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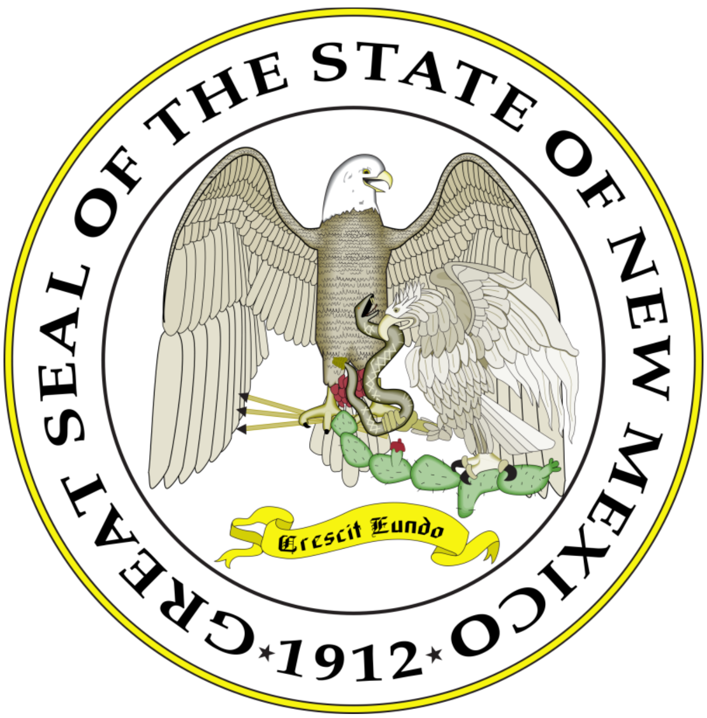
Taxation & Revenue
New Mexico



New Mexico
Tax Expenditure Report

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SECRETARY'S MESSAGE

This Tax Expenditure Report is an important transparency tool that allows State policymakers, advocacy groups, and the public an opportunity to evaluate the State's tax code. The State's operating budget provides detailed information about how the State's revenues are expended on various competing priorities. However, without this Tax Expenditure Report, New Mexico would lack the ability to evaluate the amount and efficacy of the revenue that the State foregoes through myriad tax credits, deductions, exemptions, preferential tax rates, and other tax expenditures. Just as the State's appropriations are evaluated and reprioritized annually, tax expenditures should be periodically reviewed to ensure they are achieving their intended results at an appropriate cost to the public.

Tax & Rev is fortunate to have a team of talented economists and staff who have dedicated many hours throughout the year researching and evaluating the tax expenditures catalogued in this report. The primary contributors to this report are Chief Economist Lucinda Sydow and Senior Economist Efraín Ibarra. An undertaking of this magnitude would not be possible without the professional skills and diligence of this group. Nor would it be possible without the cooperation of other State agencies that play a role in administering many of the tax incentives New Mexico uses to encourage beneficial social and economic activity. We are grateful for their assistance.

Stephanie Schardin Clarke
Secretary of Taxation and Revenue
State of New Mexico

TAX EXPENDITURE REPORT MESSAGE - REPORTING GIVEN THE COVID-19 PANDEMIC AND ECONOMIC RECOVERY

In reviewing this Tax Expenditure Report, the reader should bear in mind that expenditure amounts reflect impacts of the COVID-19 pandemic, which began in the spring of 2020. To address the public health crisis and ease the hardship taxpayers faced, taxpayers received relief through Governor's executive orders, legislation, federal relief funding, and IRS actions, all of which impacted the New Mexico tax code and New Mexicans' economic behavior. The following economic impacts and associated relief measures affected economic activity, taxpayer behavior and filing actions.

The New Mexico Personal Income Tax and Corporate Income Tax predominantly conform to federal income tax law. Thus, when IRS extended its filing deadline for Tax Year 2019 from April 15, 2020 to July 15, 2020, and again for Tax Year 2020 from April 15, 2021 to May 17, 2021, New Mexico filing deadlines were also extended.

Passed during the 2020 special legislative session, House Bill 6 waived penalty and interest for late tax payments under certain tax programs and for specific filing periods if payments were received by various dates in 2021, depending on the tax program. These tax programs include the Income Tax Act, Corporate Income and Franchise Tax Act, Withholding Tax Act, Gross Receipts and Compensating Tax Act, and the Property Tax. In addition, liabilities covered under managed audits were also impacted. House Bill 6 had the effect of shifting the receipt of some revenues to later periods.

Passed during the 2021 regular legislative session, Senate Bill 1 offered relief to taxpayers through a one-time $600 personal income tax rebate and a temporary four-month gross receipts tax deduction for restaurants and bars. These one-time tax expenditures are reported under "Income Tax Rebate 2020 Tax Year Filing" and "Restaurant and Bar Temporary GRT Deduction."

During the 2022 regular legislative session and first special session, a series of rebates offered relief to taxpayers. House Bill 2, passed during the 2022 first special session, offered relief through two rounds of rebates. For 2021 tax year filings, resident single tax filers were issued two $250 income tax rebates and for joint or head-of-household tax filers, two $500 income tax rebates. In addition, under House Bill 163 from the 2022 regular legislative session, a one-time rebate of either $250 for single tax filers with adjusted gross income under $75,000 or $500 for joint or head-of-household filers with adjusted gross income under $150,000 were issued for 2021 tax year filings. These one-time time expenditures are reported this under "Supplemental Income Tax Rebate 2021 Tax Year Filing" and "Income Tax Rebate 2021 Tax Year Filing". Also providing taxpayer relief are new deductions for liquor license holders and lessors through GRT, PIT and CIT.

Finally, tax programs that respond in real time to current economic conditions, such as the Gross Receipts Tax, will reflect financial variations for those taxpayers whose income and receipts are impacted by changing consumption patterns and supply and demand changes in the economy. The public health executive order limiting activity in public spaces led to an increase of on-line buying. New Mexicans shifted consumption away from restaurants and towards grocery stores, increasing the food deduction and related hold-harmless payments. On-line learning for students changed the demand for child care services. Tax expenditures tied to economic activity will show deviations from historical trends, both lowering or increasing the fiscal impact.

The extent to which economic impacts and federal and state actions have altered, and continue to alter, the timing of filing returns and expenditure levels will not be fully understood until all returns are completed. Thus, in reviewing the most recent reported expenditure impacts, the reader should place them in this larger context.

PRINCIPLES OF GOOD TAX POLICY

There has been much discussion in recent years about what makes good tax policy, and there are several principles around which consensus exists. These principles often support competing public policies, and balance should be kept between these principles.

Perhaps the most glaring example of how some principles can overwhelm others is shown in the application of New Mexico's Gross Receipts and Compensating Tax Act. These taxes have increasingly lost Simplicity as efforts have been made to achieve Equity, Efficiency, and — with recent reporting requirements — Accountability.

We use this illustration not to disparage any particular section of the tax code, but to remind policy makers that reliance on these principles requires considerations of how application of one principle impacts other principles.

ADEQUACY

Tax revenues should be adequate to support needed government services. Inherent in this principle is the fact that taxes are necessary to fund these services. Legislative and Executive determination of necessary spending therefore defines when revenues are adequate. Conversations around adequacy implicate the revenue streams and demands upon the State and local governments.

EQUITY

Tax equity or fairness considers how tax burdens are distributed amongst taxpayers. There are two different types of equity: 1) "vertical" equity, which says that tax burdens should be distributed according to taxpayers' ability to pay, so that taxpayers with greater ability to pay bear a larger burden than those with a lesser ability to pay, and 2) "horizontal" equity, which tries to ensure that similarly-situated taxpayers face similar tax burdens. Without vertical equity, tax burdens may become too regressive, falling on those with the least ability to pay, and leaving them without the ability to afford basic necessities. Without horizontal equity, the government arguably gives one taxpayer a competitive advantage over another. There may be legitimate policy reasons for doing so, but it should be done with full understanding of the potential effects.

EFFICIENCY

In this context, efficiency denotes whether policies benefit economic growth. Tax policy experts agree that all taxes potentially affect or distort economic behavior by making certain economic choices more or less attractive, and that these effects on the economy are complicated. As a rule, tax efficiency requires that taxes be levied in a way that seeks to minimize market distortions that occur as taxpayers substitute untaxed goods, or lower-taxed foods, for more highly taxed goods to reduce tax burdens and costs.

Evaluation of efficiency in the application of economic theory is complicated when an activity generates externalized costs, which are costs not borne by the participants in the economic activity. A common example of externalized cost is environmental degradation. Externalities may not be fully considered by individual actors in their marketplace decisions. In this case, taxes may be imposed as proxies for costs that would otherwise not be taken into account; taxes can arguably improve the functioning of the economy by replacing the externalized cost. For example, this reasoning supports tax expenditures incentivizing renewable energy because they may reduce pollution. We note that the concept of "efficiency" may seem to imply that there is an ideal, frictionless economic model, which is likely not the case. Therefore, tax policy can seek to reduce, but not eliminate, economic distortion.

SIMPLICITY

Taxpayers incur compliance burdens as they prepare, submit, and keep records about tax returns. They also face significant penalties, interest, and representation costs for failure to correctly file those returns. Likewise, the Taxation and Revenue Department incurs administrative costs to collect taxes, review the accuracy of tax returns and tax payments, and bring taxpayers into compliance. Incorrect tax filings can cause difficult changes to distributions between the State and local governments. The magnitude of these costs to taxpayers and government is affected by how taxes are defined and collected; the more complicated the code, the higher the cost everyone must bear to ensure compliance.

While they may increase accountability, tax expenditures that require separate reporting move away from the tax principle of simplicity - for both the taxpayer and State. Although generally hidden from view, the costs of collection and compliance impose significant burdens on society and should be kept to a minimum level, consistent with other goals. However, as this Report itself shows, some reporting is required in order for policymakers to evaluate tax incentives and make sound economic choices.

ACCOUNTABILITY

Tax preferences should be easy to monitor and evaluate. Moreover, taxes should be transparent so that taxpayers can better evaluate government policy. Improved accountability is an important goal of this tax expenditure report.

FEDERAL CONFORMITY AND STATE EXPENDITURES

The scope of the New Mexico Tax Expenditure Report is limited to state laws that impact the definition, administration, and collection of state tax revenue. New Mexico, like many other states, begins with federal definitions of income, which is referred to as "federal conformity". These definitions of income flow through to New Mexico Personal Income Tax and Corporate Income and Franchise Tax. Built into the federal definitions of income are federal level tax expenditures that then carry into the New Mexico tax code. For example, the federal reductions to individual gross income include: a deduction for IRA contributions and a deduction for student loan interest. Unless a state income tax law requires these deductions to be added back in to gross income, they are a federal expenditure within the state tax code.

The Federal Government prepares annual expenditures reports which include forecasted revenue impacts. These reports may be found here: https://home.treasury.gov/policy-issues/tax-policy/tax-expenditures.

It is often necessary to evaluate state laws in the larger context of federal conformity to determine when the federal code is defining the tax base. For example, the Federal Tax Cuts and Jobs Act in 2017 eliminated the personal exemption for the federal income tax while raising the standard deduction. That change altered the New Mexico income tax base, bringing in more revenue from taxpayers with more dependents, because the increase in the standard deduction was more than offset by the loss of the exemption that used to be allowed for each child. New Mexico and other conforming states were compelled either to accept this new tax base determined by federal law, or to create laws to continue to define the tax base as it was prior to passage of the Tax Cuts and Jobs Act. New Mexico chose to do the latter by creating a dependent deduction. This deduction is therefore not classified as a tax expenditure as it maintained an understood tax base.

Federal conformity eases many state administrative aspects of the income tax programs, and for taxpayers provides more seamless completion of federal and state income tax returns, leading to improved compliance. While New Mexico, and other states, may choose to decouple from the federal tax base by bringing some federal expenditures back into the tax base, that may come at a cost of increased complexity in compliance and administration for taxpayers and state administration.

PERSONAL INCOME TAX

New Mexico's Personal Income Tax (referred to herein as "Personal Income Tax" or "PIT") contributes approximately one quarter of the State's recurring General Fund revenues. Like several other states, New Mexico bases its income tax on the federal definition of taxable income.[1] This means that New Mexico uses federal adjusted gross income (AGI) as the starting point when determining personal income taxes. Federal AGI is a taxpayer's gross income reduced by certain amounts, such as a deductible IRA contribution or student loan interest. New Mexico also ties its standard deduction to the federal tax code. Because these adjustments and deductions are common practice among the states that conform to the federal tax code, and because they are applied broadly to all taxpayers who qualify, they are considered as simply defining the tax base and are not treated as tax expenditures in this report.

New Mexico is one of 32 states with a progressive PIT rate structure. Under the principle of vertical equity, a progressive tax is based on the policy that taxes should, at least in part, reflect ability to pay, and progressive tax systems therefore impose a lower percentage tax rate on lower income taxpayers than on those with a higher income. In contrast, nine other states have a "flat rate" tax structure, wherein the same percentage tax rate is imposed regardless of income. In tax year 2021[2], New Mexico had a five-tier progressive PIT rate structure, as shown in the following table.

Income Bracket	Married Filing Separately	Head of Household, Surviving Spouses, and Married Filing Jointly	Individuals, Estates, and Trusts	Rate
1	Up to $4,000	Up to $8,000	Up to $5,500	1.7%
2	Over $4,000 to $8,000	Over $8,000 to $16,000	Over $5,500 to $11,000	3.2%
3	Over $8,000 to $12,000	Over $16,000 to $24,000	Over $11,000 to $16,000	4.7%
4	Over $12,000 to $157,500	Over $24,000 to $315,000	Over $16,000 to $210,000	4.9%
5	Over $157,500	Over $315,000	Over $210,000	5.9%

When looking at income tax rates under a progressive tax structure, a distinction is made between the marginal tax rate and the average or effective tax rate faced by individuals. Marginal tax rate is the rate of tax charged on a taxpayer's last dollar of income, while the effective tax rate is the average tax rate paid by the taxpayer on their total gross income.

The following table shows how the marginal and effective rates, for a single individual with an AGI of $65,000, differ under the New Mexico PIT rate structure. For this individual, the top marginal tax rate is 4.9%, and the total tax paid is $2,906. The top marginal rate of 4.9% does not mean that the individual paid 4.9% of his AGI in NM income taxes. Due to the progressive nature of the tax structure, the individual paid 1.7% tax on their first $5,500 of income, 3.2% tax on the next $5,500 (= $11,000 - $5,500) of their income and 4.7% tax on the next $5,000 (= $16,000-$11,000). The top marginal rate kicks in only at any income earned over $16,000, which in this case is $49,000. As a result, the total

[1] For reference, a list of commonly used acronyms is provided in Appendix C.

[2] PIT data from tax year 2021 and CIT data from tax year 2020 is the most complete dataset available at the time of publication of this report given caveats. Beginning in tax year 2021, a tax bracket has been added at the top with a tax rate of 5.9%.

tax liability for this individual is 4.5% of their AGI, lower than the top rate of 4.9%. This 4.5% rate is referred to as the individual's effective or average tax rate.

Income Bracket	Marginal Tax Rate	AGI in this bracket	NM Tax Due
1	1.70%	$ 5,500	$ 94
2	3.20%	$ 5,500	$ 176
3	4.70%	$ 5,000	$ 235
4	4.90%	$ 49,000	$ 2,401
Total AGI		**$ 65,000**	**$ 2,906**
Effective Tax Rate		**= Total NM Tax Due/TotalAGI (= $2,906/$65,000) = 4.5%**	

In New Mexico, the overall effective tax rate among all taxpayers during Tax Year 2021 was 0.9%. This varied between residents, at 2.9%, and non-residents, at 0.1%. Non-residents typically have a lower effective tax rate because only a small portion of the non-resident taxpayer's AGI is apportioned to New Mexico. The effective tax rate is computed by dividing the total New Mexico income tax liability of New Mexico taxpayers for tax year 2021 by the total AGI of those taxpayers. The table below breaks down the effective tax rate by New Mexico taxable income for all taxpayers in New Mexico. Residents include first year residents and non-residents include part-time residents.

Taxable Income Level	Effective Tax Rate		
	Residents	**Non-Residents**	**All Taxpayers**
No Taxable Income	0.0%	0.0%	0.0%
Under $25,000	1.0%	0.4%	1.0%
$25,000-$50,000	2.5%	1.0%	2.5%
$50,000-$75,000	3.1%	1.1%	3.0%
$75,000-$100,000	3.4%	1.0%	3.1%
$100,000-$200,000	3.7%	0.9%	3.2%
Over $200,001	4.0%	0.1%	0.4%
Total	**2.9%**	**0.1%**	**0.9%**
Number of Returns	**942,569**	**138,420**	**1,080,989**

Although New Mexico's personal income tax rates are generally in line with those imposed by other states, the structure of the tax brackets – i.e., the threshold at which each rate takes effect -- varies significantly across states. Given the lack of a standard tax bracket structure, this report does not treat the lower rates imposed on low-income brackets as a tax expenditure. In addition to a lower tax rate for low-income tax payers, New Mexico offers income tax rebates and credits to low-income taxpayers, such as the Low Income Comprehensive Tax Rebate and Working Families Tax Credit. These provisions also add to progressivity in New Mexico's income tax structure and are reported as tax expenditures in this report.

New Mexico law also provides several other special tax preferences to its taxpayers that are reported on various forms as supplements to the annual PIT return. A number of these are reported on as tax expenditures in this report as well.

CORPORATE INCOME TAX

The corporate income tax provides about 3.0 percent of State General Fund revenues. New Mexico's corporate income tax ("CIT") is also based on the federal corporate income tax with the same corresponding administrative benefits for taxpayers and the State in its administration.

Section 7-2A-2(C) NMSA 1978 defines "base income" as that part of the taxpayer's taxable income upon which the federal income tax is calculated, excluding the amount of the net operating loss carryover deduction and including interest received on state or local bonds[3]. The statute then defines "net income" as the base income of a corporation properly filing a tax return as a separate entity, or the combined base income and losses of corporations that are part of a filing group that is computed after eliminating intercompany income and expense in a manner consistent with the consolidated filing requirements of the Internal Revenue Code and the Corporate Income and Franchise Tax Act[4]. This method of reporting is called "unitary reporting" and is required for corporations forming part of a unitary group as defined by the Corporate Income and Franchise Tax Act.

Thus, "net income" is defined as the tax base for CIT purposes in New Mexico, and, by application of the income-graduated percentage tax rate, "baseline tax revenue" is defined.

The following table shows the CIT rates from 1987 through full implementation of HB641 (2013) in 2018:

<table>
<tr><th>Taxable Income</th><th>1987-2013</th><th>2014</th><th>2015</th><th>2016</th><th>2017</th><th>2018-present</th></tr>
<tr><td>Up to $500,000</td><td>4.8%</td><td>4.8%</td><td>4.8%</td><td>4.8%</td><td>4.8%</td><td>4.8%</td></tr>
<tr><td>$500,000.01 to $1,000,000</td><td>6.4%</td><td>6.4%</td><td>6.4%</td><td>6.4%</td><td rowspan="2">6.2%</td><td rowspan="2">5.9%</td></tr>
<tr><td>Over $1,000,000</td><td>7.6%</td><td>7.3%</td><td>6.9%</td><td>6.6%</td></tr>
</table>

Two general concepts define how corporations file CIT in New Mexico, income apportionment and return type. For income apportionment, New Mexico has adopted the Uniform Division of Income for Tax Purposes Act (UDITPA.) Where corporations operate in more than one state, the statute defines how to apportion income and expenses among those states. For most corporations, a three-factor formula is applied, which takes an average percentage of the ratios between property, payroll, and sales factors of business activity in New Mexico and the corporation's total business activity everywhere. In 2013, legislation added the single-sales factor apportionment election for manufacturers, followed in 2015 by the single-sales factor apportionment election for companies with their headquarters in New Mexico. Under single-sales factor apportionment, only sales are considered in apportionment; the property and payroll factors are not considered.

Return type looks at the corporate structure and what type of return is thus required to be filed. 2013 legislation defined corporate filing under three options: separate corporate entity; combination of domestic unitary corporations; or federal consolidated group. In addition, the legislation required mandatory combined reporting for certain retailers. Effective January 1, 2020,

[3] PIT data from both tax years 2018 and 2019 and CIT data from tax year 2018 is the most complete dataset available at the time of publication of this report given caveats. The current PIT rates have been in effect since 2008.

[3] Section 7-2A-2(C) NMSA 1978.

[4] Section 7-2A-2(H) NMSA 1978, effective January 1, 2020 – Section 7-2A-2(M) NMSA 1978.

legislation revised the requirements for corporations to file a consolidated return. Corporations that file as a unitary group must use combined reporting unless they properly elect to report and pay tax as a water's-edge or consolidated group. A water's-edge group consists of all corporations that are part of a unitary group and have more than 20 percent of their property, payroll and sales sourced to locations with the United States. A consolidated group is a group of entities properly filing a federal consolidated return under the Internal Revenue Code for the taxable year.

GROSS RECEIPTS TAX

The Gross Receipts Tax (GRT) provides about 33 percent of State General Fund revenues and about 50 percent of local government revenues. The State GRT tax rate, plus various local option taxes, are imposed on sellers' gross receipts received from engaging in business in the state. As of July 1st, 2022, the statewide GRT rate was lowered from 5.125% to 5%. Another reduction of the state rate from 5% to 4.875% is scheduled to take effect on July 1, 2023.

"Gross receipts" is the total amount of money or other consideration generated "from selling property in New Mexico, from leasing or licensing property employed in New Mexico, from granting a right to use a franchise employed in New Mexico, from selling services performed outside of New Mexico, the product of which is initially used in New Mexico, or from performing services in New Mexico"[5]. As of July 1, 2019, a person or company is "engaging in business" in New Mexico if it meets certain physical presence requirements, or had at least $100,000 in taxable gross receipts sourced to New Mexico in the prior calendar year.

The GRT is ideally a broad-based tax imposed on businesses for the sale of tangible property and services; note that New Mexico is one of only a few states that taxes all services. The GRT base is reduced by many exemptions and deductions. These provisions are intended to achieve a variety of public policy purposes, as discussed further in this report. Some are necessary to prevent multiple taxation of transactions, either within the GRT or between the GRT and other tax programs, and the associated economic distortion that would cause. Examples of multiple taxation within the GRT, usually called "pyramiding", are the gross receipts taxation of certain business inputs, which are subject to tax when purchased as an input, and then again when the final product in which such inputs are included is sold. A special deduction for receipts from goods or services sold for resale is designed to avoid such double taxation. Examples of multiple taxation between tax programs that is prevented through various exemptions and deductions include personal income taxation of wages, dividends, and interest (which is exempted from the gross receipts tax) and transactions taxed under separate excise taxes (which are exempted from the gross receipts tax). As noted below under excise taxes, certain excise taxes such as liquor and cigarette tax are paid in addition to gross receipts tax.

A number of deductions and exemptions are not treated as tax expenditures in this report, but instead are considered to be defining the tax base. Examples of defining the tax base include "anti-pyramiding" provisions like the deduction for the sale of property for resale. In that case, the tax base is being defined as receipts from retail, or final, sales, rather than wholesale sales. The GRT has been characterized as imposing a heavier-than-normal tax on business inputs.[6] Deductions,

[5] Section 7-9-3.5(A)(1) NMSA 1978.
[6] For example, see Council on State Taxation, "*The Best and Worst of State Sales Tax Systems.*"

like the deduction for the sale of goods for re-sale, reduce this burden and ensure that the tax policy principles of Horizontal Equity and Efficiency are met.

GRT tax expenditures in this report are calculated using a weighted average gross receipts tax rate. The average GRT rate in fiscal year 2021 of 6.94%, and 7.23% in fiscal year 2022, was calculated using the gross tax amount divided by the amount of matched taxable gross receipts. Data is drawn from the Taxation and Revenue Department's RP-500 report. Expenditures that have a local government impact are estimated based on the fiscal year average of the split between local government and state revenues.

Average Statewide GRT Rate	
FY16	7.08%
FY17	7.10%
FY18	7.10%
FY19	7.00%
FY20	6.84%
FY21	6.94%
FY22	7.23%

The RP-500 is a monthly report published on the Department's website that details the distributions made to each municipality, county, and certain other political subdivisions for the month in which the business activity took place. The RP-500 report breaks down the distributions into either the current activity month or all other months; changes to prior months can result from late tax reporting or amended tax returns. As an example, if Taxpayer A amends returns for six months in the reporting month of September, the amended return will affect the distribution made in October and would be reported under "Other Months" in the RP-500 report. The RP-500 is not updated with the effects of taxpayer amendments on older returns. Instead, they are aggregated into the "Other Months" category.

The RP-500 also contains summarized information from returns by major industry group[7]. Although a valuable resource on industry contributions to the tax base, users of this information should be aware that it provides only an approximate measure of the types of economic activity in the tax base. For example, a taxpayer may report that they are primarily a Retail enterprise, but they may carry on a variety of commercial activities such as Real Estate management, Wholesale Trade, Transportation and Warehousing, etc. Receipts from their various activities that are sourced to the same business location will generally be combined and reported under their primary industry code.

As discussed further below, the GRT base, referred to as "taxable gross receipts" or "TGR", is determined by subtracting from gross receipts any receipts that are eligible to be exempted or deducted. Receipts may not be both exempted and deducted (see Section 7-9-45 NMSA 1978). Exemptions are not reported to the Department. As a rule, taxpayers do not separately state the amount of receipts that are deductible pursuant to each provision of the tax code. Rather, most deductions are lumped together. As an example of two principles of tax policy at odds, by allowing

[7] Taxpayers self-identify their industry by the appropriate North American Industrial Classification System or "NAICS" Code.

deductions to be reported together, we reduce transparency and accountability, but increase simplicity for taxpayers.

There are now 28 “special deduction codes” identified in the GRT return instructions statutorily required to be separately reported. Taxpayers are informed that they must use the special code to claim the relevant deduction. Where not in violation of confidentiality requirements, the data from amounts reported under these codes are presented in this report to estimate fiscal impacts of the associated deductions. However, this information may not measure the total amount being deducted pursuant to the section of law because taxpayers would not be penalized if they elect to aggregate these two deducted amounts pursuant to the section with those deducted pursuant to other provisions of law. Tax & Rev takes steps to ensure accurate reporting of separately stated deductions, but, due to the lack of a penalty for misreporting, cannot be certain that the amounts shown reflect the total amount deducted pursuant to this statute.

COMPENSATING TAX

The compensating tax provides about 0.8 percent of State General Fund revenues. The compensating tax is imposed on the use of tangible property and the product of certain services in New Mexico. As of July 1st, 2022, the statewide compensating tax rate was lowered from 5.125% to 5%. Another reduction from 5% to 4.875% is scheduled to take effect on July 1, 2023. This tax is New Mexico’s version of a “use” tax, which is the mechanism states use to ensure that purchases from outside of the state do not compete unfairly with purchases from in-state. Unlike the GRT, the legal incidence of the compensating tax is on the purchaser. Typically, the compensating tax is imposed on New Mexico businesses when they purchase from out-of-state vendors. Because of the expansive nature of the GRT, many of the deductions from the compensating tax base can be thought of as simply defining the tax base.

Legislation enacted in 2019 provided for a local option tax rate equivalent to the respective local option GRT rate, effective July 1, 2021. Formerly, while individuals were liable for payment of compensating tax, the Department was prohibited from enforcing collection of the tax against them. That prohibition has now been removed. Nevertheless, the compensating tax is difficult to enforce against non-compliant individual taxpayers.

With New Mexico beginning to apply its gross receipts tax to internet sellers and other sellers without physical presence in the state as of July 1, 2019, more receipts are subject to the gross receipts tax, and therefore fewer are subject to the compensating tax.

EXCISE TAXES

Excise taxes provide about 7.7 percent of State General Fund revenues. An excise tax is defined as a special tax on specific goods or activities, unlike a broad consumption tax such as the GRT. New Mexico has many excise taxes. Some of these taxes are in lieu of the GRT, such as the gasoline tax. Others such as the cigarette tax are in addition to the GRT. As is the case with the GRT and the compensating tax, New Mexico’s excise taxes contain several provisions that define the tax base by preventing some double taxation or tax pyramiding. Examples include the exemption for sales of cigarettes on tribal lands to tribal members, which is designed to avoid the taxation of the same transaction by competing tax authorities. Other provisions are treated as tax expenditures in this report, including the sale of cigarettes by tribal vendors to non-tribal members. Even though these transactions may be subject to tribal taxes, the rates of tax may be substantially lower than the State's tax rate, effectively creating a tax expenditure.

CANNABIS EXCISE TAX

The Cannabis Excise Tax came into effect on April 1, 2021 for adult use sales as the result of House Bill 2 of the 2021 Special Legislative Session, which legalized adult use cannabis. The excise tax is imposed on the retailer for the taxable value of adult use cannabis products addition to the gross receipts tax. Receipts from medical cannabis sales are not subject to the cannabis excise tax and may be deducted from gross receipts tax under a prescription drug deduction. Two-thirds of the revenue from the tax is distributed to the General Fund, and one-third of the revenue is distributed to local governments. Over time, the excise tax rate will rise to a maximum rate of 18%, as demonstrated in the table below:

Fiscal Year	Excise Tax Rate
FY22-FY25	12%
FY26	13%
FY27	14%
FY28	15%
FY29	16%
FY30	17%
FY31	18%

NATURAL RESOURCE EXTRACTION TAXES

Natural resource extraction taxes provide about 7 percent of State General Fund revenues. New Mexico imposes a variety of taxes on the privilege of severing natural resources and the associated production activities related to those natural resources. The tax base is generally defined as the value of the products at the extraction site. The final taxable values are adjusted by several deductions. In addition, some taxes apply different tax rates based on the natural resource, which this report defines as "rate differentials". The largest of the deductions associated with these taxes reduces taxable value for royalties paid to federal, Indian, and state owners of the minerals. Because the State is preempted by federal law from imposing tax on these entities — or because it wouldn't make sense for the State to tax itself — these are not treated as tax expenditures. Other provisions, aimed at stimulating particular types of production, continue to be treated as tax expenditures. Rate differentials previously absent from the report have been incorporated in this year's edition.

Other tax expenditures for oil and natural gas listed in this report incentivize continued production when prices drop below specific thresholds. Because prices have generally exceeded the threshold values that would trigger incentives, those expenditures remain at zero in this report, as they have been for over 10 years.

PROPERTY TAX

Property tax does not provide any revenue to the State's general fund, but is an important source of revenue for operations and capital expenditures for the State, local governments, school districts, and other political subdivisions. Tax Code features several limitations and exclusions that reduce the tax burden on various groups of property owners for various reasons. Some of these are broad-based and are not treated as tax expenditures in this report. Examples include the exclusion from tax of personal property and the 3% limit on annual value growth for residential property. Many property tax deductions and limitations are provided for in the state Constitution and therefore are also not included as tax expenditures. Other property tax provisions that target specific populations are included. Because most property taxes are assessed and collected at the county level, Tax & Rev does not detail the fiscal impact of property tax expenditures by specific revenue recipients but provides a high level fiscal impact.

PERSONAL INCOME TAX BY INCOME BRACKET TABLE – TAX YEAR 2021 DATA

Income Bracket	Number of Returns	Percent of Returns	New Mexico Taxable Income	Percent of NM Taxable Income	Estimated Tax on Taxable Income	Percent of Estimated Tax
All Tax Filers						
No Taxable Income	352,134	32.58%	$0	0.00%	$14,245	0.00%
Under $25,000	257,711	23.84%	$2,902,565,841	2.09%	$77,693,771	4.45%
$25,000-$50,000	165,654	15.32%	$6,043,931,244	4.35%	$219,622,061	12.57%
$50,000-$75,000	100,637	9.31%	$6,189,762,702	4.46%	$235,907,446	13.50%
$75,000-$100,000	62,202	5.75%	$5,378,917,684	3.87%	$205,795,840	11.77%
$100,000-$200,000	89,068	8.24%	$12,163,528,581	8.76%	$446,250,149	25.53%
Over $200,001	53,583	4.96%	$106,219,433,211	76.47%	$562,598,834	32.19%
Total	**1,080,989**	**100.00%**	**$138,898,139,263**	**100.00%**	**$1,747,882,346**	**100.00%**
Single Filers						
No Taxable Income	204,778	37.21%	$0	0.00%	$3,046	0.00%
Under $25,000	166,235	30.20%	$1,846,039,686	6.91%	$52,274,702	10.04%
$25,000-$50,000	90,845	16.51%	$3,266,115,358	12.22%	$123,290,594	23.67%
$50,000-$75,000	41,774	7.59%	$2,544,200,758	9.52%	$99,795,419	19.16%
$75,000-$100,000	19,183	3.49%	$1,648,810,630	6.17%	$63,667,127	12.22%
$100,000-$200,000	19,243	3.50%	$2,555,578,491	9.56%	$91,627,860	17.59%
Over $200,001	8,300	1.51%	$14,869,829,027	55.63%	$90,159,997	17.31%
Total	**550,358**	**100.00%**	**$26,730,573,950**	**100.00%**	**$520,818,745**	**100.00%**
Head of Household Filers						
No Taxable Income	71,728	44.44%	$0	0.00%	$807	0.00%
Under $25,000	49,294	30.54%	$521,370,404	11.26%	$12,454,308	11.54%
$25,000-$50,000	21,894	13.57%	$790,044,635	17.06%	$28,102,177	26.04%
$50,000-$75,000	9,841	6.10%	$595,793,176	12.86%	$22,936,392	21.25%
$75,000-$100,000	4,046	2.51%	$345,606,571	7.46%	$13,504,473	12.51%
$100,000-$200,000	3,367	2.09%	$441,487,459	9.53%	$16,794,839	15.56%
Over $200,001	1,217	0.75%	$1,937,532,569	41.83%	$14,118,329	13.08%
Total	**161,387**	**100.00%**	**$4,631,834,814**	**100.00%**	**$107,911,325**	**100.00%**
Married Filing Joint & Surviving Spouse Filers						
No Taxable Income	72,677	20.45%	$0	0.00%	$9,877	0.00%
Under $25,000	38,615	10.87%	$486,885,442	0.48%	$11,380,955	1.04%
$25,000-$50,000	49,620	13.96%	$1,867,298,789	1.83%	$63,463,936	5.79%
$50,000-$75,000	47,381	13.33%	$2,949,758,744	2.88%	$109,260,671	9.97%
$75,000-$100,000	38,107	10.72%	$3,309,799,577	3.24%	$125,762,569	11.47%
$100,000-$200,000	65,557	18.45%	$9,046,023,373	8.84%	$333,790,898	30.45%
Over $200,001	43,376	12.21%	$84,616,433,499	82.73%	$452,565,020	41.28%
Total	**355,333**	**100.00%**	**$102,276,199,424**	**100.00%**	**$1,096,233,926**	**100.00%**
Married Separate Filers						
No Taxable Income	2,951	21.21%	$0	0.00%	$515	0.00%
Under $25,000	3,567	25.64%	$48,270,309	0.92%	$1,583,806	6.91%
$25,000-$50,000	3,295	23.69%	$120,472,462	2.29%	$4,765,354	20.79%
$50,000-$75,000	1,641	11.80%	$100,010,024	1.90%	$3,914,964	17.08%
$75,000-$100,000	866	6.23%	$74,700,906	1.42%	$2,861,671	12.49%
$100,000-$200,000	901	6.48%	$120,439,258	2.29%	$4,036,552	17.61%
Over $200,001	690	4.96%	$4,795,638,116	91.18%	$5,755,488	25.11%
Total	**13,911**	**100.00%**	**$5,259,531,075**	**100.00%**	**$22,918,350**	**100.00%**

CORPORATE INCOME TAX BY INCOME BRACKET TABLE – TAX YEAR 2020 DATA

Note: Only businesses that reported a valid NAICS codes are included in the chart below.

2-Digit NAICS Code	2020 Industries	Zero or Less Taxable Income		Taxable Income Less Than $500K		Taxable Income Between $500K & $1,000K		Taxable Income over $1,000K	
		Taxpayers	Tax Paid	Taxpayers	Tax Paid	Taxpayers	Tax Paid	Taxpayers	Tax Paid
11	Agriculture, Fishery and Hunting	2,406	$0	131	$331,500	4	$131,052	9	$1,997,748
21	Oil and Gas and Other Mining	4,145	$0	111	$208,534	<3	-	7	$2,973,888
22	Utilities	259	$0	15	$18,750	0	$0	3	$92,517
23	Construction	5,665	$0	270	$577,892	10	$331,882	17	$2,658,122
31-33	Manufacturing	2,143	$0	266	$885,685	10	$301,953	25	$5,446,407
41-42	Wholesale Trade	1,684	$0	314	$667,927	8	$299,099	11	$1,219,253
44-45	Retail Trade	3,764	$0	246	$654,931	18	$572,881	21	$8,173,873
48-49	Transportation & Warehousing	1,622	$0	118	$220,564	5	$191,278	7	$16,955,056
51	Information	1,044	$0	98	$193,921	3	$98,088	5	$4,052,611
52	Finance & Insurance	7,960	$0	445	$829,881	17	$784,039	57	$25,021,672
53	Real Estate& Rental & Leasing	15,359	$0	400	$790,515	5	$178,864	8	$2,021,680
54	Professional, Scientific & Technical	7,905	$0	493	$795,268	8	$297,583	13	$1,548,615
55	Management of Companies & Enterprises	1,453	$0	155	$583,800	9	$298,147	34	$13,933,408
56	Admin & Support & Waste Mgt Remediation	1,883	$0	128	$301,167	5	$166,769	<3	-
61	Educational Services	353	$0	28	$48,844	0	$0	0	$0
62	Health Care & Social Assistance	3,513	$0	86	$202,786	4	$183,351	5	$1,319,471
71	Arts, Entertainment, & Recreation	1,231	$0	31	$51,750	0	$0	0	$0
72	Accommodation & Food Service	2,467	$0	56	$94,451	3	$111,589	<3	-
81	Other Services except Public Administration	2,503	$0	152	$197,149	0	$0	0	$0

TABLE NOTE: "-" MEANS DATA IS REDACTED DUE TO FEWER THAN 3 TAXPAYERS

DETERMINING TAX EXPENDITURES

The federal government defines tax expenditures as "those revenue losses attributable to provisions of the federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability…."[8] To apply this concept to New Mexico, this report defines tax expenditures as "deviations from a baseline tax system created by specific tax law provisions." Tax expenditures may reflect an overarching statewide policy, such as promoting the general welfare of all citizens, or may reflect a specific purpose, such as incentivizing certain consumption, economic development, or job creation. The term "tax expenditure" reflects the perspective that foregoing revenue that would normally accrue may be thought of as spending through the tax code.

With that definition in mind, not every credit, exemption, deduction, or rate differential constitutes a tax expenditure. Certain credits, exemptions, and deductions are not considered tax expenditures because they are included in the tax code due to constitutional prohibition, federal pre-emption, comity between governments, avoiding double-taxation, or defining a tax base. Therefore, they do not represent policy choices by the state Legislature but simply mandates of law.

The questions are: do different tax structures constitute "tax expenditures"? If so, what is the baseline from which they are deviating?

If a tax structure taxes different activities or products differently without establishing a base tax rate, these rate differentials are not treated as tax expenditures. If, however, a tax structure has a base tax rate and there are instances in which an activity or product is taxed at a different rate, these tax rate differences are treated as tax expenditures.

Reasonable minds with a shared understanding of these definitions may disagree on specific tax expenditure determinations. This report appeals to generally accepted standards for most deviations and includes a discussion of the rationale for each determination, so readers may form their own judgement. Similarly, the report conforms to generally accepted standards for examples of deviations that are not tax expenditures in that section.

Finally, the report includes a list of provisions on which consensus is lacking. This section ensures transparency and consistency in reporting. The report includes the statutory basis, intended purpose, evaluation, any recommendations, and the actual or estimated fiscal impact for each tax expenditure.

The report also includes a reliability factor and a brief history of each statute to describe how the statute has evolved. The description of each expenditure shows which of the five categories of purposes (citizen benefit, economic development, etc.) to which the expenditure belongs. Many statutes have been amended several times so the year of amendment and substance of the change is noted.

In total, there are 147 tax expenditures, 113 provisions that are not tax expenditures, and 25 activities in which consensus is lacking.

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[8] 2 USC § 622

TYPES OF TAX EXPENDITURES

EXEMPTIONS AND DEDUCTIONS

In terms of the practical effect on tax liability, there is little difference between an exemption and a deduction. Both are applied to reduce a taxpayer's taxable income or receipts, thereby reducing tax liability. However, there are administrative differences between the two. An exemption frees a taxpayer from a duty, liability, or requirement to report income, receipts, or other activity. Exemptions come in several forms:

- broad exemptions for certain types of taxpayers from a tax program;
- exemptions for certain types of transactions; and
- exemptions for certain amounts of income, revenue, or gross receipts.

In most instances, exemptions free taxpayers of a reporting obligation with respect to the exempt entity, transactions, or amounts. Unless specifically required by statute or instruction, exemptions are not reported. Therefore, assessing the impact and effectiveness of an exemption can be more difficult than it is for most deductions. However, if an exemption exists to avoid double-taxation under another tax, then reporting still occurs under the other tax.

Like exemptions, deductions can apply to certain types of entities, to transactions, or to amounts of income, revenue, or gross receipts. Unlike exemptions, deductions do not typically free taxpayers of reporting obligations. Rather, taxpayers entitled to deductions typically must file returns under the particular tax program to which the deduction pertains, identify the amount of the income or receipts before the deduction, and then reduce this amount by the amount of the deduction. In addition, many deductions under the GRT program require the taxpayer to obtain non-taxable transaction certificates or alternative evidence to establish entitlement to the deduction.

As noted above, many deductions and exemptions in New Mexico statutes are not tax expenditures.

Tax exemptions and deductions typically cannot reduce a taxpayer's tax liability below zero.

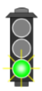
CREDITS

A tax credit allows taxpayers that meet the qualifications for obtaining a credit to subtract the amount of the credit from the total tax liability they owe the State; in this respect, credits differ from deductions and exemptions, which are applied to taxable income or receipts. Tax credits can be granted in recognition of taxes already paid or to encourage behaviors like investment or parenting. Most tax credits are reported on returns and are typically separately reported.

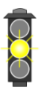
Unlike exemptions and deductions, tax credits can sometimes be used to reduce a taxpayer's tax liability below zero. These credits are referred to as "refundable" tax credits. Other tax credits can be carried forward to reduce tax liability in a subsequent reporting period. Some credits may be sold to other taxpayers; these are referred to as "transferable" tax credits.

NOTES ABOUT THE DATA

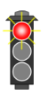
This report qualifies estimated expenditure amounts with Reliability Factors to help the reader understand the methodology for determining the fiscal impact of the tax expenditure. The fiscal impact of an expenditure needs to be considered in the context of that expenditure's reliability factor. The Reliability Factor is a scale of 1-4 as follows:



1: The most reliable information comes directly from taxpayer-reported data, as contained in GenTax, Tax & Rev's tax system of record. It requires no additional estimation or manipulation with one exception; instances where the GRT actual average rate is used to estimate the forgone tax instead of using the known rates in the different jurisdictions in the state.



2: Estimated from taxpayer-reported data as summarized in GenTax reports (e.g. RP-80, RP-500). For example, if a GRT tax expenditure is industry-specific, an estimate can be prepared using data on the industry based on North American Industry Classification System ("NAICS") codes.



3: Estimated using national data and extrapolating to New Mexico.

4: The least reliable data. Estimates represent the Tax & Rev's best estimate about the value of a tax expenditure. Due to limited data for analysis, these estimates are frequently rounded up to the nearest hundred-thousand or million dollars.

In addition, a limited number of expenditures have unknown reliability, because there is no data available to make even an estimate of the amount. The table below shows the number of expenditures for each Reliability Factor.

Reliability Factor	Description	Number of Expenditures
1	Most reliable. No estimation	80
2	Estimated from GenTax data	20
3	Estimated from national data	18
4	Least reliable. Estimated from limited data	9
Unknown	No data available	20

Taxpayers may amend their tax returns for up to three years, plus the current year. Amended returns often impact expenditure amounts. Therefore, when comparing this year's Report to prior versions, the reader should expect to see some changes to prior years. For example, the amount of a particular expenditure for may be different in this Report than it was in a previous report. Amended returns comprise a significant, but not the sole, reason for these variations. Other sources of the variation include late filings by taxpayers or improvements to Tax & Rev methodologies for quantifying certain expenditures.

New Mexico, like many states, defines a year differently for different tax structures. For instance, the GRT tax year corresponds to the State's fiscal year (July 1-June 30), while income taxes use a calendar year (January 1-December 31). This presents a challenge for organizing and reporting the data. We present the income tax programs by calendar year with the understanding the money accompanying those returns goes to the General Fund during the following fiscal year. In addition, many corporations delay their filings using the no-restriction extension to September of any given year. Beginning with this 2021 Report, a portion of the PIT expenditures will be presented by both calendar year and fiscal year. As tax expenditures are a reduction to revenue and the state budgets on a fiscal year basis, this report is expanding where possible the reflection of data by fiscal year. Not all expenditures at the moment can be cleanly reported on a fiscal year basis, thus tax data reporting is an on-going process of refining. PIT data for tax year 2020 and CIT data from tax year 2019 are the most complete datasets available at the time of publication of this Report.

This report reflects current law at the time of publication. If a statute has been repealed but due to carry-forwards or amendments to returns expenditures continue to have fiscal impacts, they will continue to be reported. Repealed statutes that are listed as not a tax expenditure or arguable will be noted as repealed if that action occurred since the last publication of this report. Otherwise if repealed prior to the publication of last year's tax expenditure report, they will no longer be listed.

Finally, we are limited both by federal and state law from disclosing data that might reveal a taxpayer's identity, except where noted in statute, notably 7-1-8.3 NMSA 1978, *Information that may be revealed to public*. Therefore, for most expenditures, when there are fewer than three taxpayers reporting a deduction, exemption, or credit against a particular tax, Tax & Rev combined the data for all of the tax programs affected by those deductions, exemptions, and credits to preserve confidentiality. When combining the data is not enough, we redact it. The reader will find several blank entries in tables where the data are redacted.

CATEGORIZING EXPENDITURES

This report divides tax expenditures into the following five major categories according to their purpose: citizen benefits; economic development; environment, conservation, and renewable energy; health care; and specialized industry incentives.

As with the determination of whether a particular deduction, credit, or exemption constitutes a tax expenditure, there can be legitimate differences of opinion as to whether a particular expenditure belongs in one category or another. Certain expenditures may cross multiple categories. For example, an expenditure listed in the highly specialized industry category might also serve economic development purposes. However, to avoid double-counting, each expenditure is included in only one category.

The outline below sets forth types of expenditures included in each category. The full list can be found in Appendix B.

1. **Citizen Benefits**
   a. Expenditures that are available to, or that benefit, all individual taxpayers who engage in certain activities, such as the expenditures related to food, medical services, and education.
   b. Expenditures designed to alleviate burdens for a specific subset of the population, such as veterans, active military, low-income, or the elderly.
   c. Expenditures that lessen the demand for government services, such as certain nonprofit expenditures.

2. **Economic Development**
   a. Expenditures designed to stimulate investment in New Mexico, such as the angel investment PIT credit.
   b. Job creation expenditures, such as the high-wage and rural job tax credits.
   c. Expenditures designed to retain and attract industries, such as the film production tax credit.

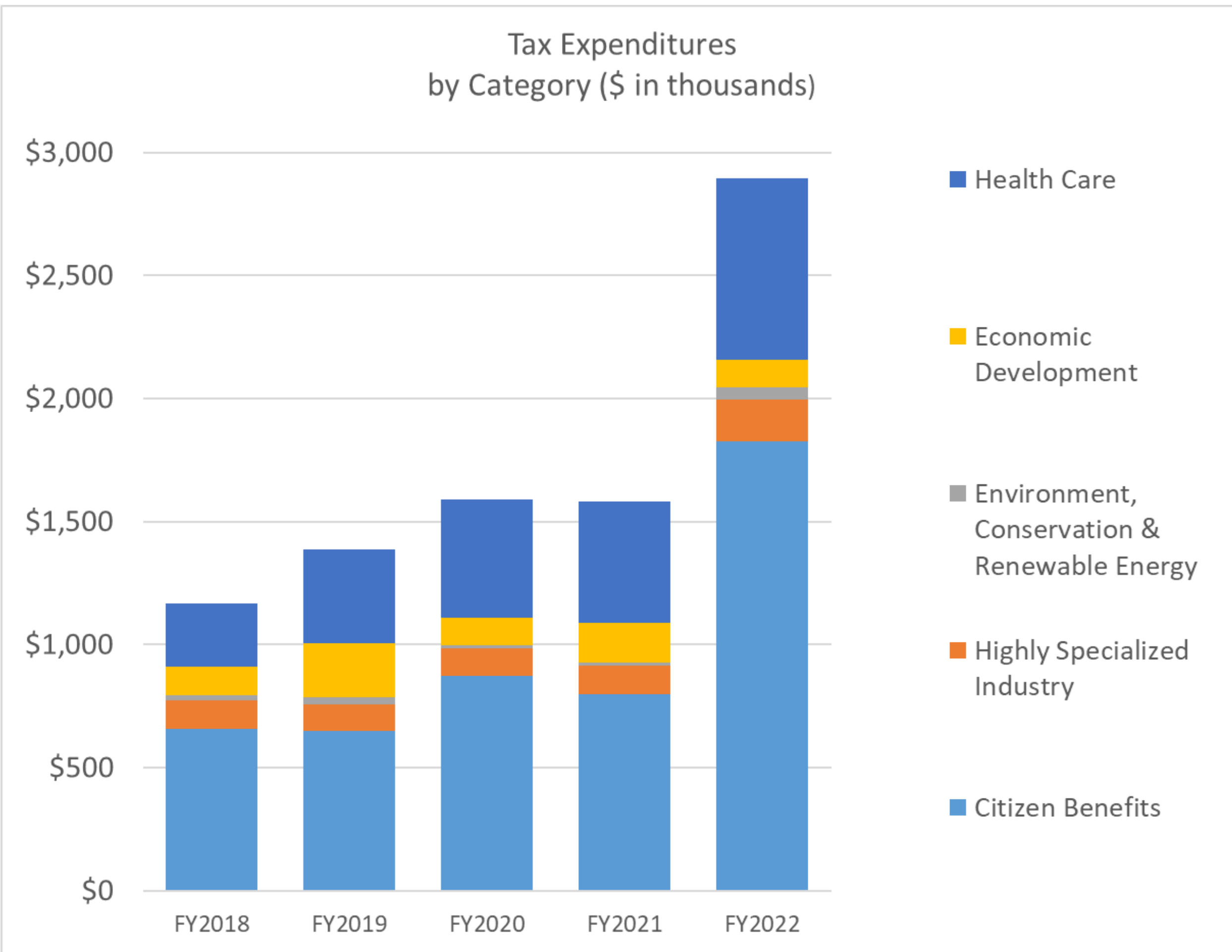
3. **Environment, Conservation, and Renewable energy**
   a. Expenditures designed for environmental health, to promote conservation, and to promote renewable energy technologies and usage, such as the advanced energy credit (renewables and carbon sequestration), biofuels incentives, renewable energy production tax credit, and PIT/CIT credit for land conservation contributions.

