Presentation to the
Revenue Stabilization and Tax Policy Committee

NM EDGE

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The NM EDGE (Education Designed to Generate Excellence in the public sector) delivers classes to New Mexico's elected and appointed officials, public officials, and public employees based on the structure of the nationally recognized Certified Public Manager® program.

Our mission is ***Better Government through Education***.

We achieve this by offering classes that are affordable, accessible, and meaningful.

https://youtu.be/P8mEBAjd84o

History of New Mexico EDGE

NEW MEXICO COUNTIES
33 STRONG

NM STATE
BE BOLD. Shape the Future.
College of Agricultural, Consumer and Environmental Sciences

NM EDGE

With the purpose of encouraging Better Government through Education, County College began in 2002 as the dream of the late Sam Montoya, the former executive director of New Mexico Counties. He asked NMSU's Cooperative Extension Service to work with NMC to develop an educational program for New Mexico's county officials and employees.

In 2008, the NMSU Department of Government became a regular partner with County College and offered to help develop the nationally recognized Certified Public Manager® (CPM) program.

Rebranded as NM EDGE, the program has grown to include specialized certifications developed in partnership with New Mexico subject matter experts.

FY 24

- **452 classes**
- **1,298 public employees and officials**
- **24,003 professional development hours**
- **163 NM EDGE certifications awarded**
- **700 Chief Procurement Officer certifications and recertifications awarded** §13-1-95.2(D)

Profile of NM EDGE Students

- Risk Management Professionals
- County Commissioners, Managers, Assessors, Treasurers, Clerks
- DWI Coordinators
- Facilities Directors
- Detention Officers
- Finance and Public Purchasing Professionals
- Budget and Finance Analysts
- Extension Agents and Specialists
- HR Professionals
- GIS Administrators
- IT Administrators
- Planning and Zoning Directors
- Public Works

Municipalities
Counties
State Agencies
Colleges and Universities
K-12 School Districts

The NM EDGE's County College

The NM Certified Public Assessment Officer (NMCPAO)

The NM Certified County Clerk (NMCCCL)

The NM Certified County Commissioner (NMCCC)

The NM Certified Treasury Official (NMCTO)

CERTIFIED PUBLIC MANAGER®

The National Certified Public Manager® Consortium (NCPMC) establishes and preserves standards for the Certified Public Manager® (CPM) designation, a nationally accredited, comprehensive management development program specifically designed to prepare managers for careers in federal, state, local government and in other organizations with a public purpose.

The NM EDGE Certified Public Manager® Program

https://cpmconsortium.org/

The NM Certified Public Official (CPO)

The NM Certified Public Supervisor (CPS)

The NM Certified Public Manager® (CPM)

Public Sector Specialization Certifications

The NM Certified DWI Coordinator (NMCDWIC)

The NM Certified Extension Professional (NMCEP)

The NM Certified GIS Specialist (NMCGISS)

The NM Certified Professional Human Resource Professional (NMCHRP)

The NM Certified Jail Specialist (NMCJS)

The NM Certified Public Finance Professional (NMCPFP)

The NM Certified Public Purchasing Professional (NMCPPP)

The NM Certified Risk Management Professional (NMCRMP)

The NM Certified Tax Policy Professional (NMCTPP)

The NM Certified Advocate for Public Ethics (NMCAPE)

Tax Policy Professional Certification

Curriculum Committee Members

- Abel Abeyta: Former Chief Information Security Officer, NM Taxation and Revenue Department
- Richard Anklam: President and Executive Director, New Mexico Tax Research Institute
- Aaron Brown: Deputy Director, Audit and Compliance Division, TRD
- Santiago Chavez: Director, Audit and Compliance Division, TRD
- James O’Neill: President, O’Neill Consulting, LLC
- Emily Oster: Finance Director, City of Santa Fe
- Kevin Powers: Analyst, House Taxation and Revenue Committee, 2015-2024 Legislative Sessions
- Jay Siegel: Director of Finance, New Mexico Lottery
- Brian VanDenzen: Chief Hearings Officer, Administrative Hearings Office
- Tasia Young: NM EDGE CPM Advisory Board Member and Instructor

Tax Policy Professional Certification

The purpose of this certification is to provide individuals in state and local government with a general working knowledge of the New Mexico tax code. Nine specialized tax classes were developed by tax policy experts throughout the state of New Mexico and cover the following topics:

- TAX 101: NM Tax Policy – A Basic Overview
- TAX 102: NM Gross Receipts Tax
- TAX 103: NM Property Tax
- TAX 104: Misc. NM Specialized Taxes
- TAX 105: *NM Income Taxes - Corporate & Individual*
- TAX 106: Understanding Tax Reports
- TAX 107: Sources of Date (Workshop)
- TAX 108: Management Controls
- TAX 109: Administrative Topics

15 NM EDGE classes round out the 24-class certification

Dr. Tasia Young
NM EDGE Instructor
Tax Policy Curriculum Committee Member
NM EDGE CPM Advisory Board Member

Mr. Kevin Powers
NM EDGE Instructor
Tax Policy Curriculum Committee Member
House Taxation and Revenue Committee, 2015-2024 Legislative Session

Tax 102
NM Tax Policy – Gross Receipts and Compensating Tax

Presented by: Richard Anklam
New Mexico Tax Research Institute

The NM EDGE
NMSU Cooperative Extension Service &
NMSU Department of Government

Gross Receipts and Compensating Tax

- Imposed in 1935 – “Emergency School Tax”
- NM’s largest source of revenue
- Imposed on the “privilege of engaging in business”
- Broad-based (but less broad over time)
  - Seller imposed “sales” tax
  - Includes services and intangibles
  - Allows indirect tax on federal government(see *U.S. v. NM*)
- Rate includes “local option” taxes imposed by counties, municipalities, and others (i.e. train and spaceport districts)
- Starting point is “gross receipts” = total received for selling property or services or licensing or leasing property

Gross Receipts and Compensating Tax

- State's share = 3.775% (incorporated); 4.875%
- GRT rate range: 4.875%; 5.25* to 9.4375%*

  Seller's location determined rate through 7/1/21; then buyer's location determines rate

  - Except: construction, real estate commissions, utilities
  - In the case of services, non-in-person professional services (after 7/1/21)
- Pyramiding problem: Business-to-Business transactions; "every other sale" taxation of services
- "Hold-harmless" features for local government (being phased out)

* Remainder of County – Lea and Lincoln; Taos Ski Valley and Taos Ski Valley TIDD, respectively. Source: NMTRD

Gross Receipts and Compensating Tax

- Compensating Tax
  - Companion tax (“use” tax) – imposed on purchaser
  - In New Mexico – GRT rate differs from comp tax rate until 7/1/21
- Municipal and county gross receipts taxes
  - Local revenues tightly controlled by Legislature
  - Local option taxes
  - GRT provides <>75% of municipal general revenue
  - Bases are identical – so locals piggyback on state base
  - Munis, but not counties, get 1.225% of the states 4.875% when sourced inside municipal boundaries
- Tribal taxes
  - Tribal governments are sovereign with respect to the state. They have taxing power of their own.
  - They do not have to align their general excise tax with New Mexico’s. It is a matter of mutual convenience that they do.
  - Currently 16 tribal entities impose a gross receipts tax administered by the state under cooperative agreements.

