended returns, etc.)
 - Capital Gain Deduction from PIT
 - Low- and Middle-Income Taxpayers Exemption from PIT
 - Sustainable Building Credit against PIT and CIT
- ▶ Better external sources of data made better estimations possible
 - Commercial Motor Carrier Vehicles Operating Exclusively within 10 Miles of Mexico Border Exemption from Trip Tax and WDT
 - Sales to State-Chartered Credit Unions GRT and GGRT Deduction
 - Purses and Jockey Remuneration at New Mexico Racetracks Exemption from GRT
- ▶ Improved aggregation of expenditures
 - Nonprofit Organizations Exemption from GRT
 - Sales to Nonprofit Organizations GRT, GGRT, and Compensating Tax Deduction

Statutory Language Clarification – TRD Recommendations

Expenditure Name	Statute	Language
Agricultural Biomass Credit against PIT and CIT	7-2-18.26 and 7-2A-26 NMSA 1978	Clarify claim procedures and deadlines. D-300 IG.
Angel Investment Credit against PIT	7-2-18.17 NMSA 1978	Clarify claim deadline.
Apportionment Election of CIT For Headquarters	7-4-10(B) NMSA 1978	Clarify definition of headquarters.
Hybrid Vehicle Exemption from MVX	7-14-6(G) NMSA 1978	Remove language to achieve statute clarity.
Investment Credit against GRT, Compensating Tax or Withholding Tax	7-9A-1 et seq NMSA 1978	Clarify procedures for when the credit should be claimed.
Military Construction Services GRT Deduction	7-9-106 NMSA 1978	Remove language to achieve statute clarity.
Nonprofit Organizations Fundraisers GRT Deduction	7-9-85 NMSA 1978	Clarify organizations who can take deduction.
Solar Market Development Credit against PIT	7-2-18.14 NMSA 1978	Clarify which business installations qualify and define type of power consumption.