4. **Health Care**
   a. Expenditures designed to increase accessibility to and lower the costs of health care. Examples include the health care practitioners GRT deduction, hospital construction deduction, and rural health care practitioners PIT credit.

5. **Highly Specialized Industries**
   a. Expenditures available to specific or highly specialized industries, such as agriculture, uranium, and aerospace.

The chart below reflects the non-redacted data available for all tax expenditures for Fiscal Year 2022 and historical years, except for property tax expenditures. (Property Tax data has a lag in the annual data.) This chart presents the magnitude of expenditures within the defined categories and in comparison between categories. Caution is advised to look at expenditures in aggregate given: the number of expenditures with no estimated cost; overlap of some expenditures where data is limited and there is a lower level of reliability; and interactions between expenditures.

FISCAL YEAR 2022 AND HISTORICAL EXPENDITURES BY CATEGORY (IN $ THOUSANDS, UNREDACTED DATA ONLY, DOES NOT INCLUDES PROPERTY TAX EXPENDITURES)



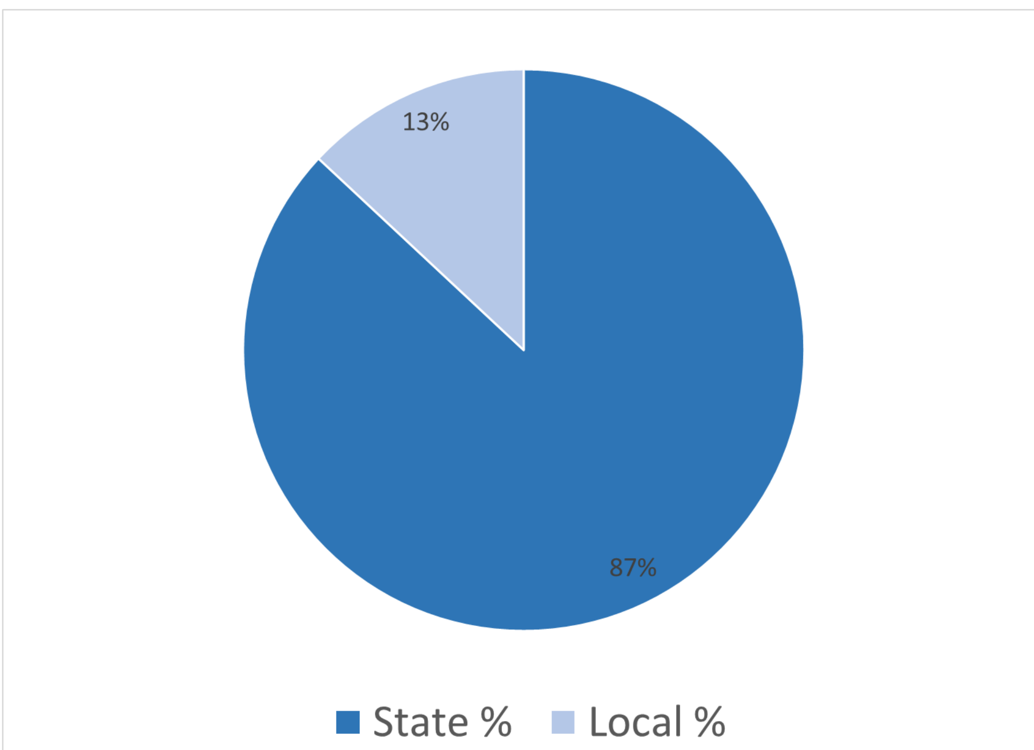
STATE AND LOCAL TAX EXPENDITURE INCIDENCE

New Mexico's tax expenditures forego a mix of state and local revenue. The only expenditures that generally have a local government revenue impact reside with Gross Receipts Taxes and Property Tax; with the exception of the low-income property tax rebate that is reimbursed by counties, tax expenditures in PIT and CIT affect only State revenue. For example, foregone state and local GRT from Sale of Software Development Services GRT Deduction is as follows.

	Fiscal Year	2018	2019	2020	2021	2022
Sale of Software Development Services GRT Deduction	**State General Fund Expenditure (thousands)**	$4,002	$3,843	$5,095	$5,594	$3,421
	Local Government Expenditure (thousands)	$2,568	$2,237	$2,625	$3,086	$2,279

For fiscal year 2022, 87% of all estimated tax expenditures represented to state revenues foregone, while 13% represented foregone local government revenue. Property tax expenditures are not included in this estimate. This is due to the lag in the data and also the inability to delineate cleanly the expenditure incidence by each government entity.

FISCAL YEAR 2021 EXPENDITURES BY STATE AND LOCAL TAX INCIDENCE (NOT INCLUDING PROPERTY TAX EXPENDITURES)



ADVANCED ENERGY
GRT AND COMPENSATING TAX DEDUCTION

Category: Environment, Conservation & Renewable Energy

Brief Description: Receipts from selling or leasing tangible personal property or services, such as design, construction, equipment, and equipment installation to a person that holds an interest in a qualified generating facility are deductible if the interest holder in the facility delivers a non-taxable transaction certificate to the seller. A qualified generating facility is one that begins construction before December 31, 2015 and is:

(1) solar thermal electric,

(2) solar photovoltaic electric,

(3) geothermal electric,

(4) a recycled energy project, or

(5) new or repowered coal-based electric.

Similarly, the value of eligible generation plant costs from the sale or lease of tangible personal property to a person who holds an interest in a qualified generating facility may be deducted in computing the compensating tax.

The aggregate amount of all advanced energy tax deductions that may be claimed with respect to a qualified generating facility shall not exceed $60,000,000. The NMENV certifies the qualified generating facility.

Statutory Basis: 7-9-114 NMSA 1978

Intended Purpose: To encourage the construction and development of qualified generating facilities in New Mexico and to control carbon dioxide emissions.

History: Originally enacted in 2010 to allow a deduction for the sale of tangible personal property or services that are eligible generation plant costs.

The 2011 amendment, allows the deduction of receipts from the leasing of the tangible personal property.

Evaluation: None.

Recommendations: Consider repealing. This deduction works in tandem with the advanced energy credit, and neither are widely used. This deduction no longer incentives further construction of facilities with the requirement of construction occurring no later than December 31, 2015.

Reliability Factor: 1 - This is separately reported. No estimation is required.

Fiscal Impact: None to date.

ADVANCED ENERGY
CREDIT AGAINST GRT, COMPENSATING TAX, WITHHOLDING TAX, PIT, OR CIT

Category: Environment, Conservation & Renewable Energy

Brief Description: A taxpayer who holds an ownership interest in a qualified generating facility located in New Mexico may claim an advanced energy credit against GRT, compensating tax or withholding tax. The allowable credit is 6% of the costs of designing and constructing the qualified generating facility. If the credit amount exceeds the taxpayer's GRT, compensating tax and withholding tax liability, the excess may be claimed against the taxpayer's New Mexico PIT or CIT return. A qualified generating facility is one that begins construction before December 31, 2015 and is:

(1) solar thermal electric,

(2) solar photovoltaic electric,

(3) geothermal electric,

(4) a recycled energy project, or

(5) new or repowered coal-based electric.

The aggregate amount of all advanced energy tax credits that may be claimed with respect to a single qualified generating facility may not exceed $60,000,000.

The credit is not refundable but may be carried forward for up to 10 years.

Statutory Basis: 7-2-18.25, 7-2A-25, and 7-9G-2 NMSA 1978

Intended Purpose: To incentivize investment in energy generation facilities by mitigating all or a portion of the GRT, compensating tax liability, withholding tax, PIT, and CIT.

History: Originally enacted in 2007 as a credit against GRT, compensating tax, and withholding tax.

Amended in 2009 to allow credit amounts that exceeds the claimant's GRT, compensating tax and withholding tax liability to claim the excess credit against PIT and CIT; made the GRT, compensating tax, and withholding tax credit conform to the new credits.

Evaluation: The credit was amended in 2009 to include income tax, but it is not used. If the income tax taxpayers were not aggregated into the total, the expenditure information would be redacted.

Recommendations: This credit has not been widely used, and thus, has not realized its intended purpose. If a comprehensive energy-related tax program is being considered, then this credit should be repealed. If no comprehensive program is being developed, consider allowing the credit to expire.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

Advanced Energy Credit against GRT, Comp, Withholding, PIT or CIT	Tax Year (Calendar)	2017	2018	2019	2020	2021
	Claims	12	12	13	<3	0
	Expenditure (thousands)	$121	$127	$493	-	$0
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	12	5	3	22	3
	Expenditure (thousands)	$135	$53	$99	$497	$800

TABLE NOTE: “-“ Means data is redacted due to fewer than 3 taxpayers.

AFFORDABLE HOUSING
CREDIT AGAINST MODIFIED COMBINED TAX, PIT, OR CIT

Category: Citizen Benefits

Brief Description: A tax credit can be applied against GRT (less local option gross receipts taxes), compensating tax (less local option compensating taxes), withholding, PIT, CIT, E911, and interstate telecommunications gross receipts tax for investments in affordable housing projects equal to 50% of the amount of cash invested or the fair market value of the land, buildings, materials, or services relating to such projects. The credit cannot be applied against governmental gross receipts taxes. This tax expenditure is available to taxpayers receiving a tax credit voucher issued by the New Mexico Mortgage Finance Authority (MFA).

Under the MFA's program, the tax credit voucher is administered based on donations made to affordable housing projects approved by MFA and the Affordable Housing Charitable Trust. The maximum amount for this expenditure is calculated annually by multiplying a base rate, adjusted for inflation, and the state's population. For tax year 2022, the ceiling is approximately $5.1 million. Donations may include land, buildings, materials, cash or services. Cash equivalents such as store credit or waived invoices are considered a cash donation. Donations received by the project sponsor in exchange for tax credits may be used to fund the acquisition, substantial rehabilitation, and/or new construction of affordable housing projects throughout the state, including down payment and closing cost assistance for acquisition of affordable single-family housing. No minimum or maximum dollar limits are placed on donations made directly to the Affordable Housing Charitable Trust.

The credit is not refundable but may be carried forward for up to five years.

Statutory Basis: 7-9I-5 NMSA 1978

Intended Purpose: To incentivize the construction of affordable housing projects.

History: Originally enacted in 2005. An amendment to the Affordable Housing Tax Credit Act in 2010 expanded where eligible "affordable housing projects" can be located from counties with a population of less than 100,000 to all counties and to include materials as an allowable investment.

Evaluation: Every year since the inception of the credit, the MFA program has approved affordable housing projects eligible for contributions and applications for the credit. During the same time, claims for the credit have grown from an average of 14 in the first seven years, to 170 in the last five tax years.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

Affordable Housing Credit against modified combined tax, PIT or CIT	**Tax Year (Calendar)**	2017	2018	2019	2020	2021
	Claims	133	190	186	190	149
	Expenditure (thousands)	$465	$499	$913	$397	$392
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	130	185	183	211	165
	Expenditure (thousands)	$402	$468	$986	$274	$577

AGRICULTURAL BIOMASS CREDIT AGAINST PIT AND CIT

Category: Environment, Conservation & Renewable Energy

Brief Description: A dairy or feedlot owner is eligible for a credit of $5 for each wet ton of agricultural biomass that is transported from the owner's dairy or feedlot to a facility that uses agricultural biomass to generate electricity or make fuels for commercial use. The aggregate annual combined total of all agricultural biomass PIT and CIT credits is capped at $5,000,000.

As used in this section:

(1) "agricultural biomass" means wet manure meeting specifications established by EMNRD from either a dairy or feedlot commercial operation;

(2) "biocrude" means a non-fossil form of energy that can be transported and refined using existing petroleum refining facilities and that is made from biologically derived feedstocks and other agricultural biomass;

(3) "feedlot" means an operation that fattens livestock for market; and

(4) "dairy" means a facility that raises livestock for milk production.

The credit is not refundable but may be carried forward for up to four years and transferred to another taxpayer. The credit is applicable for taxable years after January 1, 2011 and ending prior to January 1, 2030.

Statutory Basis: 7-2-18.26 and 7-2A-26 NMSA 1978

Intended Purpose: To incentivize the sale and use of agricultural biomass as a fuel.

History: Originally enacted in 2010 with an amendment in 2020 extending the sunset date to January 1, 2030.

Evaluation: In the past, EMNRD had received applications for this tax credit and issued approved certificates. Due to credit transferability, Tax & Rev received numerous inquiries regarding this credit from both in-state and out-of-state tax credit brokers. The certificates issued have all been transferred. High levels of transfers may indicate that the incentive is not properly scoped to the taxpayers most directly involved in the desirable behavior. In recent years there have been no credit claims.

Recommendations: Continue to monitor and evaluate credit utilization to determine whether the incentive is effective in stimulating the desired outcome. Monitor transfers to determine if the credit has the proper scope. If a comprehensive energy-related tax program is proposed, then repeal of this credit should be considered. Amending the statute to clarify procedures and deadlines, and specifically to prescribe the tax year in which the credit should be claimed, might also be considered. Tax & Rev has addressed this issue through Bulletin B-300.16, which indicates that the credit must be claimed for the tax year stated in the EMNRD certificate of eligibility. EMNRD has also partially addressed this issue through its regulations. Tying the delivery of the biomass to a tax year prevents unintended credit "stacking" and ensures smooth annual administration and awarding of the credit.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

Agricultural Biomass Credit against PIT or CIT	**Tax Year (Calendar)**	2017	2018	2019	2020	2021
	Claims	3	0	0	0	0
	Expenditure (thousands)	$284	$0	$0	$0	$0
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	0	3	3	0	0
	Expenditure (thousands)	$0	$284	$135	$0	$0

AIRCRAFT SALES OR SERVICES
GRT DEDUCTION

Category: Economic Development

Brief Description: Receipts from selling, maintaining, refurbishing, remodeling or otherwise modifying a commercial or military carrier over ten thousand pounds gross landing weight are deductible from gross receipts.

Statutory Basis: 7-9-62.1 NMSA 1978

Intended Purpose: To incentivize a more robust commercial and military aircraft industry in New Mexico.

History: Originally enacted in 2000 and amended in 2005. Amended in 2014 to expand the deduction by adding the sale of an aircraft over 10,000 pounds to the activities that are deductible. A separate reporting requirement was added.

Evaluation: Historically, fewer than three taxpayers claimed this deduction. This deduction likely benefits a very narrow section of the economy and has little impact on state revenues.

Recommendations: None.

Reliability Factor: 2 – This deduction is separately reported. Despite being a separately reported deduction, the reliability factor for this deduction is a 2 to reflect that some taxpayers may be claiming this deduction in error. Tax & Rev will be further analyzing this data and taxpayer reporting of GRT deductions.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
	Taxpayers	<3	<3	<3	0	56
Aircraft Sales or Services GRT Deduction	**State General Fund Expenditure (thousands)**	-	-	-	$0	$2,886
	Local Government Expenditure (thousands)	-	-	-	$0	$1,845

TABLE NOTE: "-" Means data is redacted due to fewer than 3 taxpayers.

ALTERNATIVE ENERGY PRODUCT MANUFACTURERS CREDIT AGAINST MODIFIED COMBINED TAX

Category: Economic Development

Brief Description: Manufacturers of certain alternative energy products who hire at least one new employee for every $500,000 in qualified expenditures (up to $30 million) and for every $1,000,000 in qualified expenditures (over $30 million) may receive a tax credit not to exceed 5% of qualified expenditures for purchase of manufacturing equipment used in the manufacturing operation. The tax credit can be applied against the state portion of GRT, compensating tax, withholding tax, interstate telecommunications gross receipts tax, E911 surcharge and telecommunications relay service surcharge

The credit is not refundable but may be carried forward for up to five years.

Statutory Basis: 7-9J-1 *et seq.* NMSA 1978

Intended Purpose: Presumably to encourage hiring and investment in the alternative energy production sector.

History: Originally enacted in 2007 and amended in 2011.

The 2011 amendment included products of single cell photosynthetic organisms as eligible alternative energy products for taxable years 2011 through 2019.

Evaluation: This credit is underused. According to the Solar Energy Industries Association's website, there are currently around 90 solar companies at work throughout the value chain in New Mexico. These companies provide a wide variety of solar products and services ranging from solar system installations to the manufacturing of components used in photovoltaic panels. Tax & Rev believes the employment eligibility investment threshold requirements may be too high for this credit to be useful to small manufacturers. Additionally, manufacturers that qualify for this credit may also qualify for the investment tax credit, which has a higher credit rate, better carryforward period, and credit refund provisions.

Recommendations: There is potential overlap with the investment tax credit (ITC). Consider:

(1) Repealing this credit and subsuming it in the ITC; or

(2) Making the ITC and this credit mutually exclusive and lower the investment and employment threshold requirements for the alternative energy product manufacturers' tax credit. Doing so would allow large manufacturers, even those that produce alternative energy products, to use the ITC. Yet, it would open this incentive to smaller alternative energy product producers. Tax & Rev will continue to monitor credit utilization,

especially with respect to the single sales factor phase-in for manufacturers, as that election may stimulate expansion or larger investment in alternative energy manufacturing in New Mexico. As there are several credits and deductions for related expenses, a comprehensive review of the relationships and interactions between these related expenditures could explain why some of them are underused.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

	Tax Year (Calendar)	2017	2018	2019	2020	2021
Alternative Energy Product Manufacturers Credit against Modified Combined Tax	**Claims**	3	5	10	17	< 3
	Expenditure (thousands)	$54	$44	$51	$130	-
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	16	5	11	12	12
	Expenditure (thousands)	$21	$90	$33	$60	$120

TABLE NOTE: “-“ Means data is redacted due to fewer than 3 taxpayers.

ANGEL INVESTMENT CREDIT AGAINST PIT

Category: Economic Development

Brief Description: A taxpayer who files a New Mexico PIT return and makes a qualified investment may claim a credit in an amount not to exceed 25% of not more than $100,000 of the qualified investment ($25,000). For the investment to qualify it must be made in a business that maintains its principal place of business in New Mexico and engages in high-technology research or manufacturing activities in New Mexico.

Prior to January 1, 2015, the cap per statute did not exceed $750,000. For credits issued during this time, unused credit may be carried forward for three consecutive years.

For tax years beginning on or after January 1, 2015 until January 1, 2025, the credit amount per investment may be $62,500 and the taxpayer may make five qualified investments per tax year. The aggregate annual cap is increased to $2,000,000. For credits issued after the legislative change, unused credit may be carried forward for five consecutive years.

Statutory Basis: 7-2-18.17 NMSA 1978

Intended Purpose: To incentivize the investment in qualified research and/or manufacturing activities in New Mexico by angel investors.

History: Originally enacted in 2007 with a delayed repeal date of January 1, 2013. The credit was amended in 2012, 2015 and 2020.

The 2012 amendment eliminated the delayed repeal and extended the date before which an investment must be made to qualify for the credit to December 31, 2025. The 2015 amendment changed the qualified investment amount, relaxed the limits on the number of investments, increased the annual cap and extended the carry forward period. The 2020 amendment moved the review and approval of the credit from EDD to Tax & Rev and clarified the statute.

Evaluation: In the past five fiscal years, on average there have been 133 claims per year accounting for $833,000 in average expenditures for this credit. Since fiscal year 2017, the expenditure on this credit has increased by 74%. This credit appears to be used as intended.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

Angel Investment Credit against PIT	**Tax Year (Calendar)**	2017	2018	2019	2020	2021
	Claims	126	145	135	147	41
	Expenditure (thousands)	$798	$907	$963	$795	$287
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	104	143	139	147	132
	Expenditure (thousands)	$618	$919	$904	$923	$799

APPORTIONMENT
ELECTION OF CIT FOR HEADQUARTERS

Category: Economic Development

Brief Description: A filing group or a taxpayer whose principal business activity is a headquarters operation may elect to have its business income apportioned to New Mexico by using a single sales factor. Headquarters operation is where the center of operations of a business meet the following:

(1) corporate staff are physically located,

(2) centralized functions are primarily performed, the function and purpose is to direct one or more centralized functions, and final authority of those functions is issued,

(3) primary functions and aspects of operations are managed,

(4) authority over regional and subregional offices is directed,

(5) national and regional headquarters if the national headquarters is subordinate only to the ownership of the business or its representatives and the regional headquarters is subordinate to the national headquarters.

Statutory Basis: 7-4-10(C) NMSA 1978

Intended Purpose: To encourage companies to locate their headquarters or center of operations for their managerial activities in New Mexico, thereby increasing employment and economic activity within the state.

History: Originally enacted in 2015, amended in 2019.

Evaluation: The special election was enacted for tax year 2015, but claiming this special election has restrictions. A taxpayer that makes a special election shall not terminate the election until the special election has been used for at least three consecutive taxable years. Taxpayers that elected a manufacturing special election beginning in tax year 2014 were not eligible to change their election until tax year 2017.

Recommendations: (1) Consider clarifying the definition of "headquarters." Tax & Rev receives numerous questions based on the language of the current definitions.

(2) Consider either a shift to market-based sourcing for all taxpayers or, at minimum, for taxpayers making this election. The shift to a single sales factor for service providers that locate headquarters here and perform a majority of the services from locations in New Mexico will not create the desired incentive because those companies will have a very high sales factor in New Mexico under the income-producing activity/cost of performance test currently prescribed by Section 7-4-18 NMSA 1978.

Reliability Factor: 1 – This election is reported.

Fiscal Impact:

	Tax Year (Calendar)	2018	2019	2020	2021
Special Election, Headquarters Apportionment Formula	**Claims**	11	9	0	0
	Expenditure (thousands)	$1,293	$869	$0	$0
	Fiscal Year	2019	2020	2021	2022
	Claims	< 3	9	6	4
	Expenditure (thousands)	-	$1,076	$653	$433

TABLE NOTE: "-" MEANS DATA IS REDACTED DUE TO FEWER THAN 3 TAXPAYERS

APPORTIONMENT
ELECTION OF CIT FOR MANUFACTURERS

Category: Economic Development

Brief Description: A filing group or a taxpayer who has eighty percent or more of their property or payroll factors in manufacturing or operating a computer processing facility may elect to have its business income apportioned to New Mexico by using a single sales factor for the taxable year. Manufacturing is defined as combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include the following:

(1) construction,

(2) farming,

(3) power generation, with the exception of prior to January 1, 2024, may include electricity generation at a facility that does not require location approval and a certificate of convenience as pursuant to the Public Utility Act,

(4) processing natural resources, including hydrocarbons,

(5) processing or preparation of meals for immediate consumption .

Statutory Basis: 7-4-10(B) NMSA 1978

Intended Purpose: As enacted in 1993, the purpose for having the double-weighted sales factor formula election for manufacturers was to encourage investment and employment in this state by manufacturers who do not anticipate substantial sales revenue within this state.

History: Originally enacted in 1993 and amended in 2001, 2002, 2009, 2013, 2015, 2019, and 2020. The 2013 amendment provided a phase-in over five years of the use of a single sales factor by taxpayers whose principal business activity is manufacturing. The 2020 amendment allows for computer operating facilities to use the sales apportionment election permitted to manufacturers.

Evaluation: The single sales factor is an incentive for multi-state firms whose majority sales are outside New Mexico. These firms gain the most from this election. For domestic New Mexico companies, the single sales factor will reduce their income tax liability to the extent they have sales outside New Mexico.

Recommendations: None.

Reliability Factor: 1 - This election is reported.

Fiscal Impact:

	Tax Year (Calendar)	2017	2018	2019	2020	2021
Special Election, Manufacturer's Apportionment Formula	**Claims**	25	13	12	0	0
	Expenditure (thousands)	$41,249	$34,531	$31,972	$0	$0
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	20	22	19	17	<3
	Expenditure (thousands)	$22,240	$14,536	$44,409	$53,386	-

TABLE NOTE: "-" MEANS DATA IS REDACTED DUE TO FEWER THAN 3 TAXPAYERS

ARMED FORCES SALARIES EXEMPTION FROM PIT

Category: Citizen Benefits

Brief Description: A salary paid by the United States government to a taxpayer for active duty service in the armed forces of the United States is exempt from PIT.

Statutory Basis: 7-2-5.11 NMSA 1978

Intended Purpose: To provide a tax benefit for our armed forces personnel.

History: Originally enacted in 2007.

Evaluation: This is a discretionary incentive recognizing our armed forces personnel.

Recommendations: None.

Reliability Factor: 1 – This exemption is separately reported. No estimation is required.

Fiscal Impact:

Armed Forces Salaries Exemption from PIT	**Tax Year (Calendar)**	2017	2018	2019	2020	2021
	Claims	12,927	13,297	14,250	14,040	14,058
	Expenditure (thousands)	$9,385	$11,248	$11,846	$12,724	$13,544
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	12,894	13,218	14,363	14,227	14,400
	Expenditure (thousands)	$9,641	$10,766	$12,293	$12,916	$13,937

BACK-TO-SCHOOL TAX-FREE WEEKEND
GRT DEDUCTION

Category: Citizen Benefits

Brief Description: Receipts from retail sales of specified tangible personal property if the sale occurs during the first full weekend (Friday through Sunday) in August are deductible from gross receipts. The property specified by this statute includes certain clothing valued under $100, computers valued under $1,000, computer accessories valued under $500, and school supplies.

Statutory Basis: 7-9-95 NMSA 1978

Intended Purpose: To reduce the cost of school supplies and school clothes.

History: Originally enacted in 2005.

Evaluation: New Mexico is one of 16 states that will have a form of a tax-free holiday in 2017, a decrease from 2010 when 19 states held tax-free holidays. Tax-free holidays do not generally grow the local economy, but rather shift consumption within the economy from one time to another time. The intent reduces the cost of school necessities, but citizens who do not attend school may also benefit from the tax-free weekend.

Recommendations: None.

Reliability Factor: 4 - Tax & Rev requires taxpayers who take advantage of this deduction to separately report the deductible amount on their returns, but there is no statutory requirement for separately reporting and therefore no authority to enforce the reporting requirement. To estimate the fiscal impact for fiscal years prior to 2022, the estimate is based on a percentage of annual August retail sales gross receipts identified for specific NAICS codes as reported by taxpayers. The deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost.

This year's publication contains deductions separately-reported by taxpayers for fiscal year 2022. Despite being a separately reported deduction, the reliability factor for this deduction is a 4 to reflect that some taxpayers may be claiming this deduction in error. Tax & Rev will be further analyzing this data and taxpayer reporting of GRT deductions.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
Back-to-School Tax-Free Weekend GRT Deduction	Taxpayers	Unknown	Unknown	Unknown	Unknown	203
	State General Fund Expenditure (thousands)	$2,600	$2,800	$3,000	$3,200	$397
	Local Government Expenditure (thousands)	$1,660	$1,710	$1,720	$1,800	$254

BIODIESEL BLENDING FACILITY TAX
THIRTY PERCENT CREDIT AGAINST GRT AND COMPENSATING TAX

Category: Environment, Conservation & Renewable Energy

Brief Description: A taxpayer who is a rack operator as defined in the Special Fuels Supplier Tax Act, and who owns and installs biodiesel blending equipment at its facility to produce blended biodiesel fuel, may claim a GRT or compensating tax credit. The credit is 30% of the purchase and installation cost of equipment.

Biodiesel is a renewable and biodegradable fuel derived from agricultural plant oils or animal fat. Blended biodiesel fuel is a diesel fuel that contains at least 2% biodiesel.

The credit is not refundable but may be carried forward for up to four years.

Statutory Basis: 7-9-79.2 NMSA 1978

Intended Purpose: To incentivize the establishment or the expansion of a facility that produces blended biodiesel fuel.

History: Originally enacted in 2007.

Evaluation: According to EMNRD's Energy Conservation and Management Division, fewer than three applicants for this credit have received certification. No claims have been received in the last two years.

Recommendations: None.

Reliability Factor: 1 - This credit is required to be separately reported.

Fiscal Impact:

Biodiesel Blending Facility Thirty Percent Credit Against GRT and Compensating Tax	Fiscal Year	2018	2019	2020	2021	2022
	Claims	0	0	<3	0	0
	Expenditure (thousands)	$0	$0	-	$0	$0

TABLE 1: "-" MEANS DATA IS REDACED DUE TO FEWER THAN 3 TAXPAYERS

BIOMASS-RELATED EQUIPMENT AND BIOMASS MATERIALS DEDUCTION FROM COMPENSATING TAX

Category:	Environment, Conservation & Renewable Energy
Brief Description:	The value of a biomass boiler, gasifier, furnace, turbine-generator, storage facility, feedstock processing or drying equipment, feedstock trailer or interconnection transformer, and the value of biomass materials used for processing into bio power, biofuels or bio-based products is deductible when computing the compensating tax due.
Statutory Basis:	7-9-98 NMSA 1978
Intended Purpose:	To incentivize the construction of biomass power generation and use of biomass materials.
History:	Originally enacted in 2005.
Evaluation:	According to EMNRD, several bioenergy projects are currently underway in the state and typically involve partnerships between federal agencies, local governments, New Mexico higher education institutions, and foreign entities. These include Albuquerque's Southside Water Reclamation Plant and the Las Cruces Waste Water Treatment Plant. As these are run by local governments, the receipts from these projects are unaffected by the deduction due to government exemption. In the private sector, EMNRD reports a very limited number of bioenergy projects undergoing construction in the last few years, with only a single project operating and another ceasing construction after funding difficulties. The deduction appears insufficient to incentivize new private projects. A survey of publicly-available information indicates that proposed projects may not been finalized at the time this report was finalized. Note that this deduction can only be taken against compensating tax, which could incentivize firms to purchase equipment out of state.
Recommendations:	For consistency, a GRT deduction for in-state sales of the described equipment would have to be included.
Reliability Factor:	4 - In previous publications, the limited number of private bioenergy projects that have undergone construction over the last few years were estimated from publicly-available sources of the size of the projects. A two-year construction timeframe was assumed on projects that continued, as well as assuming 50% of the project cost would involve purchasing equipment from out of state, and therefore be subject to compensating tax. Research for this year's publication based on NAICS codes associated with the generation of energy with the use of biomass yielded no economic activity. It is assumed that no project was operational in FY2022.

Fiscal Impact:

Biomass-Related Equipment and Biomass Materials Deduction from Compensating Tax	Fiscal Year	2018	2019	2020	2021	2022
	Expenditure (thousands)	$0	$0	$0	$0	$0

BLENDED BIODIESEL FUEL
CREDIT AGAINST PIT AND CIT

Category: Environment, Conservation & Renewable Energy

Brief Description: A taxpayer who is liable for payment of the special fuel excise tax is eligible to claim a credit against PIT or CIT for each gallon of blended biodiesel fuel on which that person paid or would have paid the special fuel excise tax in the taxable year. This blended biodiesel fuel is a 3% mixture of biodiesel which is a different mixture from vegetable oil which is 99% biodiesel. The credit amount was phased down from 3 cents per gallon to 1 cent per gallon over the life of the incentive, which expired December 31, 2012.

The credit is not refundable but may be carried forward for up to five years.

Statutory Basis: 7-2-18.21 and 7-2A-23 NMSA 1978

Intended Purpose: To incentivize the establishment or expansion of a facility that produces blended biodiesel fuel.

History: Originally enacted in 2007 with an expiration of December 31, 2012.

Evaluation: The credit saw a decrease as the value of the credit reduced (from 2007-2010, the credit was $0.03 per gallon; in 2011, it was $0.02 per gallon; and in 2012, it was $0.01 per gallon). The credit is not available after December 31, 2012 and the only possibility for further expenditures from this credit would be due to the use of a carry forward or amended return.

Recommendations: Repeal. The credit has expired, and the carry-forward period ended with tax year 2017.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact: None. The credit expired during tax year 2012 and the carry-forward period expired at the end of 2017.

BORDER-ZONE TRADE-SUPPORT COMPANY GRT DEDUCTION

Category: Economic Development

Brief Description: The receipts of a trade-support company are deductible from gross receipts if:

(1) the trade-support company first locates in New Mexico within twenty miles of a port of entry on New Mexico's border with Mexico on or after July 1, 2003 but before July 1, 2013; or they locate in a border-zone after July 1, 2016 but before January 1, 2021;

(2) the receipts are received by the company within a five-year period beginning on the date the trade-support company locates in New Mexico and the receipts are derived from its business activities and operations at its border zone location; and,

(3) the trade-support company employs at least two employees in New Mexico.

A "trade-support company" means a customs brokerage firm or a freight forwarder.

Statutory Basis: 7-9-56.3 NMSA 1978

Intended Purpose: To incentivize the location of trade-support companies to support and increase economic activities at the various ports of entry (Santa Teresa, Columbus, and Antelope Wells).

History: Originally enacted in 2003, amended in 2007 and 2015 to extend the credit and add reporting requirements.

Evaluation: The expenditure may be underutilized based on the number of taxpayers that claim the deduction.

Recommendations: None.

Reliability Factor: 2 - This deduction is separately reported. Despite being a separately reported deduction, the reliability factor for this deduction is a 2 to reflect that some taxpayers may be claiming this deduction in error. Tax & Rev will be further analyzing this data and taxpayer reporting of GRT deductions.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2021
	Claims	<3	<3	<3	<3	23
Border-Zone Trade-Support Company GRT Deduction	**State General Fund Expenditure (thousands)**	-	-	-	-	$117
	Local Government Expenditure (thousands)	-	-	-	-	$78

TABLE NOTE: "-" Means data is redacted due to fewer than 3 taxpayers.

BUSES OPERATED BY RELIGIOUS AND NONPROFIT CHARITABLE ORGANIZATIONS
EXEMPTION FROM WEIGHT DISTANCE TAX

Category: Citizen Benefits

Brief Description: Use of the highways in New Mexico by buses operated by religious or nonprofit charitable organizations is exempt from the weight distance tax (WDT).

Statutory Basis: 7-15A-5(C) NMSA 1978

Intended Purpose: To subsidize the activities of organizations the federal government has determined to be performing socially-beneficial activities.

History: Originally enacted in 1988 and amended in 2006.

Evaluation: None.

Recommendations: None.

Reliability Factor: 3 –The number of buses registered as nonprofit was collected from the Motor Vehicle Division. Exempt miles are not reported on any WDT form, so average miles traveled per school bus were calculated from national school data sources. Weight was calculated as an average of weights between 26,000 and 30,000 pounds gross vehicle weight rating, which most type C buses are.

Fiscal Impact:

Buses Operated by Religious and Nonprofit Charitable Organizations Exemption from WDT	**Fiscal Year**	2018	2019	2020	2021	2022
	Expenditure (thousands)	$23	$42	$36	$35	$32

BUSES USED FOR TRANSPORTATION OF AGRICULTURAL LABORERS EXEMPTION FROM WEIGHT DISTANCE TAX

Category: Highly Specialized Industry

Brief Description: Use of the highways in New Mexico by buses used exclusively for the transportation of agricultural laborers is exempt from the WDT.

Statutory Basis: 7-15A-5(B) NMSA 1978

Intended Purpose: To lower the cost of labor for agricultural producers.

History: Originally enacted in 1988.

Evaluation: None.

Recommendations: None.

Reliability Factor: 3 –The number of buses registered for agricultural use was collected from the Motor Vehicle Division. This number dropped significantly beginning in FY2017 and it is unknown why. Exempt miles are not reported on any WDT form, and no public source is available for miles traveled by agricultural buses. Therefore, average miles traveled per school bus was calculated from national school data sources (school buses operate on a similar twice-a-day schedule). Weight was calculated as an average of weights between 26,000 and 30,000 pounds gross vehicle weight rating, which most type C buses are.

Fiscal Impact:

Buses Used for Transportation of Agricultural Laborers Exemption from WDT	**Fiscal Year**	2018	2019	2020	2021	2022
	Expenditure (thousands)	$7.5	$6.8	$5.2	$6.3	$5.8

BUSINESS FACILITY REHABILITATION CREDIT AGAINST PIT AND CIT

Category: Economic Development

Brief Description: A taxpayer who owns a qualified business facility in an enterprise zone and restores, renovates, or rehabilitates it may receive a credit of 50% per project cost (up to $50,000) on PIT and CIT owed to New Mexico.

A "qualified business facility" is a building vacant for at least 24 months and intended to be put into use by a person in the manufacturing, distribution, or service industries. Cultural or historic properties do not qualify for this credit.

The credit is not refundable but may be carried forward for up to four years.

Statutory Basis: 7-2-18.4 and 7-2A-15 NMSA 1978

Intended Purpose: To stimulate the creation of new jobs and revitalize economically depressed areas within New Mexico enterprise zones.

History: Originally enacted in 1994.

Evaluation: According to EDD, there are currently no enterprise zones completing the required annual reporting which indicates that the enterprise zones that were established when this credit was originally enacted have expired.

Recommendations: Repeal. There are no enterprise zones to establish eligibility.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact: None.

CAPITAL GAIN
DEDUCTION FROM PIT

Category: Citizen Benefits

Brief Description: A taxpayer may claim a deduction from net income in an amount equal to the greater of:

(1) the taxpayer's net capital gain income for the taxable year for which the deduction is being claimed, but not to exceed $1,000; or

(2) 40% of the taxpayer's net capital gain income for the taxable year for which the deduction is being claimed[9].

A taxpayer may not claim this deduction if the taxpayer pays federal income tax on a qualified diversifying business net capital gain, has claimed a credit against their PIT liability equal to a capital gain tax differential, and if the taxpayer allocates the qualified diversifying business net capital gain to New Mexico.

Statutory Basis: 7-2-34 NMSA 1978

Intended Purpose: The capital gain deduction exists to incentivize savings and investment and to recruit individuals earning investment income to New Mexico. The deduction also decreases tax liability for tax filers who sell a business or other asset at a gain.

History: Originally enacted in 1999 and amended in 2003 and 2019. The 2003 amendment expanded the capital gains deduction at the same time income tax rates were reduced. The 2019 amendment reduced the 50% threshold to 40% effective tax year 2019.

Evaluation: Any taxpayer who recognizes a capital gain during a tax year, regardless of income level, will reduce their tax liability by at least 40% of their capital gains income in that year by using this deduction. Because higher earning individuals tend to also have higher levels of capital gains, they receive a larger proportion of benefit from this deduction.

Recommendations: Because the deduction has no cap for an individual taxpayer, most of the financial benefit is realized by a small number of very high-income taxpayers. Capping a taxpayer's net deductible capital gain income would reduce the amount of this expenditure without unduly harming lower-income beneficiaries with smaller capital gains. The benefit could also be structured to allow a more generous deduction for sale of a business or home than for passive investment earnings. However, taxing capital gains affects savings and investment decisions over the long term and there are low risks of capital

[9] Prior to 2019, the threshold was 50% of the taxpayer's net capital gain income.

flight, and decline in entrepreneurship, etc. which may be appropriately weighed in.

Reliability Factor: 1 – The deduction amounts for each taxpayer claiming this deduction were computed, making this data more reliable than in past years, which used an average rate for all taxpayers.

Fiscal Impact:

Capital Gains Deduction	**Tax Year (Calendar)**	**2017**	**2018**	**2019**	**2020**	**2021**
	Claims	113,893	116,678	118,889	116,384	141,308
	Expenditure (thousands)	$77,923	$76,917	$74,403	$70,606	$87,292
	Fiscal Year	**2018**	**2019**	**2020**	**2021**	**2022**
	Claims	109,716	114,778	120,405	120,889	141,600
	Expenditure (thousands)	$67,465	$80,398	$73,667	$72,914	$102,483

CERTAIN DISABLED MILITARY VETERAN EXEMPTION FROM MOTOR VEHICLE EXCISE TAX

Category: Citizen Benefits

Brief Description: A person is exempt from the MVX if the person is a resident of New Mexico who served in the armed forces of the United States and who suffered, while serving in the armed forces or from a service-connected cause, the loss or complete and total loss of use of:

(1) one or both legs at or above the ankle; or

(2) one or both arms at or above the wrist.

Statutory Basis: 7-14-6(E) NMSA 1978

Intended Purpose: To ease the tax burden of individuals whose service in the armed forces resulted in disability.

History: Originally enacted in 1978 and amended in 1988, 1990, 1994, 2004, and 2007 to include Subsection E.

Evaluation: This tax expenditure meets its intended purpose of lowering the tax burden of disabled veterans. The estimated fiscal impact of this expenditure suggests that the exemption from the excise tax has had a positive effect on vehicle purchases.

Recommendations: None.

Reliability Factor: 3 - The number of disabled veterans in the State of New Mexico was obtained from the US Census Bureau, to only include those with at least a disability rating to match the loss of limb usage as given in the statute. The national average prices of new and used vehicles were collected for each year and averaged together. . In 2018, 8% of licensed drivers bought a new or used light vehicle. The total number of disabled veterans with a sufficient disability rating was divided by 8% and then multiplied by the average price of a new and used vehicle. The resulting dollar amount was multiplied by the MVX rate of 3% in FY2016 through FY2019, 3.5% in FY2020, and 4% in FY2021. Higher tax rate and higher average vehicle prices account, at least in part, for the increase in FY2020 through FY2022.

Fiscal Impact:

Certain Disabled Military Veteran Exemption from MVX	**Fiscal Year**	2018	2019	2020	2021	2022
	Expenditure (thousands)	$1,700	$1,700	$2,000	$2,800	$3,500

CHILD CARE TO PREVENT INDIGENCY CREDIT AGAINST PIT

Category: Citizen Benefits

Brief Description: Any resident who files a PIT return and who is not a dependent of another taxpayer may claim a credit for child daycare expenses incurred and paid to a caregiver in New Mexico during the taxable year. The credit is available to a taxpayer who has a modified gross income, including child support payments, if any, of not more than the annual income that would be derived from earning double the federal minimum wage.

The credit is for 40% of actual compensation paid to a caregiver and may not exceed $480 for each qualifying dependent or $1,200 for all qualifying dependents in any taxable year. This credit is refundable.

Statutory Basis: 7-2-18.1 NMSA 1978

Intended Purpose: To protect the health, safety and well-being of children of low-income families and to give the parents an opportunity to place their children in day care while they work.

History: Originally enacted in 1981 and amended in 1990, 1995, 1999, and 2015.

Evaluation: The number of taxpayers claiming this credit is decreasing in part due to this credit being tied to the federal minimum wage which currently is $7.25 and has not seen an increase since 2009.

Recommendations: Consider benchmarking the modified gross income to an index which is adjusted annually for inflation.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

	Tax Year (Calendar)	2017	2018	2019	2020	2021
Child Care Credit against PIT	**Claims**	1,444	1,189	1,076	511	446
	Expenditure (thousands)	$589	$477	$434	$204	$178
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	1,431	1,200	1,109	536	474
	Expenditure (thousands)	$576	$487	$451	$215	$195

COAL
EXEMPTION FROM SEVERANCE SURTAX

Category: Highly Specialized Industry

Brief Description: The following exemptions are currently in effect: (1) coal sold and delivered pursuant to genuinely new contracts entered into on or after July 1, 1990 without evidence of either producer and/or purchaser purposely taking advantage of the exemption; (2) coal sold and delivered, based on annualized amounts should the term be less than the production years specified, pursuant to contracts already in effect on July 1, 1990, that exceeds the greater of either the average calendar year deliveries under the contract during production years 1987, 1988, and 1989, or the highest contract minimum during 1987-1989. Should an annualized amount fall below the threshold, the exemption shall no longer be applicable unless the deliveries are reduced due to causes beyond the reasonable control of either party to the contract; and (3) if a contract existing on July 1, 1990, and renegotiated after May 20, 1992, requires the purchaser to take annual coal deliveries in excess of the greater of the average calendar year deliveries from 1987-1989 or the highest annual contract minimum from 1987-1989, the surtax does not apply to such excess deliveries for the remaining term of the renegotiated contract.

The taxpayer must register any contract for the sale of coal deemed to meet this exemption with the Tax & Rev prior to taking the exemption.

Statutory Basis: 7-26-6.2 NMSA 1978

Intended Purpose: This tax expenditure is an incentive for continued production by the New Mexico coal mining industry, providing reduced tax liability under new or restructured contracts.

History: Originally enacted in 1990 and amended in 1992, 1994, 1995, 1997, and 1999.

Evaluation: The tax expenditure provided through this exemption directly benefits the coal mining industry by providing an exemption from the severance surtax. Since 2010, new agreements have been entered into which have resulted in previously unallowable activity to be eligible for this exemption. In the last five years, all coal mined in New Mexico has met exemptions from the surtax. As PNM plans to retire the final two coal fired generating units at the San Juan Generating Station in 2022, the current market for New Mexico coal could decrease. This tax incentive also is in direct conflict with tax incentives meant to incentive the production of renewable energy. Benefiting the coal mining industry, and subsidizing energy production using coal as fuel, would appear to undermine the goals of tax incentives designed to increase the use of renewable energy, and to encourage electric generation from renewable sources.

Recommendations: Evaluate benefits of exemption given no revenues received from severance surtax.

Reliability Factor: 1 - This credit is separately reported. No estimation is required. Data is allowed to be reported despite fewer than 3 claims pursuant to Section 7-1-8.3(B) NMSA 1978.

Fiscal impact:

Coal Exemption from Severance Surtax	Fiscal Year	2018	2019	2020	2021	2022
	Claims	2	2	2	2	2
	Expenditure (thousands)	$11,951	$10,306	$9,918	$7,962	$6,800

COMMERCIAL MOTOR CARRIER VEHICLES OPERATING EXCLUSIVELY WITHIN 10 MILES OF MEXICO BORDER EXEMPTION FROM TRIP TAX AND WEIGHT DISTANCE TAX

Category: Economic Development

Brief Description: Use of New Mexico highways by commercial motor carrier vehicles while operating exclusively within 10 miles of a border with Mexico in conjunction with crossing the border with Mexico is exempt from the trip tax and the WDT.

Statutory Basis: 7-15-3.2 and 7-15A-5(D) NMSA 1978

Intended Purpose: To incentivize companies that have cross-border activities to do business in New Mexico instead of Texas and Arizona.

History: Originally enacted in 2006.

Evaluation: The New Mexico Border Authority reports that the number of commercial vehicles crossing the New Mexico/Mexico border has increased since FY2011. This tax expenditure meets its intended purpose of creating a competitive environment for business in New Mexico. The opening of the large Union Pacific intermodal transfer yard in 2014 near Santa Teresa also indicates this expenditure meets its intended purpose.

Recommendations: None.

Reliability Factor: 3 - Data for truck entries at Santa Teresa was obtained from the U.S. Department of Transportation. The port at Columbus has very few facilities for transfer of freight and was not included. From conversations with NMDOT it was assumed that all of the Santa Teresa entry traffic would stay within the 20-mile North American Free Trade Agreement commercial zone and was destined for the large Union Pacific transfer station 10 miles from the border, or other nearby freight transfer facilities. 20 miles per entry was assumed for a round-trip total road miles calculation. The total number of miles was then multiplied by the average WDT rate of all the weight classes. The same procedure was followed to calculate the trip tax expenditure.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
Commercial Motor Carrier Vehicles Operating Exclusively within 10 Miles of Mexico Border Exemption from Trip Tax and WDT	**Weight Distance Tax Expenditure (thousands)**	$66	$64	$70	$82	$77
	Trip Tax Expenditure (thousands)	$131	$303	$330	$390	$370

CONSTRUCTION EQUIPMENT AND MATERIALS USED IN THE CONSTRUCTION OF SOLE COMMUNITY PROVIDER HOSPITALS GRT DEDUCTION

Category: Health Care

Brief Description: Receipts from sales of construction equipment or construction materials to a foundation or nonprofit organization for use in the new facility construction of a sole community provider hospital located in a federally designated health professional shortage area are deductible from gross receipts under certain circumstances.