Gross Receipts and Compensating Tax

- GRT system includes “Special” state taxes
  - Governmental GRT
    - Justified by competition between governments and businesses
    - Used for capital outlay projects of select local govts & state agencies
    - Could be folded into regular GRT
  - Interstate telecommunications GRT
    - Long-distance service was taxed under the gross receipts tax until 1992
    - This separate tax was created, mainly as a convenience to the long-distance companies
    - The FCC would not permit passing on the tax unless local rates were part of a special tax.
    - ITGRT’s rate of 4.25% determined as an average of the actual effective gross receipts tax rate.

(Continued next page.)

Gross Receipts and Compensating Tax

- Other "Special" GRT state taxes
  - Lease vehicle GRT & surtax
    - At the behest of auto rental companies, this 5% tax on top of regular GRT replaced the motor vehicle excise tax on the same vehicles.
    - Effectively reduced interest paid on financed vehicle purchases.
    - Tax is targeted at tourists.
  - Telecommunications relay service surcharge
    - Rate = 0.33% - charged on receipts from intrastate telephone services.
    - It funds TTY/TDD services.
    - It is a special excise tax that happens to be collected through the gross receipts tax system.

Gross Receipts and Compensating Tax

- Compensating tax
  - Imposed on the value of property (and services, licenses, and intangibles after 7/1/21)
    - manufactured in the state by the person using it
    - acquired outside NM that would have been subject to the GRT had it been acquired in NM
    - that becomes taxable because of subsequent use of the property or service

      (i.e. using something acquired for resale)
  - Product of services used in the state
  - Rate = Locally determined by where used
  - Credit for tax (sales) paid to other state (not to exceed local comp tax rate)
  - Exemptions & Deductions mirror GRT where applicable
  - Applies to Individuals a/o 7/1/20
  - Also funds small cities and counties assistance funds

Gross Receipts and Compensating Tax

General Exemptions and Deductions Define the Base

- Exemptions:
  - Typically, things that are taxed elsewhere in tax law

    i.e. motor vehicles, insurance, gasoline
  - But not all things (i.e. cigarettes, alcohol, rental cars)
  - Certain sales by and to governments and charitable organizations
  - Other things outside the base (dividends, interest, isolated/occasional sales)
  - Not required to be reported

Gross Receipts and Compensating Tax

General Exemptions and Deductions Define the Base

- Deductions:
- Certain sales in the chain of commerce – typically to reduce pyramiding
  - Direct sales of goods and construction materials for resale
  - Sales of certain services and construction services for resale
- Purchases or leases for release
- Sales of tangible personal property to the government
- Other miscellaneous stuff…
- Separately reported and sometimes subject to more detailed reporting requirements

Gross Receipts and Compensating Tax

General Exemptions and Deductions Define the Base

- Deductions - Example: NM Stat § 7-9-48 (2021)
  - "Receipts from selling a service for resale may be deducted from gross receipts or from governmental gross receipts if the sale is made to a person who delivers a nontaxable transaction certificate to the seller or provides alternative evidence pursuant to Section 7-9-43 NMSA 1978. The buyer must resell the service in the ordinary course of business and the resale must be subject to the gross receipts tax or governmental gross receipts tax."

Gross Receipts and Compensating Tax

General Exemptions and Deductions Define the Base

Deductions - Example: NM Stat § 7-9-54 (2021)

“A. Receipts from selling tangible personal property to the United States or New Mexico or a governmental unit, subdivision, agency, department or instrumentality thereof may be deducted from gross receipts or from governmental gross receipts. Unless contrary to federal law, the deduction provided by this subsection does not apply to:

(1) receipts from selling metalliferous mineral ore;

(2) receipts from selling tangible personal property that is or will be incorporated into a metropolitan redevelopment project . . .:

(3) receipts from selling construction material . . . ; or

(4) that portion of the receipts from performing a "service" that reflects the value of tangible personal property utilized or produced in performance of such service.

B. Receipts from selling tangible personal property for any purpose to an Indian tribe, nation or pueblo . . . may be deducted from gross receipts or from governmental gross receipts.

C. When a seller, in good faith, deducts receipts for tangible personal property sold to the state or a governmental unit, subdivision, agency, department or instrumentality thereof, after receiving written assurances from the buyer's representative that the property sold is not construction material, the department shall not assert in a later assessment or audit of the seller that the receipts are not deductible pursuant to Paragraph (3) of Subsection A of this section.”

Gross Receipts and Compensating Tax

General Exemptions and Deductions Define the Base

Deductions - Example: NM Stat § 7-9-66.1 (2021)

“A. Receipts from real estate commissions on that portion of the transaction subject to gross receipts tax pursuant to Subsection A of Section 7-9-53 NMSA 1978 may be deducted from gross receipts if the person claiming the deduction submits to the department evidence that the secretary finds substantiates the deduction.

B. For the purposes of this section, "commissions on that portion of the transaction subject to gross receipts tax" means that portion of the commission that bears the same relationship to the total commission as the amount of the transaction subject to gross receipts tax does to the total purchase price.”

Gross Receipts and Compensating Tax

General Exemptions and Deductions Define the Base

Deductions - Example: NM Stat § 7-9-75 (2021)

"Receipts from selling the service of combining or processing components or materials may be deducted from gross receipts if the sale is made to a person engaged in the business of manufacturing who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must have the service performed directly upon tangible personal property which he is in the business of manufacturing or upon ingredients or component parts thereof."