Statutory Basis: 7-9-100 NMSA 1978

Intended Purpose: To reduce the costs of constructing sole community provider hospitals.

History: Originally enacted in 2006.

Evaluation: According to the HSD, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 established a rural community hospital demonstration project for five years to study a reasonable reimbursement methodology for such hospitals. Section 10313 of the Affordable Care Act (ACA) expanded and extended this demonstration for another five years until 2013. Holy Cross Hospital in Taos, NM participated in this demonstration, but withdrew in 2011. San Miguel Hospital Corporation in Las Vegas, NM was selected to participate in this demonstration under the expansion and extension of this program by the ACA. However, because the extension for the federal pilot program has expired, there are no more federal matching funds to support the services provided at sole community provider hospitals. As a result, and based on information received from HSD, Tax & Rev is unaware of any recent new construction of sole community provider hospitals.

Recommendations: Because the ACA did not preclude an entity from building or making capital investments in rural (sole) community provider hospitals, the deduction could still fulfill its purpose as rural health facilities find alternative sources of funding for operations.

Reliability Factor: 1 - No new sole community provider hospitals were built in New Mexico over the last several years. No estimation is required.

Fiscal Impact: No taxpayers have claimed this deduction.

CONSTRUCTION OF SOLE COMMUNITY PROVIDER HOSPITALS GRT DEDUCTION

Category: Health Care

Brief Description: Receipts from the sale of engineering, architectural, and construction services to a foundation or nonprofit organization for use in the new facility construction of a sole community provider hospital located in a federally-designated health professional shortage area are deductible from gross receipts.

Statutory Basis: 7-9-99 NMSA 1978

Intended Purpose: Presumably to reduce the costs of constructing sole community provider hospitals.

History: Originally enacted in 2006.

Evaluation: According to the HSD, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 established a rural community hospital demonstration project for five years to study a reasonable reimbursement methodology for such hospitals. Section 10313 of the Affordable Care Act expanded and extended this demonstration for another five years until 2013. Holy Cross Hospital in Taos, NM participated in this demonstration, but withdrew in 2011. San Miguel Hospital Corporation in Las Vegas, NM was selected to participate in this this demonstration under the expansion and extension of this program by the ACA. However, because the extension for the federal pilot program has expired, there are no more federal matching funds to support the services provided at sole community provider hospitals. As a result, and based on information received from HSD, Tax & Rev is unaware of any recent new construction of sole community provider hospitals.

Recommendations: Based on the presumption that the ACA did not preclude an entity from building or making capital investments in rural (sole) community provider hospitals, this deduction would be able to fulfill its purpose as rural health facilities find alternative sources of funding for operations.

Reliability Factor: 1 - No new sole community provider hospitals were built in New Mexico over the last several years. No estimation is required.

Fiscal Impact: None.

CONTRIBUTIONS OF INVENTORY TO NONPROFIT ORGANIZATIONS OR GOVERNMENTAL AGENCIES DEDUCTION FROM COMPENSATING TAX

Category:	Citizen Benefits
Brief Description:	The value of tangible personal property that is removed from inventory and contributed to a United States or New Mexico government entity or the governing body of an Indian nation, tribe, or pueblo for use on an Indian reservation or pueblo grant or to 501(c)(3) organizations, is deductible in computing the compensating tax due.
Statutory Basis:	7-9-91 NMSA 1978
Intended Purpose:	To incentivize the contribution of inventory to government entities and nonprofit organizations.
History:	Originally enacted in 2001.
Evaluation:	None.
Recommendations:	Consider repealing the cross-over PIT deduction under § 7-9-91(A) for owners of a pass-through entity from this compensating tax deduction. The legal incidence of compensating tax is on the business, even if that business is a pass-through entity. Compensating taxes do not generally flow through to owners. As a matter of clarity, having a PIT deduction buried in the language of a compensating tax deduction, when there is no corresponding reference to the deduction within the PIT statutes, can be confusing for Tax & Rev as well as taxpayers.
Reliability Factor:	No data is available to estimate the fiscal impact of this deduction.
Fiscal Impact:	Unknown.

CONVEYANCE OF LAND FOR CONSERVATION OR PRESERVATION FIFTY PERCENT CREDIT AGAINST PIT AND CIT

Category: Environment, Conservation & Renewable Energy

Brief Description: Taxpayers may receive a credit against CIT or PIT for donations of land or interests in land if: (1) the donation is for the purpose of open space, natural resource or biodiversity conservation, agricultural preservation or watershed or historic preservation by the landowner or taxpayer; and (2) the entity receiving the donation is a public or private conservation agency eligible to hold the land and interests therein for conservation or preservation purposes. The credit equals 50% of the fair market value of land or interest therein that was donated.

The amount of the credit that may be claimed by a taxpayer shall not exceed $100,000 for a conveyance made prior to January 1, 2008 and shall not exceed $250,000 for a conveyance made on or after that date.

The credit is not refundable but may be transferred in increments of $10,000 or more or may be carried forward up to 20 years.

A taxpayer may claim only one tax credit per taxable year.

Statutory Basis: 7-2-18.10 and 7-2A-8.9 NMSA 1978

Intended Purpose: These credits were enacted as part of the Land Conservation Incentives Act to encourage private landowners to be stewards of lands that are important habitat areas, or concern significant natural, open space, and historic resources by providing incentives. The credits encourage the protection of private land for open space, natural resources, biodiversity conservation, outdoor recreation, farmland and forest preservation, historic preservation, and land conservation purposes.

History: Originally enacted in 2003 and amended in 2007.

Evaluation: As demonstrated by the chart below, for tax years 2017 through 2021, 121,204 acres of land (or interests therein) have been conveyed for preservation and conservation purposes. This roughly corresponds to total foregone revenue of $6.5 million to the State in the past five tax years. The resulting average cost per acre is approximately $53.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required. The data source for acres conserved is EMNRD, which collects the data during the certification process for this credit.

Fiscal Impact:

Conveyance of Land for Conservation or Preservation Fifty Percent Credit against PIT and CIT	**Tax Year (Calendar)**	2017	2018	2019	2020	2021
	Claims	31	51	51	55	21
	Acres Conserved	963	14,627	77,655	5,735	22,224
	Expenditure (thousands)	$906	$1,388	$2,606	$1,453	$124
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	37	43	58	56	52
	Expenditure (thousands)	$723	$3,290	$994	$3,071	$1,521

CORPORATE-SUPPORTED CHILD CARE CREDIT AGAINST CIT

Category: Citizen Benefits

Brief Description: Corporations providing or paying for licensed child care services for employees' children under 12 years of age may claim a credit equal to 30% of eligible expenses from their CIT liability for the tax year in which the expenses occur. This credit has a three-year carry forward. The credit may not exceed $30,000 per taxpayer in any taxable year.

Statutory Basis: 7-2A-14 NMSA 1978

Intended Purpose: To incentivize the provision of licensed childcare by corporations.

History: Originally enacted in 1983 and amended in 1986 and 1995.

Evaluation: This credit has not been claimed for recent tax years.

Recommendations: If incentivization is desired, consider increasing the per taxpayer limit, possibly based on how many employees' children are participating.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact: None.

DISABLED PERSON
EXEMPTION FROM MOTOR VEHICLE EXCISE TAX

Category: Citizen Benefits

Brief Description: A person is exempt from the MVX if the person has a disability at the time the person purchases a vehicle and can prove to the Motor Vehicle Division of Tax & Rev or its agent, that modifications have been made to the vehicle that are:

(1) due to that person's disability; and

(2) necessary to enable that person to drive that vehicle or be transported in that vehicle.

Statutory Basis: 7-14-6(D) NMSA 1978

Intended Purpose: To lower the tax burden of purchasing a vehicle by individuals with a disability who need to modify their vehicles to drive them.

History: Originally enacted in 1988 and amended in 1990, 1994, 2004, and 2007 when Subsection D was added.

Evaluation: This tax expenditure meets its intended purpose of lowering the tax burden of disabled persons.

Recommendations: MVD interprets this exemption to require that the vehicle modification be made for the current purchaser's disability. A disabled person who purchases a used vehicle that was previously modified for a previous individual's disability is not eligible for this exemption. It may be the legislative intent for the exemption to only apply once over the life of the vehicle modifications. However, if the intent is to allow the exemption to be taken every time the vehicle changes ownership, the statute could be amended.

Reliability Factor: 3 - Information on the number of parking placards for mobility-impaired individuals was collected from Tax & Rev's internal database. According to the Bureau of Transportation Statistics, 2.3% of disabled people have a specially modified vehicle. The national average prices of new and used vehicles were collected for each year and averaged together. In 2018, 8% of licensed drivers bought a new or used light vehicle. The total number of mobility-impaired placards was multiplied by the ratio of those with specially modified vehicles, then divided by 8% and then multiplied by the average price of a new and used vehicle. The resulting dollar amount was multiplied by the MVX rate of 3% in FY2016 through FY2019, 3.5% in FY2020, and 4% in FY2021. Higher car prices in recent years, combined with the higher tax rate in recent years partly explain the increase in the estimate. Tax & Rev's internal database also registered a higher number of mobility-impaired placards in FY2019, explaining the uptick in the estimate.

Fiscal Impact:

Disabled Person Exemption from MVX	Fiscal Year	2018	2019	2020	2021	2022
	Expenditure (thousands)	$46	$91	$83	$96	$104

DISABLED STREET VENDORS EXEMPTION FROM GRT

Category:	Citizen Benefits
Brief Description:	Receipts of disabled street vendors from the sale of goods are exempt from GRT.
Statutory Basis:	7-9-41.3 NMSA 1978
Intended Purpose:	To eliminate the burden of having to file and pay GRT for disabled street vendors.
History:	Originally enacted in 2007.
Evaluation:	The compliance rate of the disabled vendors prior to the enactment of the exemption would be expected to be low, resulting in a minimal effective loss of revenue.
Recommendations:	None.
Fiscal Impact:	Unknown.

DISABLED VETERAN EXEMPTION FROM PROPERTY TAX

Category: Citizen Benefits

Brief Description: Property owned by a disabled veteran, surviving spouse, or held in trust by a disabled veteran or the veteran's surviving spouse is exempt from property taxation when occupied by the disabled veteran or surviving spouse as the principal place of residence. The exemption can remain on subsequently transferred property or attach to a new principal place of residency. Qualification of the exemption is done in collaboration between the Veterans' Services Department, county assessors and the Taxation and Revenue Department.

A "disabled veteran" is defined as an individual who:

(1) has been honorably discharged from membership in the armed forces of the United States or issued a discharge certificate by a branch of the armed forces for civilian service recognized by federal law as service in the armed forces; and

(2) has been determined by federal law to have a one hundred percent permanent and total service-connected disability.

Statutory Basis: 7-37-5.1 NMSA 1978

Intended Purpose: To ease the tax burden of individuals whose service in the armed forces resulted in disability.

History: Originally enacted in 2000 and amended in 2003, 2004, and 2015.

Evaluation: None.

Recommendations: None.

Reliability Factor: 2 - The fiscal impact is based on the reported number of taxpayers granted the disabled veteran exemption and the associated taxable value exempted in each county in the annual County Accessor Evaluation Reports. The fiscal impact is rated a two as the exempted value by county is then multiplied by the weighted average residential mill rate for that county. The total fiscal impact is the sum of the county level estimates.

Fiscal Impact: Fiscal impact is felt by various taxing authorities per state law. These include school districts, municipal governments, county governments, special districts and state funds.

Disabled Veteran Exemption from Property Tax	**Tax Year**	2018	2019	2020
	Claims	10,618	10,888	11,345
	Expenditure (thousands)	$10,805	$18,171	$19,794

DISABLED VETERANS EXEMPTION FROM SPECIAL BENEFIT ASSESSMENT UNDER PROPERTY TAX

Category: Citizen Benefits

Brief Description: Property owned by a disabled veteran, surviving spouse or held in trust by a disabled veteran or the veteran's surviving spouse is exempt from the imposition of a special benefit assessment under property taxation when occupied by the disabled veteran or surviving spouse as the principal place of residence.

A "disabled veteran" is defined as an individual who:

(3) has been honorably discharged from membership in the armed forces of the United States or issued a discharge certificate by a branch of the armed forces for civilian service recognized by federal law as service in the armed forces; and

(4) has been determined by federal law to have a one hundred percent permanent and total service-connected disability.

A "special benefit assessment" is defined as:

(1) an assessment or levy authorized by law for benefits, damages, construction, improvements or maintenance on property that is specially benefited by said benefits, damages, construction, improvements or maintenance.

Statutory Basis: 7-37-5.4 NMSA 1978

Intended Purpose: To ease the tax burden of individuals whose service in the armed forces resulted in disability.

History: Originally enacted in 2015.

Evaluation: None.

Recommendations: None.

Reliability Factor: Insufficient data to estimate the fiscal impact.

Fiscal Impact: Unknown. In tax year 2020, there were 11,345 property tax owners who qualified for the Disabled Veteran Exemption from Property Tax under 7-37-5.1 NMSA 1978. Data on the number of special benefit assessments across all counties that would impact disabled veterans property owners is not currently known to help estimate a fiscal impact.

DOH-LICENSED HOSPITALS
SIXTY PERCENT GRT AND GGRT DEDUCTION

Category: Health Care

Brief Description: 60% of the receipts of hospitals licensed by the DOH are deductible from gross receipts.

This deduction may be applied only to the taxable gross receipts remaining after all other appropriate deductions have been taken.

Statutory Basis: 7-9-73.1 NMSA 1978

Intended Purpose: To provide equitable tax treatment between for-profit hospitals and not-for-profit hospitals who are exempt from GRT.

History: Originally enacted in 1991 and amended in 1993, 1995 and 2019.

The 2019 amendment increased the deduction amount from 50% to 60% and added a deduction against governmental gross receipts for governmental hospitals.

Evaluation: The economic subsidy provided by this deduction against gross receipts is a social policy decision taken to reduce the total cost borne by New Mexicans for eligible hospital care.

Recommendations: None.

Reliability Factor:  2 - The estimate uses individual tax filings from qualifying entities and assumes these taxpayers claim the maximum deduction allowable against their liability. When available, Tax & Rev applied the tax rates reported by each qualifying entity.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
DOH-Licensed Hospitals Sixty Percent GRT Deduction	**State General Fund Expenditure (thousands)**	$54,093	$67,379	$180,639	$184,727	$173,469
	Local Government Expenditure (thousands)	$34,153	$41,152	$39,150	$42,420	$28,506

DURABLE MEDICAL EQUIPMENT GRT AND GGRT DEDUCTION

Category: Economic Development

Brief Description: Receipts from the sale or rental of durable medical equipment and supplies are deductible from gross receipts and governmental gross receipts tax. Qualified taxpayers must derive no less than 90 percent of their gross receipts from the sale or rental of durable medical equipment, supplies, or infusion therapy services and medications used in infusion therapy.

Statutory Basis: 7-9-73.3 NMSA 1978

Intended Purpose: To help protect jobs and retain businesses in New Mexico that sell or rent durable medical equipment and medical supplies.

History: Originally enacted in 2014. Amended in 2020 to extend the sunset date of the deduction from July 1, 2020 to July 1, 2030.

Evaluation: This deduction removes the gross receipts tax burden from sellers who would otherwise pass it on to consumers of these medically necessary goods. In fiscal year 2020, 20 separate taxpayers claimed the deduction.

The expenditure is determined to be effective based on the utilization of the deduction and testimony from the industry.

Recommendations: None.

Reliability Factor: 2 – This deduction is separately reported. Despite being a separately reported deduction, the reliability factor for this deduction is a 2 to reflect that some taxpayers may be claiming this deduction in error. Tax & Rev will be further analyzing this data and taxpayer reporting of GRT deductions.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
Durable Medical Equipment Deduction	**Claims**	89	102	104	235	1,828
	State General Fund Expenditure (thousands)	$298	$744	$810	$669	$5,078
	Local Government Expenditure (thousands)	$188	$433	$417	$375	$3,383

EDUCATION TRUST FUND PAYMENT DEDUCTION FROM PIT

Category: Citizen Benefits

Brief Description: A taxpayer may claim a deduction from net income in an amount equal to the payments made by the taxpayer into the Education Trust Fund pursuant to a college investment agreement or prepaid tuition contract under the Education Trust Act in the taxable year for which the deduction is being claimed.

Statutory Basis: 7-2-32 NMSA 1978

Intended Purpose: To incentivize saving for college.

History: Originally enacted in 1997.

Evaluation: The use of this incentive has been increasing over time. Between fiscal year 2017 and 2021, expenditure associated with this deduction has grown at an average rate of 13% per annum.

Recommendations: This tax program is crafted to promote investment into post-secondary education, specifically a college education. However, this may not be the best path for all New Mexicans. Further, this incentive disproportionately benefits higher income New Mexicans with the ability to make investments into an education trust fund. 75% of taxpayers claiming this deduction have an AGI of at least $95,000. This deduction could be expanded to incentivize a broader array of post-secondary education options.

Reliability Factor: 1 - This deduction is separately reported. No estimation is required.

Fiscal Impact:

Education Trust Fund Payment Deduction	**Tax Year (Calendar)**	2017	2018	2019	2020	2021
	Claims	4,722	4,948	5,000	5,042	4,884
	Expenditure (thousands)	$1,653	$1,859	$1,835	$1,858	$1,943
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	4,721	4,935	5,068	5,198	5,286
	Expenditure (thousands)	$1,629	$1,819	$1,866	$1,980	$2,165

ELECTRIC TRANSMISSION AND STORAGE FACILITIES GRT AND COMPENSATING TAX DEDUCTION

Category: Environment, Conservation & Renewable Energy

Brief Description: Receipts from selling equipment to the New Mexico Renewable Energy Transmission Authority ("RETA") or an agent or lessee of the authority are deductible from gross receipts if the equipment is installed as part of an electric transmission facility or an interconnected storage facility acquired by the authority, pursuant to the New Mexico Renewable Energy Transmission Authority Act, are deductible from gross receipts.

The value of equipment installed as part of an electric transmission facility or an interconnected storage facility acquired by the authority pursuant to the New Mexico Renewable Energy Transmission Authority Act, is deductible in computing the compensating tax due.

Statutory Basis: 7-9-101 and 7-9-102 NMSA 1978

Intended Purpose: To encourage the development of renewable energy transmission infrastructure in New Mexico.

History: Both deductions were originally enacted in 2007 as part of legislation that enacted the New Mexico Renewable Energy Transmission Authority Act.

Evaluation: None.

Recommendations: None.

Reliability Factor: The 2020 annual report from RETA indicates bond issuance and that projects are in construction. Further data is needed to determine if associated receipts from these projects qualify for this deduction.

Fiscal Impact: Unknown.

ELECTRIC TRANSMISSION AND STORAGE FACILITIES SERVICES GRT DEDUCTION

Category: Environment, Conservation & Renewable Energy

Brief Description: Receipts from providing services to the New Mexico Renewable Energy Transmission Authority (RETA) or an agent or lessee of RETA for the planning, installation, repair, maintenance or operation of an electric transmission facility or an interconnected storage facility acquired by the authority pursuant to the RETA Act, are deductible from gross receipts.

Statutory Basis: 7-9-103 NMSA 1978

Intended Purpose: The deduction is intended to encourage the development of renewable energy transmission infrastructure in New Mexico.

History: Originally enacted in 2007 as part of legislation that enacted the New Mexico Renewable Energy Transmission Authority Act.

Evaluation: None.

Recommendations: It would be beneficial for RETA to present RSTP and/or LFC on the status of their current and planned operations as this and other RETA-based deductions have shown very little utilization in recent years.

Reliability Factor: Unlike other electricity GRT deductions where some reporting has been initiated, there is no separately reporting of this GRT deduction. Further research with assistance from RETA data, may allow for determination of taxpayers claiming this deduction.

Fiscal Impact: Unknown.

ELECTRICITY CONVERSION GRT DEDUCTION

Category: Environment, Conservation & Renewable Energy

Brief Description: Receipts from the transmission of electricity where voltage source conversion technology is employed to provide such services, and from ancillary services, are deductible from gross receipts.

This deduction works in tandem with the electricity exchange deduction provided in Section 7-9-103.2 NMSA 1978.

Statutory Basis: 7-9-103.1 NMSA 1978

Intended Purpose: This deduction is intended to encourage businesses using voltage source conversion technology to locate in New Mexico.

History: Originally enacted in 2012.

Evaluation: Tres Amigas, LLC first announced its plan to create an electrical superstation connecting three U.S. power grids, with Clovis, New Mexico at the center, in 2009. According to the Tres Amigas website, the U.S. is home to vast quantities of clean energy resources — wind, solar, geothermal, and hydropower. Yet, it lacks a modern interstate transmission grid to deliver carbon-free electricity to customers in highly populated areas of the country. Voltage source conversion is an emerging technology. In 2017, the company announced that the project had been scaled back from an initial estimate of $1.5 billion in investment to $200 million.

Recommendations: None.

Reliability Factor: 3 – Tax & Rev requires taxpayers who take advantage of this deduction to separately report the deductible amount on their returns, but there is no statutory requirement for separately reporting and therefore no authority to enforce the reporting requirement. The deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost. Despite being a separately reported deduction, the reliability factor for this deduction is a 3 to reflect that some taxpayers may be claiming this deduction in error. Tax & Rev will be further analyzing this data and taxpayer reporting of GRT deductions.

Fiscal Impact:

Electric Transmission and Storage Facilities GRT Deduction	**Fiscal Year**	2022
	Claims	168
	State General Fund Expenditure (thousands)	$2,520
	Local Government Expenditure (thousands)	$1,679

ELECTRICITY EXCHANGE
GRT DEDUCTION

Category: Environment, Conservation & Renewable Energy

Brief Description: Receipts from the transaction and exchange of electric power, as a part of the transmission of electricity where voltage source conversion technology is employed to provide such services and from ancillary services, are deductible from gross receipts.

This deduction works in tandem with the electricity conversion deduction provided in Section 7-9-103.1 NMSA 1978.

Statutory Basis: 7-9-103.2 NMSA 1978

Intended Purpose: To encourage the location of electricity exchanges in New Mexico.

History: Originally enacted in 2012.

Evaluation: Tres Amigas, LLC first announced its plan to create an electrical superstation connecting three U.S. power grids, with Clovis, New Mexico at the center, in 2009. According to the Tres Amigas website, the U.S. is home to vast quantities of clean energy resources — wind, solar, geothermal, and hydropower. Yet, it lacks a modern interstate transmission grid to deliver carbon-free electricity to customers in highly populated areas of the country. Voltage source conversion is an emerging technology. In 2017 the company announced that the project had been scaled back from an initial estimate of $1.5 billion in investment to $200 million.

Recommendations: None.

Reliability Factor: 3 – Tax & Rev requires taxpayers who take advantage of this deduction to separately report the deductible amount on their returns, but there is no statutory requirement for separately reporting and therefore no authority to enforce the reporting requirement. The deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost. . Despite being a separately reported deduction, the reliability factor for this deduction is a 3 to reflect that some taxpayers may be claiming this deduction in error. Tax & Rev will be further analyzing this data and taxpayer reporting of GRT deductions.

Fiscal Impact:

	Fiscal Year	2020	2021	2022
Electricity Exchange GRT Deduction	Claims	<3	<3	615
	State General Fund Expenditure (thousands)	-	-	$5,332
	Local Government Expenditure (thousands)	-	-	$3,552

TABLE NOTE: "-" MEANS DATA IS REDACTED DUE TO FEWER THAN 3 TAXPAYERS

ELECTRONIC ID READER
CREDIT AGAINST PIT AND CIT

Category: Citizen Benefits

Brief Description: A taxpayer licensed to sell cigarettes, other tobacco products, or alcoholic beverages may claim a one-time credit of up to $300 against PIT and CIT for the purchase of electronic card-reading equipment for age verification. The credit is allowed for each business location where the business installs the equipment.

Statutory Basis: 7-2-18.8 and 7-2A-18 NMSA 1978

Intended Purpose: To incentivize the use of the equipment necessary to electronically verify the age of purchasers of tobacco and alcohol by subsidizing its cost.

History: Originally enacted in 2001.

Evaluation: This credit is not used.

Recommendations: This credit should be repealed or re-evaluated with consideration to pair the credit with legislation to require the verification of age when purchasing alcohol or tobacco products. Industry changes with respect to electronic age verification equipment and systems as well as industry saturation should be considered.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact: None. This credit has never been claimed.

EXCESS OF ELDERLY TAXPAYERS MAXIMUM PROPERTY TAX LIABILITY REBATE FROM PIT

Category: Citizen Benefits

Brief Description: Taxpayers who are 65 and older may claim a PIT rebate for their property tax that exceeds their maximum liability (ranging from $20 to $300 depending on the taxpayer's modified gross income). No tax rebate shall be allowed to any taxpayer whose modified gross income exceeds $16,000 unless the taxpayer's principal place of residence is in a county that has in effect a resolution authorizing an increase to a $25,000 gross income cap for the taxable year.

Statutory Basis: 7-2-18 NMSA 1978

Intended Purpose: To offset the property tax costs for taxpayers who are often on fixed income.

History: Originally enacted in 1977 and amended in 1981, 1993, 1997, 1999, and 2003.

Evaluation: According to the U.S. Census, the number of people over 65 who are in the labor force is increasing. By continuing to work, the likelihood is that their income exceeds the statutory threshold so that they no longer qualify for this rebate. Since the income thresholds and the rebate amounts are not indexed to inflation, the beneficiary taxpayer group as well as the real value of the rebate shrinks over time.

Recommendations: None.

Reliability Factor: 1 - This rebate is separately reported. No estimation is required.

Fiscal Impact:

Excess of Elderly Taxpayers Maximum Property Tax Liability Rebate from PIT	**Tax Year (Calendar)**	**2017**	**2018**	**2019**	**2020**	**2021**
	Claims	16,076	15,741	14,526	14,016	18,620
	Expenditure (thousands)	$3,357	$3,297	$3,066	$2,96	$4,123
	Fiscal Year	**2018**	**2019**	**2020**	**2021**	**2022**
	Claims	16,078	15,787	14,355	14,424	19,540
	Expenditure (thousands)	$3,357	$3,305	$3,032	$3,046	$4,314

FEES FROM SOCIAL ORGANIZATIONS EXEMPTION FROM GRT

Category: Citizen Benefits

Brief Description: Receipts from dues and registration fees of nonprofit social, fraternal, political, trade, labor, or professional organizations and business leagues, are exempt from GRT.

Statutory Basis: 7-9-39 NMSA 1978

Intended Purpose: To reduce the tax burden of certain nonprofit entities.

History: Originally enacted in 1969 and amended in 1977.

Evaluation: With no direct data, a proper evaluation is difficult.

Recommendations: For clarity and consistency with other statutes addressing nonprofits, reference the United States Internal Revenue Code organization subsections that correspond to the description of organizations and leagues in statute.

Reliability Factor: 4 – The Internal Revenue Service (IRS) releases data for many nonprofits exempt from federal income tax who file an annual Form 990 Return. The National Center for Charitable Statistics (NCSS) has assembled IRS Form 990 data to report aggregate statistics by state. State-level data is available for total revenue and total assets by nonprofits sub-divided by the IRS subsections for 501(c)s. While membership dues and registration fees are reported on IRS Form 990 returns, this detail is only aggregated at the national level. Calculating the national estimates of membership dues and registration fees as a percentage of total revenues, these estimates are applied to state level total revenue. Assumptions are made as to which 501(c) organizations this statute applies to and the corresponding percentage of revenue coming from dues and fees. This percentage was assumed to be 50% for nonprofits that fell under included organization categories. Data reported by the NCSS showed a significant increase in income in 2020 through 2022, which caused a higher fiscal impact.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
Fees from Social Organizations Exemption from GRT	**State General Fund Expenditure (thousands)**	$1,880	$1,860	$3,620	$2,780	$3,110
	Local Government Expenditure (thousands)	$1,180	$1,140	$1,870	$1,530	$2,070

FILM AND TELEVISION
CREDIT AGAINST PIT AND CIT

Category: Economic Development

Brief Description: For film production companies that commence principal photography on or after January 1, 2016, a credit against PIT or CIT is available for 25% of direct production and postproduction expenditures made in New Mexico that are subject to taxation by the State of New Mexico and directly attributable to the production of a film or commercial audiovisual product.

An additional 5% credit is available for direct production expenditures for television pilots and series with at least six episodes in a single season and a budget of at least $50,000 per episode. The additional 5% also applies to direct production expenditures that are directly attributable to the wages and fringe benefits paid to a New Mexico resident directly employed in an industry crew position, excluding a performing artist, on a production with a total budget of:

(1) not more than $30,000,000 that shoots at least ten principal photography days at a qualified production facility in New Mexico; or

(2) $30,000,000 or more that shoots at least fifteen principal photography days at a qualified production facility in New Mexico.

An additional 5% credit is available for direct production and postproduction expenditures for qualified film and television production located at least 60 miles outside of Bernalillo and Santa Fe Counties.

An aggregate annual cap limits payouts of the film production tax credit to $110 million across both PIT and CIT programs in any fiscal year. New Mexico film partners who are defined as having made a 10 year or more commitment by purchasing or entering a 10-year contract to lease a qualified production facility are excluded from the $110 million per year cap.

Statutory Basis: 7-2F *et seq.* NMSA 1978

Intended Purposes: The purposes and goals of the film production tax credit are to:

1. establish the film industry as a permanent component of the economic base of New Mexico;
2. develop a pool of trained professionals and businesses in New Mexico to supply and support the film industry in the state;
3. increase employment of New Mexico residents;
4. improve the economic success of existing businesses in New Mexico; and

5. develop the infrastructure in the state necessary for a thriving film industry.

History: Originally enacted in 2002 and amended in 2003, 2005, 2006, 2007, 2011, 2013, 2015, 2016 and 2019.

The 2011 amendment added a $50 million cap, provided tracking requirements, required film production companies to submit the application/claim within one year after making their final expenditure in New Mexico, and required mandatory income tax withholding on non-resident actors. Although the 2011 amendment capped the annual payout to $50 million, it did not stop credits from being approved for payment in subsequent years, thereby creating a $127 million backlog of approved but unpaid credits that were ultimately repaid in FY2019 and FY2020.

The 2013 amendment allowed the additional 5% to be added to the calculation for the film production tax credit for television shows subject to certain requirements; also allowed for any amount of annual film credit that was unused in Fiscal Years 2013-2015 under the $50 million cap — up to a maximum of $10 million — to be carried forward and added into the subsequent fiscal year's cap; in any year where the $50 million cap was not reached, if there were amounts that would be paid in a subsequent year under the multi-year provisions of the film credit, those subsequent year amounts may be paid in the current year up to the $50 million cap; provided more specific requirements for withholding taxes related to services provided by artists under the "direct production expenditures" provisions of the credit, and provided for a definition of "qualified production facility" and clarified tax obligations of non-resident vendor services.

In 2015, the film and television tax credit added credits for television pilots and series, qualified production facilities, non-resident industry crews, limited payments for performing artists, and added requirements to contract with certain vendors. An additional amendment added a provision for a film production company that is eligible to receive a film production credit, to assign payment of all or a portion of the credit to either a third-party financial institution or another authorized third party. The 2015 amendment had no impact on the time periods covered by this report.

The 2019 amendment allowed for an additional credit of 5% for direct expenditures of qualified film and television productions located more than 60 miles outside of the boundaries of Bernalillo and Santa Fe counties, and increased the annual cap of the credit from $50 million to $110 million. The 2019 expanded cap excludes credits paid to New Mexico film partners that have made a 10 or more year commitment by purchasing property or entering a lease of a qualified film production facility in New Mexico.

Evaluation: The film and television industry is highly competitive, with many states and countries competing to incentivize film and television production in their location. The incentive has been extremely effective in attracting major film and television productions.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

Film and Television Credit Against PIT and CIT	**Fiscal Year**	2018	2019	2020	2021	2022
	Expenditure (thousands)	$49,965	$148,220	$55,596	$39,823	$60,532

FOSTER YOUTH EMPLOYMENT CREDIT AGAINST PIT AND CIT

Category: Citizen Benefits

Brief Description: A taxpayer who is not a dependent of another taxpayer and employs a qualified foster youth in New Mexico is eligible for a credit against the taxpayer's PIT or CIT liability. The credit amount is up to $1,000 of gross wages paid during the taxable year and may be claimed for multiple qualified foster youth, but the credit must be claimed within one calendar year from the date of hire.

A "qualified foster youth" is defined as an individual:

(1) who:

  (a) is currently in the legal custody of the Children, Youth and Families Department or a New Mexico Indian nation, tribe or pueblo or the United States Department of the Interior, Bureau of Indian Affairs, Division of Human Services; or

  (b) within the seven years prior to the taxable year for which the credit is claimed was aged 14 years or older and was in the legal custody of the Children, Youth and Families Department or a New Mexico Indian nation, tribe or pueblo or the United States Department of the Interior, Bureau of Indian Affairs, Division of Human Services.

(2) who works at least 20 hours per week during the taxable year for which the credit is claimed; and

(3) who was not previously employed by the taxpayer during the prior taxable year.

Any portion of credit that is not used against the taxpayer's liability may be carried forward for up to three years. This credit cannot be transferred to another taxpayer, but it can be allocated based on a taxpayer's ownership interest in a business.

Statutory Basis: 7-2-18.30 and 7-2A-29 NMSA 1978

Intended Purpose: To encourage the employment of individuals who as youth were adjudicated as abused or neglected or who were in the legal custody of the Children, Youth and Families Department or a New Mexico Indian nation, tribe or pueblo or the United States Department of the Interior, Bureau of Indian Affairs, Division of Human Services.

History: Originally enacted in 2018.

Evaluation: Tax expenditures which target the hiring of individuals who may have difficulty entering the work force have precedent with the current federal Work Opportunity Tax Credit. The federal credit targets several employee groups and has successfully been administered at the federal level. Research supports foster youth appearing to have high unemployment rates in the work force. To date, the state credit has never been claimed. Based on a comparison to the federal credit, the certification process and the relatively low credit amount may be impediments to employers considering the credit.

Recommendation: Tax & Rev recommends that certification for the credit be centralized through a separate agency other than Tax & Rev, similar to the federal certification process. Tax & Rev suggests an evaluation of the credit amount to increase it to a higher level which will incentivize the hiring of foster youth. The credit also requires the youth to work a minimum of 20 hours per week for the entire taxable year. This work requirement may not be feasible or beneficial for youth who are in school or only working during the summer.

Reliability Factor: 1 – The credit is separately reported. No estimation is required.

Fiscal Impact: None. This credit has never been claimed.

FUEL FOR SPACE VEHICLES
EXEMPTION FROM GRT AND COMPENSATING TAX

Category:	Highly Specialized Industry
Brief Description:	Receipts from the sale and the use of fuel, oxidizer, or a substance that combines fuel and oxidizer to propel space vehicles or to operate space vehicle launchers are exempt from GRT and compensating tax.
Statutory Basis:	7-9-26.1 NMSA 1978
Intended Purpose:	To incentivize space-related launches at Spaceport America and elsewhere in the state.
History:	Originally enacted in 2003 as part of legislation exempting several space-related activities from GRT and compensating tax.
Evaluation:	From publicly available information and that published by the Spaceport, in 2017 a company expanded at the Spaceport to include manufacturing fueled motors. Two other operators that would require refueling activities have also made significant investments at the site and others have signed partnerships with the Spaceport Authority. Additionally, a space focused small business relocated its headquarters to New Mexico, but progress on actual launches appears to be sporadic. Additionally, effects from the COVID-19 pandemic on the national economy have created uncertainty surrounding the future of commercial space flights. Spaceport America's first Virgin Galactic flight occurred in FY2022, outside the reporting period for this publication.
Recommendations:	None.
Reliability Factor:	No data is available to estimate the fiscal impact, but it is probably minimal. Without a reporting requirement, it is difficult to ascertain the size of this exemption.
Fiscal Impact:	Unknown.

FUTURE DISTRIBUTION TO A NONRESIDENT BENEFICIARY DEDUCTION FROM PIT

Category: Economic Development

Brief Description: A taxpayer that is an estate or trust may claim a deduction from net income in the amount equal to income set aside for future distribution to a nonresident individual beneficiary. The deduction excludes income derived from New Mexico real property, oil and gas, and water interests as well as income that the estate or trust would allocate or apportion to New Mexico.

Statutory Basis: 7-2-38 NMSA 1978

Intended Purpose: To increase estate and trust business in New Mexico.

History: Originally enacted in 2019. This deduction has a sunset provision of January 1, 2025.

Evaluation: The fiscal impact below represents the first two applicable years for this deduction. Further data will need to be accumulated to assess whether this deduction increases estate and trust business in New Mexico. Although most states tax all income of resident trusts and then offer a credit for taxes paid to another state on trust income, New Mexico is different. New Mexico allows trust income to be apportioned. Apportioning trust income outside of New Mexico means that it is not subject to New Mexico tax and no credit for taxes paid to other states is needed. This deduction allows trust income owed to a non-resident beneficiary to be deducted; that does not seem necessary since New Mexico allows it to be apportioned elsewhere to avoid taxation in New Mexico. Further, by providing a benefit to resident trusts but not to non-resident trusts, this bill may violate the commerce clause of the United States Constitution.

Recommendation: Consider repealing, as this deduction may result from a misunderstanding of how estates and trusts are taxed in New Mexico.

Reliability Factor: 2 – This expenditure is calculated directly using taxpayer data as the deduction is separately reported on fiduciary income tax returns. The reliability factor is at a 2 given the degree of estimation involved under a fiduciary income tax return.

Fiscal Impact:

Future Distribution to a Non-Resident Beneficiary Deduction from PIT	**Tax Year (Calendar)**	2019	2020	2021
	Claims	163	113	123
	Expenditure (thousands)	$1,770	$1,787	$311
	Fiscal Year	2020	2021	2022
	Claims	136	129	127
	Expenditure (thousands)	$125	$423	$3.308

GEOTHERMAL GROUND-COUPLED HEAT PUMP CREDIT AGAINST PIT AND CIT

Category: Environment, Conservation & Renewable Energy

Brief Description: A taxpayer who purchases and installs after January 1, 2010 but before December 31, 2020 a geothermal ground-coupled heat pump in a residence, business, or agricultural enterprise in New Mexico may claim a credit up to 30% of the purchase and installation costs against PIT or CIT. A portion of the unused credit may be carried forward for a maximum of 10 consecutive years.

A "geothermal ground-coupled heat pump" is a device that provides space or water heating or cooling via ground water or water circulating through the ground. The total geothermal ground-coupled heat pump tax credit allowed to a taxpayer shall not exceed $9,000. The department may allow a maximum annual aggregate of $2,000,000 in geothermal ground-coupled heat pump tax credits. EMNRD certifies taxpayer credits.

Statutory Basis: 7-2-18.24 and 7-2A-24 NMSA 1978

Intended Purpose: To subsidize the geothermal ground-coupled heat pump industry.

History: Originally enacted in 2009.

Evaluation: None.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required. This year's publication includes expenditures by tax year and fiscal year separately.

Fiscal Impact:

Geothermal Ground-Coupled Heat Pump Credit against PIT and CIT	Tax Year (Calendar)	2017	2018	2019	2020	2021
	Claims	243	185	208	184	112
	Expenditure (thousands)	$498	$407	$505	$386	$212
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	244	192	212	189	134
	Expenditure (thousands)	$528	$415	$494	$413	$259

GOODS AND SERVICES FOR THE DOD RELATED TO DIRECTED ENERGY AND SATELLITES GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Prior to January 1, 2031, receipts from the sale by a qualified contractor of qualified research and development services and qualified directed energy and satellite-related inputs, may be deducted from gross receipts when sold pursuant to a contract with the U.S. Department of Defense.

A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction separately in a manner required by Tax & Rev.

Definitions:
(1) "directed energy" means a system, including related services, that enables the use of the frequency spectrum, including radio waves, light and x-rays;
(2) "inputs" means systems, subsystems, components, prototypes and demonstrators or products and services involving optics, photonics, electronics, advanced materials, nanoelectromechanical and microelectromechanical systems, fabrication materials and test evaluation and computer control systems related to directed energy or satellites.

Statutory Basis: 7-9-115 NMSA 1978

Intended Purpose: To promote new and sophisticated technology, enhance the viability of directed energy and satellite projects, attract new projects and employers to New Mexico and increase high-technology employment opportunities in New Mexico.

History: Originally enacted in 2015 amended in 2019.

Evaluation: The deduction has incentivized the growth of this advanced technology industry in New Mexico as demonstrated by the growth in the use of the deduction.

Recommendations: None.

Reliability Factor: 2 - This deduction is separately reported. Despite being a separately reported deduction, the reliability factor for this deduction is a 2 to reflect that some taxpayers may be claiming this deduction in error. Tax & Rev will be further analyzing this data and taxpayer reporting of GRT deductions.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
DoD Directed Energy and Satellites Deduction	Claims	66	86	117	122	220
	State General Fund Expenditure (thousands)	$457	$848	$1,872	$1,884	$3,865
	Local Government Expenditure (thousands)	$288	$518	$1,080	$1,156	$2,471

HEAD-OF-FAMILY EXEMPTION FROM PROPERTY TAX

Category: Citizen Benefits

Brief Description: Property owned by the head of a family who is a New Mexico resident, or property held in trust for the head of a family, is eligible for a two-thousand-dollar exemption from property taxation. The exemption shall be deducted from the taxable value of the property to determine the net taxable value of the property. The exemption may only be granted in one county in any tax year.

"Head of a family" is defined as a New Mexico resident who is either:

(5) A married person, but only one spouse in the household may qualify for the exemption; or

(6) A widow or widower; or

(7) A head of household who contributes more than one-half of the cost to support any related person; or

(8) A single person, but only one person in a household may qualify for the exemption; or

(9) A member of a condominium association or like entity who pays the property tax through the association.

Statutory Basis: 7-37-4 NMSA 1978

Intended Purpose: The exemption supports home ownership and building capital for New Mexico residents and their families.

History: Originally enacted in 1973 and amended in 1983, 1989, 1991, and 1993.

Recommendations: None.

Reliability Factor: 2 - The fiscal impact is based on the reported number of taxpayers granted the head-of-family exemption and the associated taxable value exempted in each county in the annual County Accessor Evaluation Reports. The fiscal impact is rated a two as the exempted value by county is then multiplied by the weighted average residential mill rate for that county. The total fiscal impact is the sum of the county level estimates. Tax Year 2020 is the most recent data available.

Fiscal Impact: Fiscal impact is felt by various taxing authorities per state law. These include school districts, municipal governments, county governments, special districts and state funds.

Head-of-Family Exemption from Property Tax	**Tax Year**	2018	2019	2020
	Claims	285,113	282,396	277,025
	Expenditure (thousands)	$11,446	$16,896	$16,494

HEALTH CARE PRACTITIONER SERVICES GRT DEDUCTION AND HOLD HARMLESS DISTRIBUTION

Category: Health Care

Brief Description: Receipts of licensed health care practitioners from payments by managed health care providers or by health care insurers for commercial contract services or by Medicare Part C services provided by a health care practitioner, are deductible from gross receipts.

The deduction is separately reported by the taxpayer. In 2016, Section 7-1-69.2 was created to add a penalty for incorrectly filing for this instead of taking other exemptions or deductions which must be taken first, resulting in a hold harmless distribution. The penalty is equal to 20% of the value of the hold harmless distribution resulting from the incorrect deduction.

The originating legislation provided for local governments to be held harmless from revenue losses associated with this deduction. Under 2013 legislation, hold harmless distributions are phased out over the course of 15 years with exceptions for small municipalities and counties. Legislation in 2022 provides for additional exceptions to the phaseout for municipalities with a population over 10,000 and who have not enacted a local-option GRT hold harmless rate. Depending on the municipality's poverty level, as determined by the American Community Survey, the hold harmless distribution no longer phases-out but holds at either 30%, 50% or 80%.

Statutory Basis: 7-9-93, 7-1-6.46, and 7-1-6.47 NMSA 1978

Intended Purpose: To recruit and retain health care providers in the state.

History: All three sections were originally enacted in 2004 and amended in 2006 and 2007. Sections 7-1-6.46 and 7-1-6.47 NMSA 1978 were amended in 2013 to initiate the phaseout of the hold harmless distributions. Section 7-9-93 was amended in 2016 to reinstate the presumed original intention of the deduction by clarifying that the deduction is restricted to health care practitioners only and not hospitals. Section 7-9-93 was amended in 2021 to clarify that physician practice groups are eligible to claim the GRT deduction. Sections 7-1-6.46 and 7-1-6.47 NMSA 1978 were amended in 2022 to make exceptions to the phaseout of the hold harmless distributions.

Evaluation: Because of the local hold harmless provision and the loss of the revenue, this deduction comes at a significant cost to the State General Fund.

Recommendations: None.

Reliability Factor: 1 – This deduction is separately reported. No estimation is required. The deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
Health Care Practitioner Services GRT Deduction and Hold Harmless Distribution	**State General Fund Expenditure from Local Hold Harmless Distributions (thousands)**	$21,118	$21,100	$19,547	$15,849	$15,801
	State General Fund Expenditure from Deduction (thousands)	$34,168	$37,095	$37,906	$35,202	$36,522
	Local Government Expenditure from Deduction (thousands)	$21,921	$21,595	$19,529	$19,417	$24,349

HEARING AND VISION AIDS
GRT DEDUCTION

Category: Health Care

Brief Description: Receipts from the sale of vision and hearing aids or from fitting and dispensing of these types of aids are deductible from gross receipts.

Definitions:

(1) “vision aids” are defined as closed circuit television systems, monoculars, magnification systems, speech output devices or other systems specifically designed for use by persons with low vision or visual impairment and not normally used by a person who does not have low vision or visual impairment;
(2) “visual impairment” is defined as a central visual acuity of 20/200 or less in the better eye with use of a correcting lens, or a limitation in the fields of vision so the widest diameter of visual field subtends an angle of 20 degrees or less; and,
(3) “hearing aids” are defined as small electronic prescription devices that amplify sound and are usually worn in or behind the ear of a person with impaired hearing.

Statutory Basis: 7-9-111 NMSA 1978

Intended Purpose: To benefit persons who, due to medical conditions, need hearing and vision aids. The deduction reduces the tax burden imposed by GRT.

History: Originally enacted in 2007.

Evaluation: The U.S. Centers for Disease Control and Prevention reports that half of adults who are 75 and older report some hearing loss. This is a population that is primarily covered by Medicare, but Medicare does not reimburse for hearing aids or the exams needed for fitting aids. Those who served in the US military can have hearing aids covered through the Department of Veterans Affairs. The cost of one hearing aid can be between $1,000 and $4,000 making it cost prohibitive for many people to purchase one aid let alone two. Access to affordable vision and hearing aids improves quality of life.

Recommendations: None.

Reliability Factor: 4 – Using data from the U.S. Census Bureau's 2021 Economic Survey, the estimated sales of hearing aids in New Mexico is used to calculate a portion of this deduction. This year includes actual population estimates for 2021. This deduction estimate is under-estimating the total expenditure amount as the data only covers sales of hearing aids and not related services for fitting hearing aids. Also not included is any data related to vision aids as detailed in statute. The deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost.

Fiscal Impact:

	Fiscal Year	2017	2018	2019	2020	2021
Hearing and Vision Aids GRT Deduction	**State General Fund Expenditure (thousands)**	$180	$190	$200	$212	$198
	Local Government Expenditure (thousands)	$120	$120	$120	$123	$132

HIGH-WAGE JOBS
CREDIT AGAINST MODIFIED COMBINED TAX

Category: Economic Development

Brief Description: Eligible employers who create high-wage jobs in New Mexico may apply for a tax credit against State GRT (not GRT imposed by counties or municipalities), compensating tax, withholding tax, the interstate telecommunications gross receipts tax, E911 surcharge and telecommunications relay service surcharge. The end date for the credit is July 1, 2026 by which new high-wage jobs must be created.

An "eligible employer" is an employer that is eligible for the Job Training Incentive Program (JTIP) administered by EDD.

The amount of the high wage jobs tax credit ("HWJTC") is equal to 8.5% of the qualifying wages and benefits in an eligible job up to $12,750 for each new job. If an eligible employer meets the requirements, there is no upward limit on the potential number of total credits claimed.

Statutory Basis: 7-9G-1 NMSA 1978

Intended Purpose: To provide an incentive for businesses to create and fill new high-wage jobs in New Mexico.

History: Originally enacted in 2004 and amended in 2007, 2008, 2013, 2016, 2019, and 2021.

The 2013 amendment clarified the application of the high-wage jobs tax credit; defined benefits and wages; added the purpose section; clarified the $12,000 limitation applied per job per qualifying period; limited the time for which a taxpayer can apply for approval of the credit to no later than 12 months following the end of the calendar year in which the taxpayer's final qualifying period closes; closed a loophole with respect to mergers, acquisitions, and reorganizations; changed the population threshold for rural/urban distinction from 40,000 to 60,000; clarified that the eligible employee must be employed in New Mexico; clarified that the goods or services sold must be produced in New Mexico; added a requirement that the taxpayer be certified by EDD as eligible for development training program assistance in order to be an "eligible employer"; clarified that a "new high-wage economic-based job" must be a new job and must be in New Mexico; extended the deadline to hire to July 1, 2020; and increased the wages that must be paid to qualify after July 1, 2015 (from $40,000 to $60,000 in urban communities and from $28,000 to $40,000 in rural communities).

The 2016 amendment changed the eligibility requirements to qualify for the credit and required annual filing, whereas previously, taxpayers could file for multiple qualifying periods at once. The amendment closed gaps that allowed unintended recipients to receive the credit. The amendment also removed employee benefits from the calculation of the credit value.

The 2019 amendment removed the requirement of “economic based” from the high wage job classification. The reimbursement rate was reduced from 10% of wages to 8.5%, and the amendment increased the eligible benefit per job from $12,000 to $12,750. The qualifying period for a “new high-wage job” and “threshold job” was reduced from 48 weeks to 44 weeks. The end date for the credit based on the creation of a “new high-wage job” was extended from July 1, 2020 to July 1, 2026.

Evaluation: Because 2013 amendments and the flurry of credit claims that preceded the effective date of those changes, Tax & Rev approved significant amounts of HWJTC claims in FY2015 and FY2016. More recent credit claims are in line with Tax & Rev’s expectations following the 2016, and 2019 amendments.

Recommendations: Remove “penalty box” provisions that prevent application if employment drops. Reduce credit rate to top personal income tax rate (rising from 4.9% to 5.9% for tax year 2020).

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

High-Wage Jobs Credit against Modified Combined Tax	**Tax Year**	2017	2018	2019	2020	2021
	Claims	38	38	36	50	33
	Expenditure (thousands)	$9,569	$10,305	$5,874	$6,205	$5,847
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	36	35	38	61	40
	Expenditure (thousands)	$9,952	$15,590	$4,306	$9,199	$6,296

HOSTING WORLD WIDE WEB SITES
GRT DEDUCTION

Category: Economic Development

Brief Description: Receipts from internet connected facilities that store data are deductible from gross receipts. Despite the title, the statute indicates it is not limited to facilities that provide web-hosting. Any facility storing data and connected to the internet qualifies for this deduction.

Statutory Basis: 7-9-56.2 NMSA 1978

Intended Purpose: Presumably to incentivize data centers to relocate in New Mexico.

History: Originally enacted in 1998.

Evaluation: According to Data Center Map (datacentermap.com), there are currently 7 colocation data centers operating in the state; 6 of them are located in Albuquerque, and 1 in Taos. The majority of these companies started operations in New Mexico after the deduction became effective. However, the statute is written broadly enough that any facility storing data and connected to the internet qualifies.

Recommendations: None.

Reliability Factor: 2 – The GRT deduction taken by all the companies filing under a NAICS code indicating a primary business of Data Processing, Hosting, and Related Services was summed, assuming that one-third of this amount was affected because of this deduction.

Fiscal Impact:

Hosting World Wide Web Sites GRT Deduction	Fiscal Year	2018	2019	2020	2021	2022
	State General Fund Expenditure (thousands)	$130	$170	$250	$500	$990
	Local Government Expenditure (thousands)	$80	$100	$150	$300	$660

HYBRID VEHICLE
EXEMPTION FROM MVX

Category: Citizen Benefits

Brief Description: Gasoline-electric hybrid vehicles with a rating of at least 27.5 miles per gallon, as certified by the U.S. Environmental Protection Agency are eligible for a one-time exemption from the MVX at the time of issuance of the original title.

The exemption was effective from July 1, 2004 to June 30, 2009.

Statutory Basis: 7-14-6(G) NMSA 1978

Intended Purpose: To incentivize the purchase of gasoline-electric hybrid vehicles, presumably to help with their overall adoption while also improving air quality, reducing carbon emissions and reducing dependence on petroleum.

History: Section 7-14-6 NMSA 1978 was originally enacted in 1988 and amended in 1990, 1994, 2004, and 2007. This particular exemption under subsection (G) was enacted by the amendment in 2004.

Evaluation: Data is unavailable for hybrid vehicles sales back to the time this statute was in effect.

Recommendations: Repeal, or if encouragement of hybrid and electric vehicle sales is still desired, amend the effective dates of the statute and modernize to a higher requirement on mileage rating, battery size, plug-in capability and/or full electric capability. Income tax liability deductions are also used as incentives in many states and with the federal government.

Reliability Factor: 1 - This exemption expired on June 30, 2009. Since then, no hybrid vehicle qualifies for the exemption.

Fiscal Impact: None.

INCOME TAX REBATE 2020 TAX YEAR FILING

Category: Citizen Benefits

Brief Description: Resident taxpayers who were not dependents, who received the working families tax credit against their tax year 2020 income tax liability, and who met income eligibility criteria received a one-time tax rebate of $600. Single filers with AGI not exceeding $31,200 and heads of household, surviving spouses and married individuals filing joint returns with AGI not exceeding $39,000 were eligible for this rebate. The rebate is not allowable after June 30, 2022.

Statutory Basis: 7-2-7.4 NMSA 1978

Intended Purpose: To provide temporary economic relief to low income workers from the COVID-19 pandemic and aid in a quick economic recovery of the state. Targeted to benefit low-income essential workers in industries such as food services and retail.

History: Originally enacted in 2021.

Evaluation: This rebate targeted working taxpayers more susceptible to the impacts of the COVID-19 induced recession. This included low-wage individuals working in the service industry who faced temporary furloughs and lay-offs. Federal and state relief are cited as contributing to the recovery in consumer spending as the loss of wages to a significant portion of the labor force was supplemented with the rebate.

Recommendation: None.

Reliability Factor: 1 – This rebate is based on separately reported working families tax credit and AGI. No estimation is required.

Fiscal Impact:

<table>
<tr><td rowspan="8">2020 income tax rebate</td><td>Tax Year (Calendar)</td><td>2020</td><td>2021</td></tr>
<tr><td>Claims</td><td>171,718</td><td rowspan="2">NA</td></tr>
<tr><td>Expenditure (thousands)</td><td>$102,184</td></tr>
<tr><td colspan="2"></td><td></td></tr>
<tr><td>Fiscal Year</td><td>2021</td><td>2022</td></tr>
<tr><td>Claims</td><td>164,227</td><td>7,491</td></tr>
<tr><td>Expenditure (thousands)</td><td>$97,663</td><td>$4,521</td></tr>
</table>

INCOME TAX REBATE 2021 TAX YEAR FILING

Category: Citizen Benefits

Brief Description: Resident taxpayers who are not dependents and who meet income eligibility criteria are eligible for an income tax rebate when filing their tax year 2021 personal income tax return. Single filers and married individuals filing separate returns, with AGI not exceeding $75,000, are eligible for a $250 rebate. Heads of household, surviving spouses and married individuals filing joint returns with AGI not exceeding $150,000 are eligible for a $500 rebate. The rebate is not allowable after June 30, 2023.

Statutory Basis: 7-2-7.6 NMSA 1978

Intended Purpose: To provide temporary economic relief to low income New Mexico residents during inflationary price increases.

History: Originally enacted in 2022.

Evaluation: None.

Recommendation: None.

Reliability Factor: 1 – This rebate is separately issued, and no estimation is required.

Fiscal Impact:

<table>
<tr><td rowspan="8">2021 income tax rebate</td><td>Tax Year (Calendar)</td><td>2021</td></tr>
<tr><td>Claims</td><td>776,181</td></tr>
<tr><td>Expenditure (thousands)</td><td>$280,234</td></tr>
<tr><td colspan="2"></td></tr>
<tr><td>Fiscal Year</td><td>2022</td></tr>
<tr><td>Claims</td><td>767,373</td></tr>
<tr><td>Expenditure (thousands)</td><td>$277,008</td></tr>
</table>

INVESTMENT CREDIT AGAINST GRT, COMPENSATING TAX, OR WITHHOLDING TAX

Category: Economic Development

Brief Description: The investment credit is for equipment owned and introduced into New Mexico for use by a taxpayer in a new or expanded manufacturing operation.

To be eligible for the credit, prior to June 30, 2030, the taxpayer must employ one full-time equivalent ("FTE") for every $750,000 of qualified equipment claimed (up to $30 million) and one FTE for every $1 million of qualified equipment claimed (over $30 million).

The credit may be applied against a maximum of 85% of a taxpayer's state and local option gross receipts and compensating tax liability, and withholding tax liability, but first must be applied to gross receipts and compensating tax liability before being claimed against withholding tax liability.

The credit is refundable only up to $250,000 if the taxpayer's available credit is less than $500,000 and the sum of the taxpayer's gross receipts, compensating, and withholding tax due for the previous calendar year was less than 35% of the taxpayer's available credit but more than $10,000.

There is no limit to how long the credit can be carried forward.

Statutory Basis: 7-9A-1 *et seq.* NMSA 1978

Intended Purpose: To provide a favorable tax climate for manufacturing businesses and to promote increased employment in New Mexico.

History: Originally enacted in 1979 and amended in 1983, 1986, 1990, 1991, 2001, 2002, 2003, 2009 and 2020.

The 2020 amendment sets a sunset date of July 1, 2030 for the valuation of equipment and employment to apply for the credit.

Evaluation: EDD reports that due to this incentive, the state has attracted manufacturing businesses from industries such as breweries and wineries.

Recommendations: Establish procedures for when the credit may be claimed. The credit should be claimed in consecutive months once the company starts claiming the credit.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

Investment Credit against GRT, Compensating Tax, or Withholding Tax	**Tax Year**	2017	2018	2019	2020	2021
	Claims	150	132	113	103	19
	Expenditure (thousands)	$1,844	$1,221	$2,920	$5,858	$255
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	146	124	139	82	69
	Expenditure (thousands)	$1,679	$1,383	$1,755	$1,028	$6,653

INVESTMENT MANAGEMENT OR ADVISORY SERVICES GRT DEDUCTION

Category: Economic Development

Brief Description: Receipts from fees received for performing management or investment advisory services for a mutual fund, hedge fund, or real estate investment trust, are deductible from gross receipts.

Statutory Basis: 7-9-108 NMSA 1978

Intended Purpose: To incentivize fund managers, who tend to be high income individuals, to move to New Mexico, thereby increasing income tax revenues and disposable income that will circulate through the State's economy.

History: Originally enacted in 2007.

Evaluation: None.

Recommendations: None.

Reliability Factor: 3 – Tax & Rev does not have any direct data to estimate this deduction. Tax & Rev reports with aggregated data were used. Gross receipts for taxpayers classified in certain financial activities are aggregated to establish a bound for this deduction. This estimate should be understood to represent the general magnitude of the deduction. The deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
Investment Management or Advisory Services GRT Deduction	**State General Fund Expenditure (thousands)**	$1,000	$1,000	$1,100	$700	$800
	Local Government Expenditure (thousands)	$600	$600	$600	$500	$600

JET FUEL FORTY PERCENT GRT AND COMPENSATING TAX DEDUCTION

Category: Economic Development

Brief Description: From July 1, 2003 through June 30, 2017, 55% of the receipts from the sale of fuel specially prepared and sold for use in turboprop or jet-type engines, as determined by Tax & Rev, are deductible from gross receipts.

From July 1, 2003 through June 30, 2017, 55% of the value of the fuel specially prepared and sold for use in turboprop or jet-type engines as determined by Tax & Rev, may be deducted in computing compensating tax.

After June 30, 2017, the amount of the deductions is reduced to 40% of the receipts from the sale or value of the fuel.

Statutory Basis: 7-9-83 and 7-9-84 NMSA 1978

Intended Purpose: Presumably to incentivize routing of air traffic through New Mexico by reducing the effective cost of refueling in New Mexico.

History: Originally enacted in 1993 and amended in 2003, 2006, and 2011, when the deduction was extended through 2017 and amended down from 55% to 40% of the receipts attributable to the sale of Jet Fuel.

Evaluation: According to the U.S. Dept. of Transportation, for the last several years before 2017, total departures from the Albuquerque Sunport have been decreasing. Although the repeal of the Wright amendment which restricted air travel from Love Field airport in Dallas to Texas neighboring states resulted in a larger than usual decrease in FY2015, the decrease has been getting smaller, and is estimated at 2.2% for FY2016. It was then up 2.7% in 2017. As shown below, expenditures for jet fuel have been moving more significantly than the change in flight count. This is generally attributed to changing fuel prices overall, as well as increasing efficiency in airliners. Therefore, it is unclear if this deduction is exerting any influence on purchases of jet fuel in New Mexico.

Recommendations: Amend statute to require that this deduction be separately reported. Tax & Rev distributes funds to the State Aviation Fund from the taxable sales of jet fuel in the state. Separately-reporting the deduction would help ensure that distributions are based on taxable sales after the deduction has been taken.

Reliability Factor: 3 – Tax & Rev requires taxpayers who take advantage of this deduction to separately report the deductible amount on their returns, but there is no statutory requirement for separately reporting and therefore no authority to enforce the reporting requirement. To estimate the fiscal impact for fiscal years prior to 2022, Tax & Rev used internal distribution reports based on taxable gross receipts from the sale of jet fuel in the state.

This year's publication contains deductions separately-reported by taxpayers for fiscal year 2022. Despite being a separately reported deduction, the reliability factor for this deduction is a 3 to reflect that some taxpayers may be claiming this deduction in error. Tax & Rev will be further analyzing this data and taxpayer reporting of GRT deductions.

No Compensating Tax was estimated.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
Jet Fuel Forty Percent GRT Deduction	**Taxpayers**	Unknown	Unknown	Unknown	Unknown	17
	State General Fund GRT Expenditure (thousands)	$630	$610	$420	$120	$1,333
	Local Government GRT Expenditure (thousands)	$400	$370	$250	$70	$852

JOB MENTORSHIP
CREDIT AGAINST PIT AND CIT

Category: Citizen Benefits

Brief Description: Businesses hiring qualified students in a school-sanctioned, career-preparation education program may claim a credit against PIT and CIT. Qualifying businesses must employ students attending an accredited New Mexico secondary school full-time.

Credits are equal to 50% of the gross wages paid, subject to limitations. In no event shall a taxpayer claim a credit of more than $12,000 in any taxable year.

Statutory Basis: 7-2-18.11 and 7-2A-17.1 NMSA 1978

Intended Purpose: To encourage New Mexico businesses to hire youth participating in a career preparation education program.

History: Originally enacted in 2003.

Evaluation: None.

Recommendations: While the purpose of the credit is positive in theory, it does not appear to be working as an incentive to businesses in their hiring of qualified students. Lack of awareness of the credit may be a reason for the poor take up of the credit. A concerted effort at outreach to both businesses as well as accredited secondary schools may improve awareness of the credit.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact: *NOTE: TY2020, FY 2019, FY 2020 and FY2022 data have been redacted due to fewer than 3 taxpayers claiming the credit.*

Job Mentorship Credit against PIT and CIT	**Tax Year (Calendar)**	2017	2018	2019	2020	2021
	Claims	4	4	4	<3	0
	Expenditure (thousands)	$8	$6	$5	-	$0
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	5	< 3	< 3	7	< 3
	Expenditure (thousands)	$14	-	-	$8	-

TABLE NOTE: "-" MEANS DATA IS REDACTED DUE TO FEWER THAN 3 TAXPAYERS

LABORATORY PARTNERSHIP WITH SMALL BUSINESS CREDIT AGAINST GRT

Category: Economic Development

Brief Description: A national laboratory that offers certain types of eligible assistance to individual small businesses in New Mexico, and incurs expenses for doing so, may claim a credit against the state portion of GRT of up to $20,000 per business ($40,000 per business in a rural area). The tax credits claimed by an individual national laboratory shall not exceed $2,400,000 in a given calendar year.

Statutory Basis: 7-9E-1 *et seq.* NMSA 1978

Intended Purpose: To bring the technology and expertise of the national laboratories to small businesses in New Mexico to promote economic development in the state, with an emphasis on rural areas.

History: Originally enacted in 2000, amended in 2007 and 2019.

The 2019 amendment increased the maximum amount that may be claimed for businesses in urban areas from $10,000 to $20,000, and increased from $20,000 to $40,000 for businesses located in rural areas.

Evaluation: According to New Mexico Small Business Assistance ("NMSBA") annual report, since inception through 2020, the program has assisted 3,135 small businesses with 9,710 jobs created and retained.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required. The fiscal impact is against the state portion only of GRT, with no impact to local government distributions.

Fiscal Impact:

Laboratory Partnership with Small Business Credit against GRT	**Tax Year**	2017	2018	2019	2020	2021
	State General Fund Expenditure (thousands)	$4,601	$4,617	$4,675	$4,491	$4,362
	Fiscal Year	2018	2019	2020	2021	2022
	State General Fund Expenditure (thousands)	$7,001	$6,871	$8,843	$4,491	$4,362

NOTE: Tax & Rev is not required to redact this information even though it relates to fewer than three taxpayers because the data is published independently by both taxpayers.

LIQUOR LICENSE HOLDERS DEDUCTION FROM GRT

Category: Highly Specialized Industries

Brief Description: Taxpayers who are a liquor license holder and who held the license on June 30, 2021 are eligible for a deduction from GRT liability. For each dispenser's license for which sales of alcoholic beverages for consumption off premises are less than 50% of total alcoholic beverage sales, up to $50,000 of receipts from the sale of alcoholic beverages may be deducted from gross receipts. The deduction is available for taxable years 2022 through 2025.

Select definitions:

(1) "alcoholic beverage" means alcoholic beverage as defined in the Liquor Control Act;

(2) "dispenser's license" is defined as a license issued pursuant to the Liquor Control Act and allows the licensee to sell, offer for sale or have the intent to sell alcoholic beverages both for consumption on the licensed premises and for consumption, not for resale, off the licensed premises;

(3) liquor license holder" is defined as a person that holds a retailer's license or one of two dispenser's licenses issued pursuant to the Liquor Control Act and the license was issued prior to July 1, 2021.

Statutory Basis: 7-9-119 NMSA 1978

Intended Purpose: Supporting business owners with long-held liquor licenses impacted by COVID-19, business closures and those impacted by changes to the liquor license structure.

History: Originally enacted in 2021.

Evaluation: None.

Recommendation: None.

Reliability Factor: 2 – This deduction is separately reported. Despite being a separately reported deduction, the reliability factor for this deduction is a 2 to reflect that some taxpayers may be claiming this deduction in error. Tax & Rev will be further analyzing this data and taxpayer reporting of GRT deductions.

Fiscal Impact: Note: the effective date for this deduction was January 1, 2022 and thus the fiscal impact below is for half of a fiscal year.

Liquor License Holders Deduction from GRT	**Fiscal Year**	**2022**
	Claims	82
	State General Fund Expenditure (thousands)	$100.8
	Local Government Expenditure (thousands)	$67.2

LIQUOR LICENSE LESSOR DEDUCTION FROM PIT AND CIT

Category: Highly Specialized Industries

Brief Description: Taxpayers who are a liquor license lessor and who held the license on June 30, 2021 are eligible for a deduction from PIT or CIT liability. The deduction amount is equal to the gross receipts from sales of alcoholic beverages made by each liquor license lessee, not to exceed $50,000 per year for each of four taxable years ending with tax year 2025. In the case of a dispenser's license, sales of alcoholic beverages for consumption off premises must be less than 50% of total alcoholic beverage sales.

Select definitions:

(4) "Liquor license lessor" is defined as a person that leases a liquor license to a third party;

(5) "Liquor license lessee" is defined as a person that leases a liquor license from a liquor license lessor;

(6) "dispenser's license" is defined as a license issued pursuant to the Liquor Control Act and allows the licensee to sell, offer for sale or have the intent to sell alcoholic beverages both for consumption on the licensed premises and for consumption, not for resale, off the licensed premises.

Statutory Basis: 7-2-40 and 7-2A-31 NMSA 1978

Intended Purpose: Supporting business owners with long-held liquor licenses impacted by COVID-19, business closures and those impacted by changes to the liquor license structure.

History: Originally enacted in 2021.

Evaluation: None.

Recommendation: None.

Reliability Factor: 1 – This deduction is separately reported.

Fiscal Impact:

Liquor License Lessor Deduction from PIT and CIT	**Tax Year (Calendar)**	**2021**
	Claims	50
	Expenditure (thousands)	$27
	Fiscal Year	**2022**
	Claims	50
	Expenditure (thousands)	$27

LOAN-RELATED COSTS GRT DEDUCTION

Category:	Citizen Benefits
Brief Description:	Receipts from charges made in connection with the origination, making, or assumption of a loan or from charges made for handling loan payments are deductible from gross receipts.
Statutory Basis:	7-9-61.1 NMSA 1978
Intended Purpose:	Presumably to reduce the costs of borrowing, thereby increasing access to capital in New Mexico.
History:	Originally enacted in 1981.
Evaluation:	None.
Recommendations:	None.
Reliability Factor:	This deduction has no reporting requirement and Tax & Rev does not have any direct data to estimate it.
Fiscal Impact:	Unknown.

LOCOMOTIVE ENGINE FUEL GRT AND COMPENSATING TAX DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts from the sale of fuel to a common carrier to be loaded or used in a locomotive engine are deductible from gross receipts.

The value of fuel to be loaded or used by a common carrier in a locomotive engine in a locomotive engine is deductible when computing the compensating tax due.

Statutory Basis: 7-9-110.1 and 7-9-110.2 NMSA 1978

Intended Purpose: To encourage the construction, renovation, maintenance and operation of railroad locomotive refueling facilities and other railroad capital investments in New Mexico.

History: Originally enacted in 2011; became effective July 1, 2013 upon certification by EDD that construction had commenced.

Evaluation: According to Union Pacific's (UP) annual report for FY2022, the company has directly provided 408 jobs, of which 252 are UP's employees and 156 are contractors. The company reports that the average salary of the 252 employees is $102,660 of the Santa Teresa employees are subject to Withholding Tax. This represents an increase of 2.5% over FY2021 average salary.

Burlington Northern Santa Fe (BNSF) reports 928 jobs for FY2022. These are new and previously-existing jobs. BNSF reported operating revenue for 2021 at $1.79 billion, an increase of $307.39 million since 2013.

Recommendations: None.

Reliability Factor: 2 - Gross purchases and deduction amounts are separately reported directly by taxpayers to EDD. Some estimation is required by Tax & Rev.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
Locomotive Engine Fuel GRT and Compensating Tax Deduction	Comp Tax Expenditure (thousands)	$12,310	$14,300	$10,304	$12,884	$16,521
	State General Fund GRT Expenditure (thousands)	$6,119	$5,463	$3,206	$3,042	$5,838
	Local Government GRT Expenditure (thousands)	$3,863	$3,337	$1,853	$1,867	$3,892

LOTTERY RETAILER RECEIPTS
GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts of a lottery game retailer from selling lottery tickets pursuant to the New Mexico Lottery Act may be deducted from gross receipts.

Statutory Basis: 7-9-87 NMSA 1978

Intended Purpose: To reduce the cost of lottery tickets to increase lottery ticket sales, a portion of which goes to the Lottery Scholarship Program.

History: Originally enacted in 1995.

Evaluation: None.

Recommendations: None.

Reliability Factor: 2 – The cost of this deduction was estimated using gross revenues published in New Mexico Lottery annual reports multiplied by the statewide average GRT rate for each year.

Fiscal Impact:

	Fiscal Year	2017	2018	2019	2020	2021
Lottery Retailer Receipts GRT Deduction	**State General Fund Expenditure (thousands)**	$5,260	$5,760	$6,520	$5,612	$6,456
	Local Government Expenditure (thousands)	$3,540	$3,640	$3,980	$3,238	$4,300

LOW-INCOME COMPREHENSIVE TAX REBATE AND SIXTY-FIVE OR OLDER ADDITIONAL REBATE

Category: Citizen Benefits

Brief Description: The low-income comprehensive tax rebate ("LICTR") is a partial offset for state and local consumption taxes paid by low income taxpayers. It may be claimed by taxpayers with a modified gross income of less than $22,000. The rebate amount is dependent upon modified gross income as well as the number of personal exemptions, defined as the sum of the taxpayer, spouse and dependents reported on the taxpayer's federal return, claimed and varies between $15 and $730[10].

An individual who is 65 years or older or blind may claim additional exemptions for the low-income comprehensive tax rebate and so qualify for a higher rebate.

Statutory Basis: 7-2-14 NMSA 1978

Intended Purpose: To ease the consumption tax burden for low-income taxpayers and to reduce the financial burden on older, disabled taxpayers.

History: LICTR was originally enacted in 1972 and amended in 1973, 1974, 1975, 1977, 1978, 1981, 1986, 1987, 1990, 1992, 1994, 1998 and 2021. The 2021 amendment increased the income eligibility threshold for the rebate from $22,000 to $36,000 and the maximum rebate amount from $450 to $730. This amendment will take effect in Tax Year 2021 and will impact expenditures in Fiscal Year 2022 onwards. For taxable year 2022 and each subsequent taxable year, the amount of rebate shall be adjusted to account for inflation based on the consumer price index. The additional exemptions provided to 65 years or older or blind taxpayers was originally enacted in 1987.

Evaluation: It is important to combine different strategies to support successful transition out of poverty and evaluate them together. LICTR provides a valuable offset to New Mexico's regressive GRT, which is relatively high compared to gross receipts and sales taxes in other states. LICTR phases out as income rises, ensuring a smooth tapering off of this support to low-income taxpayers. The 2021 amendment provides that LICTR will be adjusted for inflation in future years, ensuring that the support offered by LICTR is not diluted over time. In the last five fiscal years, on average 227,000 taxpayers have benefitted from this rebate each year and about 35,000 taxpayers have benefitted from the additional exemptions allowable for this rebate to blind or 65 years or older taxpayers.

Recommendations: None.

[10] Prior to June 18, 2021, the rebate ranged from $10 to $450.

Reliability Factor: 1 - These rebates are separately reported. No estimation is required.

Fiscal Impact:

Rebate, Low Income Comprehensive Tax (LICTR)	**Tax Year (Calendar)**	2017	2018	2019	2020	2021
	Claims	228,504	220,386	218,750	217,955	357,871
	Expenditure (thousands)	$18,048	$17,281	$17,170	$17,663	$50,966
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	228,037	219,677	221,254	223,347	371,568
	Expenditure (thousands)	$18,023	$17,239	$17,379	$18,125	$52,133

65 and older or blind additional LICTR	**Tax Year (Calendar)**	2017	2018	2019	2020	2021
	Claims	35,565	34,642	32,968	33,629	60,944
	Expenditure (thousands)	$3,914	$3,772	$3,551	$3,675	$12,845
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	35,587	34,722	32,559	34,587	63,478
	Expenditure (thousands)	$3,912	$3,780	$3,522	$3,776	$13,117

LOW-INCOME
PROPERTY TAX REBATE AGAINST PIT

Category: Citizen Benefits

Brief Description: The low-income property tax rebate is a partial offset for property taxes paid by low income residents. It may be claimed by individuals with:

(1) a principal place of residence in a county that has enacted an ordinance authorizing the rebate, and

(2) modified gross income of less than $24,000.

This rebate is calculated as a percentage of the taxpayer's property tax liability and based on the taxpayer's modified gross income. The rebate amount cannot exceed $350, or $175 if married filing separately.

The State is reimbursed annually by the authorizing county for any low-income property tax rebates granted under this section.

Statutory Basis: 7-2-14.3 NMSA 1978

Intended Purpose: To offset property taxes for those whose income is insufficient to cover their property taxes so that they are not forced out of their homes.

History: The low-income property tax rebate was originally enacted in 1994 and amended in 1997 and 2003.

Evaluation: The low-income property tax rebate has only been adopted by two counties at this time – Santa Fe and Los Alamos. Because counties bear the cost of this tax expenditure, the cost of the rebate may be prohibitive for some counties to implement. Counties with high rates of poverty coupled with high rates of property value growth, which may make retaining property ownership more difficult, are encouraged to consider adopting the program.

Recommendations: None.

Reliability Factor: 1 - The rebate is separately reported. No estimation is required.

Fiscal Impact:

Rebate, Low Income Property Tax (local government – authorizing counties)	**Tax Year (Calendar)**	2017	2018	2019	2020	2021
	Claims	2,008	1,897	1,856	1,682	3,073
	Expenditure (thousands)	$626	$593	$579	$522	$1,015
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	2,029	1,895	1,922	1777	3,185
	Expenditure (thousands)	$632	$592	$604	$552	$1,050

LOW- AND MIDDLE-INCOME TAXPAYERS EXEMPTION FROM PIT

Category: Citizen Benefits

Brief Description: An individual may claim an exemption equal to the number of personal exemptions, defined as the sum of the taxpayer, spouse and dependents reported on the taxpayer's federal return, multiplied by $2,500. The amount of the exemption is deducted from the individual's net income.

Statutory Basis: 7-2-5.8 NMSA 1978

Intended Purpose: The exemption reduces the tax liability of households with less than a specified threshold of modified gross income. This results in lower income households retaining more of their income.

History: Originally enacted in 2005 and amended in 2007. The 2007 amendment increased the adjusted gross income threshold amounts for taxpayers eligible for the exemption.

Evaluation: This exemption excludes more than $2 billion of income from the PIT base each year. On average, about 580,000 New Mexico taxpayers receive this exemption each fiscal year. The exemption amount phases out as adjusted gross income rises. Given that the savings rate among lower income taxpayers is relatively low, there is a high likelihood that this money is recirculating throughout the New Mexico economy to increase consumption and economic activity in New Mexico.

Recommendations: Although the number of eligible households claiming the exemption is significant, the income thresholds are currently defined by filing status and do not adjust for inflation. A more accurate alternative may be to use the federal poverty guidelines, published annually by the Department of Health & Human Services. Alternatively, consider updating statutory thresholds for inflation since 2007.

Reliability Factor: 1 – The expenditure amounts for each taxpayer claiming this exemption were computed based on their federal adjusted gross income and exemption amount, making this data more reliable than in past years when an average rate for all taxpayers was used.

Fiscal Impact:

Exemption, Low-Middle Income	**Tax Year (Calendar)**	**2017**	**2018**	**2019**	**2020**	**2021**
	Claims	570,901	564,119	570,468	595,948	550,872
	Expenditure (thousands)	$20,111	$23,721	$19,588	$19,797	$18,507
	Fiscal Year	**2018**	**2019**	**2020**	**2021**	**2022**
	Claims	570,253	563,429	577,508	607, 440	607,546
	Expenditure (thousands)	$20,112	$23,581	$19,970	$20,192	$20,194

MEDICAL AND HEALTH CARE SERVICES GRT DEDUCTION

Category: Health Care

Brief Description: Receipts from payments by the U.S. government or any agency thereof for Medicare services received by certain medical practitioners and medical-related facilities, receipts of medical doctors and osteopathic physicians from payments by a third-party administrator of the federal TRICARE program, and receipts of a medical doctor or osteopathic physician from payments by or on behalf of the Indian Health Service of the U.S. Department of Health and HSD for the provision of medical and other health services to covered beneficiaries are deductible from gross receipts.

Statutory Basis: 7-9-77.1 NMSA 1978

Intended Purpose: To recruit and retain healthcare practitioners in the state. According to DOH and the Indian Affairs Department, the deduction makes it more profitable for medical providers to serve Native American populations in New Mexico as those communities face difficulties in recruiting health care practitioners due to below-average salaries.

History: Originally enacted in 1998, amended in 2000, 2003, 2005, 2007, 2014, 2016, 2021 and 2022.

The 2021 amendment clarifies that physician practice groups are eligible to claim the GRT deduction, aligning the statute with regulations. An additional amendment updates qualifications of osteopathic physicians.

The 2022 amendment includes several changes including adding Medicare administrative contractors' gross receipts as eligible for the deduction and clarifying that the gross receipts associated with hospices and nursing homes are eligible if associated with the approved service providers.

Evaluation: Because medical services of this type are typically reimbursed based on pre-established rate schedules, health care providers would likely not be able to recoup the GRT, even if their services were subject to GRT.

Likewise, the out-of-pocket portion of the payment is also predetermined, leaving the provider unable to pass the burden of the tax on to the consumer.

The expenditure is determined to be effective due to the extensive utilization of the deduction. The substantial fiscal impact increase in FY2022 is associated with the 2021 amendment to expand the eligibility of this deduction to physician practice groups.

Recommendations: None.

Reliability Factor: 2 – This deduction is separately reported. Despite being a separately reported deduction, the reliability factor for this deduction is a 2 to reflect that some taxpayers may be claiming this deduction in error. Tax & Rev will be further analyzing this data and taxpayer reporting of GRT deductions.

Fiscal Impact:

Medical and Health Care Services GRT Deduction	**Fiscal Year**	2018	2019	2020	2021	2022
	Claims	552	857	1,097	1,293	13,446
	State General Fund Expenditure (thousands)	$1,492	$2,158	$3,039	$4,273	$47,008
	Local Government Expenditure (thousands)	$942	$1,256	$1,566	$2,357	$31,314

MEDICAL CARE SAVINGS ACCOUNT EXEMPTION FROM PIT

Category: Citizen Benefits

Brief Description: The interest earned on medical care savings accounts and money reimbursed to an employee for eligible medical expenses from those accounts or money advanced to the employee by the employer for eligible medical expenses are exempt from PIT.

Statutory Basis: 7-2-5.6 NMSA 1978

Intended Purpose: To incentivize the investment in medical care savings accounts.

History: Originally enacted in 1995.

Evaluation: This exemption incentivizes individuals to save for future medical expenses, which increases the likelihood that New Mexicans will be able to afford medical care and may lead to a healthier population. In the last five fiscal years the number of claims has averaged 1,426, with an annual average expenditure of around $103 thousand.

Recommendations: None.

Reliability Factor: 1 – The exemption amounts for each taxpayer claiming this exemption were computed, making this data more reliable than in past years when an average rate for all taxpayers was used.

Fiscal Impact:

	Tax Year (Calendar)	2017	2018	2019	2020	2021
Medical Care Savings Account Exemption from PIT	**Claims**	1,264	1,527	1,594	1,351	1,305
	Expenditure (thousands)	$78	$116	$118	$93	$102
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	1,256	1,507	1,617	1,391	1,360
	Expenditure (thousands)	$80	$104	$126	$99	$107

MICROBREWER BEER AND SMALL WINERIES RATE DIFFERENTIAL FROM LIQUOR EXCISE TAX

Category: Highly Specialized Industry

Brief Description: Beginning in 2013, beer manufactured or produced by a microbrewer and sold in this state is taxed at a rate of $0.08 per gallon on the first 10,000 gallons sold and $0.28 per gallon on all gallons sold more than 10,000 gallons but fewer than 15,000 gallons. For all gallons sold 15,000 or more, the tax rate is $0.41 per gallon.

Until 2013, beer manufactured or produced by a microbrewer and sold in this state was taxed at a rate of $0.08 per gallon; beer produced by larger brewers was taxed at $0.41 per gallon.

Beginning in 2013, a tax of $0.10 per liter on the first 80,000 liters sold, $0.20 per liter on all liters sold over 80,000 liters but not over 950,000 liters, and $0.30 per liter on each liter sold over 950,000 liters but not 1.5 million liters, is imposed on wine manufactured or produced by a small winegrower and sold in New Mexico; larger winegrowers are subject to an excise tax of $0.45 per liter tax.

Prior to 2013, a tax of $0.10 per liter on the first 80,000 liters sold and $0.20 per liter on all liters sold over 80,000 liters but less than 950,000 liters, was imposed on wine manufactured or produced by a small winegrower and sold in New Mexico while larger winegrowers were subject to an excise tax of $0.45 per liter tax.

Statutory Basis: 7-17-5(A)(5) and 7-17-5(A)(6) NMSA 1978

Intended Purpose: Presumably to stimulate the microbrewery and small winery industry in New Mexico by reducing their tax expense.

History: Originally enacted in 1993 and amended in 1994, 1995, 1996, 1997, 2000, 2000 (2nd Special Session), 2008, and 2013.

The 2013 amendment decreased the tax rate on gallons of beer manufactured or produced by a microbrewer and sold between 10,000 and 15,000 barrels and reduced the tax rate on liters wine sold between 950,000 and 1.5 million.

Evaluation: Preliminary indicators, with respect to microbreweries and small wineries, suggest that this credit has been effective. According to information presented to the Legislature by the New Mexico Microbrewers Guild, the number of microbreweries in New Mexico has increased from 23 in 2013 to 96 location in 2018. The New Mexico Wine Association currently shows 50 wineries and/or vineyards in the state.

Recommendations: None.

Reliability Factor: 1 - Qualifying beer and wine production is separately reported. No estimation is required.

Fiscal Impact:

Microbrewer Beer and Small Wineries Rate Differential from Liquor Excise Tax	**Fiscal Year**	2018	2019	2020	2021	2022
	Microbrewery Expenditure (thousands)	$1,058	$913	$1,037	$721	$884
	Small Winery Expenditure (thousands)	$542	$507	$480	$537	$602

MILITARY CONSTRUCTION SERVICES GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts from military construction services provided at New Mexico military installations located in Curry County or Otero County to implement a fighter aircraft pilot training mission project pursuant to contracts entered into with the United States Department of Defense are deductible from gross receipts.

The deduction provided in this section applies to reporting periods prior to July 1, 2022.

Statutory Basis: 7-9-106 NMSA 1978

Intended Purpose: To encourage the U.S. Department of Defense to relocate fighter aircraft squadrons from others states to a military installation in New Mexico.

History: Originally enacted in 2007 through report periods ending December 31, 2010. The deduction was amended in 2018 extending the reporting period to July 1, 2022 and changing the military project from special operations to fighter aircraft pilot training missions.

Evaluation: In FY2022 Tax & Rev saw an influx of claims for the deduction, presumably caused by the implementation of destination-based sourcing legislation. The legislation expanded the pool of taxpayers, presumably making more of them eligible for the deduction.

Recommendations: None.

Reliability Factor: 2 – This deduction is separately reported. Despite being a separately reported deduction, the reliability factor for this deduction is a 2 to reflect that some taxpayers may be claiming this deduction in error. Tax & Rev will be further analyzing this data and taxpayer reporting of GRT deductions.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
Military Construction Services GRT Deduction	**Taxpayers**	0	0	0	0	33
	State General Fund Expenditure (thousands)	$0	$0	$0	$0	$798
	Local Government Expenditure (thousands)	$0	$0	$0	$0	$510

MILITARY TRANSFORMATIONAL ACQUISITION PROGRAMS GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts from military transformational acquisition programs performing research and development, test, and evaluation services at New Mexico major range and test facility bases are deductible from gross receipts.

Statutory Basis: 7-9-94 NMSA 1978

Intended Purpose: To incentivize the location of military transformational acquisition programs at U.S. Air Force bases in New Mexico.

History: Originally enacted in 2005 with an expiration date of June 30, 2008.

Amended in 2006 to extend the expiration date to June 30, 2016.

Amended in 2015 to extend the expiration date to June 30, 2025.

Evaluation: The expenditure is determined to be effective due to the utilization of the deduction in recent years.

Recommendations: None.

Reliability Factor: 2 – This deduction is separately reported. Despite being a separately reported deduction, the reliability factor for this deduction is a 2 to reflect that some taxpayers may be claiming this deduction in error. Tax & Rev will be further analyzing this data and taxpayer reporting of GRT deductions.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
Military Transformational Acquisition Program GRT Deduction	**Taxpayers**	<3	<3	<3	<3	19
	State General Fund Expenditure (thousands)	-	-	-	-	$790
	Local Government Expenditure (thousands)	-	-	-	-	$505

TABLE NOTE: "-" MEANS DATA IS REDACED DUE TO FEWER THAN 3 TAXPAYERS

MOLYBDENUM RATE DIFFERENTIAL FROM RESOURCES TAX AND PROCESSORS TAX

Category: Highly Specialized Industry

Brief Description: A severer and processor of molybdenum in New Mexico is required to pay a Resource Tax of 0.125% and a Processors Tax of 0.125% on the taxable value of the molybdenum.

This is in contrast to the base Resources Tax and Processors Tax rates of 0.75%.

Statutory Basis: 7-25-4A(3) and 7-25-5A(4) NMSA 1978

Intended Purpose: Presumably to incentivize the mining and processing of molybdenum.

History: Originally enacted in 1966 and amended in 1970, 1973, and 1999.

Evaluation: There was no reported molybdenum production in the state during the time period analyzed. As such, there were no expenditures for the Resources Tax. Processing of molybdenum has been limited to fewer than three taxpayers.

Recommendation: None.

Reliability Factor: 1 –Gross value, taxable value, and taxes due are directly reported by taxpayers by type of mineral. The difference is estimated from the taxes paid and the statutory tax base of 0.75%. No further estimation is required.

Fiscal Impact: No taxpayers have reported production of molybdenum. The mine in Questa, NM ceased operations in 2014, as such, there is no fiscal impact applicable to the Resources Tax. Additionally, while fewer than three taxpayers have reported processing of molybdenum, the data may be reported as is allowed pursuant to under Section 7-1-8 NMSA 1978, more specifically, Section 7-1-8.3(B) NMSA 1978.

Molybdenum Rate Differential from Resources and Processors Tax	**Fiscal Year**	2018	2019	2020	2021	2022
	Resources Tax Taxpayers	0	0	0	0	0
	Resources Tax Expenditure (thousands)	$0	$0	$0	$0	$0
	Processors Tax Taxpayers	0	0	1	1	1
	Processors Tax Expenditure (thousands)	$0	$0	$26	$47	$455

NATURAL GAS
EXEMPTION FROM OIL AND GAS SEVERANCE TAX

Category: Highly Specialized Industry

Brief Description: Exempts natural gas from a production restoration project for the first 10 years after the restoration of production when the annual average price of WTI crude oil was less than $24 per barrel. The statute specifies a non-standard calendar of June through May when calculating the average annual WTI price. The qualification criteria for production restoration projects is set in Natural Gas and Crude Oil Production Incentives Act, Section 7-29B-6(A) NMSA 1978.

Statutory Basis: 7-29-4(B)(1) , and 7-29B-6(A) NMSA 1978

Intended Purpose: To incentivize the development of natural gas from a production restoration project when prices are low.

History: Originally enacted in 1980 and amended in 1987, 1989, 1992, 1995, 1999, and 2005.

Evaluation: No wells have qualified for this incentive in the past six years due to the price of WTI crude oil exceeding $24 per barrel (exemption threshold). While it is unknown whether the price of WTI crude oil will drop below $24 per barrel, the production and market for natural gas has changed significantly during the history of this exemption. Enhanced extraction techniques have increased production and improved cost efficiencies. Natural gas exceeded coal since 2016 as the majority fuel for electricity generation in the United States. Other non-tax factors such as infrastructure to transport natural gas to markets may be stronger determinants of production.

Recommendations: A review of this and other extraction tax expenditures should be initiated to reevaluate intended purpose and relevance in current market climate.

Reliability Factor: 1 –There have been no expenditures resulting from this exemption.

Fiscal Impact: None.

NATURAL GAS RATE DIFFERENTIAL FROM OIL AND GAS EMERGENCY SCHOOL TAX

Category: Highly Specialized Industry

Brief Description: The emergency school tax rate on natural gas is 4%, unless the product is taxed pursuant to a different rate as provided in statute.

When the average annual taxable value of natural gas is equal to or less than $1.15 per thousand cubic feet (MCF) in the previous calendar year, the tax rate on natural gas from a stripper well property is 2%.

When the average annual taxable value of natural gas is greater than $1.15 per MCF but not more than $1.35 per MCF in the previous calendar year, the tax rate on natural gas from a stripper well property is 3%.

Statutory Basis: 7-31-4(A)(6) and 7-31-4(A)(7) NMSA 1978

Intended Purpose: To incentivize high-cost, low-yield production when natural gas prices are low.

History: The section was originally enacted in 1959 and amended in 1963, 1983, 1993, 1999, and 2005.

Evaluation: Data reported in ONGARD (prior to March 2018) and GenTax were used to determine the average taxable value per MCF of natural gas. No wells qualified for this rate differential due to value exceeding $1.35 per MCF. While it is unknown whether the price of natural gas will drop below $1.35 per MCF, the production and market for natural gas has changed significantly during the history of this rate differential. Enhanced extraction techniques have increased production and improved cost efficiencies. Natural gas exceeded coal since 2016 as the majority fuel for electricity generation in the United States. Other non-tax factors such as infrastructure to transport natural gas to markets may be stronger determinants of production.

Recommendations: A review of this and other extraction tax expenditures should be initiated to determine intended purpose and relevance in current market climate.

Reliability Factor: 1 - There have been no expenditures resulting from this rate differential.

Fiscal Impact: None.

NATURAL GAS
RATE DIFFERENTIAL FROM OIL AND GAS SEVERANCE TAX

Category: Highly Specialized Industry

Brief Description: The oil and gas severance tax rate on natural gas is 3.75% unless the product is taxed pursuant to a different rate as provided in statute.

When the average annual price of WTI crude oil is less than $24 per barrel in the previous year, the tax rate on natural gas from a well workover project is 2.45%. The statute specifies a non-standard calendar of June through May when calculating this average annual WTI price.

When the average annual taxable value of natural gas is equal to or less than $1.15 per thousand cubic feet (MCF) in the previous calendar year, the tax rate on natural gas from a stripper well property is 1.875%.

When the average annual taxable value of natural gas is greater than $1.15 per MCF but not more than $1.35 per MCF in the previous calendar year, the tax rate on natural gas from a stripper well property is 2.8175%.

Statutory Basis: 7-29-4(A)(4), 7-29-4(A)(6), and 7-29-4(A)(7) NMSA 1978

Intended Purpose: To incentivize high-cost, low-yield production when prices are low.

History: The section was originally enacted in 1980 and amended in 1987, 1989, 1992, 1995, 1999, and 2005.

Evaluation: No wells have qualified for this incentive for the time periods covered by this report due to the price of WTI crude oil exceeding $24 per barrel. Also, the taxable value of natural gas (as reported by the ONGARD system (prior to 2018) and in GenTax) has exceeded $1.35 per MCF. While it is unknown whether the price of natural gas will drop below $1.35 per MCF or if WTI crude oil will drop below $24 per barrel, the production and market for natural gas has changed significantly during the history of this rate differential. Enhanced extraction techniques have increased production and improved cost efficiencies. Natural gas exceeded coal since 2016 as the majority fuel for electricity generation in the United States. Other non-tax factors such as infrastructure to transport natural gas to markets may be stronger determinants of production.

Recommendations: A review of this and other extraction tax expenditures should be initiated to determine intended purpose and relevance in current market climate.

Reliability Factor: 1 - There were no expenditures resulting from this rate differential.

Fiscal Impact: None.

NEW MEXICO NATIONAL GUARD MEMBER PREMIUMS PAID FOR GROUP LIFE INSURANCE EXEMPTION FROM PIT

Category: Citizen Benefits

Brief Description: Payments for a service members' group life insurance premium from the National Guard Service Member's Life Insurance Reimbursement Fund are exempt from PIT.

Statutory Basis: 7-2-5.10 NMSA 1978

Intended Purpose: The passage of the New Mexico National Guard life insurance bill in 2005, which provides reimbursements for life insurance premiums for service members, resulted in the unintended consequence of taxing those reimbursement amounts. This exemption passed in the subsequent legislative session rectified the oversight and established the intent to exclude these reimbursements from PIT.

History: Originally enacted in 2006.

Evaluation: None.

Recommendations: None.

Reliability Factor: 1 - The exemption amounts for each taxpayer claiming this exemption were computed, making this data more reliable than in past years when an average rate for all taxpayers was used

Fiscal Impact:

NM National Guard Member Life Insurance Premiums Exemption from PIT	**Tax Year (Calendar)**	2017	2018	2019	2020	2021
	Claims	1,163	1,194	619	494	431
	Expenditure (thousands)	$19	$18	$13	$14	$10
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	1,174	1,209	646	511	447
	Expenditure (thousands)	$16	$18	$14	$14	$11

NEWSPAPER SALES
GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts from selling newspapers, except from selling advertising space, are deductible from gross receipts.

Statutory Basis: 7-9-64 NMSA 1978

Intended Purpose: To incentivize the growth and operations of newspaper companies and decrease the consumer cost of purchasing newspapers.

History: Originally enacted in 1969.

Evaluation: According to the nationwide daily newspaper circulation data through 2016, year-over-year circulation continues to decrease. The average annual decrease in circulation for daily newspapers nationwide from 2011 to 2016 was about 5%. With the proliferation of digital mobile devices, this deduction may not be enough to counter the market shift from print to electronic media. It is expected that newspapers will seek profitability from other sources, including consolidation of printing operations, new advertising revenue streams, and electronic subscriptions.

Recommendations: None.

Reliability Factor: 3 - The News Media Alliance, collects national annual newspaper paid circulation data that is aggregated by Statista, an online data website. In previous publications, New Mexico specific newspaper circulations for 2019 are used to benchmark the national numbers to annual New Mexico sales. Lack of availability of external data has not been available in recent years. As a result, data from the RP-80, NAICS codes 511110 Newspaper Publishers, and 3231 Printing and Related Support Activities were used to estimate the fiscal impact. The deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
Newspaper Sales GRT Deduction	State General Fund Expenditure (thousands)	$3,890	$3,543	$4,016	$4,444	$2,503
	Local Government Expenditure (thousands)	$2,495	$2,062	$2,069	$2,451	$1,667

NONATHLETIC SPECIAL EVENT AT NEW MEXICO STATE UNIVERSITY GRT OR GGRT DEDUCTION

Category: Citizen Benefits

Brief Description: Receipts from admissions to nonathletic special events held at the Pan American Center at New Mexico State University ("NMSU") are deductible from gross receipts or governmental gross receipts.

Statutory Basis: 7-9-104 NMSA 1978

Intended Purpose: To bring nonathletic events such as concerts to NMSU rather than having them go to El Paso, Texas.