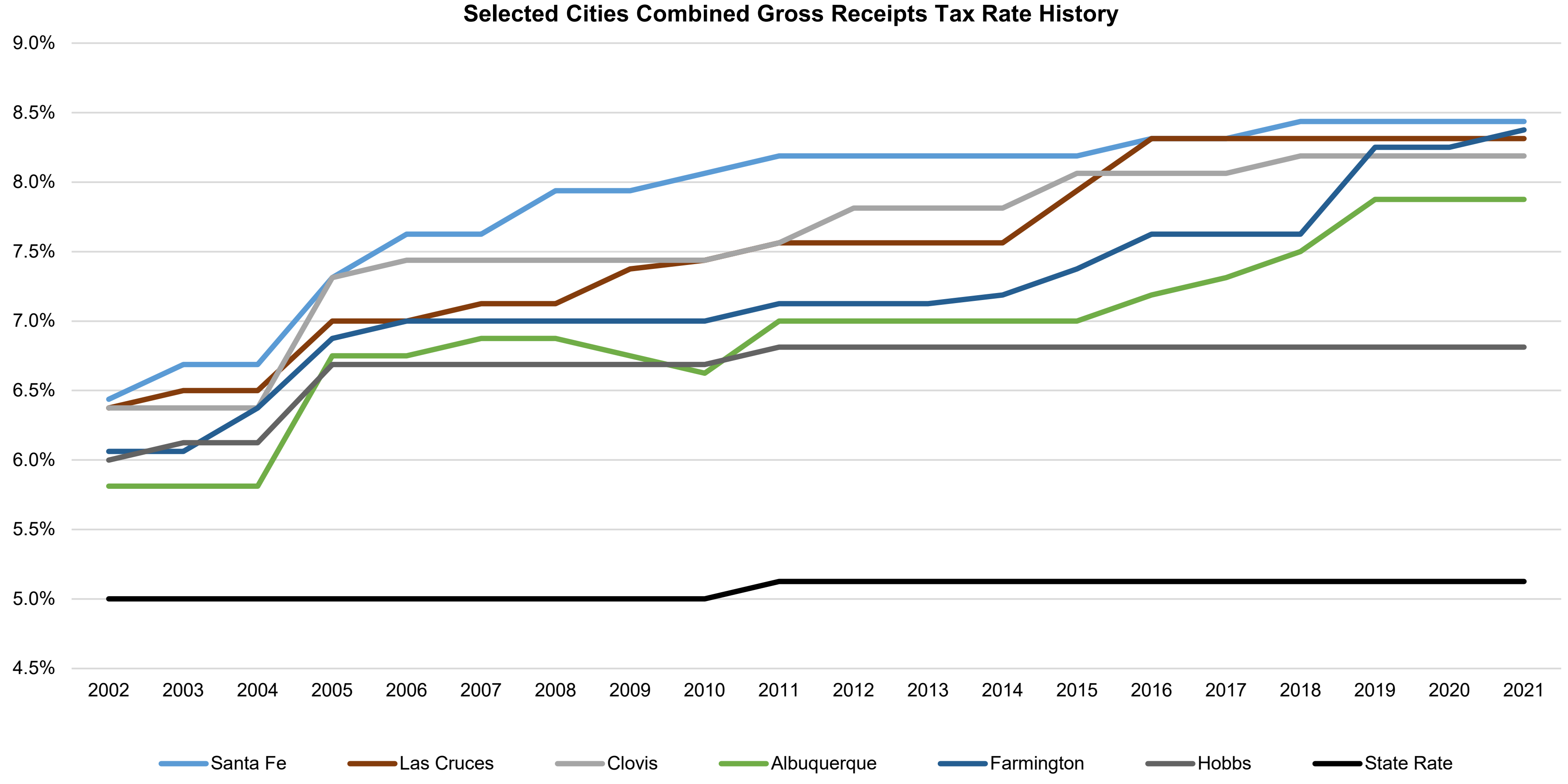
Gross Receipts and Compensating Tax

Tax credits

- Investment
- Lab partnership
- Technology jobs
- High-wage
- Advanced energy
- R&D small business
- Affordable housing
- Alternative energy manufacturing

Selected Cities Gross Receipts Tax Rate History

- The first statewide GRT rate cut in 40 years was enacted in 2022. 1/8% cut took effect July 1, 2022, another 1/8% on July 1, 2023 and another is scheduled for July 1, 2024



Source: New Mexico Tax Research Institute, TRD

Recent Changes to the Gross Receipts and Compensating Tax

Marketplace taxation resulting from *Wayfair*

- Created definitions for “marketplace seller” and “marketplace provider.”
- Adds receipts of a marketplace provider to the definition of “gross receipts” – making them the “taxpayer” for purposes of the GRT.
- Creates a deduction from GRT for marketplace sellers selling tangible personal property through a marketplace provider platforms.
- Creates a $100K sales threshold for presumption of sufficient nexus/taxability (deemed to be “engaging in business in NM) if no physical presence.
- Precludes the TRD from taking enforcement action prior to 7/1/19 against taxpayers that had no physical presence and didn’t report taxable gross receipts to New Mexico.

Recent Changes to the Gross Receipts and Compensating Tax

Marketplace taxation resulting from *Wayfair*

Provisions essentially make clear that the final transaction from the marketplace platform to the consumer is the transaction subject to GRT and determines tax reporting requirements. The marketplace seller essentially becomes a seller for resale and is privy to the marketplace seller deduction – which essentially substitutes for the other existing sale for resale deductions in present law (and they could apply too – but the documentation standards will likely vary).

Sourcing rule changes – destination based

- Effective 7/1/21
- Creates a definition of "business location" pointing at the existing "place of business" definition and authority in 7-1-14 NM Stat. Ann.
- Re-writes 7-1-14 to determine the place/rate of reporting for both gross receipts and compensating tax to be the "business location."
- Effectively attempts to move the tax situs for GRT and compensating tax purposes to the location of the buyer – except for non "in-person" professional services.
- Previously, only utilities, constructions, and real estate commissions were effectively sourced to customer location.

Sourcing rule changes – destination based

Place of business, in the case of:

- Receipts/deductions from the sale, lease, license of tangible personal property or licenses, the delivery location of the customer.
  - In the case of vehicle leasing, it's where the customer first makes use of the vehicle.
- Receipts/deductions from the sale, lease, or licensing the use of real property are sourced to the location of the underlying real property.
- Receipts/deductions from a transportation network company pursuant to the Transportation Network Services Company Act (think Uber/Lyft) are sourced to where the customer enters the vehicle.