History: Originally enacted in 2007 with an expiration of June 30, 2012. Amended in 2012 to extend the expiration to June 30, 2017. Amended in 2017 to extend the expiration to June 30, 2022. Amended in 2022 to extend the expiration to prior to July 1, 2027.

Evaluation: According to NMSU, the vast majority of nonathletic events held at the Pan American Center would otherwise be held in various venues located in El Paso if it was not for the incentive generated by this deduction.

Recommendations: If this deduction is thought to be successfully serving its intended purpose, consider amending it to extend it past June 30, 2022.

Reliability Factor: 3 – Gross ticket sale figures provided by NMSU's Auxiliary Business Support Office were used to estimate the cost of this deduction. The deduction amount is multiplied by the Las Cruces GRT rate for each year to estimate the cost. The estimated impact amount includes both state and local revenue. Due to COVID-19 health recommendations, events scheduled for FY2021 were postponed to a later date.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
Nonathletic Special Event at NMSU GRT Deduction	**Claims**	10	7	4	0	9
	State General Fund Expenditure (thousands)	$90	$38	$8	$0	$52
	Local Government Expenditure (thousands)	$57	$23	$4	$0	$35

NONPROFIT ELDERLY CARE FACILITY EXEMPTION FROM GRT

Category: Citizen Benefits

Brief Description: Receipts of nonprofit entities from the operation of facilities designed and used for providing accommodations for retired elderly persons are exempt from GRT.

Statutory Basis: 7-9-16 NMSA 1978

Intended Purpose: Reduce the cost of caring for the elderly and increase the affordability of receiving care.

History: Originally enacted in 1969 and amended in 1970 and 1975.

Evaluation: This expenditure must be evaluated in concert with other expenditures for medical facilities and non-profits. Note also that these facilities are already exempt from GRT because of their non-profit status pursuant to section 7-9-29 NMSA.

Recommendations: Repeal. Non-profit entities, including those that care for retired elderly persons, already qualify for a GRT exemption based on their non-profit status. If future tax reform removes or diminishes the non-profit exemption, consider reinstating this exemption.

Reliability Factor: 3 – Data from the National Center for Charitable Statistics were used in combination with the effective gross receipts tax rate to determine an estimate. The calculation is based on the forgone revenue were nonprofits not already exempt. Note, this estimate would also be included in the non-profit exemption, leading to double counting of this tax expenditure in aggregate.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
Nonprofit Elderly Care Facility Exemption from GRT	**State General Fund Expenditure (thousands)**	$6,190	$6,520	$6,850	$7,180	$6,470
	Local Government Expenditure (thousands)	$3,910	$3,980	$4,350	$4,780	$4,310

NONPROFIT ORGANIZATIONS
EXEMPTION FROM GRT

Category: Citizen Benefits

Brief Description: Purchases and receipts of an organization that was granted a tax exemption under Section 501(c)(3) or Section 501(c)(6) of the U.S. Internal Revenue Code are exempt from GRT if the receipts are not derived from an unrelated trade or business as defined in Section 513 of the U.S. Internal Revenue Code. 501(c)(3) organizations comprise the most commonly understood type of nonprofit entities: health care services, charities, churches, universities, scientific organizations, animal shelters, and others. 501(c)(6) organizations consist of business leagues and associations, chambers of commerce, boards of trade, and other similar organizations. With respect to both types of entities, a benefit or profit cannot pass to any member, owner, director, or officer.

The exemption excludes the receipts of a prime contractor for either a national laboratory or a research facility in New Mexico owned by the state. The exemption also excludes the receipts of a hospital licensed by the New Mexico DOH.

Statutory Basis: 7-9-29

Intended Purpose: To eliminate the tax burden on organizations that contribute to the overall social and economic welfare of their communities.

History: The GRT exemption was originally enacted in 1970 and amended in 1983, 1988, 1990 and 2019. The 2019 amendment provided exceptions to the exemptions for prime contractors operating federal laboratories or state-owned research facilities, and for hospitals licensed by the New Mexico DOH.

Evaluation: Non-profit organizations contribute to the overall social and economic welfare in New Mexico, and this exemption increases their ability to deliver services to a broader population at a lower cost. However, by exempting this large sector of the economy from the tax base, this exemption leads to higher tax rates being necessary on other economic activity that is subject to the gross receipts and compensating taxes to achieve the same revenue collection.

Recommendations: None.

Reliability Factor: 4 - There are no direct data to estimate this exemption. National Center for Charitable Statistics (NCCS) data provided by the Urban Institute indicates that in 2019 4,031 non-profit organizations were located in New Mexico. Income data from NCCS is used in the estimate, and Tax & Rev assumed that 50% of the receipts would otherwise be taxable gross receipts.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
Nonprofit Organizations Exemption from GRT	**State General Fund Expenditure (thousands)**	$64,960	$68,940	$73,160	$69,820	$77,620
	Local Government Expenditure (thousands)	$41,680	$40,140	$37,690	$38,510	$51,750

NONPROFIT ORGANIZATIONS FUNDRAISERS GRT DEDUCTION

Category: Citizen Benefits

Brief Description: Organizations exempt from federal income tax under Section 501(c) of the Internal Revenue Code (IRC) may deduct the receipts from two fund-raising events each calendar year. This deduction does not apply to 501(c)(3) organizations, as their receipts are exempt under Section 7-9-29 NMSA 1978. It does apply to other 501(c) organizations listed in the IRC, such as civic leagues (501(c)(4)), labor, agricultural and horticultural organizations (501(c)(5)), social, and recreational clubs (501(c)(7)), and fraternal associations (501(c)(8)). It should be noted that contributions these organizations receive are not gross receipts. This deduction applies to fundraising events, in which these organizations provide a good or service to generate funding for their missions.

Statutory Basis: 7-9-85 NMSA 1978

Intended Purpose: To allow these organizations to conduct fundraising events to support their missions without incurring GRT obligations.

History: Originally enacted in 1994.

Evaluation: None.

Recommendations: Clarify the law by excluding 501(c)(6) organizations that carry on chamber of commerce, visitor bureau, and convention bureau functions of the organization as their receipts are exempt under Section 7-9-29 NMSA 1978. This deduction specifically excludes 501(c)(3) organizations because their receipts are already exempt under Section 7-9-29 NMSA 1978.

Reliability Factor: 4 - The Internal Revenue Service (IRS) releases data for many nonprofits exempt from federal income tax who file an annual Form 990 Return. The National Center for Charitable Statistics (NCCS) has assembled IRS Form 990 data to report aggregate statistics by state. State level data is available for total revenue and total assets by nonprofits in each of the IRS subsections for 501(c)s. In previous years, fundraising event revenue was only aggregated at the national level. Calculating the national estimates of revenue from fundraising events as a percentage of total revenues, these estimates were applied to state level total revenue for 501(c) organizations listed in statute. The total estimated deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost. For FY19 and FY20, the NCCS reported income from fundraising events by states. The estimated impact amount includes both state and local revenue. At the time of writing, the NCCS had not released data for calendar year 2021. As such, the fiscal impact for FY2021 was estimated using the growth rate in real gross value added for nonprofit institutions.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
Nonprofit Organizations Fundraisers GRT Deduction	State General Fund Expenditure (thousands)	$100	$110	$180	$180	$180
	Local Government Expenditure (thousands)	$70	$170	$110	$110	$120

OFFICIATING AT NEW MEXICO ACTIVITIES ASSOCIATION EVENTS EXEMPTION FROM GRT

Category: Citizen Benefits

Brief Description: Receipts from refereeing, umpiring, scoring, or other officiating at school events sanctioned by the New Mexico Activities Association are exempt from GRT.

Statutory Basis: 7-9-41.4 NMSA 1978

Intended Purpose: To reduce the cost of public education institution events that provide athletic opportunities for their students.

History: Originally enacted in 2009.

Evaluation: This exemption reduces the reporting and financial burden on taxpayers as officials would otherwise be required to register and file GRT for a relatively small amount of receipts.

Recommendations: None.

Reliability Factor: 4 - Officials' fees published annually by the New Mexico Activities Association are used to estimate the impact of this exemption. Given the number of high school teams and games or matches in an academic year, an estimate of receipts was aggregated and multiplied by the statewide average GRT rate.

Fiscal Impact:

Officiating at New Mexico Activities Association Events Exemption from GRT	Fiscal Year	2018	2019	2020	2021	2022
	State General Fund Expenditure (thousands)	$70	$70	$69	$58	$82
	Local Government Expenditure (thousands)	$44	$43	$40	$36	$55

OIL AND OTHER LIQUID HYDROCARBONS EXEMPTION FROM OIL AND GAS SEVERANCE TAX

Category: Highly Specialized Industry

Brief Description: Exempts oil and other liquid hydrocarbons that come from a production restoration project for the first 10 years after the restoration of production when the annual average price of WTI crude oil was less than $24 per barrel. The statute specifies a non-standard calendar of June through May when calculating the average annual WTI price. The qualification criteria for production restoration projects is set in Natural Gas and Crude Oil Production Incentives Act, Section 7-29B-6 NMSA 1978.

Statutory Basis: 7-29-4(B)(2) and 7-29B-6 NMSA 1978

Intended Purpose: To incentivize the development of oil and other liquid hydrocarbon from a production restoration project when prices are low.

History: Originally enacted in 1980 and amended in 1987, 1989, 1992, 1995, 1999, and 2005.

Evaluation: This exemption provides incentive for well restoration activity. No wells have qualified for this incentive for the time periods covered by this report due to the price of WTI crude oil exceeding $24 per barrel. While it is unknown whether the price of WTI crude oil will drop below $24 per barrel, the production of oil has changed significantly during the history of this exemption. As oil reserves have become more difficult to extract, enhanced extraction techniques have increased production and improved cost efficiencies.

Recommendations: A review of this and other extraction tax expenditures should be initiated to determine intended purpose and relevance in current market climate.

Reliability Factor: 1 - There are no expenditures resulting from this exemption.

Fiscal Impact: None.

OIL AND OTHER LIQUID HYDROCARBONS RATE DIFFERENTIAL FROM OIL AND GAS EMERGENCY SCHOOL TAX

Category: Highly Specialized Industry

Brief Description: The emergency school tax on oil and other liquid hydrocarbons is 3.15% unless the product is taxed pursuant to a different rate as provided in statute.

When the average annual taxable value of oil is equal to or less than $15 per barrel in the calendar year preceding July 1 of the fiscal year in which the tax rate is imposed, the tax rate on oil and other liquid hydrocarbons that are removed from a stripper well is 1.58%. The qualification criteria for receiving the stripper well incentive tax rate is set in Natural Gas and Crude Oil Production Incentives Act, Section 7-29B-6 NMSA 1978.

When the average annual taxable value of oil in the previous calendar year was greater than $15 per barrel but not greater than $18 per barrel, the tax rate on oil and other liquid hydrocarbons that are removed from a stripper well is 2.36%. The qualification criteria for receiving the stripper well incentive tax rate is set in Natural Gas and Crude Oil Production Incentives Act, Section 7-29B-6 NMSA 1978.

Statutory Basis: 7-31-4(A)(4), 7-31-4(A)(5) , and 7-29B-6 NMSA 1978

Intended Purpose: To incentivize the removal of oil and other liquid hydrocarbon from a stripper well when prices are low.

History: Originally enacted in 1959 and amended in 1963, 1983, 1993, 1999, and 2005.

Evaluation: This exemption provides incentive for well restoration activity. No wells have qualified for this incentive for the time periods covered by this report due to the average annual taxable value of oil exceeding $18 per barrel. While it is unknown whether the average annual taxable value of oil will drop below $18 per barrel, the production of oil has changed significantly during the history of this exemption. As oil reserves have become more difficult to extract, enhanced extraction techniques have increased production and improved cost efficiencies.

Recommendations: A review of this and other extraction tax expenditures should be initiated to determine intended purpose and relevance in current market climate.

Reliability Factor: 1 - There are no expenditures resulting from this rate differential provision.

Fiscal Impact: None.

OIL AND OTHER LIQUID HYDROCARBONS RATE DIFFERENTIAL FROM OIL AND GAS SEVERANCE TAX RATE

Category: Highly Specialized Industry

Brief Description: The oil and gas severance tax rate on oil and other liquid hydrocarbons is 3.75% unless the product is taxed pursuant to a different rate as provided in statute.

When the average annual price of WTI crude oil is less than $28 per barrel in the previous year, the tax rate on oil and other liquid hydrocarbons from a qualified enhanced recovery project is 1.875%. The statute specifies a non-standard calendar of June through May when calculating the average WTI price. The qualification criteria for enhanced recovery projects is set in Section 7-29A NMSA 1978.

When the average annual price of WTI crude oil is less than $24 per barrel in the previous year, the tax rate on oil and other liquid hydrocarbons from a well workover project is 2.45%. Note the statute specifies a non-standard calendar of June through May when calculating the average WTI price. The qualification criteria for a well workover projects is set in Section 7-29B-3 NMSA 1978.

When the average annual taxable value of oil is equal to or less than $15 per barrel in the previous calendar year, the tax rate on oil and other liquid hydrocarbons from a stripper well property is 1.875%. The qualification criteria for stripper well projects is set in Section 7-29B-3 NMSA 1978.

When the average annual taxable value of oil was greater than $15 per barrel but not more than $18 per barrel in the previous calendar year, the tax rate on oil and other liquid hydrocarbons from a stripper well property is 2.8125%. The qualification criteria for stripper well projects is set in Section 7-29B-3 NMSA 1978.

Statutory Basis: 7-29-4(A)(3), 7-29-4(A)(5), 7-29-4(A)(8), 7-29-4(A)(9), 7-29A, and 7-29B-3 NMSA 1978

Intended Purpose: To incentivize high cost production when prices are low.

History: Originally enacted in 1980 and amended in 1987, 1989, 1992, 1995, 1999, and 2005.

Evaluation: No wells have qualified for this incentive for the time periods covered by this report due to the price of WTI crude oil exceeding $28 per barrel and the average annual taxable value of oil exceeding $15 per barrel (rate differential thresholds). While it is unknown whether the average annual taxable value of oil will drop below $18 per barrel or WTI average annual prices will be less than $28 per barrel, the production of oil has changed significantly during the history of this exemption. As oil reserves have become more difficult to extract, enhanced extraction techniques have increased production and improved cost efficiencies.

Recommendations: A review of this and other extraction tax expenditures should be initiated to determine intended purpose and relevance in current market climate.

Reliability Factor: 1 - There are no expenditures resulting from this rate differential provision.

Fiscal Impact: None.

ORGAN DONATION
DEDUCTION FROM PIT

Category: Citizen Benefits

Brief Description: A taxpayer may claim a deduction from net income in an amount not to exceed $10,000 for organ donation-related expenses, including lost wages, lodging expenses, and travel expenses, incurred during the taxable year by the taxpayer or the taxpayer's dependent as a result of the taxpayer's or dependent's donation of a human organ to another person for transfer of that human organ to the body of another person.

Statutory Basis: 7-2-36 NMSA 1978

Intended Purpose: To help remove obstacles that prevent people from making living organ donations by reducing the associated financial losses.

History: Originally enacted in 2005.

Evaluation: While factors like blood type serve as an unchangeable barrier to donating organs, for those who are matches, this credit helps to offset related expenses. In the last five fiscal years, on average 95 tax payers have claimed this deduction with an average annual expense of $6,000.

Recommendations: None.

Reliability Factor: 1 – The deduction amounts for each taxpayer claiming this deduction were computed, making this data more reliable than in past years, when an average rate for all taxpayers was used.

Fiscal Impact:

	Tax Year (Calendar)	2017	2018	2019	2020	2021
Organ Donation Deduction	**Claims**	81	105	97	108	117
	Expenditure (thousands)	$5	$9	$6	$5	$8
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	86	103	100	106	124
	Expenditure (thousands)	$5	$9	$6	$5	$8

PENALTY PURSUANT TO SECTION 7-1-71.2 NMSA 1978 CREDIT AGAINST GRT, COMPENSATING TAX AND WITHHOLDING TAX

Category:	Health Care
Brief Description:	Prior to July 1, 2010, taxpayers who paid the double local option penalty in effect prior to July 1, 2007— imposed for incorrectly reporting food and medical GRT deductions created in 2004—could claim this credit. The credit is equal to the amount of the penalty paid.
Statutory Basis:	7-9-105 NMSA 1978
Intended Purpose:	To refund penalties paid for incorrectly reporting the food deduction in Section 7-9-92 NMSA 1978 or the health care practitioner services deduction in Section 7-9-93 NMSA 1978.
History:	Originally enacted in 2007.
Evaluation:	This credit has no current effect as all claims were submitted prior to July 1, 2010.
Recommendations:	Repeal. The credit has not been available since July 1, 2010.
Reliability Factor:	1 - This credit is separately reported. No estimation is required.
Fiscal Impact:	No possible fiscal impact.

PERSONS ONE HUNDRED AND OLDER EXEMPTION FROM PIT

Category: Citizen Benefits

Brief Description: The income of an individual who is (1) a natural person, (2) one hundred years of age or older, and (3) not a dependent of another individual is exempt from PIT.

Statutory Basis: 7-2-5.7 NMSA 1978

Intended Purpose: To eliminate the income of aged persons from the tax base and reduce the reporting and financial burden on this aging population.

History: Originally enacted in 2002.

Evaluation: None.

Recommendations: None.

Reliability Factor: 2 – The exemption is separately reported. Unmarried centenarians are not required to file a return unless they want to claim other rebates and credits. Some estimation is required.

Fiscal Impact:

Over 100 Income Exemption	**Tax Year (Calendar)**	2017	2018	2019	2020	2021
	Claims	135	140	158	163	140
	Expenditure (thousands)	$104	$138	$233	$233	$264
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	135	134	153	157	168
	Expenditure (thousands)	$94	$132	$201	$254	$291

PERSONS SIXTY-FIVE AND OLDER OR BLIND EXEMPTION FROM PIT

Category: Citizen Benefits

Brief Description: An individual who is 65 years or older or who is blind may claim an exemption from PIT based on a sliding scale, not to exceed $8,000.

Statutory Basis: 7-2-5.2 NMSA 1978

Intended Purpose: To reduce the financial burden on older or blind taxpayers.

History: The PIT exemption was originally enacted in 1985 and amended in 1987.

Evaluation: This exemption excludes more than $900 million of income from the PIT base each year. On average, about 100,000 New Mexico taxpayers benefit from this exemption each fiscal year. Over the last five fiscal years, the number of claims has decreased slightly, while the amount of the expenditure has decreased due to the sliding scale amount of the exemption remaining the same while inflation occurred. Both the number of claims and the amount of expenditure may increase in keeping with demographic trends toward an older population.

Recommendations: To ensure that inflation does not erode the value of this benefit to older, disabled taxpayers, it is recommended that the income thresholds be adjusted for inflation annually.

Reliability Factor: 1 -Information is reported separately for the rebate. No estimation is required.

Fiscal Impact:

65 and older or blind Exemption	**Tax Year (Calendar)**	2017	2018	2019	2020	2021
	Claims	101,192	100,618	100,101	105,548	103,671
	Expenditure (thousands)	$2,452	$2,005	$1,953	$1,924	$1,713
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	101,139	100,891	99,599	107,480	110,830
	Expenditure (thousands)	$2,442	$2,039	$1,963	$1,960	$1,834

PHYSICIAN PARTICIPATING IN CANCER TREATMENT CLINICAL TRIALS CREDIT AGAINST PIT

Category: Health Care

Brief Description: A licensed oncologist who practices in rural New Mexico may claim a credit of $1,000 for each patient participating in a cancer clinical trial under the oncologist's supervision. Rural New Mexico is defined as a class-B county in which no municipality has a population over 60,000 according to the most recent decennial census. The non-refundable credit is capped at $4,000 per physician per year and the credit may only be claimed for the taxable year in which the physician participated as an investigator in a clinical trial.

This credit was applicable starting in taxable year January 1, 2012 and ending before January 1, 2015.

Statutory Basis: 7-2-18.27 NMSA 1978

Intended Purpose: To encourage physicians in rural New Mexico to participate as clinical trial investigators by performing clinical trials of new cancer treatments in New Mexico and making cancer clinical trials more readily available to cancer patients in the state.

History: Originally enacted in 2011 legislative session.

Evaluation: This credit was effective for the taxable years 2012 through 2014. During that time, Tax & Rev never received an application for this credit.

Recommendations: Repeal. The time period that this credit could have been claimed has expired. As the original bill did not have a delayed repeal this statute is still in law.

Reliability Factor: 1 - This credit is separately reported. No estimation is required. No taxpayer may claim this credit for tax years beginning after December 31, 2014.

Fiscal Impact: None.

POTASH RATE DIFFERENTIAL FROM RESOURCES TAX AND PROCESSORS TAX

Category: Highly Specialized Industry

Brief Description: A severer and processor of potash in New Mexico is required to pay a Resource Tax of 0.5% and a Processors Tax of 0.125% on the taxable value of the potash.

This is in contrast to the base Resource Tax and Processors Tax rates of 0.75%.

Statutory Basis: 7-25-4A(2) and 7-25-5A(3) NMSA 1978

Intended Purpose: Presumably to incentivize the mining and processing of potash.

History: Originally enacted in 1966 and amended in 1970, 1973, and 1999.

Evaluation: There was no reported potash production in the state during the time period analyzed. As such, there were no expenditures for the Resources Tax. The rate differential for Processors Tax has remained consistent over the years.

Recommendation: None.

Reliability Factor: 1 – This expenditure is calculated directly using taxpayer data. No estimation is required. No taxpayers have reported production of potash, as such, there is no fiscal impact on the Resources Tax.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
Potash Rate Differential from Resources and Processors Tax	**Resources Tax Taxpayers**	0	0	0	0	0
	Resources Tax Expenditure (thousands)	$0	$0	$0	$0	$0
	Processors Tax Taxpayers	4	3	3	3	3
	Processors Tax Expenditure (thousands)	$1,310	$1,247	$1,302	$1,258	$2,037

PRESCRIPTION DRUGS, OXYGEN, AND CANNABIS GRT AND GGRT DEDUCTION

Category: Health Care

Brief Description: Receipts from the sale of prescription drugs, oxygen, and oxygen services provided by a licensed Medicare durable medical equipment provider are deductible from gross receipts and governmental gross receipts.

Starting June 29, 2021, receipts from the sale of medical cannabis products sold in accordance with the Lynn and Erin Compassionate Use Act are deductible from gross receipts and governmental gross receipts.

Statutory Basis: 7-9-73.2 NMSA 1978

Intended Purpose: To reduce the effective cost of prescription drugs, oxygen, and medical cannabis as a public welfare mechanism.

History: Originally enacted in 1998 and amended in 2003, 2007 and 2021. The 2021 amendment expands the deduction to include medical cannabis.

Evaluation: This deduction removes the gross receipts tax burden from sellers who would otherwise pass it on to consumers of these medically necessary goods.

Recommendations: None.

Reliability Factor: 3 - State specific data published by the Kaiser Family Foundation on total retail sales of prescription drugs was used to calculate this deduction. For this year's publication, data for oxygen and oxygen services was obtained from the Centers for Medicare and Medicaid Services as it was not included in previous versions of this report. Note that additional estimation was required for oxygen and oxygen services due to lack of available data after calendar year 2017. The deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost. The estimated impact amount includes both state and local revenue. New data was made available to estimate FY2020. The annual percentage growth in spending in health care published by IHS Global Insight was used to estimate the costs in 2021-2022.

The addition of medical cannabis products is reflected in the fiscal impact beginning in fiscal year 2022.

Fiscal Impact:

Prescription Drugs, Oxygen and Cannabis GRT and GGRT Deduction	Fiscal Year	2018	2019	2020	2021	2022
	State General Fund Expenditure (thousands)	$104,500	$105,000	$200,900	$206,300	$223,100
	Local Government Expenditure (thousands)	$65,900	$70,600	$103,500	$113,800	$148,600

PRESERVATION OF CULTURAL PROPERTY CREDIT AGAINST PIT AND CIT

Category: Citizen Benefits

Brief Description: Taxpayers may claim a credit on a PIT or CIT return of 50% of the cost of restoring, rehabilitating, or preserving properties listed on the New Mexico Register of Cultural Properties.

The credit may not exceed $25,000 unless the property is located within a designated arts and cultural district. The credit may not exceed $50,000 for properties located within an arts and cultural district.

The credit is not refundable but may be carried forward up to four years.

Statutory Basis: 7-2-18.2 and 7-2A-8.6 NMSA 1978

Intended Purpose: To encourage the restoration, rehabilitation and preservation of cultural properties.

History: The PIT credit was originally enacted in 1984 and amended in 2007.

The CIT credit was originally enacted in 1984 and amended in 1986 and 2007.

Evaluation: None.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

	Tax Year (Calendar)	2017	2018	2019	2020	2021
Preservation of Cultural Property Credit	**Claims**	54	65	91	80	41
	Expenditure (thousands)	$142	$250	$363	$232	$130
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	57	71	86	85	49
	Expenditure (thousands)	$142	$265	$345	$251	$164

PROCESSING NATURAL GAS DEDUCTION FROM OIL AND GAS EMERGENCY SCHOOL TAX

Category: Highly Specialized Industry

Brief Description: The reasonable expense of processing of natural gas when the actual price is determined at a point other than the production unit is deductible from the Oil and Gas Emergency School Tax.

Statutory Basis: 7-31-6 NMSA 1978

Intended Purpose: Presumably to incentivize the production of natural gas in New Mexico.

History: Originally enacted in 1959 and has not been changed since. Regulations, including 3.18.6.10, were enacted in accordance with the statute, and, as the statute requires, set values for the products that are commensurate with the actual price received for products of like quality, character, and use which are severed in the same field or area.

Evaluation: In conjunction with factors such as natural gas prices and advances in exploration technology, this deduction has increased over time, in par with natural gas production. This deduction appears to be achieving its presumed purpose.

Similar deductions exist in regulations under the Oil and Gas Conservation Tax Act, the Oil and Gas Ad Valorem Production Tax Act, and the Oil and Gas Severance Tax Act. The deductions in those statutes are considered non-expenditures because the incidence of the tax is on products severed and sold. The product must be transported from the well to be processed and then sold in the market place. Once it reaches its point of sale, the product becomes taxable. However, under the Oil and Gas Emergency School Tax, the product only needs to be severed to be taxable, thus, the processing costs are considered an expenditure.

Recommendations: The Department has authority to determine the value of certain severed products under 7-31-6, NMSA, and pursuant to that authority has, by regulation, allowed producers to deduct processing costs as set forth in Section 3.18.6.10, NMAC. It is recommended that processing deduction be codified in statute.

Reliability Factor: 1 – Processing deductions are separately reported by product type to the Department. No estimation is required. This expenditure was not included in previous versions of the Tax Expenditure Report. This is not a new deduction, but rather an addition of an already-existing statute.

Fiscal Impact:

Natural Gas Processing Deduction from Oil and Gas Emergency School Tax	Fiscal Year	2018	2019	2020	2021	2022
	Expenditure (thousands)	$12,319	$15,044	$21,355	$25,799	$38,953

PRODUCTION OR STAGING OF PROFESSIONAL CONTESTS GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts from producing or staging professional boxing, wrestling, or martial arts contests that occur in New Mexico, including receipts from ticket sales and broadcasting, are deductible from gross receipts.

Statutory Basis: 7-9-107 NMSA 1978

Intended Purpose: To incentivize professional boxing, wrestling, and martial arts contests to take place in New Mexico.

History: Originally enacted in 2007.

Evaluation: None.

Recommendations: None.

Reliability Factor: 3 - The New Mexico Regulations and Licensing Department (RLD) provides annual data on the number of sanctioned events and associated fees. A calculation of associated gross receipts and foregone revenue is computed. The deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost. The fiscal impact for FY2020 was revised with updated information provided by RLD. No events were held in FY2021. No data was available for FY2022 at the time of writing. Therefore, the cost was estimated using a gross receipts tax growth rate published in the Consensus Revenue Estimating Group's August 2022 forecast.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
Production or Staging of Professional Contests GRT Deduction	**State General Fund Expenditure (thousands)**	$58	$13	$33	$0	$37
	Local Government Expenditure (thousands)	$31	$37	$8	$19	$0

PROPERTY VALUATION LIMITATION FOR LOW-INCOME SENIOR OR DISABLED HOME OWNERS UNDER PROPERTY TAX

Category: Citizen Benefits

Brief Description: The valuation of a single-family, owner-occupied residence, whose owner is at least 65 years of age or older or disabled, and who has a modified gross income for the prior year not exceeding $35,000 or the published annual inflation-adjusted modified gross income, may not be greater than the prior year valuation or the valuation for the year the owner is granted the limitation for reaching age 65 or qualified disabled.

Taxpayers must apply for the limitation with their county assessor. An owner who has claimed and been granted the limitation for three consecutive years is not required to apply for the limitation after three years and it will be automatically applied by the county assessor. Any change in status that would deem the owner ineligible must be reported to the county assessor by the last day of February of the tax year immediately following the year the eligibility was lost.

Select definitions:

(7) "Disabled" means a person who has been determined to be blind or permanently disabled pursuant to the federal Social Security Act or to the New Mexico Workers Compensation Act;

(8) "modified gross income" refers to the definition under the Income Tax Act (7-2 NMSA 1978), where it includes all income, undiminished by losses and from whatever source, for the taxpayer and the taxpayer's spouse and dependents.

Statutory Basis: 7-36-21.3 NMSA 1978

Intended Purpose: To ease the tax burden and reduce the financial burden on low-income seniors or disabled property owners.

History: Originally enacted in 2000 and amended in 2001, 2003, 2008, 2013, 2019 and 2020. The 2019 amendment increased the income limit for eligibility and made other technical language clarity changes. The 2020 amendment clarified the limitation language on valuation.

Evaluation: None.

Recommendations: None.

Reliability Factor: Insufficient data to estimate the fiscal impact.

Fiscal Impact: Unknown currently. The number of taxpayers granted the limitation is reported by counties. Individual valuations of properties or other statistics such as the average value are currently unknown to calculate a fiscal impact.

PUBLICATION SALES
GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts from publishing newspapers or magazines are deductible from gross receipts.

Statutory Basis: 7-9-63 NMSA 1978

Intended Purpose: To incentivize growth and operations of publishing companies in the state and decrease the consumer cost of purchasing publications.

History: Originally enacted in 1969.

Evaluation: With the proliferation of digital mobile devices, this expenditure may not be enough to counter the market shift from print to electronic media. It is expected that publishers will seek profitability from other sources, including consolidation of printing operations, new advertising revenue streams, and electronic subscriptions.

Recommendations: None.

Reliability Factor: 3 - Taxpayer reported deductions filed by publishing-related NAICS sectors were used to estimate the cost of this deduction. The deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost. The selection of NAICS codes was refined for this year's edition.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
Publication Sales GRT Deduction	**State General Fund Expenditure (thousands)**	$64	$47	$518	$848	$294
	Local Government Expenditure (thousands)	$41	$28	$267	$467	$196

PURSES AND JOCKEY RENUMERATION AT NEW MEXICO RACETRACKS EXEMPTION FROM GRT

Category: Highly Specialized Industry

Brief Description: The receipts of horsemen, jockeys, and trainers from race purses at New Mexico horse racetracks subject to the jurisdiction of the state racing commission are exempt from GRT.

Statutory Basis: 7-9-40(A) NMSA 1978

Intended Purpose: To reduce the tax burden of horsemen, jockeys, and trainers.

History: Originally enacted in 1970 and amended in 1971, 1985, and 1989.

Evaluation: Although horse racing attendance and the total number of horse racing events are down statewide, and nationwide, annual purses have not decreased in New Mexico.

Recommendations: None.

Reliability Factor: 3 – Yearly data on races and purse sizes from the Jockey Club's annual New Mexico Fact Book was combined with an industry standard rate of 10% of purses going each to jockeys and trainers. The 2022 New Mexico Fact Book has data through 2021 used in the estimations below. The FY2022 cost was estimated based on reported number of races, and the purse amounts in 2021. The exemption amount is multiplied by the statewide average GRT rate for each year to estimate the cost. The estimated impact amount includes both state and local revenue.

Fiscal Impact:

Purses and Jockey Remuneration at NM Racetracks Exemption from GRT	**Fiscal Year**	2018	2019	2020	2021	2022
	State General Fund Expenditure (thousands)	$120	$120	$130	$60	$63
	Local Government Expenditure (thousands)	$80	$70	$80	$30	$36

RAILROAD EQUIPMENT, AIRCRAFT, AND SPACE VEHICLES EXEMPTION FROM COMPENSATING TAX

Category: Highly Specialized Industry

Brief Description: The use of railroad locomotives, trailers, containers, tenders or cars procured or bought for use in railroad transportation; the use of commercial aircraft bought or leased primarily for use in the transportation of passengers or property for hire in interstate commerce; and the use of space vehicles for transportation of persons or property in, to, or from space are exempt from compensating tax.

Statutory Basis: 7-9-30 NMSA 1978

Intended Purpose: To reduce the cost of railroad transportation, aircraft transportation, and space transportation; potentially to comply with the preemption doctrine.

History: Originally enacted in 1969 and amended in 1988 and 2003.

Evaluation: None.

Recommendations: None.

Reliability Factor: No data are available to estimate the fiscal impact.

Fiscal Impact: Unknown.

REAL ESTATE TRANSACTIONS GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts from real estate commissions on the sale of real property which is subject to the GRT (new construction under Section 7-9-53(A) NMSA 1978) are deductible from gross receipts. Typically, brokerage commissions are deductible from gross receipts when the underlying sales are not subject to tax. With respect to new construction, the part of the sale that reflects the value of the newly constructed improvements is taxable, but the value of the underlying real estate is deductible.

Statutory Basis: 7-9-66.1 NMSA 1978

Intended Purpose: To incentivize real estate construction in New Mexico.

History: Originally enacted in 1984 and amended in 1990.

Evaluation: None.

Recommendations: None.

Reliability Factor: 3 - Yearly valuations of new residential construction by county is tracked by DFA. This sum is multiplied by the national ratio of the amount of properties that are built to be sold (“on spec”) determined from US Census data. It is assumed that little to no commercial real estate is constructed and then sold in such a way. A commission rate of 6% was assumed and a yearly statewide average GRT rate applied to that. Data from the U.S. Federal Housing Authority on home prices is used for more current years where data is not available from DFA.

Fiscal Impact:

	Calendar Year	2017	2018	2019	2020	2021
Real Estate Transactions GRT Deduction	**State General Fund Expenditure (thousands)**	$1,090	$1,190	$1,320	$1,350	$1,880
	Local Government Expenditure (thousands)	$730	$750	$800	$900	$1,250

REASONABLE EXPENSE OF TRUCKING PRODUCT TO MARKET DEDUCTION FROM OIL AND GAS EMERGENCY SCHOOL TAX

Category: Highly Specialized Industry

Brief Description: The reasonable expense of trucking any product from the production unit to the first place of market is deductible from the Oil and Gas Emergency School Tax.

Statutory Basis: 7-31-5(C) NMSA 1978

Intended Purpose: Presumably to incentivize the production of oil in New Mexico.

History: 7-31-5C was originally enacted in 1959 and amended in 1963.

Evaluation: In conjunction with factors such as oil prices and advances in oil exploration technology, this deduction has increased over time, in par with oil production. This deduction appears to be achieving its presumed purpose.

Similar deductions exist under the Oil and Gas Conservation Tax Act, the Oil and Gas Ad Valorem Production Tax Act, and the Oil and Gas Severance Tax Act. The deductions in those statutes are considered non-expenditures because the incidence of the tax is on products severed and sold. The product must be transported from the well to be processed and then taken to the market place. Once it reaches its point of sale, the product becomes taxable. However, under the Oil and Gas Emergency School Tax, the product only needs to be severed to be taxable, thus, the transportation costs from the well are considered an expenditure.

Recommendations: None.

Reliability Factor: 1 – Transportation deductions are separately reported by product type. No estimation is required. This expenditure was not included in previous versions of the Tax Expenditure Report. This is not a new deduction, but rather an addition of an already-existing statute.

Fiscal Impact:

Oil Transportation Deduction from Oil and Gas Emergency School Tax	**Fiscal Year**	2018	2019	2020	2021	2022
	Expenditure (thousands)	$875	$1,686	$2,108	$2,260	$3,288

RENEWABLE ENERGY PRODUCTION CREDIT AGAINST PIT AND CIT

Category: Environment, Conservation & Renewable Energy

Brief Description: Taxpayers are allowed a credit against PIT and CIT for producing electricity using solar light or heat, wind, or biomass. The credit only applies to taxpayers that hold title to a facility that generates the electricity for sale to third parties or to taxpayers who lease such property under an industrial revenue bond agreement and where the electricity was first produced on or before January 1, 2018.

The amount of the credit is $0.01 per kilowatt-hour (kWh) up to 400,000 megawatt-hours (MWh) annually per taxpayer for wind- or biomass-derived electricity. The aggregate cap for all wind projects is set at 2 million MWh.

The amount of the credit ranges from $0.015 cents to $0.04 cents per kWh up to 200,000 MWh annually per taxpayer for solar-light-derived or solar-heat-derived electricity, depending on the consecutive taxable year for which the credit is being claimed. The aggregate cap for all solar projects is set at 500,000 MWh.

The wind aggregate cap maximized at 2 million MWh represents total annual credit payments of $20 million. The solar credit varies by year, on average the yearly credit is $0.0275 per kWh. The solar credit ranges from $0.015 in the first year of production to $0.04 in the sixth year of production, down to $0.02 in the tenth year. Whenever the 500,000 MWh are used, the average total annual credit is $13.75 million.

A qualified taxpayer is eligible for the renewable energy production tax credit for a maximum of ten consecutive years, beginning on the date the qualified energy generator begins producing electricity. The 2021 PIT and CIT legislative amendments clarified the ten-year timespan as the previous law read as technically only nine and a half years.

Statutory Basis: 7-2-18.18 and 7-2A-19 NMSA 1978

Intended Purpose: To encourage the development of renewable energy generating facilities in New Mexico. If the renewable facilities replace coal or natural gas-fired facilities, their increased use will assist the state in reducing emissions associated with its electricity supply, including carbon dioxide and other pollutants regulated by the EPA.

History: The PIT credit was originally enacted in 2007 and amended in 2021. The CIT credit was originally enacted in 2002 and amended in 2003, 2005, 2007, and 2021.

Evaluation: The mechanics of implementation limit the number of taxpayers eligible to claim this credit. There is a queue of taxpayers seeking to claim this credit, but due to production limits are not fully qualified to claim the credit.

For those who began producing before 2008, the credit is not refundable, but may be carried forward for five years.

The taxpayer that holds title to a renewable energy production facility is eligible to claim the credit. Consequently, this credit is frequently used to engage in “tax credit financing” of renewable energy production facilities. The credit may be allocated without regard to proportional ownership interest. Thus, many renewable energy production facilities are structured as pass-through entities so that this credit can be passed-through to a financing owner.

Recommendations: The state should try to determine the cost-effectiveness of this credit before the expiration date is reached. Generation costs of renewable facilities have fallen sharply in recent years. According to a 2017 survey by Scientific American, many wind-powered facilities now produce for as little as 2 cents per kWh, making the current credit rate equal to 100% of the value of the power. This is an unusually high rate of subsidy when compared with other incentives offered by the State. If wind power is sufficiently competitive with other power sources, it may not need a subsidy at this level to continue to increase its share of the State’s electricity generation market.

Reliability Factor: 1 - This credit is separately reported. No estimation is required. The eligibility period for this credit is limited to facilities that first generated electricity on or before January 1, 2018. Given the ten-year period for claiming credits, tax liabilities will be reduced under this program through fiscal year 2027.

Fiscal Impact:

Renewable Energy Production Credit	**Tax Year (Calendar)**	**2016**	**2017**	**2018**	**2019**	**2020**
	Claims	32	30	45	53	50
	Expenditure (thousands)	$30,605	$31,696	$31,063	$31,181	$19,282
	Fiscal Year	**2018**	**2019**	**2020**	**2021**	**2022**
	Claims	33	44	41	71	61
	Expenditure (thousands)	$35,414	$43,310	$39,598	$35,514	$19,166

RESTAURANT AND BAR TEMPORARY GRT DEDUCTION

Category: Economic Development

Brief Description: Receipts from the sale of prepared food and beverages at a restaurant or bar were deductible from March 1st, 2021 through July 1st, 2021.

The deductions were accompanied by a hold harmless provision for local governments for their portion of the deduction, from the general fund.

Statutory Basis: 7-9-118 NMSA 1978

Intended Purpose: To provide temporary economic relief to restaurants and bars that were impacted by public health orders and lower customer traffic as a result of the COVID-19 pandemic.

History: Enacted in the 2021 Regular Legislative Session.

Evaluation: The targeted relief in the bill allowed for a concentrated benefit to the restaurant and bar industry, which experienced difficulties during the COVID-19 pandemic. It is thought that restaurants and bars generally collected the typical amount of tax on their sales but retained the tax to improve their profitability during the COVID-19 pandemic. Restaurants and bars alternatively could have passed along the benefit to consumers through lower prices.

Although the deduction has provided $51.1 million of targeted tax relief to date, claims for this deduction have been less than anticipated during the 2021 regular legislative session ($90.3 million). That is due to lower restaurant and bar receipts during the four month period, as well to some eligible taxpayers not claiming the deduction. Tax & Rev may continue to receive amended returns claiming this deduction for several years.

Recommendations: None.

Reliability Factor: 1 – The deduction was separately reported by the taxpayer. While this deduction was only available for the period of March 1, 2021 through July 1, 2021, the fiscal impact extends into fiscal year 2022 due to new and amended returns for that period of time.

Fiscal Impact:

Restaurant and Bar Temporary GRT Deduction	**Fiscal Year**	2021	2022
	Claims	3,753	289
	State General Fund Expenditure from deduction (thousands)	$34,140	$2,241
	State General Fund Expenditure from Hold Harmless (thousands)	$16,370	$1,619

RURAL HEALTH CARE PRACTITIONER CREDIT AGAINST PIT

Category:	Health Care
Brief Description:	Licensed doctors, osteopathic physicians, dentists, clinical psychologists, podiatrists, and optometrists who provide health care services in New Mexico in a rural health care, underserved area in a taxable year may claim a credit of up to $5,000 against PIT. Licensed dental hygienists, physician assistants, certified nurse midwives, certified registered nurse anesthetists, certified nurse practitioners, and clinical nurse specialists who provide health care services in New Mexico in a rural health care, underserved area in a taxable year may claim a credit of up to $3,000 against PIT. To qualify for the full credit a practitioner must provide health care for 2,080 hours at a practice site in an approved area. If the practitioner provided health care for at least 1,040 hours, the practitioner is eligible for 50% of the credit.
Statutory Basis:	7-2-18.22 NMSA 1978
Intended Purpose:	To improve access to health care in rural or underserved areas of the state by providing a tax benefit to health care practitioners who work in those areas.
History:	Originally enacted in 2007.
Evaluation:	About a third of New Mexico's residents reside in rural areas, according to the New Mexico Health Care Workforce Committee 2020 Annual Report. These areas tend to have lower densities of health professionals. While retention of health care practitioners in rural areas has been a challenge, COVID-19 has affected health care providers decision of where and how to practice and the report notes that there is a growing interest among physicians to transition to small-town or rural practice. This tax credit may be useful in further attracting and retaining health care practitioners to underserved, rural areas. In addition, the committee continues to recommend the expansion of this credit to other health care provider such as pharmacists, counselors and social workers. The report notes a shortage of pharmacists in rural areas of the state. To the extent the purpose of this credit is to improve access to health care in rural and underserved areas, an evaluation of the full scope of health care needed for these areas of the state should be considered. During the COVID-19 pandemic, telemedicine has proven to be crucial in maintaining access to health care across the board. This expansion of telemedicine may be a boon for rural healthcare access and complimentary services such as access to

broadband among the rural population may be promoted to take advantage of this expansion.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

Credit, Rural Healthcare Practitioner	**Tax Year (Calendar)**	2017	2018	2019	2020	2021
	Claims	2,203	2,247	2,094	2,018	1,634
	Expenditure (thousands)	$7,317	$7,607	$7,132	$6,960	$5,680
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	2,285	2,396	2,190	2,034	2,032
	Expenditure (thousands)	$7,645	$8,102	$7,477	$7,005	$7,086

RURAL JOB
CREDIT AGAINST MODIFIED COMBINED TAX, PIT, AND CIT

Category: Economic Development, Workforce Development

Brief Description: Eligible employers may earn the rural job tax credit for each qualifying job created after July 1, 2000, applying it to GRT (less local option GRT), compensating tax, withholding tax, PIT, or CIT.

An eligible employer is one whom EDD has approved for Job Training Incentive Program assistance.

A qualifying job means a job filled by an eligible employee for 48 weeks in a 12-month qualifying period.

The total credit authorized is 25% of the first $16,000 of wages paid if the job is performed or based in a Tier 1 Area and 12.5% of the first $16,000 of wages paid if the job is performed or based in a Tier 2 Area. However, the credit is taken in annual increments: 6.25% of the first $16,000 in wages paid over four qualifying periods (years) if the job is performed at a location in a Tier 1 Area; 6.25% of the first $16,000 in wages paid over two qualifying periods if the job is performed at a location in a Tier 2 Area.

Statutory Basis: 7-2E-1.1 NMSA 1978

Intended Purpose: To encourage businesses to expand into rural areas of the state.

History: Originally enacted in 2007, the credit was amended in 2013 to tighten the definition of qualifying jobs and to clarify the definition of wages. Further amended in 2021 to expand the intended purpose, revise certain employer certifications with respect to each qualifying job for which an eligible employer seeks the rural job tax credit, add time limits in which to apply for the rural job tax credit, define "new job", and revise the definition of "qualifying job", and add a statute of limitations requiring the taxpayer to timely apply.

Evaluation: Between FY 2017 and FY 2021, on average, $1.3 million was expended on this credit. This is 41% lower than the average expenditure between FY 2016 and FY 2020. The number of claims has also shown a downward trend over the years. There is a possibility that awareness of this credit has dwindled over time. The amount of credit has not been adjusted for inflation since the credit was enacted, and this might also be causing its attractiveness to drop among employers.

Recommendations: Create more awareness via information campaigns organized by the EDD. Also, it may help further the intended purpose of the credit if the amount of credit was adjusted for inflation in the past 14 years.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

Rural Jobs Credit	**Tax Year (Calendar)**	2017	2018	2019	2020	2021
	Claims	107	79	75	21	0
	Expenditure (thousands)	$3,736	$1,357	$1,861	$445	$0
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	101	72	52	33	63
	Expenditure (thousands)	$2,478	$1,693	$2,349	$331	$2,312

SALE AND USE OF AGRICULTURAL IMPLEMENTS, FARM TRACTORS, AIRCRAFT, AND MOTOR VEHICLES THAT DON'T HAVE TO BE REGISTERED
GRT AND COMPENSATING TAX DEDUCTION

Category: Highly Specialized Industry

Brief Description: (A) 50% of the receipts from selling, or of the value of, farm tractors and agricultural implements when used by persons engaged in the business of farming or ranching, are deductible from gross receipts and from the total value before computing compensating tax.

50% of the receipts from selling, or of the value of, vehicles not required to be registered under the Motor Vehicle Code are deductible from gross receipts and from the total value before computing compensating tax.

50% of the receipts from selling, or of the value of, aircraft not bought or leased primarily for use in the transportation of passengers or property for hire in interstate commerce are deductible from gross receipts and from the total value before computing compensating tax.

(B) Receipts of an aircraft manufacturer or affiliate from selling aircraft, or from selling aircraft flight support, pilot training or maintenance training services are deductible from gross receipts.

(C) Receipts from selling aircraft parts or maintenance services for aircraft or aircraft parts are deductible from GRT.

Statutory Basis: 7-9-62 and 7-9-77 NMSA 1978

Intended Purpose: To incentivize agricultural activities by reducing the effective cost of agricultural implements and farm tractors. To incentivize the development of the aircraft industry in New Mexico by reducing related costs of selling and using aircraft for other than transportation of passengers or property for hire in intrastate commerce.

History: The GRT deduction was originally enacted in 1969 and amended in 1975, 1998, 2000, 2007, and 2014.

The 2014 amendment expanded the deduction to allow any entity selling aircraft parts or maintenance services for aircraft or aircraft parts to take the deduction starting July 1, 2015.

The compensating tax deduction was originally enacted in 1966 and was amended in 1969, 1975, 1988, and 1998.

Evaluation: To the extent that the agricultural implements and aircraft are used in the production of agricultural goods intended for sale, this deduction could be viewed as reducing the effects of pyramiding.

From FY2015 forward, taxpayers wishing to take this deduction are required to separately state the amount deducted. However, this requirement only applies to GRT. Compensating Tax deductions are not separately reported.

Recommendations: None.

Reliability Factor: 2 - This deduction is separately reported. Despite being a separately reported deduction, the reliability factor for this deduction is a 2 to reflect that some taxpayers may be claiming this deduction in error. Tax & Rev will be further analyzing this data and taxpayer reporting of GRT deductions.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
Sale and Use of Agricultural Implements, Farm Tractors, Aircraft, and Motor Vehicles that Don't Have to be Registered - GRT and Compensating Tax Deduction	**Taxpayers**	17	12	15	16	126
	State General Fund Expenditure (thousands)	$205	$292	$237	$224	$6,471
	Local Government Expenditure (thousands)	$130	$178	$122	$126	$4,314
	Compensating Tax (thousands)	Unknown	Unknown	Unknown	Unknown	Unknown

SALES OF CERTAIN RESEARCH AND DEVELOPMENT SERVICES EXEMPTION FROM GRT

Category: Economic Development

Brief Description: Receipts from selling research and development services performed outside New Mexico the product of which is initially used in New Mexico are exempt from GRT if they meet one of the following criteria.

That are sold:

(1) between affiliated corporations;

(2) to the United States by persons who are prime contractors for New Mexico designated national laboratories but not organizations granted federal income tax exemption under Section 501(C)(3) of the Internal Revenue Code of 1986;

(3) to persons who are prime contractors for New Mexico designated national laboratories but not organizations granted federal income tax exemption under Section 501(C)(3) of the Internal Revenue Code of 1986.

As used in this section:

(1) An "affiliated corporation" means a corporation that directly or indirectly, through one or more intermediaries controls, is controlled by or is under common control with the subject corporation;

(2) "Control" means ownership of stock in a corporation that represents at least eighty percent of the total voting power of that corporation and has a stated or par value equal to a least eighty percent of the total stated or par value of the stock of that corporation.

Statutory Basis: 7-9-13.1 NMSA 1978

Intended Purpose: To encourage research and development in New Mexico, by allowing national laboratories and others access to out-of-state research and development without paying a penalty, as those research and development services cannot be obtained in New Mexico. Reducing the tax burden on innovation in New Mexico.

History: Originally enacted in 1989 and amended in 2019.

Evaluation: None.

Recommendation: None.

Reliability Factor: No data is available to estimate the fiscal impact of this exemption.

Fiscal Impact: Unknown.

SALE OF CERTAIN SERVICES TO AN OUT-OF-STATE BUYER GRT DEDUCTION

Category: Economic Development

Brief Description: Receipts from performing a service in New Mexico are deductible from gross receipts if the sale of the service is made to an out-of-state buyer. To qualify for the deduction, the product of the service must be delivered to the buyer outside of New Mexico and be initially used by the buyer outside of New Mexico.

The buyer must present an appropriate non-taxable transaction certificate or other evidence acceptable to the Tax & Rev Secretary.

Statutory Basis: 7-9-57 NMSA 1978

Intended Purpose: To encourage service exportation by equalizing tax treatment with out-of-state service providers, most of which are not subject to a sales tax on services.

History: Originally enacted in 1969 and amended in 1973, 1977, 1983, 1988, 1989, 1998, and 2000.

Evaluation: None.

Recommendations: None.

Reliability Factor: No data are available to estimate the fiscal impact.

Fiscal Impact: Unknown.

SALE OF FOOD AT RETAIL FOOD STORES GRT DEDUCTION AND HOLD HARMLESS DISTRIBUTION

Category: Citizen Benefits

Brief Description: Receipts from qualifying food sales by retail food stores as defined under the federal food stamp program are deductible from gross receipts.

The deduction is required to be separately stated by the taxpayer.

The original legislation enacted provisions in the Tax Administration Act states that the revenues of municipal and county governments would be held harmless from any lost revenue resulting from the deduction. Under 2013 legislation, hold harmless distributions are phased out over the course of 15 years with exceptions for small municipalities and counties. Under 2022 legislation, certain municipalities who did not enact a municipal hold harmless gross receipts tax will begin to have distributions frozen at fixed percentages of 30%, 50%, or 80% based on their poverty rate in relation to the state poverty rate. The relative poverty rate comparison is calculated with the most current publication of the U.S. Census 5-year American Community Survey.

Statutory Basis: 7-9-92, 7-1-6.46 and 7-1-6.47 NMSA 1978

Intended Purpose: To reduce the burden of tax on food.

History: The GRT deduction was originally enacted in 2004 and amended in 2021.

The 2021 amendment clarified that the sales are ‘by’ retail stores and thus includes receipts for home-deliveries.

The hold harmless provision was originally enacted in 2004 and was amended in 2006, 2007, 2013, 2016 and 2022. The 2013 amendment phased out the hold harmless distribution to larger counties and municipalities over a 15-year period starting July 1, 2015 under Sections 7-1-6.46 and 7-1-6.47 NMSA 1978. A 2016 amendment added a penalty for incorrectly filing for the food and medical deductions that result in hold harmless distributions instead of other exemptions or deductions that must be taken first. The penalty is equal to 20% of the value of the hold harmless distribution resulting from the incorrect deduction. The 2022 amendment freezes certain municipal distributions at a fixed percentage depending on their poverty rate in relation to the state poverty rate and if they did not enact a municipal hold harmless gross receipts tax.

Evaluation: The GRT deduction reduces the effective cost of food for home consumption (as opposed to restaurant meals or prepared foods). With the hold harmless provision and the loss of the revenue being made up through other tax burdens, this reduction has a significant cost to both the General Fund and the taxpayers it benefits. The food deduction benefits lower-income individuals who spend a greater share of their income on necessities including food, but it also benefits higher-income taxpayers.

The expenditure amount reported in FY2020 and associated hold harmless distributions were higher than past years due primarily to a taxpayer amending returns to claim the deduction for the past 36 months. The FY2020 and FY2021 amounts were also higher due to the COVID-19 pandemic, which shifted food consumption away from restaurants and towards food purchased at grocery stores.

Recommendations: This deduction is subject to frequent debate given the large amount of revenue foregone as a result. While discussion typically centers on whether or not to repeal the deduction, policymakers may also consider reducing the deduction to an amount less than 100% of eligible receipts.

Any future decision to tax any portion of food for home consumption may be coupled with consideration of the appropriate size of other tax benefits targeted only to lower-income New Mexicans. The low-income comprehensive tax rebate is one example of a PIT mechanism that effectively reduces PIT liability for low-income taxpayers in recognition of the regressive nature of the GRT.

Reliability Factor: 1 - This deduction is separately reported. The estimate reflects the amounts of GRT revenue forgone by multiplying the GRT deduction amounts by the statewide average GRT rate for each year. The hold-harmless is reported separately and no estimation is required. The 2022 amendment to the hold harmless distributions will impact the fiscal year 2023 distributions and be reported on in the 2023 Tax Expenditure Report.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
Sale of Food at Retail Food Stores GRT Deduction and Hold Harmless Distribution	**State General Fund Expenditure from Local Hold Harmless Distributions (thousands)**	$102,643	$92,300	$142,903	$104,905	$92,552
	State General Fund Expenditure from Deduction (thousands)	$159,874	$155,500	$258,450	$212,593	$204,219
	Local Government Expenditure (thousands)	$102,569	$121,400	$133,153	$117,261	$125,900

SALE OF SOFTWARE DEVELOPMENT SERVICES GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts from the sale of software development services that are performed in a rural area by an eligible software company are deductible from gross receipts. A rural area is anywhere except an incorporated municipality with a population of more than 50,000.

Statutory Basis: 7-9-57.2 NMSA 1978

Intended Purpose: To stimulate new business development in rural areas.

History: Originally enacted in 2002.

Evaluation: It is difficult to determine whether this deduction is the cause of any expansion in the targeted locations or industries, but, based on Tax & Rev's estimate methodology, the amount of the applicable deductions has increased significantly in recent years.

Recommendations: None.

Reliability Factor: 2 - Gross receipts deductions for taxpayers classified as software publishers and computer programmers reported outside of incorporated municipalities as defined in this section, are assumed to qualify for the deduction. The deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
Sale of Software Development Services GRT Deduction	**State General Fund Expenditure (thousands)**	$4,002	$3,843	$5,095	$5,594	$3,421
	Local Government Expenditure (thousands)	$2,568	$2,237	$2,625	$3,086	$2,279

SALE OF TEXTBOOKS IN CERTAIN BOOKSTORES EXEMPTION FROM GRT

Category:	Citizen Benefits
Brief Description:	Receipts of certain bookstores from selling textbooks and other materials required for courses at a public post-secondary educational institution to a student enrolled at the institution are exempt from GRT. Only bookstores located on the campus of the institution and operated pursuant to a contractual agreement with the institution are eligible.
Statutory Basis:	7-9-13.4 NMSA 1978
Intended Purpose:	To reduce the cost of educational materials to those attending higher educational institutions.
History:	Originally enacted in 2002.
Evaluation:	While the cost of textbooks is only one component of the overall cost of a college education, the exemption provides some relief.
Recommendations:	Consider expanding the exemption so that it is not limited to bookstores operated by a post-secondary education institution. Off-campus school bookstores frequently stock required textbooks and materials for university courses.
Reliability Factor:	4 - Using survey results from The National Association of College Stores, an estimate of the cost of required course materials has been applied for the 2022 TER. Enrollment numbers for public post-secondary institutions, reported by the New Mexico Higher Education Department, in combination with the cost of required course materials, calculates an aggregate total cost across all public intuitions. Declining enrollments and use of technology to access course materials contribute to the downward trend in the exemption amount. New Mexico public universities and colleges have collectively had an average annual 3.7% drop in enrollment over the last five years. Student behavior also has changed as students access courses and course material electronically, buy books on-line, and rent textbooks.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
Sale of Textbooks in Certain Bookstores Exemption from GRT	State General Fund Expenditure (thousands)	$2,300	$1,900	$1,900	$1,900	$2,000
	Local Government Expenditure (thousands)	$1,900	$1,300	$1,200	$1,200	$1,300

SALES TO NONPROFIT ORGANIZATIONS
GRT, GGRT, AND COMPENSATING TAX DEDUCTION

Category:	Citizen Benefits
Brief Description:	Gross receipts from selling tangible personal property to 501(c)(3) organizations for use in tax exempt functions, and gross receipts from the sale of construction materials to a 501(c)(3) organization formed for the purpose of providing homeownership opportunities to low-income families are deductible from gross receipts and governmental gross receipts. Also, out-of-state purchases of an organization that was granted a tax exemption under Section 501(c)(3) or Section 501(c)(6) of the U.S. Internal Revenue Code are exempt from the Compensating Tax so long as the receipts are not derived from an unrelated trade or business as defined in Section 513 of the U.S. Internal Revenue Code.
Statutory Basis:	7-9-60 and 7-9-15 NMSA 1978
Intended Purpose:	To decrease the operating costs of nonprofit entities that provide homeownership opportunities to low-income families.
History:	The GRT deduction was originally enacted in 1953, amended in 1969, reenacted in 1970, and amended in 1983, 1990, 1992, 1995, 2001, 2007, 2018, and 2021. The 2021 amendment clarifies that in addition to non-taxable transaction certificates, taxpayers may present alternative evidence documentation to claim the deduction. The exemption from compensating tax was originally enacted in 1969 and amended in 1970, 1983, and 1990.
Evaluation:	This tax expenditure may allow a greater number of low-income families to be served by those nonprofits whose mission relates to low-income homeownership, or for enhanced services to be offered.
Recommendations:	None.
Fiscal Impact:	Unknown.

SALES TO QUALIFIED FILM PRODUCTION COMPANY GRT AND GGRT DEDUCTION

Category: Economic Development

Brief Description: Receipts from selling or leasing property to, and from performing services for, a qualified production company are deductible from gross receipts or from governmental gross receipts.

The buyer (a film production company) must present a non-taxable transaction certificate or alternative evidence to the seller and can only deliver one with respect to production costs.

This deduction cannot be used in conjunction with the film production tax credit as described in Section 7-2F-1(L).

Statutory Basis: 7-9-86 NMSA 1978

Intended Purpose: To incentivize operations of the film industry and film productions in New Mexico.

History: Originally enacted in 1995 and amended in 2003.

Evaluation: None.

Recommendations: Repeal. This deduction cannot be claimed by a film production company if they claim the film production tax credit. Based on the relative value to the taxpayer, the possibility of claiming this deduction instead of the Film Production Tax Credit is very small.

Reliability Factor: No data is available to estimate the fiscal impact as this deduction is not separately reported.

Fiscal Impact: Unknown.

SALES TO STATE-CHARTERED CREDIT UNIONS GRT AND GGRT DEDUCTION

Category: Economic Development

Brief Description: Receipts from selling tangible personal property to state-chartered credit unions are deductible from gross receipts to the same extent that receipts from the sale of tangible personal property to federal credit unions are deductible.

Statutory Basis: 7-9-61.2 NMSA 1978

Intended Purpose: To provide equitable tax treatment between federally-chartered credit unions and state-charted credit unions and treat state-chartered credit unions as an instrumentality of state government.

History: Originally enacted in 2000.

Evaluation: None.

Recommendations: None.

Reliability Factor: 4 - According to the National Credit Union Administration (NCUA), New Mexico had 18 state-chartered credit unions in 2022. NCUA has also published a document on operating costs for a state-chartered credit union. From this document the tangible property costs estimate is 50% of total operating costs. The total estimate is multiplied by the statewide average GRT rate for each year to estimate the cost.

Fiscal Impact:

Sales to State-Chartered Credit Unions GRT and GGRT Deduction	Fiscal Year	2018	2019	2020	2021	2022
	Credit Unions	19	19	19	19	18
	State General Fund Expenditure (thousands)	$950	$1,068	$1,221	$1,353	$1,452
	Local Government Expenditure (thousands)	$610	$622	$629	$747	$968

SMALL BUSINESS SATURDAY THANKSGIVING WEEKEND GRT DEDUCTION

Category: Economic Development

Brief Description: Receipts from retail sales of specified tangible personal property are deductible from GRT if the sale occurs during the first Saturday after the Thanksgiving holiday. The deduction may be taken on sales of property with a value of less than $500. Qualified retailers must be a business in New Mexico and have employed no more than 10 employees at any one time in the previous fiscal year.

Statutory Basis: 7-9-116 NMSA 1978

Intended Purpose: To reduce the cost of retail purchases and encourage purchases at small businesses in New Mexico.

History: Originally enacted in 2018. Amended in 2020 to extend the sunset of the deduction from July 1, 2020 to July 1, 2025.

Evaluation: The deduction is like the back to school tax free weekend, which is widely used in New Mexico. This deduction however restricts purchases to those made at small businesses and is believed to have much lower usage. While the deduction may result in a small increase in purchases at small businesses during the popular holiday shopping season, the overall benefit is limited. The number of businesses that claimed the deduction decreased from FY19 to FY21, which may indicate that businesses do not find the burden to claim the deduction is worth the benefit received or reflective of the impact of the COVID-19 induced recession.

Recommendations: Monitor usage of the deduction through its sunset date. Consider annual public outreach campaigns to small businesses to increase awareness of the deduction.

Reliability Factor: 2 – This deduction is separately reported. Despite being a separately reported deduction, the reliability factor for this deduction is a 2 to reflect that some taxpayers may be claiming this deduction in error. Tax & Rev will be further analyzing this data and taxpayer reporting of GRT deductions.

Fiscal Impact:

	Fiscal Year	2019	2020	2021	2022
Small Business Thanksgiving Saturday GRT Deduction	**Claims**	40	30	20	258
	State General Fund Expenditure (thousands)	$2.7	$1.4	$0.5	$111.6
	Local Government Expenditure (thousands)	$1.6	$0.8	$0.3	$74.4

SOLAR ENERGY SYSTEMS GRT DEDUCTION

Category: Environment, Conservation & Renewable Energy

Brief Description: Receipts from the sale or installation of solar energy systems, including solar panels, solar hot water heaters, and trombe walls, are deductible from gross receipts if the equipment is used to generate power for on-site consumption.

Statutory Basis: 7-9-112 NMSA 1978

Intended Purpose: To incentivize the installation and use of solar energy systems at the consumer level.

History: Originally enacted in 2007.

Evaluation: The steady growth rate in Tax & Rev's estimated deduction utilization suggests that this deduction continues to benefit solar purchasers.

Recommendations: None.

Reliability Factor: 3 - Solar panel installation is one of the 47 subcategories in NAICS code 238210 Electrical Contractors and Other Wiring Installation Contractors. Data from Tax & Rev's RP80 Report was used to estimate the deduction. The deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
Solar Energy Systems Deduction	**State General Fund Expenditure (thousands)**	$1,352	$1,125	$1,274	$1,353	$1,627
	Local Government Expenditure (thousands)	$868	$655	$656	$747	$1,083

SOLAR MARKET DEVELOPMENT CREDIT AGAINST PIT

Category: Environment, Conservation & Renewable Energy

Brief Description: Taxpayers who purchase and install a solar thermal system or a photovoltaic system in a residence, business, or agricultural enterprise owned in New Mexico may apply for a solar market development tax credit of up to 10% of the purchase and installation cost of the system against their PIT. This purchase must have been made after January 1, 2006 but before December 31, 2016.

The credit shall not exceed $9,000. The maximum aggregate amount of credits allowed in any tax year is $2 million for solar thermal systems and $3 million for photovoltaic systems. The credit is not refundable but may be carried forward for up to 10 years.

Statutory Basis: 7-2-18.14 NMSA 1978

Intended Purpose: To incentivize the growth of the solar industry by subsidizing a portion of the purchase and installation costs of solar systems in New Mexico.

History: Originally enacted in 2006 and amended in 2009 to reduce the credit from 30% to 10% and remove the cumulative federal and state cap of 30%.

Evaluation: None.

Recommendations: None.

Note that legislation was enacted in 2020 that introduced a similar credit titled, New Solar Market Development Credit. This legislation appears to revive this credit which is sunsetting due to the purchase deadline prior to December 31, 2016. Reporting on the new credit is on the following page.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

Solar Market Development Credit	**Tax Year (Calendar)**	2017	2018	2019	2020	2021
	Claims	383	204	90	67	46
	Expenditure (thousands)	$420	$189	$81	$37	$28
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	492	231	122	79	60
	Expenditure (thousands)	$696	$239	$128	$64	$37

NEW SOLAR MARKET DEVELOPMENT CREDIT AGAINST PIT

Category: Environment, Conservation & Renewable Energy

Brief Description: Taxpayers who purchase and install a solar thermal system or a photovoltaic system in a residence, business, or agricultural enterprise in New Mexico owned by the taxpayer may apply for a new solar market development tax credit of no more than $6,000 per taxpayer per taxable year. The purchase and installation must have been made after March 1, 2020 but before January 1, 2032.

The credit shall not exceed $6,000. The maximum aggregate amount of credits that may be certified as eligible is $8 million for tax year 2021 and $12 million for calendar years after tax year 2021. For tax years after 2021, the credit is refundable and transferable for the full value of the credit.

Statutory Basis: 7-2-18.31 NMSA 1978

Intended Purpose: To encourage the installation of solar thermal and photovoltaic systems residences, businesses and agricultural enterprises.

History: Originally enacted in 2020 and amended in 2022. The 2022 amendment extended the sunset, increased the maximum aggregate amount and converted the credit to refundable and transferable.

Evaluation: While only in the first years of availability, the credit has exceeded the number of claims seen in the original Solar Market Development Credit. This is in part due to the aggregate dollar cap amount being increased across all systems but it also speaks to the popularity of this credit. For tax year 2021, EMNRD certified up to the maximum cap amount of $8 million. Due to the credit not being refundable, the amount claimed is to the level of tax liability for the given tax year. The extent that this credit has encouraged installation of solar thermal and photovoltaic systems above the current market trend, other supplementary data would need to augment such an analysis.

Recommendations: None.

Reliability Factor: 1 – This credit is separately reported. No estimation is required.

Fiscal Impact:

New Solar Market Development Credit	**Tax Year (Calendar)**	2020	2021
	Claims	1,689	2,182
	Expenditure (thousands)	$4,000	$4,841
	Fiscal Year	2021	2022
	Claims	1,458	2,413
	Expenditure (thousands)	$3,421	$5,420

SPACEPORT-RELATED ACTIVITIES
GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Deductible from GRT are receipts from:

(1) launching, operating, or recovering space vehicles or payloads;
(2) preparing a payload;
(3) operating a spaceport; or
(4) providing research, development, testing, and evaluation services for the U.S. Air Force Operationally Responsive Space Program.

Statutory Basis: 7-9-54.2 NMSA 1978

Intended Purpose: To encourage the development of the space industry in New Mexico.

History: Originally enacted in 1995 and amended in 1997, 2001, 2003, and 2007. The 2007 amendment added a deduction for receipts from the provision of research, development, testing, and evaluation services for the U.S. Air Force Operationally Responsible Space Program.

Evaluation: According to publicly available information, there are several out of state companies conducting launches in New Mexico. Spaceport America also hosts a collegiate annual competition in which students from across the world launch rockets from Spaceport America. Virgin Galactic moved its headquarters to the state and is preparing vehicles for commercial operation after an initial launch in July 2021. It is assumed that events derived from COVID-19 pandemic have caused a some delays in commercial launches at the site.

Recommendations: Section 7-9-54.2 NMSA 1978's GRT deduction currently allows receipts from selling space flight tickets to be deducted because those receipts are considered to be received from "operating" space vehicles. Tax & Rev is not aware of a policy consideration that would support excluding receipts from space flight ticket sales from the GRT. Space flight tickets may be considered a luxury good, and purchasers of that good have an ability to contribute to the tax base. Consider amending Section 7-9-54.2 NMSA 1978 to narrow the deduction and ensure the GRT applies to space flight ticket sales.

Reliability Factor: No data are available to estimate the fiscal impact. Many companies involved in this business could be described as having irregular cash flow. Without a reporting requirement, it is difficult to ascertain which companies qualify and how much of the deduction is being applied.

Fiscal Impact: Unknown.

SPACE-RELATED TEST ARTICLES DEDUCTION FROM COMPENSATING TAX

Category: Highly Specialized Industry

Brief Description: Deduction of the value of space-related test articles used in New Mexico exclusively for research or testing, or placed on public display after use, or stored for future use. The value of equipment and materials used in New Mexico for research or testing to support the research or testing of space-related test articles, or for storage of such equipment or materials to support the research and testing of space-related test articles, is deductible in computing compensating tax due.

Statutory Basis: 7-9-54.4 NMSA 1978

Intended Purpose: Incentivize the development of the space industry in New Mexico.

History: Originally enacted in 2003.

Evaluation: According to publicly available information, there are several companies conducting tests in New Mexico. These companies hold proprietary information in a new and emerging industry which makes capturing accurate data very difficult.

Recommendations: None.

Reliability Factor: No data are available to estimate the fiscal impact. Companies in this industry belong to a highly-specialized niche that holds proprietary information, making it difficult to find external sources of information. Without a reporting requirement it is difficult to ascertain which companies qualify and how much of the deduction is being applied.

Fiscal Impact: Unknown.

SPECIAL NEEDS ADOPTED CHILD CREDIT AGAINST PIT

Category: Citizen Benefits

Brief Description: A taxpayer who has adopted a special needs child (an individual certified as a "difficult to place child") may claim a credit against PIT in the amount of $1,000.

If the amount of credit due to a taxpayer exceeds the taxpayer's PIT liability, the excess is refunded.

Statutory Basis: 7-2-18.16 NMSA 1978

Intended Purpose: To provide tax relief for those who adopted a special needs child.

History: Originally enacted in 2007.

Evaluation: None.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

Credit, Special Needs Adopted Child	**Tax Year (Calendar)**	2017	2018	2019	2020	2021
	Claims	1,032	1,073	1,047	950	837
	Expenditure (thousands)	$1,898	$1,968	$1,895	$1,679	$1,492
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	1,026	1,097	1,081	985	907
	Expenditure (thousands)	$1,861	$2,022	$1,985	$1,767	$1,592

SUPPLEMENTAL INCOME TAX REBATE 2021 TAX YEAR FILING

Category: Citizen Benefits

Brief Description: Resident taxpayers who are not dependents of another taxpayer are eligible for two supplemental income tax rebates when filing their tax year 2021 personal income tax return. For taxpayers who filed their return by May 31, 2022, the first rebate was issued no later than June 30, 2022 and was $500 for heads of household, surviving spouses and married individuals filing jointly and $250 for single individuals and married individuals filing separately. The second rebate was issued for the same amounts by filing status between August 1 and 30, 2022. For taxpayers that file after May 31, 2022, the rebates will be issued as soon as possible after the return is received and processed. The rebate is not allowable for 2021 personal income tax returns filed after May 31, 2023.

Statutory Basis: 7-2-7.5 NMSA 1978

Intended Purpose: To provide temporary economic relief to New Mexico residents inflationary price increases.

History: Originally enacted in 2022.

Evaluation: None.

Recommendation: None.

Reliability Factor: 1 – This rebate is separately issued, and no estimation is required.

Fiscal Impact:

<table>
<tr><td rowspan="7">2021 supplemental income tax rebate</td><td>Tax Year (Calendar)</td><td>2021</td></tr>
<tr><td>Claims</td><td>881,506</td></tr>
<tr><td>Expenditure (thousands)</td><td>$641,012</td></tr>
<tr><td colspan="2"></td></tr>
<tr><td>Fiscal Year</td><td>2022</td></tr>
<tr><td>Claims</td><td>873,926</td></tr>
<tr><td>Expenditure (thousands)</td><td>$634,882</td></tr>
</table>

SUSTAINABLE BUILDING CREDIT AGAINST PIT AND CIT

Category: Environment, Conservation & Renewable Energy

Brief Description: Until December 31, 2016, a taxpayer may claim a credit against PIT and CIT for investments in constructing or renovating sustainable residential or commercial buildings that meet specific "green" building standards. Taxpayers receive certification of their project for a credit from EMNRD.

The amount of the credit that may be claimed ranges from $0.70 per square foot to $9.00 per square foot depending on the square footage of the building, the type of building, and the certification level the building has achieved in the LEED green building rating system.

For credits that are less than $100,000, a maximum of $25,000 will be applied against the taxpayer's liability each year as needed; for credits of $100,000 and more, a maximum of 25% will be applied against the taxpayer's liability each year.

The credit was not refundable but was transferable. It could also be carried forward up to seven years.

Statutory Basis: 7-2-18.19 and 7-2A-21 NMSA 1978

Intended Purpose: To encourage the construction of sustainable buildings and the renovation of existing buildings into sustainable buildings.

History: Originally enacted in 2007 and amended in 2009 and 2013.

The 2013 amendment extended the expiration date, changed the aggregate cap for commercial building from $5 million to $1 million and from $5 million to $4 million for residential buildings, and established thresholds for how much of the credit can be claimed in each year.

Evaluation: According to EMNRD, the sustainable building tax credit reached its cap in FY2015 and FY2016. In the 12-month period through October 2013, EMNRD received, reviewed, and processed 1,078 applications comprising 2.7 million square feet of floor area, including: six commercial buildings of 663,970 square feet; 216 multifamily housing units of 201,763 square feet; 67 manufactured homes of 111,082 square feet; and 795 single-family homes of 1,787,047 square feet. Construction for the buildings that meet the ENERGY STAR, LEED, or the Build Green New Mexico standards provided jobs in 22 New Mexico counties.

Tax & Rev used data provided by EMNRD in thousands of British Thermal Units (MMBTUs) to estimate the energy savings. Using the Public Service Company of New Mexico's monthly rates per kilowatt-hour ("kWh"), the Department estimated the savings in energy costs as a result of the credit. In

FY2014, the total savings in residential homes was about $570,000. The future energy savings projections over 10 years were estimated to be $27 million, compared to $18 million in tax credits. Total savings for commercial buildings over 10 years were estimated at $30 million, compared to $2.2 million in tax credits. It should be noted that the monetized energy savings are annual savings and do not project or consider the cumulative energy savings over the useful life of the properties.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required. Given the seven-year carry forward period for claiming credits under the expired credit, tax liabilities will be reduced under this program through fiscal year 2023.

Fiscal Impact:

Sustainable Building Credit (expired)	**Tax Year (Calendar)**	2017	2018	2019	2020	2021
	Claims	1,043	791	395	25	14
	Expenditure (thousands)	$3,766	$2,657	$1,061	$68	$62
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	393	886	2,302	465	81
	Expenditure (thousands)	$2,523	$6,208	$6,553	$1,873	$612

2015 SUSTAINABLE BUILDING CREDIT AGAINST PIT AND CIT

Category: Environment, Conservation & Renewable Energy

Brief Description: Until December 31, 2024, a taxpayer may claim a credit against PIT and CIT for investments in constructing a sustainable building, renovating an existing building into a sustainable building or installing manufactured housing that is a sustainable building if the project is completed prior to April 1, 2023 and meets specific "green" building standards. Taxpayers receive certification of their project for a credit from EMNRD.

The amount of the credit that may be claimed ranges from $0.30 per square foot to $6.50 per square foot depending on the square footage of the building, the type of building, and the certification level the building has achieved in the LEED green building rating system.

For credits that are less than $100,000, a maximum of $25,000 will be applied against the taxpayer's liability each year as needed; for credits of $100,000 and more, a maximum of 25% will be applied against the taxpayer's liability each year.

On an annual calendar year, EMNRD may certify up to:

(1) $1,250,000 for commercial building;

(2) $3,375,000 for residential building;

(3) $375,000 for manufactured housing.

Should any one category above not meet its annual cap, EMNRD may transfer the difference between the maximum amount and the certified total to a different category which has applications exceeding the cap. The overall annual cap between all three categories cannot exceed $5,000,000.

The credit is not refundable but is transferable. It may also be carried forward up to seven years.

Statutory Basis: 7-2-18.29 and 7-2A-28 NMSA 1978

Intended Purpose: To encourage the construction of sustainable buildings and the renovation of existing buildings into sustainable buildings.

History: Originally enacted in 2015 and amended in 2021.

The 2015 legislation was enacted to replace the original sustainable energy credit which was sunset on December 31, 2016. The differences from the original credit include: (1) lowering the qualified square footage and credit amount for residential buildings; and (2) reinstated a per-credit (as opposed to an aggregated credit) methodology for determining annualized credit claim amounts.

While also creating a new 2021 credit, the 2021 amendment changed the name of this credit from 'new' to '2015' sustainable building credit. The amendment also shortened the eligibility period from December 21, 2026 to December 31, 2024.

Select definitions:

(9) "manufactured housing" means a multisectioned home that is:

a. A manufactured home or modular home;

b. A single-family dwelling with a total heated area of at least 36 by 24 feet and a total area of at least 864 square feet;

c. Constructed in a factory meeting the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and federal or New Mexico construction codes;

d. Installed consistent with the Manufactured Housing Act.

Evaluation: The credit appears to be meeting the purpose of encouraging the construction of sustainable buildings and renovation of existing building to meeting sustainable building criteria. As a replacement of the original sustainable building credit, it has maintained a consistent range of claimants of between 550 and 750 every tax year. The credit has yet to reach the overall annual $5,000,000 cap though and has room for more projects.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

	Tax Year (Calendar)	2017	2018	2019	2020	2021
2015 Sustainable Building Credit	**Claims**	603	631	769	564	33
	Expenditure (thousands)	$3,796	$3,444	$4,583	$3,136	$77
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	80	175	870	475	1,000
	Expenditure (thousands)	$411	$839	$5,318	$2,624	$5,843

2021 SUSTAINABLE BUILDING CREDIT AGAINST PIT AND CIT

Category: Environment, Conservation & Renewable Energy

Brief Description: For taxable years beginning January 1, 2021 and prior to January 1, 2028, a taxpayer may claim a credit against PIT and CIT for investments in constructing a sustainable building, renovating an existing building into a sustainable building, installing manufactured housing that is a sustainable building, or installing energy-conserving products to existing building in New Mexico if they meet specific "green" building standards and for certain projects if they are completed on or after January 1, 2022. Taxpayers receive certification of their project for a credit from EMNRD.

The amount of the credit that may be claimed ranges from $0.10 per square foot to $5.50 per square foot depending on the square footage of the building, the type of building, and the certification level the building has achieved in the LEED green building rating system, or if the building is fully electric or zero carbon, energy, waste or water certified. Additional credit amounts are available for energy conserving products installed to the building that range from $350 to $3,000.

For credits that are less than $100,000, a maximum of $25,000 will be applied against the taxpayer's liability each year as needed; for credits of $100,000 and more, a maximum of 25% will be applied against the taxpayer's liability each year.

On an annual calendar year, EMNRD may certify up to:

(1) $1,000,000 for the construction of new sustainable commercial buildings;

(2) $2,000,000 for the construction of new sustainable residential buildings that are not manufactured housing;

(3) $250,000 for the construction of new sustainable residential buildings that are manufactured housing;

(4) $1,000,000 for the renovation of large commercial buildings;

(5) $2,900,000 for the installation of energy-conserving products in existing commercial building.

Should any one category above not meet its annual cap, EMNRD may transfer the difference between the maximum amount and the certified total to a different category which has applications exceeding the cap.

The credit is refundable for qualified low-income taxpayers. For those that do not qualify for a refund, it may be carried forward up to seven years. The credit is transferable. The credit may not be claimed on the same sustainable building for which a 2015 sustainable building credit has been issued.

Select definitions:

(10) "low-income taxpayer" is defined as a taxpayer with an annual household adjusted gross income equal to or less than two hundred percent of the federal poverty level guidelines published by the United States Department of Health and Human Services;

(11) "manufactured housing" means a multisectioned home that is:

a. A manufactured home or modular home;

b. A single-family dwelling with a total heated area of at least 36 by 24 feet and a total area of at least 864 square feet;

c. Constructed in a factory meeting the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and federal or New Mexico construction codes;

d. Installed consistent with the New Mexico Manufactured Housing Act.

Statutory Basis: 7-2-18.32 and 7-2A-28.1 NMSA 1978

Intended Purpose: To encourage the construction of sustainable buildings and the renovation of existing buildings into sustainable buildings.

History: Originally enacted in 2021 and amended in 2022.

This legislation provides an extension of the 2015 sustainable building credit by: (1) providing the new credit through 2030; (2) allowing for installed products such as vehicle charging stations to qualify for the credit; and (3) increasing the cap of the credit to $7,150,000.

The 2022 amendment shorted the claiming period to prior to January 1, 2028 and added that certain projects need to be completed on or after January 1, 2022.

Evaluation: None.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required. No taxpayers have claimed the credit yet.

Fiscal Impact:

20121 Sustainable Building Credit	**Tax Year (Calendar)**	2021
	Claims	0
	Expenditure (thousands)	-
	Fiscal Year	2022
	Claims	0
	Expenditure (thousands)	-

TAX STAMPS
RATE DIFFERENTIAL IN CIGARETTE TAX

Category: Highly Specialized Industry

Brief Description: Tax & Rev sells tax stamps at face value to distributors of cigarettes. Unless the face value of tax stamps sold in a single sale is less than $1,000, a discount of 0.55% is applied for the first $30,000 of stamps purchased in one calendar month. A 0.44% discount is applied for the next $30,000 of stamps purchased in that month, and a 0.27% discount is applied for any stamps purchased in excess of $60,000.

Statutory Basis: 7-12-7(D) NMSA 1978

Intended Purpose: Presumably, this provides a scaled increase of the price of stamps. Rather than providing for a floor with increases at certain thresholds, it provides a ceiling with decreases at certain thresholds. This meets the definition of a tax expenditure but the intent to make it one is unclear.

History: Originally enacted in 1943 and amended in 1947, 1949, 1953, 1963, 1968, 1970, 1971, 1988, 2006, and 2010. The 2010 amendment reduced the discounts.

Evaluation: None.

Recommendations: None.

Reliability Factor: 1 - The discounted amounts are reported separately. No estimation is required.

Fiscal Impact:

Tax Stamps Rate Differential in Cigarette Tax	**Fiscal Year**	2018	2019	2020	2021	2022
	Taxpayers	16	16	16	17	15
	Expenditure (thousands)	$233	$225	$202	$215	$189

TECHNOLOGY JOBS AND RESEARCH AND DEVELOPMENT CREDIT AGAINST GRT, COMPENSATING TAX, WITHHOLDING TAX, PIT, OR CIT

Category: Economic Development

Brief Description: A taxpayer who conducts qualified research and development at a facility in New Mexico, except at a facility operated for the U.S. government, may claim a basic credit equal to 5% (4% before January 1, 2016) of qualified expenditures against the state portion of GRT, compensating tax, or withholding tax. This is doubled to 10% when the qualified facility is in a rural area.

The taxpayer may qualify for an additional 5% credit against PIT and CIT liabilities by raising its in-state payroll by $75,000 for every $1 million in qualified expenditures claimed. This credit doubles if the qualified facility is in a rural area.

A 2015 amendment excluded local option gross receipts tax from the taxes that the basic credit may be claimed against. The legislation also required separate reporting by the taxpayer.

Starting January 1, 2016, the credit is refundable if the taxpayer's total qualified expenditures for the taxable year for which the claim is made is:

(1) less than $3 million, the excess additional credit shall be refunded to the taxpayer;

(2) greater than or equal to $3 million and less than $4 million, two-thirds of the excess additional credit shall be refunded to the taxpayer; and

(3) greater than or equal to $4 million and less than or equal to $5 million, one-third of the excess additional credit shall be refunded to the taxpayer.

Statutory Basis: 7-9F-1 *et seq.* NMSA 1978

Intended Purpose: To incentivize the growth of technology-based businesses engaging in research, development and experimentation by providing a favorable tax climate and to promote increased employment and higher wages in those fields in New Mexico.

History: Originally enacted in 2000 and amended in 2015, to create the Technology Jobs and Research and Development Tax Credit Act from the Technology Jobs Tax Credit. Section 7-9F-9 NMSA 1978 was amended to set forth the mechanism for claiming the basic credit, and to exclude local option gross receipts tax from the taxes that the basic credit may be claimed against. A taxpayer reporting requirement was also created.

Evaluation: Investment in research and development is a major driving force for long-term technological change, innovation and economic growth. This tax credit aims to incentivize such R&D investment. In the last 5 fiscal years, the expenditure associated with this credit has averaged $3.6 million with an average of 285 taxpayers claiming the credit. Of these taxpayers, about 12% also claim the additional credit, averaging $730,000 annually. Economic literature on R&D tax credits suggests that such incentives increase research and development spending. In line with that expectation, New Mexico has seen the expenditure on this credit increase over the years, with an exceptional growth in the additional credit expenditure. It is, however, difficult to gauge the extent to which this increased spending leads to actual increase in innovation and technological change.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

	Tax Year (Calendar)	2017	2018	2019	2020	2021
Credit, Tech Jobs and R&D -- Total	**Claims**	303	335	274	278	92
	Expenditure (thousands)	$2,945	$4,347	$4,465	$3,935	$694
	Fiscal Year	2018	2019	2020	2021	2022
Credit, Tech Jobs and R&D -- Total	**Claims**	286	308	288	293	202
	Expenditure (thousands)	$2,963	$2,978	$4,508	$4,903	$2,235
Credit, Tech Jobs and R&D -- Basic	**Claims**	262	270	251	247	180
	Expenditure (thousands)	$2,699	$2,691	$3,448	$3,237	$1,217
Credit, Tech Jobs and R&D -- Additional	**Claims**	24	38	37	46	22
	Expenditure (thousands)	$264	$287	$1,059	$1,666	$1,018

TECHNOLOGY READINESS CREDIT AGAINST GRT

Category: Economic Development

Brief Description: National laboratories that provide technology readiness assistance to businesses may receive a credit of up to $150,000 per business for qualified expenditures, excluding any local option gross receipts tax liability. The credit has an annual cap per national laboratory of $1,000,000. Technology readiness assistance means assistance provided to a business by a national laboratory with the intent to help the business's technology achieve technology maturation. The credit is available for taxable periods prior to July 1, 2027.

Statutory Basis: 7-9-96.3 NMSA 1978

Intended Purpose: To assist businesses in their achievement of maturation of the technologies developed at New Mexico national laboratories, and to increase economic development in the State.

History: Originally enacted in 2020 and amended in 2022. The 2022 amendment extended the sunset date and changed the funding mechanism for the credit.

Evaluation: None.

Recommendations: None.

Reliability Factor: 1 – The credit is separately reported.

Fiscal Impact: While only two taxpayers may claim this credit, the data is not redacted due to the statutory requirement that the national laboratories submit an annual report to the legislature.

<table>
<tr><td rowspan="5">Technology Readiness Credit against Credit</td><td>Tax Year (Calendar)</td><td>2020</td><td>2021</td></tr>
<tr><td>State General Fund Expenditure (thousands)</td><td>$232</td><td>$32</td></tr>
<tr><td colspan="2"></td><td></td></tr>
<tr><td>Fiscal Year</td><td>2021</td><td>2022</td></tr>
<tr><td>State General Fund Expenditure (thousands)</td><td>NA</td><td>$264</td></tr>
</table>

TEST ARTICLES
DEDUCTION FROM COMPENSATING TAX

Category:	Highly Specialized Industry
Brief Description:	The value of test articles upon which research or testing is conducted in New Mexico pursuant to a contract with the U.S. Department of Defense is deductible from the compensating tax due. The deduction does not apply to the value of property purchased by a prime contractor operating a facility designated as a national laboratory by an act of Congress.
Statutory Basis:	7-9-54.5 NMSA 1978
Intended Purpose:	To incentivize the retention of U.S. Air Force bases in New Mexico.
History:	Originally enacted in 2004.
Evaluation:	The deduction is determined to be effective as New Mexico has retained its air force bases while others outside of the state have been closed due to consolidation.
Recommendations:	None.
Reliability Factor:	No data are available to estimate the fiscal impact.
Fiscal Impact:	Unknown.

TIMBER RATE DIFFERENTIAL FROM PROCESSORS TAX

Category: Highly Specialized Industry

Brief Description: A processor of timber in New Mexico is required to pay a Processors Tax of 0.375%.

This is in contrast to the base Processors Tax rate of 0.75%.

Statutory Basis: 7-25-5A(2) NMSA 1978

Intended Purpose: Presumably to incentivize the processing of timber.

History: Originally enacted in 1966 and amended in 1970, 1973, and 1999.

Evaluation: The rate differential may not be achieving its purpose as processing activity has decreased over time.

Recommendation: None.

Fiscal Impact: 1 – This expenditure is calculated directly using taxpayer data. No estimation is required. Additionally, while fewer than three taxpayers have reported processing of timber, the data may be reported as is allowed pursuant to under Section 7-1-8 NMSA 1978, more specifically, Section 7-1-8.3(B) NMSA 1978.

Timber Rate Differential from Processors Tax	Fiscal Year	2018	2019	2020	2021	2022
	Taxpayers	5	4	3	2	1
	Expenditure (thousands)	$2.5	$1.7	$1.2	$0.6	$0.2

TRANSPORTATION OF NATURAL GAS DEDUCTION FROM OIL AND GAS EMERGENCY SCHOOL TAX

Category: Highly Specialized Industry

Brief Description: The reasonable expense of transportation of natural gas from the production unit where the actual price is determined at a point other than the production unit is deductible from the Oil and Gas Emergency School Tax.

Statutory Basis: 7-31-6 NMSA 1978

Intended Purpose: Presumably to incentivize the production of natural gas in New Mexico.

History: Originally enacted in 1959, and has not been changed since. Regulations, including 3.18.6.9, were enacted in accordance with the statute, and, as the statute requires, set values for the products that are commensurate with the actual price received for products of like quality, character, and use which are severed in the same field or area.

Evaluation: In conjunction with factors such as natural gas prices and advances in exploration technology, this deduction has increased over time, in par with natural gas production. This deduction appears to be achieving its presumed purpose.

Similar deductions exist under the Oil and Gas Conservation Tax Act, the Oil and Gas Ad Valorem Production Tax Act, and the Oil and Gas Severance Tax Act. The deductions in those statutes are considered non-expenditures because the incidence of the tax is on products severed and sold. The product must be transported from the well to be processed and then taken to the market place. Once it reaches its point of sale, the product becomes taxable. However, under the Oil and Gas Emergency School Tax, the product only needs to be severed to be taxable, thus, the transportation costs from the well are considered an expenditure.

Recommendations: Natural gas is mostly transported in pipelines. The authority to allow producers to deduct transportation costs is set forth in statutory regulation 3.18.6.9. On the other hand, oil producers are able to deduct transportation costs when transporting on trucks based on Section 7-31-5(C). The reasonable expenses of trucking any product from the production unit to the marketplace can be deducted. Trucking transportation deduction limits other means of transportation as it defines "trucking" to mean transportation by truck, any other means such as pipeline or railroad do not meet this definition.

The Department has authority to determine the value of certain severed products under 7-31-6, NMSA, and pursuant to that authority has, by regulation, allowed producers to deduct processing costs as set forth in Section 3.18.6.9, NMAC. It is recommended that processing deduction be codified in statute.

Reliability Factor: 1 – Transportation deductions are separately reported by product type. No estimation is required. This expenditure was not included in previous versions of the Tax Expenditure Report. This is not a new deduction, but rather an addition of an already-existing statute.

Fiscal Impact:

Natural Gas Transportation Deduction from Oil and Gas Emergency School Tax	**Fiscal Year**	2018	2019	2020	2021	2022
	Expenditure (thousands)	$22,782	$27,958	$27,938	$32,244	$44,053

URANIUM ENRICHMENT PLANT EQUIPMENT DEDUCTION FROM COMPENSATING TAX

Category:	Highly Specialized Industry
Brief Description:	The value of equipment and replacement parts for that equipment may be deducted in computing the compensating tax due if the taxpayer uses the equipment or replacement parts to enrich uranium in a uranium enrichment plant.
Statutory Basis:	7-9-78.1 NMSA 1978
Intended Purpose:	To incentivize uranium enrichment plants to locate in New Mexico.
History:	Originally enacted in 1999.
Evaluation:	Operating as intended. The only current commercial enrichment facility in the United States opened in New Mexico a decade after this statute was enacted.
Recommendations:	None.
Reliability Factor:	This deduction is not separately reported. No data are available to estimate the fiscal impact.
Fiscal Impact:	Unknown.

URANIUM HEXAFLUORIDE AND URANIUM ENRICHMENT GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts from selling uranium hexafluoride and the services of uranium enrichment are deductible from gross receipts.

Statutory Basis: 7-9-90 NMSA 1978

Intended Purpose: To incentivize the uranium hexafluoride industry and uranium enrichment plants to locate in New Mexico.

History: Originally enacted in 1999 and amended in 2012. The 2012 amendment allowed the deduction for the sale of uranium hexafluoride.

Evaluation: Operating as intended. The only current commercial uranium enrichment facility in the United States opened in New Mexico a decade after this statute was enacted.

Recommendations: None.

Reliability Factor: 1 - This deduction is separately reported. No estimation is required.

Fiscal Impact: Redacted in all years due to fewer than three taxpayers taking the deduction.

UNREIMBURSED OR UNCOMPENSATED MEDICAL CARE EXPENSES CREDIT FROM PIT

Category: Citizen Benefits

Brief Description: A taxpayer who is 65 years of age or older may claim a credit of $2,800 for medical care expenses paid by the taxpayer equal to $28,000 or more, if those expenses are not reimbursed or compensated for by insurance or otherwise. This credit is refundable if the credit exceeds the taxpayer's PIT liability for the taxable year.

Statutory Basis: 7-2-18.13 NMSA 1978

Intended Purpose: To reduce out-of-pocket costs of medical care by deducting medical expenses not otherwise reimbursed or compensated by reducing NM tax liability.

History: Originally enacted in 2005 with no expiration.

Evaluation: This is one of several citizen benefit expenditures related to unreimbursed medical expenses. Because a taxpayer must have qualifying expenses over $28,000 per year, this credit is restricted to taxpayers who incur significant unreimbursed or uncompensated medical care expenses. All claimants are aged 65 and older, a population that is often on a fixed income. Claims for this credit are expected to increase as demographics shift to an older population.

Recommendations: None.

Reliability Factor: 1 – The expense is calculated directly from taxpayer data. No estimation is required.

Fiscal Impact:

	Tax Year (Calendar)	**2017**	**2018**	**2019**	**2020**	**2021**
Unreimbursed Medical Expenses Credit	**Claims**	3,124	3,451	3,676	3,264	2,954
	Expenditure (thousands)	$8,729	$9,646	$10,273	$9,110	$8,249
	Fiscal Year	**2018**	**2019**	**2020**	**2021**	**2022**
	Claims	3,114	3,395	3,701	3,436	3,554
	Expenditure (thousands)	$8,701	$9,489	$10,346	$9,594	$9,918

UNREIMBURSED OR UNCOMPENSATED MEDICAL CARE EXPENSES DEDUCTION FROM PIT

Category: Citizen Benefits

Brief Description: A taxpayer may claim a deduction from net income in an amount determined from medical care expenses paid during the tax year for medical care of the taxpayer, the taxpayer's spouse or dependent(s) if those expenses were not reimbursed or compensated by insurance or otherwise. The deduction amount is based on a percentage of applicable medical expenses during the taxable year and the percentage is scaled by adjusted gross income. For all filing statuses, 10, 15 and 25 percent are the allowable percentages based on adjusted gross income.

Statutory Basis: 7-2-37 NMSA 1978

Intended Purpose: To accommodate taxpayers by deducting medical expenses not otherwise reimbursed or compensated by reducing NM taxable income.

History: Originally enacted in 2015. This deduction has a sunset provision of January 1, 2025.

Evaluation: This is one of several citizen benefit expenditures related to unreimbursed medical expenses. This deduction is available to all taxpayers, regardless of age, income, or amount of medical expenditures, subject to percentages determined by adjusted gross income thresholds. On average approximately 30% of taxpayers claim this deduction each fiscal year.

Recommendations: Restrict this deductions to taxpayers who are New Mexico resident filers to better target this tax relief to New Mexicans. Evaluate the change in unreimbursed medical care expenses with the implementation of the Affordable Care Act and whether the percentages determined by adjusted gross income equitably assist taxpayers.