Sourcing rule changes – destination based

Place of business, in the case of SERVICES:

“a seller of services shall report the seller's gross receipts and deductions as follows:

(a) professional services shall be reported to the seller's place of business;

(b) for a person engaged in construction OR providing construction related services, the location where the construction project is performed is the "place of business", and all gross receipts and deductions from that project are to be reported from that place of business;”

Sourcing rule changes – destination based

Place of business, in the case of **SERVICES** continued:

"(c) for a person engaged in the business of providing services with respect to the selling of real estate, the location of the real property is the "place of business", and all gross receipts and deductions from that sale are to be reported from that place of business; and

(d) services, other than those described in Subparagraphs (a) through (c) of this paragraph, **are to be reported at the location where the service is performed**;"

Sourcing rule changes – destination based

The same thing applies to the compensating tax…

> "Values from transactions subject to the compensating tax shall be reported consistent with Subsections A and B of this section unless the taxpayer can demonstrate that the taxable use in New Mexico first occurred after the purchase, lease, license or other transaction giving rise to that value and that the first taxable use occurred in another location within the state."

Sourcing rule changes – destination based

Other Changes:

- The preclusion from collection of compensating tax from individuals was removed.
  - We expect to see a line item on the PIT-1 similar to other states
- Compensating tax changes resulted in the inclusion of services and licenses in the base in addition to sourcing rule changes
- Provided for 24M in county and municipal distributions to be made from the general fund, based on population, until the new sourcing rules take effect. This number was doubled in the first 2020 Special Session in recognition of the shift in purchases to remote sellers from local retailers – impacting their tax collections materially

Sourcing rule changes – destination based

What Does it Mean to Local Governments?

- Overall Revenue Increase
- Revenue shifts among local governments
  - Depends on composition of tax base – some could lose
  - General Fund mostly loses

Sourcing rule changes – destination based

What Does it Mean to Business?

- Overall Tax Increase
  - 5.0% out of state rate almost disappears
  - Expanded compensated tax base and increase in rate (local additions)
- Complication and Questions Ensue
  - What are the new rules?
    - Lots of questions haven't been asked yet
  - Software Solutions
    - Service providers might have bigger challenges
  - Estimates/Rate Location Database

Top Ten Expenditures by Cost: 2022 compared to 2021

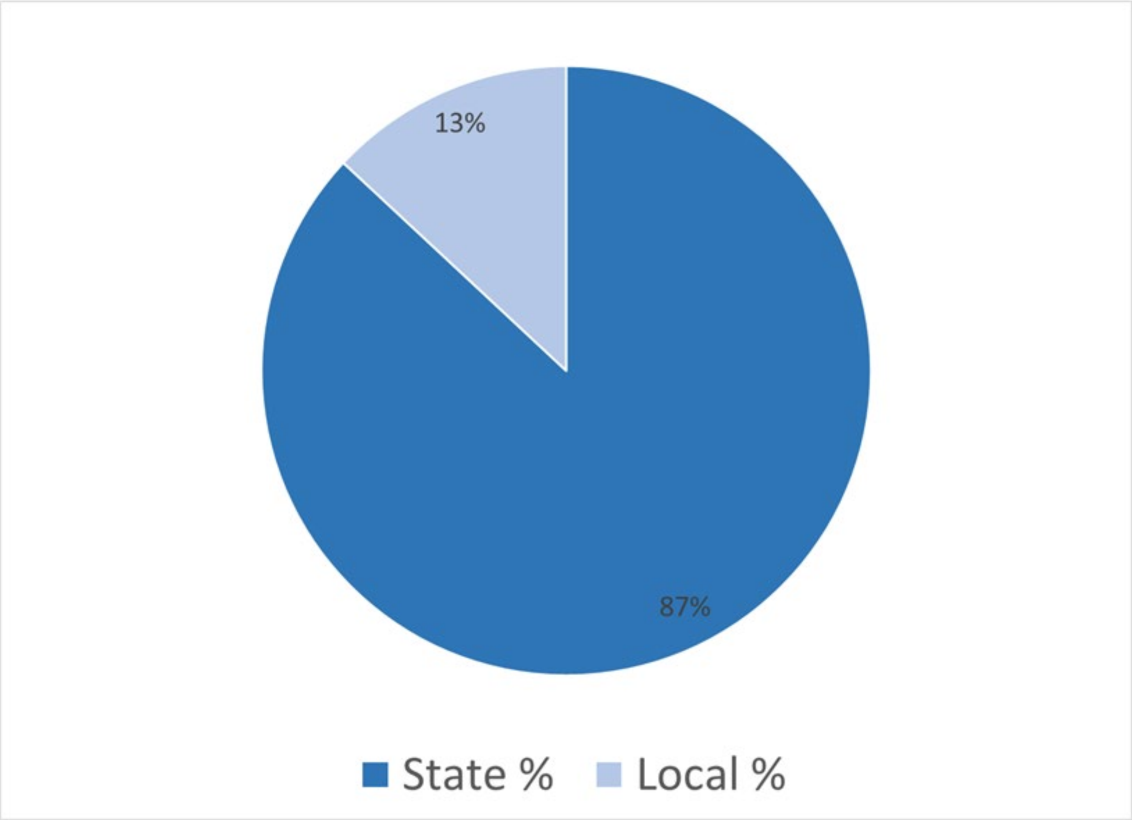
Name	2021 ($000's State & Local)	2021 Rank	2022 ($000's State & Local)	2022 Rank	
Supplemental Income Tax Rebate 2021 Tax Year	0	NA	634,882	1	Green
Sale of Food at Retail Food Stores GRT Deduction and Hold Harmless Distribution	434,759	1	422,671	2	Green
Prescription Drugs, Oxygen and Cannabis GRT and GGRT Deduction	320,100	2	371,700	3	Red
Income Tax Rebate 2021 Tax Year Filing		NA	277,008	4	Green
DOH-Licensed Hospitals 60 Percent GRT Deduction	227,147	3	201,975	5	Yellow
Nonprofit Organizations Exemption from GRT	108,330	4	129,370	6	Red
Working Families Credit against PIT	78,001	6	104,527	7	Green
Capital Gain Deduction From PIT	72,914	7	102,483	8	Green
Medical and Health Care Services GRT Deduction	6,630	22	*78,322	9	Yellow
Health Care Practitioner Services GRT Deduction and Hold Harmless Distribution	70,468	8	76,672	10	Green

*2022 claims for this deduction may be artificially high due to taxpayer misuse of deduction codes.

Tax Expenditure Incidence

- GRT incidence for deductions and exemptions is shared between the State General Fund and local governments in most cases.
- Tax expenditures for CIT, PIT, etc., generally impact only State General Fund directly .
- Recent large rebates only impacted State General Fund.