Reliability Factor: 1 – The expenditure amounts for each taxpayer claiming this deduction were computed, making this data more reliable than in past years when an average rate for all taxpayers was used.

Fiscal Impact:

Unreimbursed Medical Expenses Deduction	**Tax Year (Calendar)**	2017	2018	2019	2020	2021
	Claims	327,055	314,549	316,467	303,649	288,922
	Expenditure (thousands)	$4,888	$5,461	$5,542	$5,021	$5,029
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	326,994	317,055	320,107	311,069	312,728
	Expenditure (thousands)	$4,888	$5,439	$5,600	$5,174	$5,468

UNREIMBURSED OR UNCOMPENSATED MEDICAL CARE EXPENSES EXEMPTION FROM PIT

Category: Citizen Benefits

Brief Description: Any individual who is 65 years or older may claim an exemption from net income in an amount equal to $3,000 for medical care expenses paid during the taxable year if those medical expenses exceed $28,000 and are not reimbursed or compensated by insurance or otherwise. Medical expenses could be for the individual, the individual's spouse, or the individual's dependents.

Statutory Basis: 7-2-5.9 NMSA 1978

Intended Purpose: To accommodate taxpayers by deducting medical expenses not otherwise reimbursed or compensated by reducing NM taxable income.

History: This exemption was enacted in 2005 and does not have a sunset provision.

Evaluation: This is one of several citizen benefit expenditures related to unreimbursed medical expenses. Because a taxpayer must have qualifying expenses over $28,000 per year, this exemption is restricted to taxpayers who incur significant unreimbursed or uncompensated medical care expenses. All claimants are aged 65 and older, a population that is often on a fixed income. Claims for this exemption are expected to increase as demographics shift to an older population.

Recommendations: None.

Reliability Factor: 1 – This expenditure is calculated directly using taxpayer data. No estimating is required.

Fiscal Impact:

	Tax Year (Calendar)	2017	2018	2019	2020	2021
Exemption, Unreimbursed Medical Expenses	**Claims**	3,327	3,659	3,896	3,448	3,076
	Expenditure (thousands)	$225	$274	$301	$258	$262
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	3,328	3,620	3,916	3,652	3,717
	Expenditure (thousands)	$224	$268	$299	$273	$305

VEHICLES TITLED BEFORE JULY 1, 1991 EXEMPTION FROM LVGRT

Category:	Citizen Benefits
Brief Description:	Receipts from leasing, by the owner, of vehicles that were acquired by the owner prior to July 1, 1991 are exempt from the LVGRT as long as the MVX was paid and a certificate of title was issued prior to July 1, 1991.
Statutory Basis:	7-14A-9 NMSA 1978
Intended Purpose:	To avoid retroactivity of taxes on vehicles titled before the enactment date.
History:	Originally enacted in 1991.
Evaluation:	Most leases are 3 years and are for new vehicles. The likelihood that someone would lease a 25-year-old car is very low due to its age and high mileage unless they are being leased as vintage vehicles.
Recommendations:	Repeal. At this point in time the exemption applies to very few, if any, vehicles.
Reliability Factor:	Tax & Rev's internal database does not have records of leases on vehicles which were titled before July 1, 1991.
Fiscal Impact:	Unknown, but likely very small.

VENTURE CAPITAL INVESTMENT CREDIT AGAINST PIT

Category: Economic Development

Brief Description: A taxpayer may claim a credit against PIT liability equal to a capital gain tax differential (typically 50% of the federal income tax paid by the taxpayer on qualified diversifying business net capitals gains) if the taxpayer allocates the qualified diversifying business net capital gain to New Mexico.

The credit is not refundable but may be carried forward indefinitely.

Statutory Basis: 7-2D-8.1 NMSA 1978

Intended Purpose: To encourage strategic advances of the current business to facilitate explorations of potential new businesses.

History: Originally enacted in 1995.

Evaluation: This credit is not being claimed.

Recommendations: Repeal. This credit appears to be competing with the net capital gain income deduction, and its use is precluded if the net capital gain deduction is taken. Several reasons may exist for this credit remaining unused -- the income deduction may be a more attractive alternative to investors or the definition of a qualified diversifying business may be too limiting or investors may not be aware of this credit. A study to determine why the credit is unused is recommended.

Reliability Factor: 1 - This credit is required to be separately reported. No estimation is required.

Fiscal Impact: No taxpayers have claimed this credit.

VETERAN EMPLOYMENT CREDIT AGAINST PIT AND CIT

Category: Citizen Benefits

Brief Description: Applicable to taxable years beginning January 1, 2012 and ending January 1, 2017, a taxpayer who employs a qualified military veteran in New Mexico is eligible for a credit against the taxpayer's PIT and CIT liability. The amount of the credit is up to $1,000 of the gross wages paid during the taxable year for which the return is filed for each military veteran who is hired within two years of being honorably discharged. The veteran must work at least 40 hours per week and have not been previously employed by the taxpayer prior to the deployment.

The credit can only be claimed for one year per individual veteran.

The credit is not refundable but may be carried forward for three years.

Statutory Basis: 7-2-18.28 and 7-2A-27 NMSA 1978

Intended Purpose: To encourage the full-time employment of qualified military veterans within two years of honorable discharge from the US armed forces.

History: Originally enacted in 2012.

Evaluation: The credit is underutilized. Possible explanations are that taxpayers are unaware of the credit or that the credit is too small to incentivize the full-time hiring of eligible veterans.

Recommendations: Repeal. The credit applied to taxable years 2012-2016 with a carry forward of three years. This credit can no longer be claimed on tax returns after the 2019 tax year. As the original bill did not have a delayed repeal this statute is still in law.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact: This credit can no longer be claimed on tax returns after the 2019 tax year.

<table>
<tr><td rowspan="8">Veteran Employment Credit Against PIT and CIT</td><td>Tax Year (Calendar)</td><td>2017</td><td>2018</td><td>2019</td><td>2020</td><td>2021</td></tr>
<tr><td>Claims</td><td>0</td><td>0</td><td>0</td><td rowspan="2">NA</td><td rowspan="2">NA</td></tr>
<tr><td>Expenditure (thousands)</td><td>$0</td><td>$0</td><td>$0</td></tr>
<tr><td colspan="6"></td></tr>
<tr><td>Fiscal Year</td><td>2018</td><td>2019</td><td>2020</td><td>2021</td><td>2022</td></tr>
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<tr><td>Expenditure (thousands)</td><td>$0</td><td>$0</td><td>$0</td><td>$0</td><td>$0</td></tr>
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VETERAN EXEMPTION FROM PROPERTY TAX

Category: Citizen Benefits

Brief Description: Property owned by a veteran, unmarried surviving spouse or held in trust by a veteran or the veteran's unmarried surviving spouse is eligible for a four-thousand-dollar exemption from property taxation if the veteran or the veteran's surviving spouse is a New Mexico resident. The exemption shall be deducted from the taxable value of the property to determine the net taxable value of the property.

A "veteran" is defined as an individual who:

(10) has been honorably discharged from membership in the armed forces of the United States; and

(11) with exceptions, served in the armed forces of the United States on active duty continuously for 90 days.

An individual who would otherwise meet the definition of veteran except for the 90 continuous days of service due to service-connected disablement is considered meeting the definition of a veteran.

An individual whose civilian service is recognized as service in the armed forces of the United States by federal law and who was issued a discharge certificate by a branch of the armed forces shall be considered to have served in the armed forces.

Statutory Basis: 7-37-5 NMSA 1978

Intended Purpose: To ease the tax burden of individuals who served in the armed forces.

History: Originally enacted in 1973 and amended in 1975, 1977, 1981, 1983, 1986, 1989, 1991, 1992, 2000, 2003, and 2005.

Evaluation: None.

Recommendations: None.

Reliability Factor: 2 - The fiscal impact is based on the reported number of taxpayers granted the veteran exemption and the associated taxable value exempted in each county in the annual County Accessor Evaluation Reports. The fiscal impact is rated a two as the exempted value by county is then multiplied by the weighted average residential mill rate for that county. The total fiscal impact is the sum of the county level estimates.

Fiscal Impact: Fiscal impact is felt by various taxing authorities per state law. These include school districts, municipal governments, county governments, special districts and state funds.

Veteran Exemption from Property Tax	Tax Year	2018	2019	2020
	Claims	78,717	75,968	74,112
	Expenditure (thousands)	$6,299	$8,958	$8,734

VETERANS' ORGANIZATION EXEMPTION FROM PROPERTY TAX

Category: Citizen Benefits

Brief Description: Property owned by a veterans' organization chartered by the United States Congress and used for the primary benefit of veterans and their family is exempt from property taxation. Qualification of the exemption once claimed by an organization is done in collaboration between the Veterans' Services Department, county assessors and the Taxation and Revenue Department.

Statutory Basis: 7-37-5.3 NMSA 1978

Intended Purpose: To reduce the tax burden on organizations that contribute to the social and economic welfare of veterans and their families.

History: Originally enacted in 2011.

Evaluation: None.

Recommendations: None.

Reliability Factor: No data is currently known to estimate the fiscal impact.

Fiscal Impact: Unknown.

WELFARE-TO-WORK
CREDIT AGAINST PIT AND CIT

Category:	Citizen Benefits
Brief Description:	Prior to January 1, 2008 certain businesses located in mostly rural counties that qualified for the federal welfare-to-work credit provided by 26 USC § 51A may also have been eligible for the New Mexico welfare-to-work credit against PIT and CIT. Beginning January 1, 2008, 26 USC § 51A was repealed and replaced by federal work opportunity credit. Employers qualifying for the new federal work opportunity credit will not qualify for the New Mexico credit. The credit may be carried forward for up to three years.
Statutory Basis:	7-2-18.5 and 7-2A-8.8 NMSA 1978
Intended Purpose:	To encourage businesses to hire employees who have been long-term family assistance recipients and who reside in high-unemployment counties.
History:	Originally enacted in 1998.
Evaluation:	This credit is rarely being used. Because the federal program to which this credit was tied no longer exists, taxpayers can claim the credit only if a taxpayer either carried forward the credit or amended a return for activity that occurred while the federal credit was still in effect. Presumably this accounts for the lack of activity since the credit expired.
Recommendations:	Repeal. This credit is tied to a federal program that no longer exists and therefore has no effect.
Reliability Factor:	1 - This credit is separately reported. No estimation is required.
Fiscal Impact:	None. The credit is no longer available and the carryforward for prior claims has expired.

WIND AND SOLAR GENERATION EQUIPMENT GRT DEDUCTION

Category: Environment, Conservation & Renewable Energy

Brief Description: Receipts from selling wind generation equipment or solar generation equipment to a federal or state government agency for the purpose of installing a wind or solar electric generation facility are deductible from gross receipts.

Statutory Basis: 7-9-54.3 NMSA 1978

Intended Purpose: To incentivize government entities to purchase wind and solar generation equipment for a renewable energy facility.

History: Originally enacted in 2002 and amended in 2010 to expand the deduction to include solar generation equipment.

Evaluation: None.

Recommendations: "Government" is defined in this statute as federal or state level entities. Amending the statute to include county and municipal entities will extend savings to the lower tier governmental entities.

Reliability Factor: No data are available to estimate the fiscal impact.

Fiscal Impact: Unknown.

WORKING FAMILIES
TAX CREDIT AGAINST PIT

Category: Citizen Benefits

Brief Description: This credit may be claimed against PIT in a given percentage of a taxpayer's federal earned income tax credit (EITC). The percentage of New Mexico's credit has risen over time. The credit is refundable.

Statutory Basis: 7-2-18.15 NMSA 1978

Intended Purpose: To reduce the tax burden on working families, thereby reducing poverty and incentivizing workforce participation.

History: Originally enacted in 2007 at 8% of taxpayer's federal EITC, amended in 2008 to 10%, and amended in 2019 to 17%.

In 2021, amended to 20% for tax years 2021 and 2022, and 25% effective tax year 2023 and beyond. Effective tax year 2021, eligibility also expanded to New Mexico taxpayers who file PIT using a federally-issued individual taxpayer identification number (ITIN) rather than a social security number and to those between the age 18 to 25. These 2021 amendments will impact expenditures beginning fiscal year 2022.

Evaluation: The Working Families Tax Credit is one of several tax programs that contribute to the Maintenance of Effort certification for the Temporary Assistance for Needy Families program[11]. Except for state expansions enacted in 2021, eligibility for this credit is contingent upon receipt of the federal EITC, income thresholds for which are adjusted annually. This credit incentivizes work by providing income tax relief to lower-income workers. The credit phases out gradually as income rises and is larger for families with more dependents. In the last five fiscal years, on average 206,000 claims have been made annually, totaling to $51 million in average expenditures each fiscal year prior to the 2019 increase, and $81 million after the increase.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

[11] TANF is a federal block grant that provides cash and medical assistance to low-income families with dependent children. To receive TANF funds, New Mexico must spend some of its own dollars (state or local monies) on programs for needy families. This is known as Maintenance of Effort (MOE).

Fiscal Impact:

Working Families Tax Credit	Tax Year (Calendar)	2017	2018	2019	2020	2021
	Claims	206,508	203,970	205,120	195,329	248,992
	Expenditure (thousands)	$51,002	$50,175	$84,853	$77,588	$102,102
	Fiscal Year	2018	2019	2020	2021	2022
	Claims	205,739	203,366	207,959	198,347	257,298
	Expenditure (thousands)	$50,870	$50,147	$84,391	$78,001	$104,527

NOT TAX EXPENDITURES

While almost anything with respect to tax expenditures can be debated, little argument[12] surrounds the following deviations from the tax code; therefore, Tax & Rev classifies them as "Not Tax Expenditures".

Many of these deviations fall into the following broad categories:

1)Reducing the effects of pyramiding. One of the detrimental impacts of a GRT system is that, absent a deviation, external costs of production are taxed at the time the producer acquires them and then again when the producer sells the final product. When compared to a sales tax system, this makes the cost of a good or service more expensive when all factors other than the type of tax system are equal. Many of the deductions in New Mexico's GRT are designed to eliminate the taxation on the inputs so that the tax is only applied to the final product.

2) Allowing deductions or exemptions under one tax program because the Legislature has elected to instead impose tax under another program.

Furthermore, New Mexico policymakers have decided to use different tax structures to tax different activities (e.g., MVX for the sale of motor vehicles). Deviations from one structure when the activity is taxed under a different structure (e.g., GRT deduction for the sale of motor vehicles) prevent double taxation.

3) Several other deviations are in the code because of the federal preemption doctrine. Because states are prohibited from taxing the federal government, New Mexico is unable to impose a tax in these cases regardless of whether the deviation was placed in the code. Including them in the tax code simply provides some measure of clarity to the taxpayer and the Taxation and Revenue Department.

Reporting information about tax code deviations that are "Not Tax Expenditures" is not specifically required. However, we have included some descriptive information about them to give the reader a more complete picture of the New Mexico tax landscape.

[12] Note that this is intentionally different from saying that "there is no argument"; judgment calls are an inherent feature of tax expenditure analysis and the economists at the New Mexico Taxation and Revenue Department have used their best judgement in determining what is and what is not a tax expenditure.

ACCREDITED DIPLOMATS AND MISSIONS GRT DEDUCTION

Brief Description: Receipts from the sale or lease of property to, or from performing services for, accredited foreign missions or diplomats are deductible from gross receipts when required by a treaty to which the U.S. Government is a signatory.

Statutory Basis: 7-9-89 NMSA 1978

Intended Purpose: Presumably to comply with the preemption doctrine.

History: Originally enacted in 1998.

ACQUISITION OF VEHICLE FOR SUBSEQUENT LEASE EXEMPTION FROM MVX

Brief Description: A person who acquires a vehicle for subsequent lease is exempt from the MVX if:

(1) the person does not use the vehicle in any manner other than holding it for lease or sale or leasing or selling it in the ordinary course of business;

(2) the lease is for a term of more than 6 months;

(3) the receipts from the subsequent lease are subject to GRT; and

(4) the vehicle does not have a gross vehicle weight of over 26,000 pounds.

Statutory Basis: 7-14-6(F) NMSA 1978

Intended Purpose: Presumably to define the tax base and avoid pyramiding as there is a requirement the subsequent lease be subject to GRT.

History: The section was originally enacted in 1988 and was amended in 1990, 1994, 2004, and 2007. The language in this subsection was added as part of the amendment in 1994.

ACQUISITION OF VEHICLE MORE THAN 30 DAYS BEFORE MOVING TO NM EXEMPTION FROM MVX

Brief Description: A person who acquires a vehicle out of state thirty or more days before establishing a domicile in this state is exempt from the tax if the vehicle was acquired for personal use.

Statutory Basis: 7-14-6(A) NMSA 1978

Intended Purpose: Presumably to eliminate an unreasonable tax burden on non-residents relocating to New Mexico on personally owned and operated vehicles.

History: Originally enacted in 1988 and was amended in 1990, 1994, 2004, and 2007.

ATHLETIC FACILITY SURCHARGE EXEMPTION FROM GRT AND GGRT

Brief Description: Exempted from the GRT and from the GGRT are the receipts of a university from an athletic facility surcharge imposed pursuant to the University Athletic Facility Funding Act.

Statutory Basis: 7-9-41.1 NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple programs. Because the University Athletic Funding Act allows a university to impose an athletic facility surcharge on products and services sold at or related to the facility, this exempts those sales from the GRT and GGRT so that they are not taxed twice.

History: Originally enacted in 2007 as part of the legislation that enacted the University Athletic Facility Funding Act.

BAD DEBTS
DEDUCTION FROM INTERSTATE TELECOMMUNICATIONS GRT

Brief Description: Refunds and allowances made to buyers of interstate telecommunications services or amounts written off the books as an uncollectible debt by a person reporting Interstate Telecommunications GRT on an accrual basis are deductible from interstate telecommunications gross receipts.

If debts reported as uncollectible are subsequently collected, the receipts must be included in interstate telecommunications gross receipts when they are collected.

Statutory Basis: 7-9C-9 NMSA 1978

Intended Purpose: Presumably to properly define the tax base and avoid requiring a taxpayer to pay taxes on non-existent receipts.

History: Originally enacted in 1992.

BIODIESEL FOR SUBSEQUENT BLENDING OR RESALE BY A RACK OPERATOR DEDUCTION FROM PETROLEUM PRODUCTS LOADING FEE

Brief Description: Biodiesel loaded in or imported into New Mexico and delivered to a rack operator for subsequent blending or resale by a rack operator is deductible from gallons used to determine loads for the purposes of calculating the petroleum products loading fee.

Statutory Basis: 7-13A-5(B) NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: The section was originally enacted in 1990. This subsection was created by an amendment in 2014.

BOATS
EXEMPTION FROM GRT AND COMPENSATING TAX

Brief Description:	Both the receipts from selling, and the use of, boats on which an excise tax is imposed are exempt from the GRT and the compensating tax.
Statutory Basis:	7-9-22.1 and 7-9-23.1 NMSA 1978
Intended Purpose:	Presumably to avoid taxation under multiple programs as these exemptions only apply to those boats on which a tax is imposed pursuant to Section 66-12-6.1 NMSA 1978.
History:	Originally enacted in 1987.

BUSINESS LOCATED ON LAND OWNED BY THE MUNICIPALITY BUT OUTSIDE THE MUNICIPAL BOUNDARIES
EXEMPTION FROM SUPPLEMENTAL MUNICIPAL GRT AND MUNICIPAL LOCAL OPTION GRT

Brief Description:	A business located outside of the boundaries of a municipality on land owned by that municipality is exempt from the supplemental municipal GRT and the municipal local option GRT.
Statutory Basis:	7-19-14(B) and 7-19D-5(B) NMSA 1978
Intended Purpose:	Presumably to resolve a jurisdictional question and provide certainty about the tax rate that applies in this situation (without this clarification, there could be arguments about which tax rate applies).
History:	Originally enacted in 1979 and amended in 1983 and 1994. Statutes repealed in 2019 effective July 1, 2021.

CERTAIN RETAIL SALES OF GASOLINE ON AN INDIAN RESERVATION, PUEBLO GRANT OR TRUST LAND DEDUCTION FROM GASOLINE TAX

Brief Description: A person may deduct a percentage equal to the rate the Indian nation, tribe, or pueblo charges divided by the rate the state charges from the gasoline gallons received that are sold at retail on Indian nation, tribe, or pueblo land.

Statutory Basis: 7-13-4.4 NMSA 1978

Intended Purpose: Presumably to address multi-jurisdictional taxation as the deduction may only be taken if the Indian nation, tribe, or pueblo has certified that it has in effect an excise, privilege, or similar tax on gasoline.

History: Originally enacted in 2000.

CHARITABLE ORGANIZATIONS EXEMPTION FROM PIT AND CIT

Brief Description: Religious, educational, benevolent, or other organizations not organized for profit which are exempt from income taxation under the Internal Revenue Code are exempt from PIT and CIT; however, PIT and CIT apply to the unrelated business income of the organization.

Statutory Basis: 7-2-4(B) and 7-2A-4(C) NMSA 1978

Intended Purpose: To define the tax base.

History: The PIT exemption was originally enacted in 1965 and amended in 1969, 1971, and 1981.

The CIT exemption was originally enacted in 1981 and amended in 1986 and 1989.

CHEMICALS AND REAGENTS GRT DEDUCTION

Brief Description: Receipts from selling chemicals or reagents to any mining, milling, or oil company for use in processing ores or oil in a mill, smelter, or refinery or in acidizing oil wells, and receipts from selling chemicals or reagents in lots in excess of 18 tons to any hard-rock mining or milling company for use in any combination of extracting, leaching, milling, smelting, refining or processing ore at a mine site are deductible from gross receipts.

Receipts from selling explosives, blasting power or dynamite may not be deducted from gross receipts.

Statutory Basis: 7-9-65 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1969 and amended in 2019 to clarify that lots of chemicals or reagents in excess of 18 tons must be sold to a hard-rock mining or milling company and must be used at a mine site for specific purposes.

CONSTRUCTION MATERIAL GRT DEDUCTION

Brief Description: Receipts from selling construction material are deductible from gross receipts if the sale is made to a person engaged in the construction business.

The buyer must present a non-taxable transaction certificate or alternative evidence to the seller and incorporate the construction material as:

(1) an ingredient or component part of a construction project that is subject to the GRT upon its completion or upon the completion of the overall construction project of which it is a part;

(2) an ingredient or component part of a construction project that is subject to the GRT upon the sale in the ordinary course of business of the real property upon which it was constructed; or

(3) an ingredient or component part of a construction project that is located on the tribal territory of an Indian nation, tribe or pueblo.

Statutory Basis: 7-9-51 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1969 and amended in 2000, 2001, and 2021.

The 2021 amendment clarifies that in addition to non-taxable transaction certificates, taxpayers may present alternative evidence documentation to claim the deduction.

CONSTRUCTION SERVICES AND CONSTRUCTION-RELATED SERVICE GRT DEDUCTION

Brief Description: Receipts from selling a construction service or a construction-related service are deductible from gross receipts if the sale is made to a person engaged in the construction business.

The buyer must present a non-taxable transaction certificate or alternative evidence to the seller and have the construction services or construction-related services directly contracted for or billed to:

(1) a construction project that is subject to the GRT upon its completion or upon the completion of the overall construction project of which it is a part;

(2) a construction project that is subject to the GRT upon the sale in the ordinary course of business of the real property upon which it was constructed; or

(3) a construction project that is located on the tribal territory of an Indian nation, tribe or pueblo.

Statutory Basis: 7-9-52 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1969 and amended in 2000, 2012, and 2021.

The 2012 amendment included the deduction for constructed-related services.

The 2021 amendment clarifies that in addition to non-taxable transaction certificates , taxpayers may present alternative evidence documentation to claim the deduction.

DEPENDENT DEDUCTION FROM PIT FOR CERTAIN DEPENDENTS

Brief Description: If the exemption amount pursuant to Section 151 of the Internal Revenue Code (IRC) is zero, any taxpayer who files a PIT return as a head of household or married filing jointly and is not a dependent of another taxpayer may claim a $4,000 deduction per eligible dependent beyond the first dependent claimed.

Statutory Basis: 7-2-39 NMSA 1978

Intended Purpose: To revert to the New Mexico tax base prior to the passage of the 2017 Federal Tax Cuts and Jobs Act (TCJA) and maintain conformity with federal IRC going forward.

History: The PIT deduction was originally enacted in 2019.

Evaluation: The deduction is serving its intended purpose of providing relief to households with dependents from the negative state-level TCJA impact. TCJA repealed the federal personal exemption in favor of a substantial increase in the federal standard deduction and a child tax credit. While, conformity to federal tax code implies that the federal changes to personal exemption and standard deductions flow through to the New Mexico tax code, the child tax credit does not. This dependent deduction was intended to serve a similar function as the federal child tax credit. Since 2019, the deduction has been claimed by an average of 168,000 New Mexican taxpayers each fiscal year and has reduced the tax liability of an average of 113,000 taxpayers, whose median taxable income is $41,500.

Recommendations: None.

Reliability Factor: 1 – This expenditure is calculated directly using taxpayer data. No estimation is required.

Fiscal Impact:

Dependent Deduction from PIT for Certain Dependents	Tax Year (Calendar)	2019	2020	2021
	Claims	182,260	167,370	155,535
	Expenditure (thousands)	$26,634	$24,808	$23,692
	Fiscal Year	2020	2021	2022
	Claims	166,949	169,044	167,569
	Expenditure (thousands)	$24,660	$25,072	$25,181

DIVIDENDS AND INTEREST EXEMPTION FROM GRT

Brief Description: Interest on money loaned or deposited; dividends or interest from stocks, bonds, or securities; and receipts from the sale of stocks, bonds, or securities are exempt from GRT.

Statutory Basis: 7-9-25 NMSA 1978

Intended Purpose: To avoid double taxation as these are taxed under the personal income tax.

History: Originally enacted in 1969.

DYED GASOLINE USED FOR OFF-ROAD TRANSPORTATION DEDUCTION FROM GASOLINE TAX

Brief Description: Gasoline that is dyed in accordance with Tax & Rev regulations and is not used in motor vehicles operating on the highways of New Mexico is deductible from the gasoline tax but is subject to GRT.

Statutory Basis: 7-13-4(D) NMSA 1978

Intended Purpose: Presumably to recognize that off-road vehicles don't contribute to the deterioration of the roads, the maintenance of which is funded through the gasoline tax distributions to the State Road Fund.

History: The section was originally enacted in 1991 and amended in 1997, 1998, 1999, and 2007.

The language in this subsection was created by an amendment in 1998.

DYED SPECIAL FUEL
DEDUCTION FROM SPECIAL FUEL EXCISE TAX

Brief Description: Special fuels dyed in accordance with federal regulations are deductible from the special fuel excise tax.

Statutory Basis: 7-16A-10(E) NMSA 1978

Intended Purpose: Presumably to recognize that off-road vehicles do not contribute to the deterioration of the roads, the maintenance of which is funded through the special fuel excise tax distributions to the State Road Fund.

History: This section was originally enacted in 1992 and amended in 1993, 1997, 1998, 2001, 2005, 2006, 2007, 2009, and 2013.

EVENT CENTER SURCHARGE
EXEMPTION FROM GRT AND GGRT

Brief Description: Receipts from selling tickets, parking, souvenirs, concessions, programs, advertising, merchandise, corporate suites or boxes, broadcast revenues, and all other products or services sold at or related to a municipal event center on which an event center surcharge is imposed pursuant to the Municipal Event Center Funding Act are exempt from GRT and GGRT.

Statutory Basis: 7-9-13.5 NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple tax programs as the receipts must be subject to an event center surcharge to be exempt.

History: Originally enacted in 2005 as part of the legislation that enacted the Municipal Event Center Funding Act.

Evaluation: The Municipal Event Center Funding Act provides an additional method of accessing the capital markets to meet the need for a complete funding package for functional and modern municipal event centers. Because the Municipal Event Center Funding Act allows a municipality to impose an event center surcharge on products and services sold at or related to the stadium, these exemptions from the GRT and GGRT prevent them from being taxed twice.

EXEMPTIONS FROM THE INSURANCE PREMIUM TAX

Category: Health Care

Brief Description: Exempted from the Insurance Premium Tax are:

A. Premiums attributable to insurance or contracts purchased by the state or political subdivision for their active or retired employees
B. Payments received by a health maintenance organization from the federal secretary of health and human services pursuant to a risk-sharing contract issued under the provisions of 42 U.S.C. Section 1395 mm(g)
C. Any business transacted pursuant to the provisions of the Service Contract Regulation Act
D. The premiums from each policy of plan issued or offered pursuant to the Minimum Healthcare Protection Act during the first three years of the issuance of the master policy or individual policy
E. The money collected and placed in trust pursuant to Section 59A 49-6 NMSA 1978.

Statutory Basis: 7-40-5 NMSA 1978

Intended Purpose: Presumably to define the tax base and federal preemption.

History: Originally enacted in 2018, effective January 1, 2020.

Evaluation: No data available yet to evaluate impact of exemption.

FILMS AND TAPES
GRT DEDUCTION

Brief Description: Receipts from leasing theatrical and television films and tapes to movie theaters or similar facilities when the theater's receipts are subject to GRT are deductible from gross receipts.

Statutory Basis: 7-9-76.2 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1984.

FOOD STAMPS/SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM EXEMPTION FROM GRT

Brief Description: Receipts of retailers from the redemption of Supplemental Nutrition Assistance Program (SNAP) benefits (aka food stamps) are exempt from GRT.

Statutory Basis: 7-9-18.1 NMSA 1978

Intended Purpose: This program is not considered a tax expenditure because of the Code of Federal Regulations Title 7, Subtitle B, Chapter II C, §278.2 prohibits the state from taxing food purchased with SNAP benefits. The statute's intended purpose is to lower the cost of food for those who qualify and redeem their SNAP benefits.

History: Originally enacted in 1987.

Evaluation: To comply with the federal preemption doctrine. This exemption only applies when a SNAP recipient does not buy food from one of 1,541 qualified SNAP points of sale in the state. Because of this, the estimated amounts for this exemption are relatively small when compared to the total amount of SNAP benefits as reported by HSD.

Recommendations: Update statute to reflect new federal name of the program, Supplemental Nutrition Assistance Program.

Reliability Factor: 3 – Using expenditure and case number data from HSD between FY2018 and FY2022, the annual average GRT rate was applied to the annual dollar amounts of SNAP expenditures. To estimate the amounts of these expenditures Tax & Rev assumed a 4% exemption rate. This exemption applies when SNAP benefits are used to purchase food from a qualified food retail store. Therefore, receipts under Section 7-9-92 NMSA 1978 may not be deducted if they are exempted by Section 7-9-18.1 NMSA 1978.

Fiscal Impact:

Food Stamps/SNAP Exemption from GRT	**Fiscal Year**	2018	2019	2020	2021	2022
	Expenditure (thousands)	$1,950	$1,772	$2,062	$3,387	$4,348

FUEL
EXEMPTION FROM GRT AND COMPENSATING TAX

Brief Description: The selling and the use of gasoline, special fuel, or alternative fuel on which the tax imposed by other acts have been paid are exempt from GRT and compensating tax.

Statutory Basis: 7-9-26 NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple tax programs as the fuels must be taxed pursuant to the gasoline tax, the special fuel excise tax, or the Alternative Fuel Tax Act to qualify for the exemption.

History: Originally enacted in 1969 and amended in 1971, 1980, 1981, 1983, 1993, and 1995.

GASOLINE OR SPECIAL FUELS RETURNED TO THE REFINER AS UNCOLLECTIBLE
DEDUCTION FROM PETROLEUM PRODUCTS LOADING FEE

Brief Description: Gasoline and special fuels that are returned to the refiner, pipeline terminal operator, or distributor are deductible from the gallons used to determine loads for purposes of calculating the PPLF when refunds and allowances are made to buyers for the returned fuel.

Gasoline and special fuels, the payment for which has not been collected and has been determined to be uncollectible, are deductible from the gallons used to determine loads for purposes of calculating the PPLF.

Statutory Basis: 7-13A-5(A) NMSA 1978

Intended Purpose: Presumably to ensure that taxes are not paid on gasoline and special fuel which the taxpayer is unable to market.

History: Originally enacted in 1990 and amended in 2014.

INCOME ALLOCATION AND APPORTIONMENT CREDIT AGAINST CIT

Brief Description: Net income of any taxpayer having income that is taxable both within and without this state shall be apportioned and allocated pursuant to the Uniform Division of Income for Tax Purposes Act.

Repealed as of January 1, 2020.

Statutory Basis: 7-2A-8 NMSA 1978

Intended Purpose: To define the tax base and prevent New Mexico from taxing income that is properly attributed to another state per the U.S. Commerce Clause.

History: Originally enacted in 1981 and amended in 1983, 1986, 1990, 1995, 1996 and repealed in 2019.

INDIANS EXEMPTION FROM PIT

Brief Description: Income earned by a member of a New Mexico federally-recognized Indian nation, tribe, band or pueblo, the member’s spouse or dependent, who is a member of a New Mexico federally-recognized Indian nation, tribe, band or pueblo, is exempt from PIT if the income is earned from work performed within and the member, spouse or dependent lives within the boundaries of the Indian member's or the spouse's reservation or pueblo grant or within the boundaries of lands held in trust by the U.S. for the benefit of the member or spouse or his nation, tribe, band or pueblo, subject to restriction against alienation imposed by the U.S..

Statutory Basis: 7-2-5.5 NMSA 1978

Intended Purpose: To define the tax base and comply with federal restraints on state taxation under federal Indian law.

History: Originally enacted in 1995.

INSURANCE COMPANIES
EXEMPTION FROM CIT

Brief Description: Insurance companies that pay a premium tax to the state are exempt from CIT.

Statutory Basis: 7-2A-4(A) NMSA 1978

Intended Purpose: To avoid taxation under multiple programs as qualification for the exemption is dependent upon paying a premium tax.

History: Originally enacted in 1981 and amended in 1986 and 1989.

INTERGOVERNMENTAL COAL SEVERANCE
CREDIT AGAINST COAL SEVERANCE TAX

Brief Description: A person who severs coal from tribal land may claim a credit against the coal severance tax and the coal surtax imposed under Section 7-26-6 NMSA 1978.

The credit is calculated monthly and is equal to 75% of the lesser of:

(1) the aggregate amount of taxes in effect on March 1, 2001 imposed by the Indian nation, tribe, or pueblo; or

(2) the aggregate amount of coal severance tax and the coal surtax due the state.

Statutory Basis: 7-29C-2 NMSA 1978

Intended Purpose: Presumably in deference to the sovereignty of Indian nation, tribes, and pueblos and address issues with multi-jurisdictional taxation.

History: Originally enacted in 2001.

INTERGOVERNMENTAL
CREDIT AGAINST CIT

Brief Description: A new business which opens on Indian land after July 1, 1997 may claim a credit against the CIT.

The credit is calculated for each reporting period and is equal to 50% of the lesser of:

(1) the aggregate amount of tax paid by the taxpayer; or

(2) the amount of the taxpayer's CIT due from the new business' activity on Indian land.

Statutory Basis: 7-2A-16 NMSA 1978

Intended Purpose: To accommodate principles of fair apportionment between the tribes and the state.

History: Originally enacted in 1997.

INTERGOVERNMENTAL PRODUCTION AND INTERGOVERNMENTAL PRODUCTION EQUIPMENT CREDIT AGAINST OIL AND GAS SEVERANCE TAX, OIL AND GAS CONSERVATION TAX, OIL AND GAS EMERGENCY SCHOOL TAX, AND OIL AND GAS AD VALOREM PRODUCTION TAX

Brief Description: A person who severs products from tribal land may claim a credit against the oil and gas severance tax, the oil and gas conservation tax, the oil and gas emergency school tax, or the oil and gas ad valorem production tax.

The credit is calculated monthly and is equal to 75% of the lesser of:

(1) the aggregate amount of taxes in effect on March 1, 1995 imposed by the Indian nation, tribe, or pueblo; or

(2) the aggregate amount of oil and gas severance tax, the oil and gas conservation tax, the oil and gas emergency school tax, or the oil and gas ad valorem production tax due the state.

A person who is liable for the payment of the oil and gas production equipment ad valorem tax imposed on equipment located on Indian tribal land may claim a credit.

The credit is calculated monthly and is equal to 75% of the lesser of:

(1) the aggregate amount of ad valorem or similar taxes in effect on March 1, 1995 imposed by the Indian nation, tribe, or pueblo; or

(2) the aggregate amount of oil and gas production equipment tax due the state.

Statutory Basis: 7-29C-1 NMSA 1978

Intended Purpose: Presumably in deference to the sovereignty of Indian nations, tribes, and pueblos and to address the cumulative tax burden of multijurisdictional taxation.

History: Originally enacted in 1995 and amended in 1999.

INTERNET SERVICES
GRT DEDUCTION

Brief Description: Receipts from providing telecommunications, Internet, or Internet access services to internet service providers are deductible.

Statutory Basis: 7-9-56.1 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding as the final user must be subject to the GRT or ITGRT.

History: Originally enacted in 1998 and amended in 2000.

INTERSTATE SALES OF SPIRTUOUS LIQUORS, BEER, & WINE AND WINEGROWER-TO-WINEGROWER TRANSFERS
DEDUCTION FROM LIQUOR EXCISE TAX

Brief Description: A wholesaler who sells and ships liquor, beer, or wine out of state may claim a deduction for those liters from the units of alcoholic beverages subject to the liquor excise tax.

A winegrower who transfers wine to another winegrower for processing, bottling, or storage and subsequently returns the wine to the original winegrower may claim a deduction for those liters from the units of wine subject to the liquor excise tax.

Statutory Basis: 7-17-6 NMSA 1978

Intended Purpose: Presumably to increase New Mexico winegrowers' competitiveness in other states with respect to the out-of-state deduction and to ensure that the product is not taxed twice (once in New Mexico and once in the other state); and to reduce tax pyramiding with respect to the winegrower-to-winegrower transfers.

History: Originally enacted in 1984 and amended in 1995 and 2008.

INTERSTATE SALES OF TOBACCO DEDUCTION AGAINST TOBACCO PRODUCTS TAX

Brief Description: The value of tobacco products sold and shipped or given and shipped to a person in another state is deductible from the product value subject to tax imposed by the Tobacco Products Tax Act.

Statutory Basis: 7-12A-5 NMSA 1978

Intended Purpose: Presumably to ensure that the product is not taxed twice (once in New Mexico and again in the other state).

History: Originally enacted in 1986.

INTERSTATE TELECOMMUNICATIONS SERVICES EXEMPTION FROM GRT

Brief Description: Receipts from selling or providing interstate telecommunications services that are subject to ITGRT are exempt

Statutory Basis: 7-9-38.1 NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple programs as the exemption only applies to the sale or provision of interstate telecommunications services subject to the tax imposed by the Interstate Telecommunications Gross Receipts Tax Act[13].

History: Originally enacted in 1992 and amended in 1993.

INTERSTATE COMMERCE TRANSACTIONS DEDUCTION FROM LVGRT

Brief Description: Receipts from transactions in interstate commerce are deductible from gross receipts to the extent that the imposition of the leased vehicle gross receipts tax would be unlawful under the United States Constitution.

Statutory Basis: 7-14A-7 NMSA 1978

Intended Purpose: To comport with U.S. Constitutional limitations on state taxation under the Commerce Clause.

History: Originally enacted in 1991.

[13] Section 7-9C-1 NMSA 1978

JEWELRY MANUFACTURING GRT DEDUCTION

Brief Description: Receipts from selling tangible personal property are deductible from gross receipts if it is incorporated as an ingredient or component part of the jewelry the buyer is in the business of manufacturing.

The deduction allowed a seller under this section shall not exceed $5,000 during any twelve-month period attributable to purchases by a single purchaser.

Statutory Basis: 7-9-74 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding as the deduction only applies if the sale is made to a person who uses the property as an ingredient or component part of the jewelry the buyer manufactures.

History: Originally enacted in 1971 and amended in 1975 and 1994.

JICARILLA APACHE TRIBAL CAPITAL IMPROVEMENTS TAX CREDIT AGAINST OIL AND GAS EMERGENCY SCHOOL TAX

Brief Description: A person who is liable for the payment of the oil and gas emergency school tax imposed on products severed from Jicarilla Apache tribal land shall be entitled to a credit against the oil and gas emergency school tax for qualifying products.

The credit is calculated monthly and is equal to the lesser of:

(1) the Jicarilla Apache tribal capital improvements tax; or

(2) .7% of the taxable value of the products severed from qualified wells.

Statutory Basis: 7-31-27 NMSA 1978

Intended Purpose: Presumably in deference to the sovereignty of Indian nations, tribes, and pueblos and to address issues with multi-jurisdictional taxation. The Jicarilla Apache tribal capital improvements tax is exclusively dedicated to fund capital improvements projects on Jicarilla Apache tribal land and is not available to finance the construction of buildings used for commercial activity.

History: Originally enacted in 2002.

LARGE HEALTH CARE FACILITY EXEMPTION FROM HEALTH CARE QUALITY SURCHARGE

Brief Description: A health care facility with more than 90,000 annual Medicaid-financed bed days may claim an exemption in an amount equal to 65 percent of the health care quality surcharge.

The percentage and annual Medicaid-financed days criteria may be modified by rules promulgated by HSD to comply with federal approval.

Statutory Basis: 7-41-5 NMSA 1978

Intended Purpose: To establish the tax base and meet federal Centers for Medicare & Medicaid Services (CMS) approval.

History: The Health Care Quality Surcharge and this exemption was enacted in 2019 and amended in 2022 to make permanent.

LEASE FOR SUBSEQUENT LEASE GRT DEDUCTION

Brief Description: Receipts from leasing tangible personal property or licenses used for subsequent lease in the ordinary course of business are deductible from gross receipts.

The lessee must provide a non-taxable transaction certificate or alternative evidence to the lessor.

Statutory Basis: 7-9-50 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1969 and amended in 1972, 1975, 1979, 1983, 1991, 1992, and 2021.

The 2021 amendment clarifies that in addition to non-taxable transaction certificates , taxpayers may present alternative evidence documentation to claim the deduction.

LEASE OF CONSTRUCTION EQUIPMENT GRT DEDUCTION

Brief Description: Receipts from leasing construction equipment are deductible from gross receipts if the lease is made to a person engaged in the construction business.

The lessee must present a non-taxable transaction certificate or alternative evidence to the lessor and use the construction equipment at the location of:

(1) a construction project that is subject to the GRT upon its completion or upon the completion of the overall construction project of which it is a part;

(2) a construction project that is subject to the GRT upon the sale in the ordinary course of business of the real property upon which it was constructed; or

(3) a construction project that is located on the tribal territory of an Indian nation, tribe, or pueblo.

Statutory Basis: 7-9-52.1 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 2012 and amended in 2021.

The 2021 amendment clarifies that in addition to non-taxable transaction certificates, taxpayers may present alternative evidence documentation to claim the deduction.

MARKETPLACE SELLER DEDUCTION FROM GROSS RECEIPTS AND GOVERNMENTAL GROSS RECEIPTS TAX

Brief Description: The receipts from the sale, lease, or license of real or tangible property by a marketplace seller that are facilitated by a marketplace provider are deductible from gross receipts.

Statutory Basis: 7-9-117 NMSA 1978

Intended Purpose: The deduction ensures that the incidence of taxation occurs once at the point of sale with the marketplace provider.

History: The section was originally enacted in 2019 and amended in 2020 to include governmental gross receipts.

MEDICAL INSURANCE POOL ASSESSMENTS CREDIT AGAINST INSURANCE PREMIUM TAX

Category: Health Care

Brief Description: There is a 50 percent credit on the assessment for any New Mexico medical insurance pool member pursuant to Section 59A-54-10 NMSA 1978 and a 75 percent credit for the assessments attributable to the pool policyholders that receive premiums, in whole or in part, through the federal Ryan White CARE Act, the Ted R. Montoya hemophilia program at the university of New Mexico health sciences center, the children's medical services bureau of the public health division of the department of health or other program receiving state funding or assistance.

Statutory Basis: 7-40-6 NMSA 1978

Intended Purpose: To avoid double taxation.

History: Previously in statute under the insurance code. Originally enacted in 2018 under the Tax Administration Act, effective January 1, 2020.

NATURAL GAS ALREADY TAXED EXEMPTION FROM NATURAL GAS PROCESSORS TAX

Brief Description: The tax shall not be levied more than once on the same natural gas.

Statutory Basis: 7-33-7 NMSA 1978

Intended Purpose: Presumably to avoid double taxation.

History: Originally enacted in 1963 and amended in 1998.

NATURAL RESOURCES SUBJECT TO RESOURCES EXCISE TAX EXEMPTION FROM GRT

Brief Description: Receipts from the sale or processing of natural resources the severance or processing of which are subject to the resources excise tax are exempt from gross receipts.

Statutory Basis: 7-9-35 NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple tax programs as the exemption only applies to natural resources the severance of which are subject to the taxes imposed by the Resources Excise Tax Act.

History: Originally enacted in 1969 and amended in 1984 and 1989.

"NET INCOME" EXEMPTIONS FROM PIT

Brief Description: Income (in the form of interest) derived from U.S. government obligations is excluded from the definition of "net income" and therefore exempt from PIT.

Statutory Basis: 7-2-2(N)(4) NMSA 1978

Intended Purpose: To comply with the preemption doctrine.

History: Originally enacted in 1991.

NONPROFIT HOSPITAL EXEMPTION FROM LOCAL GROSS RECEIPTS TAX

Brief Description: The receipts from a nonprofit hospital licensed by the department of health are exempt from the local option gross receipts tax. They are not exempt from the state gross receipts tax.

Statutory Basis: 7-9-41.5 NMSA 1978

Intended Purpose: To establish the tax base among all hospitals regardless of profit or non-profit status.

History: The section was originally enacted in 2019.

NONRESIDENT
EXEMPTION FROM ESTATE TAX

Brief Description: The transfer of the personal property of a nonresident is exempt from the estate tax to the extent that the personal property of residents is exempt from taxation under the laws of the state in which the nonresident is domiciled.

Statutory Basis: 7-7-4(D) NMSA 1978

Intended Purpose: Presumably to reduce the administrative commitment between states.

History: Originally enacted in 1973 and amended in 1999.

OCCASIONAL SALE OF PROPERTY OR SERVICES
EXEMPTION FROM GRT

Brief Description: Receipts from the isolated or occasional sale or leasing of property or a service by a person who is not in the business of selling or leasing the same or similar property or service are exempt from GRT.

Statutory Basis: 7-9-28 NMSA 1978

Intended Purpose: Presumably to properly define the tax base.

History: Originally enacted in 1969.

OIL AND GAS OR MINERAL INTERESTS
EXEMPTION FROM GRT

Brief Description: Receipts from the sale or lease of oil, natural gas, or mineral interests are exempt from GRT.

Statutory Basis: 7-9-32 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1969.

ONE-WAY HAUL AND EMPTY TRAVEL RATE DIFFERENTIAL FROM WDT

Brief Description: If (1) a motor vehicle is customarily used for one-way haul, (2) the motor vehicle travels empty of all load for at least 45% of the mileage traveled during a registration year, and (3) the registrant of the vehicle has made a sworn application, the tax is two-thirds of the standard WDT.

Statutory Basis: 7-15A-6(B) NMSA 1978

Intended Purpose: Presumably to appropriately tax vehicles according to their wear and tear on New Mexico roads, and thereby to define the tax base.

History: Originally enacted in 1988 and amended in 2003 (1st Special Session), and 2004.

PERSONAL EFFECTS EXEMPTION FROM COMPENSATING TAX

Brief Description: The use by an individual of personal or household effects brought into the state in connection with the establishment by the individual of an initial residence in this state and the use of property brought into the state by a nonresident for his/her own nonbusiness use while temporarily within this state are exempt from compensating tax.

Statutory Basis: 7-9-27 NMSA 1978

Intended Purpose: Presumably to encourage relocating to New Mexico, and to avoid administrative complexity.

History: Originally enacted in 1969.

PETROLEUM PRODUCTS EXPORTED FOR RESALE EXEMPTION FROM PETROLEUM PRODUCTS LOADING FEE

Brief Description: Petroleum products that are either loaded into cargo tanks in New Mexico and exported for resale and consumption outside of New Mexico or are imported into New Mexico and subsequently exported for resale and consumption outside of New Mexico are exempt from the PPLF.

Statutory Basis: 7-13A-4(A) NMSA 1978

Intended Purpose: Presumably to properly define the tax base and the loading fee typically supports environmental issues related to the storage of fuel in New Mexico.

History: Originally enacted in 1991.

PROCESSORS TAX PAID ON NATURAL RESOURCES EXEMPTION FROM RESOURCES TAX

Brief Description: The taxable value of any natural resource that is processed in New Mexico and on whose taxable value the processors tax is paid is exempt from the resources tax.

Statutory Basis: 7-25-7 NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple tax programs, as the processors tax on the processed natural resource must be paid to qualify for the exemption.

History: Originally enacted in 1966.

PRODUCTS ALREADY TAXED EXEMPTION FROM OIL AND GAS AD VALOREM PRODUCTION TAX

Brief Description: The tax shall not be levied more than once on the same product.

Statutory Basis: 7-32-8 NMSA 1978

Intended Purpose: Presumably to avoid double taxation. This is like 7-33-7 Natural Gas. This is already taxed under the Natural Gas Processors Tax.

History: Originally enacted in 1959.