FISCAL YEAR 2022 EXPENDITURES BY STATE AND LOCAL TAX INCIDENCE



Citizen Benefits

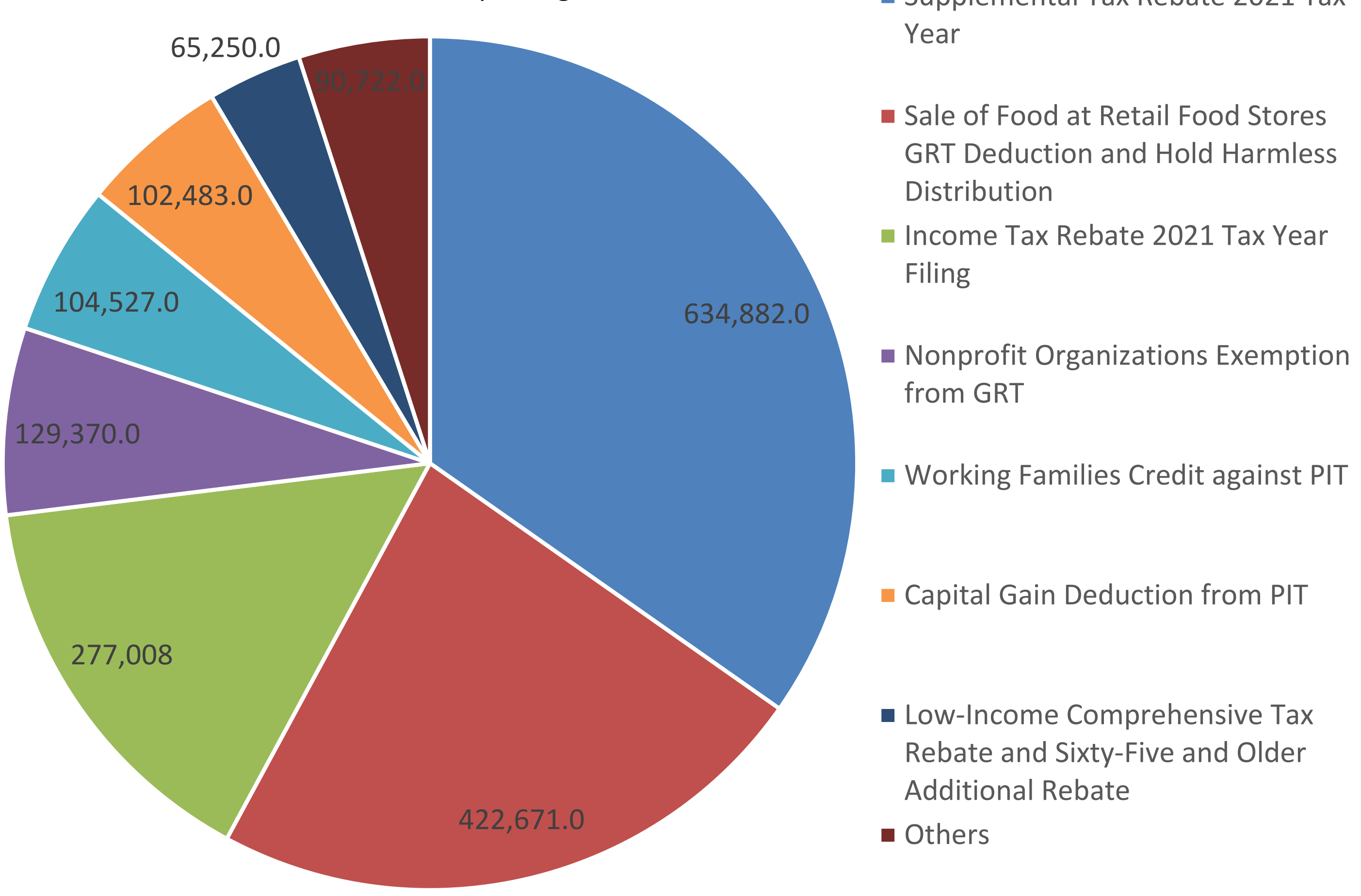
Represent the largest share of tax expenditures in 2022 - $1.8 billion or 63%.

Large one-time 2021 tax year rebates increased this category significantly - $991.9 million total.

Food deduction totaled $422.7 million down slightly from previous year.

53 Expenditures in this category

- 9 with $0 fiscal impact
- 8 with unknown costs
- 1 with redacted reporting



Citizen Benefit Expenditures (in $thousands)

Citizen Benefits : Food GRT Deduction

GRT deductions enacted in 2004 to reduce the cost of food and medical services

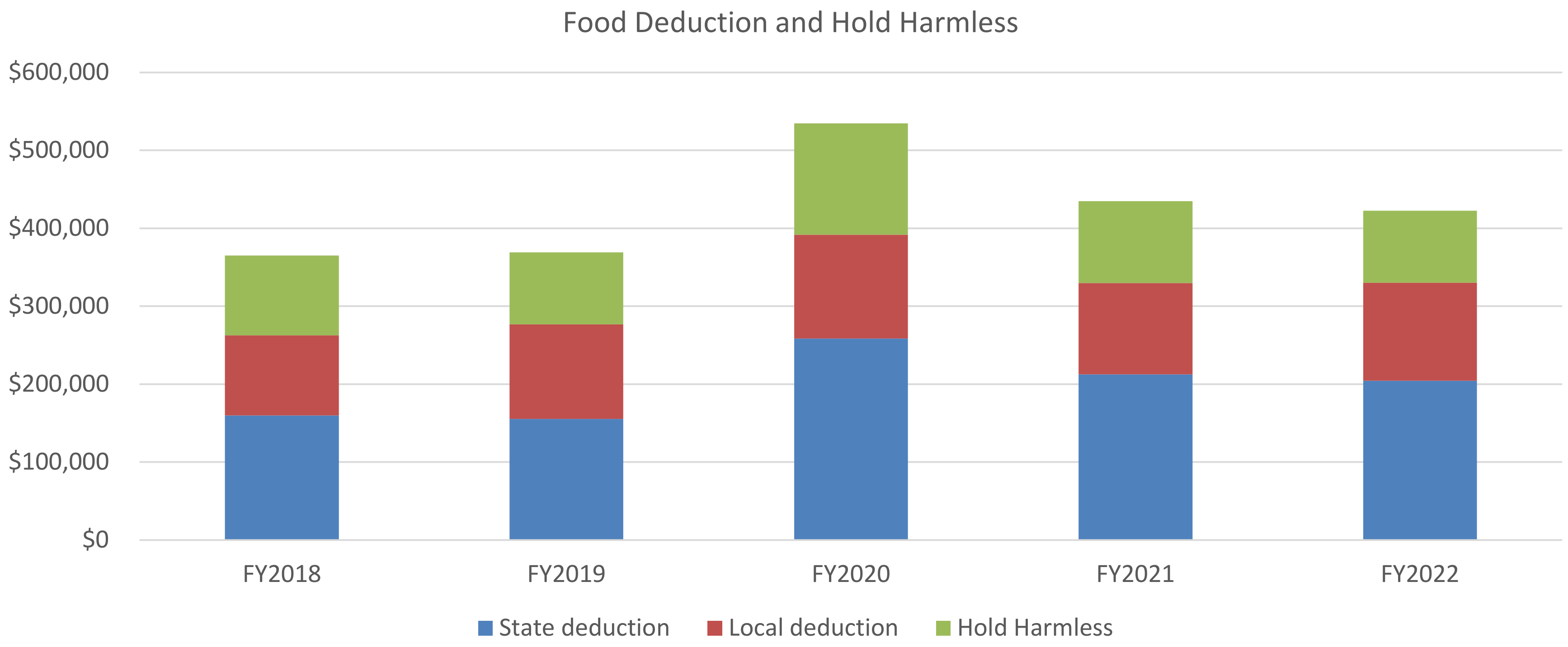
Hold harmless provisions partially offset foregone local tax revenue as a result of the deductions

2013 legislation began a phase-out of the hold harmless payments to larger local governments scheduled to end in 2030

2022 amendment froze hold harmless phaseout for certain municipalities

COVID-19 had striking impacts on the Food GRT Deductions

- The FY2020 and FY2021 amounts for food deduction increased as food consumption shifted away from restaurants and towards food purchased at grocery stores



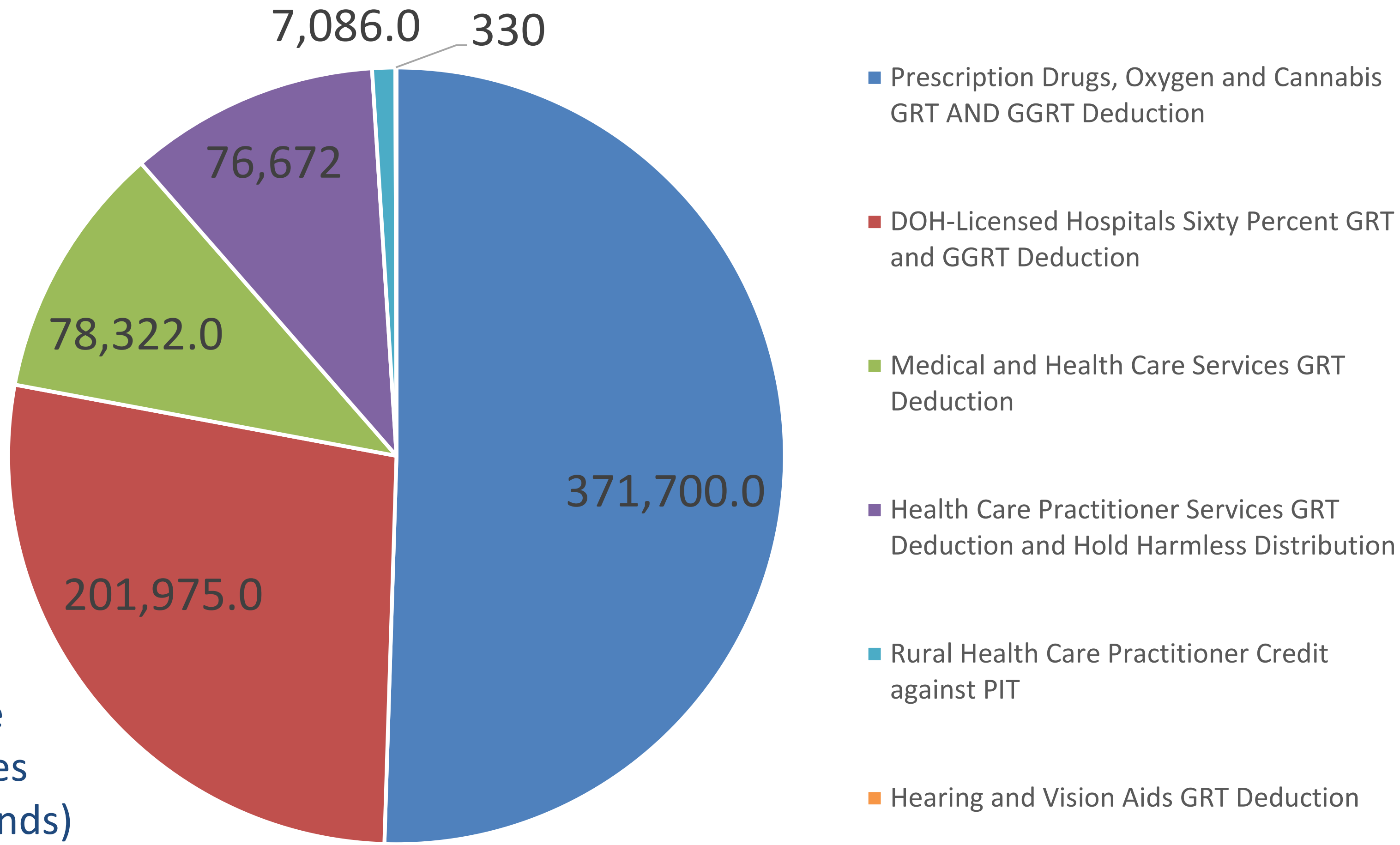
Health Care

Represents the second largest share of tax expenditures in FY22 - $736 million or 25%.

The largest reported contributor is the DOH-Licensed Hospitals 60 Percent GRT Deduction at $227 million.

10 Expenditures in this category:

- 4 with $0 fiscal impact
- 0 with unknown costs
- 0 with redacted reporting



Health Care Expenditures (in $thousands)

Pyramiding – what is it and why are we talking about it?

Pyramiding Defined

- Is the taxation of "intermediate" transactions in the chain of commerce before final consumption.
- Impacts vary depending on rate and "layers" of tax
  - Generally, impacts smaller businesses more as they are more likely to outsource business needs.
- Results in a larger tax base than consumption.
- Results in an "effective" tax rate higher than stated
  - Effectively hides the tax
  - Hard for taxpayers to see/understand/manage
  - Makes the tax more regressive on households

Pyramiding – what is it and why are we talking about it?

Pyramiding - further

- NM's GRT is a broad-based sales tax
- All states' sales taxes pyramid
- NM's GRT pyramids more than most because NM imposes it's GRT more broadly and has fewer carve-outs than most sales taxes.
- NM taxes services much more broadly than most and that's where the perceived "problem" is most acute (where we pyramid more than others)

Pyramiding – what is it and why are we talking about it?

Pyramiding - Do We Care?

- What do we want our tax to be when it grows up?
  - Real GRT's pyramid on everything
    - They raise lots of money and hide the tax well
    - Must have low rates to avoid economic dysfunction
  - Consumption Taxes
    - Attempt to tax end use consumption only
    - Economically efficient (avoids distortions)
    - VATs (value added taxes) are best example
    - Sales taxes are inefficient consumption taxes

Pyramiding – what is it and why are we talking about it?

Pyramiding - Current Policy

- Everyone thinks the GRT is a problem
  - Few can articulate why
- Recent past proposals to convert the GRT into real GRT, or reduce pyramiding have been proposed
  - Both come with substantial financial risk to the state
  - Local government finance a critical question for such large proposals
    - Local governments highly GRT dependent
- Narrower proposals (credits or deductions) can reduce fiscal implications
  - Can create hard to administer swiss cheese and can create winners and losers
- Other GRT issues

TAX 105
NM INCOME TAXES – CORPORATE & PERSONAL

Presented by: Jim O'Neill

The NM EDGE
NMSU Cooperative Extension Service &
the NMSU Department of Government

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Tax 105 Our income tax-related laws

- Income Tax Act [Chap 7, Art 2] <PIT>
- Corporate Income & Franchise Tax Act [Chap 7, Art 2A] <CIT>
- Withholding Tax Act [Chap 7, Art 3]
- Oil & Gas Proceeds and Pass-through Entity Withholding Tax Act [Chap 7, Art 3A]
- Uniform Division of Income for Tax Purposes Act [Chap 7, Art 4] <UDITPA>
- Multistate Tax Compact Act [Chap 7, Art 5]
- Estate Tax Act [Chap 7, Art 7]

- TRD administers all these taxes; see https://www.tax.newmexico.gov/

Tax 105 Overview

- For both PIT and CIT, we'll cover—
  - Tax Base (what's taxed)
  - Exemptions, Deductions, Rebates & Credits (what's not taxed)
  - Rates
  - Where the $$$ Goes
  - Current issues
- And since they apply to both PIT & CIT, how the allocation and apportionment rules of UDITPA work
- We'll touch only briefly on estates, trusts and partnerships

TAX 105 Introduction

NM is one of 50 states bound in a federal union. Federal government is supreme authority—US Constitution says so.

- Each state has the right to tax
  - its ***residents*** regardless of where the income arises, and
  - **income arising within** that state, whether earned by residents or nonresidents.

- In general, no state may tax persons or income outside its jurisdiction. Feds control this under interstate commerce clause

(Art 1, Sec 8, Clause 3)

TAX 105 Introduction

Administration

- TRD does it all—for all the taxes listed. Occasionally other state agencies have a role in approving credits.
- Check TRD's website (https://www.tax.newmexico.gov) for forms, instructions, program-specific information and some data (see "Executive Dashboard", under the "Forms and Publications" heading).
- For data on tax collections by program, use NM Sunshine Portal, specifically: https://ssp3.sunshineportalnm.com/#revenue

TAX 105 PIT

Like the other states, most of NM's taxes are *regressive*.

Designed as a *progressive* tax, NM's PIT was intended to make the overall NM system more or less proportional. (That was the idea anyway.) Balance the system.

TAX 105 PIT

- NM taxes income of **both** residents & nonresidents

- Under NM rules, residents:
- (1) live here **185** or more days in a year; and
- (2) have no permanent domicile elsewhere.
- Everyone has a domicile somewhere – but only one at a time.

TAX 105 PIT

- NM's tax is a "piggyback" tax—like most states.
- Every state starts with a federal definition & goes from there—
  - "Gross income" (6)
  - "Adjusted gross income" (AGI) (31 – including NM)
  - "Taxable income" (5)
- Why?
- Hidden danger; "de-coupling"

TAX 105 PIT

- Federal tax scheme for TY 2023
- “Gross income” – basically all of your income, regardless of type
  - Less: Specified deductions/allowances = “adjustments”
- Equals **Adjusted Gross Income** (AGI)
  - (NM’s starting point; called “base income” in NM statutes)
- Less: Itemized or standard deductions & personal exemptions
- Equals Taxable Income

TAX 105 PIT

- Not everything in the federal income tax base may be taxed by states. E.g., states may not tax--
  - Interest on US Govt obligations
  - Railroad Retirement Act income, benefits and pay
  - Income of NM Native American from own tribal lands
  - Part of Social Security income

TAX 105 PIT

- On the other hand, absent a federal prohibition, states may tax income that the federal government does not.
- Only NM example: interest on municipal bonds issued by other states

TAX 105 PIT

- NM's scheme—
- Federal **AGI = NM Base Income**
- Plus or minus a set of NM income adjustments
- NM **Net Income**
- Minus
  - Greater of federal standard deduction or sum of itemized deductions
  - NM personal exemption amount ($4,000 x (no. of dependents – 1))
- Equals **NM Taxable Income**

TAX 105 PIT

- States set their own policy priorities in their deduction/exemption choices. Here are some of NM's:
  - Total exemption or deduction
    - Income of person aged 100 or more
    - Income of charitable orgs & pension trusts (except UBI)
    - *Active duty* pay for US Armed Forces members

TAX 105 PIT

- Partial exemption or deduction
  - Dependent exemption: ($4,000 x (no. of dependents minus 1))
  - Social Security income (up to $150,000 MFJ/$100,000 singles)
  - Exemption up to $8,000 for low-income persons aged 65 or blind
  - NM low- and middle-income tax exemption amount
  - Capital gain deduction
  - Armed Forces *retirement* pay (up to $30,000)
  - Other health and savings-related deductions

TAX 105 PIT

- NM Taxable Income
  - X tax rate =
- Tax Due

TAX 105 PIT

- TY2024 Rate table for MFJ, HH, SS (Section 7-2-7)

If taxable income is	Then tax is
Not over $8,000	1.7% of taxable income
$8,001 to $16,000	$136 + 3.2% of amt over $8,000
$16,001 to $24,000	$392 + 4.7% of amt over $16,000
$24,001 to $315,000	$768 + 4.9% of amt over $24,000
Over $315,000	$15,027 + 5.9% of amt over $315,000

TAX 105 Cross-border Income

- Many taxpayers earn income from sources in more than one state. How do states sort out who may tax what?

- NM follows the UDITPA (authorized by the Multistate Tax Compact), which presents rules for ***allocating*** and ***apportioning*** income among states having jurisdiction to tax a taxpayer.

- UDITPA applies only to income from business activities. Wages & other “personal” income (like net gambling winnings) are **not** subject to UDITPA.

TAX 105 Cross-border Income

- “Business” income:
- Transactions in regular course of taxpayer’s trade or business, including income from disposition of a business or segment thereof.

- “Nonbusiness” income:
- All other income

TAX 105 Cross-border Income

- Allocable income
  - Interest and dividends
  - Rents, royalties from tangibles
  - Capital gains
  - Patent, copyright royalties

"Allocable" income is assigned to state in which:

- -- the property is located or
- -- the taxpayer's commercial domicile or residence is situated

TAX 105 Cross-border Income

- Apportionable business income
  - Applies to taxpayer's total non-allocable business income

- Assigned to state by formula
  - 3-factor (property, payroll, sales);
  - Single factor (usually sales); or
  - Other factors for certain industries

TAX 105 PIT

- NM's backward approach—
- Add up all the income allocated and apportioned to NM
- Subtract that total from NM taxable income
- Divide the remainder by NM taxable income; this is the ***NON-NM PERCENTAGE***
- Non-NM % times tax due = non-NM tax credit
- *NM is actually apportioning **tax**, not income. Why this approach?*

TAX 105 PIT

- Credits against the tax due
  - Prepayments
    - Wage withholding
    - Oil and gas proceeds withholding
    - Pass-through entity (PTE) withholding
    - Quarterly estimated payments (7-2-12.2)
  - Non-NM credit (from cross-border income)
  - Credit for tax paid to other states
  - Various additional credits, rebates

TAX 105 PIT

- Despite allocation and apportionment rules, some income may still be subject to taxation by NM and another state, e.g., **wage income**

- Credit (7-2-13) may be given for amount of tax actually paid to the other state up to the amount of income allocated/apportioned to NM times the other state's tax rate (but not to exceed NM's tax rate)

- Credit does not apply to amount of any local (e.g., municipal) income tax

TAX 105 PIT

- Let's say your return shows a refund due to you. Do you have to take it?
- NM allows you to donate any portion of your refund to any of *16* different worthy causes.
- Illustrates 7-2-24.1

TAX 105 PIT

- Current Issues
- Progressivity of rate table (or lack thereof)
- Treatment of capital gains
- Treatment of retirement income, especially Social Security

TAX 105 CIT

- Corporate Income and Franchise Tax Act enacted in 1981, substantially revised in 2019 (effective 2021 taxable year)
- Creates two taxes
  - Corporate income tax
  - Franchise tax ($50 per year per corporation)
- For purposes of this Act, “corporation” includes
  - corporations
  - joint stock companies
  - REITs formed under NM’s Real Estate Trust Act
  - Partnerships & limited liability companies electing to be taxed as corporations for federal purposes

TAX 105 CIT

- Exempt Corporations
  - Insurance companies
  - Certain bonus, pension or profit-sharing trusts for exclusive benefit of employees
  - Nonprofit organizations exempted by the Internal Revenue Code (e.g., IRC §501(c)(3) orgs)

TAX 105 CIT

- Who is the taxpayer?

- Each corporation is a separate legal person. If doing business in NM, corporation has a duty to submit NM corporate income tax return.

- Taxpayer scenarios--
  - Single corporation operating solely in NM
  - Single corporation operating in NM & at least one other jurisdiction
  - Corporate group operating solely in NM
  - Corporate group operating in NM & at least one other jurisdiction

TAX 105 CIT

- Related corporations can and do move income and expenses across borders through terms of intercorporate transactions. When deliberate, this is called “tax planning”.

- How can NM be sure of a fair share of a groups’ income? One solution is to make all members of “unitary” corporate groups file a single return, called a “combined return”.

TAX 105 CIT

- Feds allow related corporations to file ***consolidated*** returns. Why can't states *require* groups to file state returns using that basis?

- It wouldn't be constitutional. Fed return could include corporations the state may not tax.

- NM does allow corporations to file on a consolidated basis (allocating and apportioning income among the states) on a **voluntary** basis. Some do.

TAX 105 CIT

- NM requires "unitary groups" to file a ***combined return***
- Allocating and apportioning income among taxing jurisdictions under UDITPA (unless group files an NM consolidated return)

- "Unitary group"—2 or more corporations:
  - Related through common ownership; and
  - Economically interdependent as demonstrated by
    - Centralized management
    - Functional integration; and
    - Economies of scale

TAX 105 CIT

- Like PIT, CIT is a piggyback tax. NM starts with federal taxable income (TI). For a group, this is the total TI summed for all of the group members.

- ADD
  - income from non-NM municipal bonds

TAX 105 CIT

- DEDUCT
  - Income from US obligations
  - Income from foreign sources (dividends, Subpart F income, GILTI) if filing on water’s edge basis

- Result is NM net income

TAX 105 CIT/UDITPA

- Like PIT, income is then allocated and apportioned under UDITPA rules. Unlike PIT, there is no credit for another state’s tax on the same income.

- Sum of income allocated and apportioned to NM is NM taxable income

- Deduct any net operating loss carryovers. “NOLD’s” are a form of income averaging.

- Apply tax rate table.

TAX 105 CIT

NM CIT Tax Table

NM Taxable Income	Tax
Up to $500,000	4.8% of Taxable Income
$500,000 & over	$24,000 plus 5.9% of amount over $500,000

TAX 105 CIT

- Credits: Like PIT, there are a lot

- Economic development
- Conservation
- Intergovernmental
- Job promotion
- Energy
- Social

TAX 105 CIT

- NM shares taxing jurisdiction with its resident nations, tribes and pueblos. Tribal governments may impose taxes on corporations too.

- Beginning with 1997, 7-2A-16 grants a credit against tribal tax imposed on revenue from the post-7/1/1997 operations of a manufacturer or processor on Indian land. Credit equals 50% of the greater of the amount paid to the tribal government or of the corporation’s NM CIT obligation with respect to those operations.

TAX 105 CIT

- Current issues
  - Implementing the 2019 revisions, especially the mandatory combined filing requirement.
  - Reacting to federal efforts, if successful, to create functioning international tax system, with minimum effective tax rates.

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