PRODUCTS ALREADY TAXED EXEMPTION FROM OIL AND GAS CONSERVATION TAX

Brief Description: The tax shall not be levied more than once on the same product.

Statutory Basis: 7-30-8 NMSA 1978

Intended Purpose: Presumably to avoid double taxation. This is like 7-33-7 Natural Gas. This is already taxed under the Natural Gas Processors Tax.

History: Originally enacted in 1959 and amended in 1989.

PRODUCTS ALREADY TAXED
EXEMPTION FROM OIL AND GAS EMERGENCY SCHOOL TAX

Brief Description: The tax shall not be levied more than once on the same product.

Statutory Basis: 7-31-8 NMSA 1978

Intended Purpose: Presumably to avoid double taxation. This is like 7-33-7 Natural Gas. This is already taxed under the Natural Gas Processors Tax.

History: Originally enacted in 1959.

PRODUCTS ALREADY TAXED
EXEMPTION FROM OIL AND GAS SEVERANCE TAX

Brief Description: The tax shall not be levied more than once on the same product.

Statutory Basis: 7-29-5 NMSA 1978

Intended Purpose: Presumably to avoid double taxation. This is like 7-33-7 Natural Gas. This is already taxed under the Natural Gas Processors Tax.

History: Originally enacted in 1959.

PRODUCTS SUBJECT TO OIL AND GAS EMERGENCY SCHOOL TAX
EXEMPTION FROM GRT

Brief Description: Unless the sale of products is for: (1) subsequent resale in the ordinary course of business, (2) consumption outside the state, or (3) use as an ingredient or component part of a manufactured product, receipts from the sale of products are exempt from GRT when they are subject to the oil and gas emergency school tax.

The storage or use of crude oil, natural gas or liquid hydrocarbons for fuel in the operation of a production unit, as defined in the Oil and Gas Emergency School Tax Act, will not be subject to gross receipts tax or compensating tax.

Statutory Basis: 7-9-33 NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple tax programs, as the exemption only applies to those products the severance of which is subject to the tax imposed by the Oil and Gas Emergency School Tax Act.

History: Originally enacted in 1969 and amended in 1975, 1984, and 1989.

PURCHASE FOR RESALE
EXEMPTION FROM LOCAL LIQUOR EXCISE TAX

Brief Description: Purchases for sale to retailers for resale are exempt from the local liquor excise tax.

Statutory Basis: 7-24-13 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding and define the tax base.

History: Originally enacted in 1989.

PURCHASE OF UNDYED GASOLINE FOR CERTAIN OFF-ROAD USE
REFUND OF GASOLINE TAX

Brief Description: A person using gasoline in the operation of a clothes cleaning establishment, in stoves or other appliances burning gasoline, or operators of aircraft using aviation gasoline exclusively in the operation of aircraft may purchase undyed gasoline and may claim a refund of gasoline tax paid.

Statutory Basis: 7-13-17 NMSA 1978

Intended Purpose: Presumably to recognize that these activities do not contribute to the deterioration of the roads, the maintenance of which is funded through the gasoline tax distributions to the State Road Fund.

History: Originally enacted in 1998.

PURCHASES BY OR ON BEHALF OF THE STATE
GRT DEDUCTION

Brief Description: Receipts from the sale of property or services purchased by or on behalf of the State of New Mexico from funds obtained from the forfeiture of financial assurance pursuant to the New Mexico Mining Act or the forfeiture of financial responsibility pursuant to the Water Quality Act are deductible from gross receipts.

Statutory Basis: 7-9-97 NMSA 1978

Intended Purpose: Presumably to relieve mining companies from the obligation to estimate (and potentially overpay) the GRT cost incurred by a third-party contractor that would complete the reclamation work on behalf of the state in the event the company failed to conduct the reclamation work.

History: Originally enacted in 2005.

REASONABLE EXPENSE OF TRUCKING PRODUCT TO MARKET DEDUCTION FROM OIL AND GAS SEVERANCE TAX, OIL AND GAS CONSERVATION TAX, AND OIL AND GAS AD VALOREM PRODUCTION TAX

Brief Description:	The reasonable expense of trucking any product from the production unit to where the actual price is determined at a point other than the production unit is deductible from the Oil and Gas Severance and the Oil and Gas Conservation taxes
Statutory Basis:	7-29-4.1C , 7-30-5A(3), and 7-32-A(3) NMSA 1978
Intended Purpose:	Presumably to define the tax base as under these statutes the incidence of the tax in on the product severed and sold. The point of sale where the product becomes taxable is at a location other than the wellhead which requires the associated transportation costs.
History:	7-29-4.1C was originally enacted in 1980 and was amended in 1989 and 2005. 7-30-5A(3) was originally enacted in 1959 and amended in 1975, 1977, 1980, and 1985. 7-32-5A(3) was originally enacted in 1959 and amended in 1972.

REFINERS AND PERSONS SUBJECT TO NATURAL GAS PROCESSORS TAX EXEMPTION FROM GRT AND COMPENSATING TAX

Brief Description: Unless the sale or processing of products are for (1) subsequent resale in the ordinary course of business, (2) consumption outside the state, or (3) use as an ingredient or component part of a manufactured product, receipts from the sale or processing of products that are subject to the natural gas processors tax are exempt from the GRT.

Receipts from storing or using crude oil, natural gas, or liquid hydrocarbons when stored or used in New Mexico by a "processor" or by a person engaged in the business of refining oil, natural gas, or liquid hydrocarbons who stores or uses the crude oil, natural gas, or liquid hydrocarbons in the regular course of his refining business are exempt from GRT and compensating tax.

Statutory Basis: 7-9-34 NMSA 1978

Intended Purpose: Presumably to define the tax base with respect to the first part of the exemption which only applies to the sale or processing of products the processing of which is subject to the natural gas processors tax. The second part of the exemption is presumably to reduce tax pyramiding.

History: Originally enacted in 1969 and amended in 1970, 1975, 1984, and 1989.

RELIGIOUS ACTIVITIES EXEMPTION FROM GRT

Brief Description: Receipts of a minister of a 501(c)(3) religious organization from performing religious services to an individual recipient of the service are exempt from GRT.

Statutory Basis: 7-9-41 NMSA 1978

Intended Purpose: Presumably to prevent taxation of expenses that are effectively business inputs of a 501(c)(3) religious organization.

History: Originally enacted in 1972.

RESALE ACTIVITIES OF AN ARMED FORCES INSTRUMENTALITY EXEMPTION FROM GRT AND COMPENSATING TAX

Brief Description: Receipts from selling tangible personal property and the use of property by any instrumentality of the armed forces of the United States engaged in resale activities are exempt from GRT and compensating tax.

Statutory Basis: 7-9-31 NMSA 1978

Intended Purpose: Presumably to comply with the preemption doctrine and to reduce tax pyramiding.

History: Originally enacted in 1969.

RETURNED OR DESTROYED TOBACCO PRODUCTS REFUND OR CREDIT AGAINST TOBACCO PRODUCTS TAX

Brief Description: Taxpayers who have paid the tobacco products tax on tobacco products that are destroyed or returned to the seller by the first purchaser as spoiled or otherwise unfit for sale or consumption are entitled to a refund of or credit against the tobacco products tax.

Statutory Basis: 7-12A-6 NMSA 1978

Intended Purpose: Presumably to define the tax base and avoid requiring a taxpayer to pay taxes on unusable tobacco products that have no value.

History: Originally enacted in 1986 and amended in 1988.

ROYALTIES PAID OR DUE TO THE US, STATE OF NM, OR ANY INDIAN TRIBE, PUEBLO, OR WARD OF THE US DEDUCTION FROM OIL AND GAS SEVERANCE TAX, OIL AND GAS CONSERVATION TAX, OIL AND GAS EMERGENCY SCHOOL TAX, AND OIL AND GAS AD VALOREM PRODUCTION TAX

Brief Description: Royalties paid or due the United States, any Indian tribe, Indian pueblo or Indian that is a ward of the United States of America, or the state of New Mexico may be deducted from the value of the product.

Statutory Basis: 7-29-4.1A, 7-29-4.1B, 7-30-5A(1), 7-30-5A(2), 7-31-5A, 7-31-5B, 7-32-5A(1) and 7-32-5A(2) NMSA 1978

Intended Purpose: Presumably because the State is preempted from imposing taxes on the U.S. government, Indian Tribes or Pueblos, and to prevent the State from taxing itself.

History: 7-29-4.1A and 7-29-4.1B were originally enacted in 1980 and amended in 1989 and 2005.

7-30-5A(1) and 7-30-5A(2) were originally enacted in 1959 and amended in 1975, 1977, 1980, 1985, and 2005.

7-31-5A and 7-31-5B were originally enacted in1959 and amended in 1963.

7-32-5A(1) and 7-32-5A(2) were originally enacted in 1959 and amended in 1972.

SALE OF A SERVICE FOR RESALE GRT AND GGRT DEDUCTION

Brief Description: Receipts from selling a service for resale are deductible from gross receipts or governmental gross receipts.

Statutory Basis: 7-9-48 NMSA 1978

Intended Purpose: Presumably to define the tax base and avoid tax pyramiding.

History: Originally enacted in 1969 and amended in 1992, 2000, and 2021.

The 2000 amendment clarified that the resale must be subject to the GRT or GGRT to qualify for the deduction and removed the requirement that the buyer separately state the value of the service purchased in his charge for the service on it subsequent sale.

The 2021 amendment clarifies that in addition to non-taxable transaction certificates, taxpayers may present alternative evidence documentation to claim the deduction.

SALE OF A SERVICE FOR RESALE DEDUCTION FROM ITGRT

Brief Description: Receipts from providing an interstate telecommunications service that will be used by other persons in providing telephone or telegraph services to the final user are deductible from interstate telecommunications gross receipts.

Statutory Basis: 7-9C-7 NMSA 1978

Intended Purpose: Presumably to define the tax base.

History: Originally enacted in 1992 and amended in 1998.

SALE OF AEROSPACE SERVICES FOR THE U.S. AIR FORCE GRT DEDUCTION

Brief Description: Receipts from performing or selling aerospace research and development for resale to an organization for resale to the U.S., other than a national laboratory, are deductible from gross receipts.

Statutory Basis: 7-9-54.1 NMSA 1978

Intended Purpose: To incentivize the U.S. Air Force to relocate the Space Systems Division to New Mexico.

History: Originally enacted in 1992 and amended in 1993, 1994, 1995, and 2021.

The 2021 amendment clarifies that in addition to non-taxable transaction certificates, taxpayers may present alternative evidence documentation to claim the deduction. The amendment also removed outdated deductible percentages, as the deduction percentage is 100 percent.

SALE OF ALTERNATIVE FUEL TO THE FEDERAL GOVERNMENT OR NEW MEXICO TRIBES EXEMPTION FROM ALTERNATIVE FUEL EXCISE TAX

Brief Description: Alternative fuel distributed to or used by the United States government, or Indian nation, tribe or pueblo, is exempt from the imposition of the alternative fuel excise tax.

Statutory Basis: 7-16B-5 (A) and (C) NMSA 1978

Intended Purpose: Presumably to comply with the preemption doctrine and to address multi-jurisdictional taxation as the Indian nation, tribe or pueblo, may impose a tax on alternative fuel.

History: Originally enacted in 1995.

SALE OF GASOLINE AT RETAIL BY A REGISTERED INDIAN TRIBAL DISTRIBUTOR DEDUCTION FROM GASOLINE TAX

Brief Description: Gasoline received in New Mexico and sold at retail by a registered Indian tribal distributor is deductible from the gasoline tax, to the extent it's taxed by the Indian nation, tribe, or pueblo, if:

(1) the sale occurs on the distributor's Indian reservation, pueblo grant, or trust land,

(2) the gasoline is placed into the fuel supply tank of a motor vehicle on that reservation, pueblo grant, or trust land, and

(3) the Indian nation, tribe, or pueblo has certified that it has in effect an excise, privilege, or similar tax on the gasoline

Statutory Basis: 7-13-4(E) NMSA 1978

Intended Purpose: Presumably to prevent or reduce the effects of multi-jurisdictional taxation.

History: The section was originally enacted in 1991 and amended in 1997, 1998, 1999 and 2007.

The language in this subsection was created by an amendment in 1999.

SALE OF GASOLINE BY A REGISTERED INDIAN TRIBAL DISTRIBUTOR FROM A NON-MOBILE STORAGE CONTAINER DEDUCTION FROM GASOLINE TAX

Brief Description: Gasoline that is received in New Mexico and sold by a registered Indian tribal distributor from a non-mobile storage container within that distributor's Indian reservation, pueblo grant, or trust land for resale outside the Indian reservation, pueblo grant, or trust land is deductible from the gasoline tax as long as the distributor sold at least 1 million gallons of gasoline between May and August 1998 and that the amount of gasoline deducted by a registered Indian tribal distributor doesn't exceed 2.5 million gallons per month.

Statutory Basis: 7-13-4(F) NMSA 1978

Intended Purpose: Presumably to prevent and reduce the effects of multi-jurisdictional taxation.

History: The section was originally enacted in 1991 and amended in 1997, 1998, 1999, and 2007.

The language in this subsection was created by an amendment in 1999.

SALE OF GASOLINE TO THE FEDERAL GOVERNMENT OR NEW MEXICO TRIBES DEDUCTION FROM GASOLINE TAX

Brief Description: Receipts from gasoline received in New Mexico, sold to the United States, Indian nation, tribe or pueblo, may be deducted from the gasoline tax.

Statutory Basis: 7-13-4 (B) and (C) NMSA 1978

Intended Purpose: Presumably to comply with the preemption doctrine.

History: Originally enacted in 1991.

SALE OF SPECIAL FUEL SOLD TO THE FEDERAL GOVERNMENT OR NEW MEXICO TRIBES DEDUCTION FROM SPECIAL FUEL EXCISE TAX

Brief Description: Special Fuel sold to the United States government, Indian nation, tribe or pueblo, may be deducted from the total amount of special fuel excise tax.

Statutory Basis: 7-16A-10 (B) and (D) NMSA 1978

Intended Purpose: Presumably to comply with the preemption doctrine and to address multi-jurisdictional taxation as the Indian nation, tribe or pueblo, may impose a tax on alternative fuel.

History: Originally enacted in 1995.

SALE OF TANGIBLE PERSONAL PROPERTY FOR LEASING GRT DEDUCTION

Brief Description: Receipts from selling tangible personal property and licenses to a buyer who leases or sells the tangible personal property or license are deductible from gross receipts.

The buyer must present a non-taxable transaction certificate or alternative evidence to the seller.

Statutory Basis: 7-9-49 NMSA 1978

Intended Purpose: Presumably to define the tax base and avoid tax pyramiding.

History: Originally enacted in 1969 and amended in 1972, 1975, 1979, 1983, 1989, 1991, 1992, and 2021.

The 2021 amendment clarifies that in addition to non-taxable transaction certificates, taxpayers may present alternative evidence documentation to claim the deduction.

SALE OF TANGIBLE PERSONAL PROPERTY FOR RESALE GRT AND GGRT DEDUCTION

Brief Description: Receipts from selling tangible personal property or licenses to a buyer who resells the tangible personal property or license are deductible from gross receipts or from governmental gross receipts.

The buyer must present a non-taxable transaction certificate or alternative evidence to the seller.

Statutory Basis: 7-9-47 NMSA 1978

Intended Purpose: Presumably to define the tax base and avoid tax pyramiding.

History: Originally enacted in 1969 and amended in 1992, 1994, and 2021.

The 2021 amendment clarifies that in addition to non-taxable transaction certificates, taxpayers may present alternative evidence documentation to claim the deduction.

SALES OF TANGIBLE PERSONAL PROPERTY OR SERVICES EXEMPTION FROM GGRT

Brief Description: Receipts from transactions involving tangible personal property or services that are subject to GRT, compensating tax, motor vehicle excise tax, gasoline tax, special fuel tax, special fuel excise tax, oil and gas emergency school tax, resources tax, processors tax, service tax or the boat excise tax imposed under 66-12-6.1 NMSA 1978 are exempt from GGRT.

Statutory Basis: 7-9-13.2 NMSA 1978

Intended Purpose: To avoid double taxation.

History: Originally enacted in 1992 and amended in 1993, adding the special fuel excise tax.

SALES TO MANUFACTURERS
GRT AND GGRT DEDUCTION

Brief Description: Receipts from selling tangible personal property that will be incorporated as an ingredient or component part to a person in the manufacturing business are deductible from gross receipts and governmental gross receipts. (Subsection A. of 7-9-46)

Receipts from selling a manufacturing consumable to a person in the manufacturing business or a manufacturing service provider are deductible from gross receipts and governmental gross receipts. (Subsection B. of 7-9-46)

Receipts from selling or leasing qualified equipment to a person in the manufacturing business or a manufacturing service provider are deductible from gross receipts and governmental gross receipts. (Subsection C. of 7-9-46)

Statutory Basis: 7-9-46 NMSA 1978

Intended Purpose: The purpose of the deductions is to encourage manufacturing businesses to locate in New Mexico and to reduce the tax burden, including reducing pyramiding, on the tangible personal property that is consumed in the manufacturing process and that is purchased by manufacturing businesses in New Mexico.

History: Originally enacted in 1969 and amended in 1992, 2012, 2013, and 2021.

The 2013 amendment defined the term "consumable."

One 2021 amendment clarifies that in addition to non-taxable transaction certificates, taxpayers may present alternative evidence documentation to claim the deduction. The other 2021 amendment expands the deduction to include manufacturing services and the selling and leasing of manufacturing equipment.

Per the statute, the Taxation and Revenue Department is to report the aggregate amount of the deduction, the number of taxpayers claiming each deduction and any other information to determine the effectiveness of these deductions. Thus, while these deductions are not classified as expenditures due to reducing pyramiding, a fiscal impact is reported below.

Evaluation: None.

Recommendations: None.

Reliability Factor: 2 - This deduction is separately reported. No estimation is required. The deduction for selling or leasing qualified equipment (subsection C.) was effective January 1, 2022, thus the fiscal impact below for fiscal year 2022 is half of the year. Despite being a separately reported deduction, the reliability factor for this deduction is a 2 to reflect that some taxpayers may be claiming this deduction in error. Tax & Rev will be further analyzing this data and taxpayer reporting of GRT deductions.

Fiscal Impact:

	Fiscal Year	2018	2019	2020	2021	2022
Sales to Manufacturers GRT Deduction – Total	**Claims**	160	178	177	187	6,083
	State General Fund Expenditure (thousands)	$3,278	$3,355	$3,284	$3,752	$79,664
	Local Government Expenditure (thousands)	$2,103	$1,953	$1,692	$2,069	$53,068
GRT Deduction – Ingredient or Component (Subsection A.)	**Claims**	15	18	33	32	3,980
	State General Fund Expenditure (thousands)	$412	$441	$518	$502	$59,468
	Local Government Expenditure (thousands)	$264	$257	$267	$277	$39,614
GRT Deduction – Consumable (Subsection B.)	**Claims**	145	160	144	155	2,103
	State General Fund Expenditure (thousands)	$2,866	$2,914	$2,767	$3,250	$19,692
	Local Government Expenditure (thousands)	$1,836	$1,697	$1,425	$1,793	$13,117
GRT Deduction – Selling or leasing of equipment (Subsection C.)	**Claims**	NA	NA	NA	NA	173
	State General Fund Expenditure (thousands)	NA	NA	NA	NA	$504
	Local Government Expenditure (thousands)	NA	NA	NA	NA	$336

SCHOOL BUS
DEDUCTION FROM SPECIAL FUEL EXCISE TAX

Brief Description: Special fuel (number 2 diesel) used in school buses that are contracted with the Public Education Department is deductible from computing the special fuel excise tax due.

Statutory Basis: 7-16A-10(F) NMSA 1978

Intended Purpose: Presumably to reduce the costs to government since the State of New Mexico purchases this fuel.

History: Originally enacted in 1992, 1993, 1997, 1998, 2001, 2005, 2006, 2007, 2009, and 2013.

SCHOOL BUS
EXEMPTION FROM WDT

Brief Description: Use of the highways of New Mexico by school buses is exempt from the WDT.

Statutory Basis: 7-15A-5(A) NMSA 1978

Intended Purpose: Presumably to reduce the costs to government.

History: Originally enacted in 1988 and amended in 2006.

SERVICES ON MANUFACTURED PRODUCTS
GRT DEDUCTION

Brief Description: Receipts from selling the service of combining or processing components or materials to a manufacturer are deductible from gross receipts. The service must be performed directly upon the tangible personal property the buyer is in the business of manufacturing or upon the ingredient or component parts thereof.

The buyer must present a non-taxable transaction certificate to the seller.

Statutory Basis: 7-9-75 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding as the service must be performed directly upon tangible personal property for a manufacturer as part of the readying of raw materials or in the manufacturing process.

History: Originally enacted in 1972.

SERVICES PERFORMED OUTSIDE THE STATE CREDIT AGAINST ITGRT

Brief Description: A taxpayer who has paid a sales, use, gross receipts, or similar tax to another state on the same interstate telecommunications gross receipts that are subject to New Mexico's ITGRT is entitled to a credit against the ITGRT.

Statutory Basis: 7-9C-10 NMSA 1978

Intended Purpose: To comply with U.S. Commerce Clause concerns and prevent actual multi-jurisdictional taxation of the privilege of engaging in business of providing interstate telecommunications services.

History: Originally enacted in 1992.

STOCK BONUS, PENSION, AND PROFIT-SHARING TRUSTS EXEMPTION FROM PIT AND CIT

Brief Description: A trust organized or created in the U.S. and forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries which is exempt from taxation under the provisions of the Internal Revenue Code is exempt from PIT and CIT.

Statutory Basis: 7-2-4(A) and 7-2A-4(B) NMSA 1978

Intended Purpose: To define the tax base.

History: The PIT exemption was originally enacted in 1965 and amended in 1969, 1971, and 1981.

The CIT exemption was originally enacted in 1981 and amended in 1986 and 1989.

STADIUM SURCHARGE EXEMPTION FROM GRT AND GGRT

Brief Description: Receipts from sales at a minor league baseball stadium on which a stadium surcharge is imposed under the Minor League Baseball Stadium Funding Act are exempt from gross receipts tax and governmental gross receipts tax.

Statutory Basis: 7-9-13.3 NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple tax programs.

History: Originally enacted in 2001 as part of the legislation that enacted the Minor League Baseball Stadium Funding Act.

Evaluation: The Minor League Baseball Stadium Funding Act provides an additional method of accessing the capital markets with the assistance of the New Mexico Finance Authority to meet the need for a complete funding package for functional and modern minor league baseball stadiums. Because the Minor League Baseball Stadium Funding Act allows a municipality to impose a stadium surcharge on products and services sold at or related to the stadium, this exemption from the GRT prevents these from being taxed twice.

Isotopes Park, home of the Albuquerque Isotopes, was constructed from 2001 to 2003 at a reported cost of $25 million. The Lab, as it has been nicknamed, opened in April of 2003.

TANGIBLE PERSONAL PROPERTY EXEMPTION FROM PROPERTY TAX

Brief Description: With certain exceptions, tangible personal property owned by a person is exempt from property taxation. Exceptions include among other things, livestock, manufactured homes and tangible personal property used for the purpose of a person's profession, business or occupation.

Statutory Basis: 7-36-8 NMSA 1978

Intended Purpose: Presumably to define the tax base for property tax.

History: Originally enacted in 1973 and amended in 1974, 1975, 1983, 1991, 1992, 1993, and 1995.

TAX PAID BY OUT-OF-STATE TERMINAL DEDUCTION FROM GASOLINE TAX AND SPECIAL FUEL EXCISE TAX

Brief Description: Gasoline and special fuel received in New Mexico on which the New Mexico gasoline tax or special fuel excise tax was paid by the out-of-state terminal at which the gasoline or special fuel was loaded are deductible from computing the gasoline tax or special fuel excise tax due.

Statutory Basis: 7-13-4(G) and 7-16A-10(G) NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple tax regimes as it is only deductible if the gasoline tax or special fuel excise tax was paid by the out-of-state terminal at which the gasoline was loaded.

History: The gasoline tax section was originally enacted in 1991 and amended in 1997, 1998, 1999, and 2007.

The special fuel excise tax section was originally enacted in 1992 and amended in 1993, 1997, 1998, 2001, 2005, 2006, 2007, 2009, and 2013.

The subsections containing the gasoline tax and the special fuel excise tax deductions discussed here were created by an amendment in 2007.

TAX PAID IN ANOTHER STATE FOR PROPERTY AND SERVICES CREDIT AGAINST GRT AND COMPENSATING TAX

Brief Description: The amount of gross receipts, sales, compensating, or similar tax paid to another state on property acquired in that state or another state for use in New Mexico or on services performed outside this state may be credited against the amount of compensating tax due to New Mexico on the use of the property or the GRT due on the services performed outside New Mexico.

Statutory Basis: 7-9-79 and 7-9-79.1 NMSA 1978

Intended Purpose: Presumably to address U.S. Commerce Clause concerns and prevent multi-jurisdictional taxation as gross receipts, sales, compensating, or similar tax must have been levied on the property or services to qualify for the credit.

History: The compensating tax credit for property was originally enacted in 1966 and amended in 1973, 1991 and 2021. The 2021 amendment adds services for the compensating credit.

The GRT credit for services was originally enacted in 1989 and amended in 1994.

TAX PAID ON ALCOHOLIC BEVERAGES DESTROYED IN SHIPMENT, SPOILED, OR OTHERWISE DAMAGED REFUND OF OR CREDIT AGAINST LIQUOR EXCISE TAX AND LOCAL LIQUOR EXCISE TAX

Brief Description: Taxpayers are entitled to a refund for taxes paid pursuant to the liquor excise tax and the local liquor excise tax on alcoholic beverages that are unsaleable and not consumable because they are destroyed in shipment, spoiled, or damaged.

Statutory Basis: 7-17-11 and 7-24-14 NMSA 1978

Intended Purpose: Presumably to define the tax base, by avoiding taxation of a product that is not available to be sold.

History: The liquor excise tax provision was originally enacted in 1968 and amended in 1969, 1971, 1973, 1977, 1984, and 1995.

The local liquor excise tax provision was originally enacted in 1989.

TAX PAID ON GASOLINE OR SPECIAL FUEL DESTROYED BY FIRE, ACCIDENT OR ACTS OF GOD BEFORE RETAIL SALE REFUND OF OR CREDIT AGAINST GASOLINE TAX AND SPECIAL FUEL EXCISE TAX

Brief Description: A taxpayer is entitled to a refund of, or credit against, the gasoline tax and special fuel excise tax paid on gasoline and special fuel that is destroyed by fire, accident, or acts of God while in the possession of the distributor, wholesaler, or retailer.

Statutory Basis: 7-13-11 and 7-16A-13 NMSA 1978

Intended Purpose: Presumably to ensure that taxes aren't paid on gasoline and special fuel which the taxpayer is unable to market.

History: The gasoline tax credit and refund section was originally enacted in 1971 and amended in 1983, 1993 and 2015.

The special fuel excise tax credit and refund section was originally enacted in 1992 and amended in 2015.

TAX PAID ON SPECIAL FUEL IN CERTAIN CIRCUMSTANCES REFUND OF SPECIAL FUEL EXCISE TAX

Brief Description: A taxpayer is entitled to a refund of the special fuel excise tax paid on special fuel used:

(1) in a school bus (authorized by contract with the Public Education Department),

(2) to propel a vehicle off-road,

(3) to operate auxiliary equipment by a power take-off from the main engine or transmission of a vehicle, or

(4) to operate a non-automotive apparatus vehicle.

Statutory Basis: 7-16A-13.1 NMSA 1978

Intended Purpose: Presumably, in the case of the school bus refund, to reduce the costs to government and to recognize that the other activities do not contribute to the deterioration of the roads, the maintenance of which is funded through the special fuel excise tax distributions to the State Road Fund.

History: Originally enacted in 2001 and amended in 2005 and 2006.

TAX PAID TO ANOTHER STATE
CREDIT AGAINST MVX

Brief Description: A vehicle that has been acquired through an out-of-state transaction upon which a gross receipts, sales, compensating or similar tax was paid may be credited against the MVX due to New Mexico on the same vehicle.

Statutory Basis: 7-14-7 NMSA 1978

Intended Purpose: Presumably to prevent multi-jurisdictional taxation.

History: Originally enacted in 1988.

TAX PAID TO ANOTHER STATE
DEDUCTION FROM GASOLINE TAX AND SPECIAL FUEL EXCISE TAX

Brief Description: A taxpayer may deduct gasoline and special fuel when computing the gasoline tax and special fuel excise tax if it is exported from New Mexico by a rack operator, distributor, or wholesaler as long as:

(1) the person exporting the gasoline and special fuel is registered in or licensed by the destination state to pay that state's gasoline or equivalent fuel tax,

(2) proof is submitted that the destination state's gasoline, special fuel, or equivalent fuel tax has been paid or is not due, or

(3) the destination state's gasoline, special fuel, or equivalent fuel tax in paid to New Mexico in accordance with the terms of an agreement entered into with the destination state.

Statutory Basis: 7-13-4(A) and 7-16A-10(A) NMSA 1978

Intended Purpose: Presumably to prevent multi-jurisdictional taxation as the deduction is only available if proof is submitted that the destination state's gasoline tax was paid or is not due.

History: The gasoline tax deduction was originally enacted in 1991 and amended in 1997, 1998, 1999, and 2007.

The special fuel excise tax deduction was originally enacted in 1992 and amended in 1993, 1997, 1998, 2001, 2005, 2006, 2007, 2009, and 2013.

TAX PAID TO ANOTHER STATE
CREDIT AGAINST ESTATE TAX

Brief Description: A credit against the estate tax is available when any property of a resident is subject to an estate tax imposed by another state when the other state's tax does not have a reciprocal provision. The credit amount would be for the lesser of:

(1) the amount of the estate tax paid the other state and credited against the federal estate tax, or

(2) an amount computed by multiplying the federal credit the percentage of the estate that the property represents.

Statutory Basis: 7-7-3(B) NMSA 1978

Intended Purpose: Presumably to prevent multi-jurisdictional taxation as it is only available to the extent that taxes were paid to another state.

History: Originally enacted in 1973.

TAX PAID TO NAVAJO NATION FOR SELLING COAL
SEVENTY-FIVE PERCENT CREDIT AGAINST GRT

Brief Description: A taxpayer is entitled to a credit against the GRT for 75% of the amount of tax paid to the Navajo Nation on the receipts from the selling of coal severed from Navajo Nation land.

Statutory Basis: 7-9-88.2 NMSA 1978

Intended Purpose: Presumably to address the increased tax burdens associated with multi-jurisdictional tax.

History: Originally enacted in 2001.

TAX PAID TO NEW MEXICO TRIBES
EXEMPTION FROM ITGRT

Brief Description: Excluded from the definition of "interstate telecommunications gross receipts" are gross receipts or sales taxes imposed by Indian nations, tribes, or pueblos as long as the Indian nation, tribe, or pueblo tax provides a reciprocal exclusion for GRT imposed by New Mexico.

Statutory Basis: 7-9C-2(E)(2) NMSA 1978

Intended Purpose: Presumably to avoid multi-jurisdictional taxation.

History: Originally enacted in 1992 and amended in 1993 and 2002.

TAX PAID TO NEW MEXICO TRIBES
SEVENTY-FIVE PERCENT CREDIT AGAINST GRT

Brief Description: A taxpayer is entitled to a credit against the GRT for 75% of the amount of tax paid to any of the 19 New Mexico Pueblos, the Jicarilla Apache Nation or the Mescalero Apache Tribe on taxable transactions taking place on tribal lands.

Statutory Basis: 7-9-88.1 NMSA 1978

Intended Purpose: Presumably to prevent multi-jurisdictional taxation.

History: Originally enacted in 1999 and amended in 2000, 2001 and 2003.

TAXES PAID TO OTHER STATES
CREDIT AGAINST PIT

Brief Description: When a resident individual is liable to another state for tax upon income derived from sources outside New Mexico but also included in net income allocated or apportioned to New Mexico, the individual is entitled to a credit against the tax due to New Mexico in the amount of the tax paid to the other state.

Statutory Basis: 7-2-13 NMSA 1978

Intended Purpose: To prevent multi-jurisdictional taxation.

History: Originally enacted in 1965 and amended in 1970, 1973, 1974, 1981, 1990, 1992, and 2013.

The 2013 amendment limited the tax credit paid to the amount of tax liability in New Mexico.

TELECOMMUNICATION PROVIDERS
DEDUCTION FROM INTERSTATE TELECOMMUNICATIONS GRT

Brief Description: Receipts from interstate telecommunications services that are provided by a corporation to itself or to an affiliated corporation may be deducted from interstate telecommunications gross receipts.

Statutory Basis: 7-9C-8 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1992 and amended in 1993.

TRADE-IN ALLOWANCE
GRT, MVX, AND DEDUCTIONS

Brief Description: Receipts from a trade-in of tangible personal property of the same type being sold are deductible from gross receipts; allowances granted for vehicle trade-ins are deductible from the price paid or the reasonable value of the vehicle purchased in calculating the MVX and the LVGRT.

Statutory Basis: 7-9-71, 7-14-4 and 7-14A-8 NMSA 1978

Intended Purpose: Presumably to properly define the tax base.

History: The GRT deduction was originally enacted in 1969 and amended in 1979, and 1991.

The MVX deduction was originally enacted in 1988.

The LVGRT deduction was originally enacted in 1991.

TRANSACTIONS IN INTERSTATE COMMERCE
GRT AND GGRT DEDUCTION

Brief Description: Receipts from certain transactions in interstate commerce and from sales of radio or television broadcast time if the ultimate buyer is a national or regional advertiser are deductible from gross receipts and governmental gross receipts.

Statutory Basis: 7-9-55 NMSA 1978

Intended Purpose: To comply with federal law regarding taxation of interstate commerce. U.S. Supreme Court precedent establishes the boundaries of state taxation of interstate commerce under the U.S. Constitution, and this deduction is tied to that precedent.

History: Originally enacted in 1969 and amended in 1986 and 1993.

TRANSACTIONS IN INTRASTATE TRANSPORTATION AND SERVICES IN INTERSTATE COMMERCE GRT DEDUCTION

Brief Description: Receipts incurred when transporting persons or property on an intrastate basis and under a single contract for transportation in interstate or foreign commerce (including handling, storage, drayage, or packing of property or other accessorial services on property) are deductible from gross receipts.

Receipts from telephone access charges paid by other telephone carriers are deductible.

Statutory Basis: 7-9-56 NMSA 1978

Intended Purpose: Presumably to address U.S. Commerce Clause concerns.

With regard to the telephone service portion of the deduction, the intended purpose is presumably to prevent double taxation, and to comply with federal law.

History: Originally enacted in 1994.

TRANSPORTATION FROM WITHIN THE MUNICIPALITY TO OUTSIDE THE MUNICIPALITY EXEMPTION FROM LOCAL OPTION GRT

Brief Description: The transporting of persons or property for hire by any means from one point within the municipality (or county) to another point outside the municipality (or county) are exempt from the supplemental municipal GRT, the municipal local option GRT, the local hospital GRT, the county local option GRT, and the county correctional facility GRT.

Statutory Basis: 7-19-14(A), 7-19D-5(A), 7-20C-5, 7-20E-5, and 7-20F-6 NMSA 1978

Intended Purpose: Presumably to resolve a jurisdictional question and provide certainty about the tax rate that applies in this situation.

History: The supplemental municipal GRT exemption was originally enacted in 1979 and amended in 1983 and 1994.

The municipal and county local option GRTs exemptions were originally enacted in 1993 and amended in 1994.

The county correctional facility GRT was originally enacted in 1993.

The local hospital GRT exemption was originally enacted in 1991 and amended in 1994.

In 2019, statutes 7-20C and 7-20F NMSA 1978 were repealed. The remaining listed statutes above are valid until July 1, 2021.

UNCOLLECTIBLE DEBTS GRT AND GGRT DEDUCTION

Brief Description: Refunds and allowances made to buyers or amounts written off the books as an uncollectible debt by a person reporting gross receipts tax and governmental gross receipts on an accrual basis may be deducted from gross receipts and governmental gross receipts.

Statutory Basis: 7-9-67 NMSA 1978

Intended Purpose: Presumably to avoid requiring a taxpayer to pay taxes on refunded or uncollectible receipts.

History: Originally enacted in 1969 and amended in 1994.

UNPAID CHARGES FOR HOSPITAL SERVICES CREDIT AGAINST GRT

Brief Description: A licensed medical doctor or licensed osteopathic physician may claim a credit against gross receipts taxes due for the value of unpaid qualified health care services. Qualified health care services must be provided by the doctor or physician while on call to a hospital.

Statutory Basis: 7-9-96.2 NMSA 1978

Intended Purpose: Presumably to avoid requiring a taxpayer to pay taxes on non-existent receipts.

History: Originally enacted in 2007 and amended in 2021.

The 2021 amendment clarifies that physician practice groups are eligible to claim the GRT credit, aligning the statute with regulations.

USE OF TANGIBLE PERSONAL PROPERTY FOR LEASING DEDUCTION FROM COMPENSATING TAX

Brief Description: The value of tangible personal property held for lease by a person engaged in the business of selling or leasing the same type property may be deducted before computing compensating tax due; however, it does not apply to the value of furniture or appliances furnished as part of a rent house or apartment, coin-operated machines, or manufactured homes.

Statutory Basis: 7-9-78 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1969 and amended in 1973, 1975, 1979, 1981, 1984, and 1991.

VEGETABLE OIL OR ANIMAL FAT BIODIESEL DEDUCTION FROM SPECIAL FUEL EXCISE TAX

Category:	Environment, Conservation & Renewable Energy
Brief Description:	Biodiesel that is blended or resold at a rack in New Mexico is deductible from the special fuel excise tax
Statutory Basis:	7-16A-10(H)(1) and (2) NMSA 1978
Intended Purpose:	Presumably to prevent double taxation.
History:	Originally enacted in 2009 and amended in 2013. The 2013 amendment changed a definition of the fuel as consisting of at least 99% vegetable oil or animal fat in favor of just using the term 'biodiesel'.

VEHICLE THAT IS OWNED BY THE STATE OF NEW MEXICO EXEMPTION FROM MVX

Brief Description:	A vehicle with a certificate of title owned by New Mexico or any political subdivision is exempt from MVX.
Statutory Basis:	7-14-6(C) NMSA 1978
Intended Purpose:	Presumably to reduce the costs to government.
History:	Originally enacted in 1988, and amended in 1990, 1994, 2004, and 2007.

VEHICLE THAT WAS PREVIOUSLY REGISTERED IN NEW MEXICO EXEMPTION FROM MVX

Brief Description:	A person applying for a certificate of title for a vehicle registered in another state is exempt from the tax if the person has previously registered and titled the vehicle in New Mexico and has owned the vehicle continuously since that time.
Statutory Basis:	7-14-6(B) NMSA 1978
Intended Purpose:	Presumably to prevent double taxation (twice in New Mexico).
History:	Originally enacted in 1988, and amended in 1990, 1994, 2004, and 2007.

VEHICLES
EXEMPTIONS FROM GRT AND COMPENSATING TAX

Brief Description: The receipts from selling vehicles on which a tax is imposed by the Motor Vehicle Excise Tax Act, vehicles registered by persons with significant mobility limitations, and vehicles exempt from the MVX pursuant to Section 7-14-6(F) NMSA 1978 are exempt from GRT.

The use of vehicles used in New Mexico on which the tax imposed by the Motor Vehicle Excise Tax Act has been paid, the use of vehicles subject to registration under the Motor Vehicle Code and the use of vehicles exempt from MVX pursuant to Section 7-14-6(F) NMSA 1978 are exempt from compensating tax.

Statutory Basis: 7-9-22 and 7-9-23 NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple tax programs, as the exemption only applies to vehicles on which a tax is imposed pursuant to the Motor Vehicle Excise Tax Act.

History: The GRT exemption was originally enacted in 1969 and amended in 1976, 1981, 1988, and 2004.

The compensating tax exemption was originally enacted in 1969 and amended in 1976, 1983, 1988, and 2004.

VEHICLES USED FOR SHORT-TERM LEASING
CREDIT AGAINST MVX

Brief Description: The MVX is suspended for vehicles used primarily as short-term rental vehicles that are part of a vehicle fleet of at least five vehicles that are subject to the leased vehicle gross receipts tax.

Statutory Basis: 7-14-7.1 NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple tax programs.

History: Originally enacted in 1991 and amended in 1993 and 1994.

VEHICLES USED IN INTERSTATE COMMERCE GRT DEDUCTION

Brief Description: Receipts from the rental or leasing of vehicles used in the transportation of passengers or property for hire in interstate commerce under the regulations or authorization of any agency of the U.S. are deductible from GRT.

Statutory Basis: 7-9-70 NMSA 1978

Intended Purpose: Presumably because taxation of interstate commerce is prohibited by the U.S. Constitution's Commerce Clause.

History: Originally enacted in 1969.

WAGES EXEMPTION FROM GRT

Brief Description: Receipts of employees from wages, salaries, commissions or from any other form of remuneration for personal services are exempt from GRT.

Statutory Basis: 7-9-17 NMSA 1978

Intended Purpose: Presumably to define the tax base.

History: Originally enacted in 1969.

WARRANTY OBLIGATIONS GRT DEDUCTION

Brief Description: Receipts of a dealer from furnishing goods or services to the purchaser of tangible personal property to fulfill a warranty obligation of the manufacturer of the property may be deducted from gross receipts.

Statutory Basis: 7-9-68 NMSA 1978

Intended Purpose: Presumably to properly define the tax base, as the cost of the warranty is part of cost of the good or service and taxes were paid on it at the time of the original purchase.

History: Originally enacted in 1969.

ARGUABLE

While many of the deviations from New Mexico's many tax programs are easily categorized as either "Tax Expenditures" or "Not Tax Expenditures", there are a number about which good arguments could be made for both. With a few others, the purpose of the deviation is not entirely clear; without knowing why the deviation was put in the code, it is not possible to determine in which category it belongs.

As with the "Not Tax Expenditures" section, we believe that including information about these deviations, even without analysis of the fiscal impact, makes the reader better informed about the New Mexico tax structure.

ADMINISTRATIVE AND ACCOUNTING SERVICES GRT DEDUCTION

Brief Description: Receipts of a business entity for administrative, managerial, accounting, and customer services performed by it for an affiliate upon a nonprofit or cost basis are deductible from gross receipts.

Receipts of a business entity from an affiliate for the joint use or sharing of office machines and facilities upon a nonprofit or cost basis are deductible from gross receipts.

Statutory Basis: 7-9-69 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1969 and amended in 1990, 1993, 1998, 2002, and 2015.

AGRICULTURAL PRODUCTS EXEMPTION FROM GRT AND GGRT

Brief Description: Receipts from selling livestock, including horses, and the receipts of growers, producers and trappers from selling live poultry, unprocessed agricultural products (for example, a bale of hay, a head of lettuce or an unroasted sack of green chili), hides or pelts are exempt from the GRT and GGRT.

Receipts from selling dairy products at retail are not exempt from the GRT.

Statutory Basis: 7-9-18 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1969 and amended in 1991, 1992, 1993, and 2011.

The 2011 amendment expanded the deduction by defining "livestock" as all domestic or domesticated animals that are used or raised on a farm or ranch, including the carcasses thereof, and includes horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae upon any land in New Mexico.

Evaluation: This deduction cannot be completely considered an anti-pyramiding device, as there is no limitation that the receipts come from the sale of goods that are intermediate goods, or that are for resale. However, it is not possible to determine which portion is attributable to resale activities and which is not.

CERTAIN COMMISSIONS
GRT DEDUCTION

Brief Description: Receipts derived from commissions from sales of tangible personal property when the property sold is not subject to gross receipts tax are deductible from gross receipts.

Receipts of the owner of a dealer store for selling a principal's goods are deductible from gross receipts.

Statutory Basis: 7-9-66 NMSA 1978

Intended Purpose: Presumably to avoid double taxation since commissions are taxable as personal income.

History: Originally enacted in 1969 and amended in 1999.

FEED AND FERTILIZER & AUCTIONEERS SELLING LIVESTOCK AND AGRICULTURAL PRODUCTS AT AUCTION
GRT DEDUCTION

Brief Description: Receipts from selling feed for livestock, fish, poultry, or animals raised for their hides/pelts and from selling seeds, roots, bulbs, plants, soil conditioners, fertilizers, insecticides, germicides, insects used to control populations of other insects, fungicides or weedicides or water for irrigation purposes are deductible from gross receipts.

Statutory Basis: 7-9-58 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1969 and amended in 1977, 1983, 1991, 1992 and 2002.

GROSS AMOUNTS WAGERED EXEMPTION FROM GRT

Brief Description: Exempted from GRT are receipts of a horse racetrack which are authorized by the Horse Racing Act to be retained by a horse racetrack that is licensed to conduct horse races.

Statutory Basis: 7-9-40(B) NMSA 1978

Intended Purpose: Presumably to avoid taxing receipts over gross amounts wagered which are under no authority to be spent by a horse racetrack.

History: Originally enacted in 1970 and amended in 1971, 1985, and 1989.

Recommendation: Update the statute to reflect the correct citation. It currently references Section 60-1-10 NMSA 1978 which was repealed in 2007. Presumably the intention is for it to reference the successor statute which appears to be Section 60-1A-19 NMSA 1978.

INSURANCE COMPANIES EXEMPTION FROM GRT

Brief Description: The receipts of insurance companies or any agent thereof from premiums and any consideration received by a property bondsman as security or surety for a bail bond in connection with a judicial proceeding are exempt from GRT.

Statutory Basis: 7-9-24 NMSA 1978

Intended Purpose: Presumably to prevent taxation under multiple tax programs, as the receipts of insurance companies are subject to the insurance premium tax and presumably to ensure that considerations received as security of surety for a bail bond are not taxed as they are not rightly considered receipts.

History: Originally enacted in 1969 and amended in 1988.

LIVESTOCK FEEDING
EXEMPTION FROM GRT

Brief Description: Receipts from feeding (including penning or handling livestock prior to sale and training livestock) or pasturing livestock, are exempt from GRT.

Statutory Basis: 7-9-19 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1969 and amended in 1974, 1991, and 1992.

PETROLEUM PRODUCTS SOLD TO THE FEDERAL GOVERNMENT
EXEMPTION FROM PETROLEUM PRODUCTS LOADING FEE

Brief Description: Petroleum products sold to the U.S. or any agency or instrumentality thereof for the exclusive use of the U.S. or any agency or instrumentality thereof are exempt from the PPLF.

Statutory Basis: 7-13A-4(B) NMSA 1978

Intended Purpose: Presumably to reduce the cost to the U.S. government.

History: Originally enacted in 1991.

PIPELINE TRANSPORTATION OF OIL AND GAS PRODUCTS
EXEMPTION FROM GRT AND COMPENSATING TAX

Brief Description: Receipts from the sale of oil, natural gas, liquid hydrocarbon, or any combination thereof consumed as fuel in the pipeline transportation of such products are exempt from GRT.

The use of oil, natural gas, liquid hydrocarbon or any combination thereof as fuel in the pipeline transportation of such products is exempt from compensating tax.

Statutory Basis: 7-9-36 and 7-9-37 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: The GRT and compensating exemptions were originally enacted in 1969.

PROCESSING AGRICULTURAL PRODUCTS GRT DEDUCTION

Brief Description: Receipts from warehousing grain or other agricultural products and from threshing, harvesting, growing, cultivating, and processing agricultural products are deductible from gross receipts.

Statutory Basis: 7-9-59 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1969, and amended in 1970, 2000, and 2019.

RECEIPTS OF HOMEOWNERS ASSOCIATIONS EXEMPTION FROM GRT

Brief Description: Receipts of homeowners' associations (HOA) from membership fees, dues, and assessments from owner-members to be used for tax, insurance, utility expenses, management and improvement, maintenance or rehabilitation of those common areas, elements, or facilities appurtenant thereto for commonly-owned areas and facilities are exempt from GRT.

Statutory Basis: 7-9-20 NMSA 1978

Intended Purpose: Presumably to provide clarification that a HOA can be recognized as a 501(c)(4) organization to qualify for this exemption if its activities benefit a community.

History: Originally enacted in 1988.

RESALE OF CERTAIN MANUFACTURED HOMES GRT DEDUCTION

Brief Description: Receipts from the resale of a manufactured home which was subject to GRT, compensating tax, or MVX upon its original sale or use in New Mexico are deductible from gross receipts.

Statutory Basis: 7-9-76.1 NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple programs, as the deduction only applies if the initial sale was subject to the GRT, the compensating tax, or the MVX.

History: Originally enacted in 1979 and amended in 1980, 1990, and 1991.

SALE BY OR TO U.S. ARMED FORCES EXEMPTION FROM LIQUOR EXCISE TAX AND LOCAL LIQUOR EXCISE TAX

Brief Description: Alcoholic beverages sold to or by any instrumentality of the U.S. armed forces that are engaged in resale activities are exempt from the liquor excise tax and the local liquor excise tax.

Statutory Basis: 7-17-9 and 7-24-12 NMSA 1978

Intended Purpose: Presumably to comply with the preemption doctrine with respect to sales by U.S. instrumentalities.

History: The liquor excise tax exemption was originally enacted in 1966 and amended in 1973, 1984, and 1985.

The local liquor excise tax exemption was originally enacted in 1989.

SALE OF ALTERNATIVE FUEL TO THE STATE OF NEW MEXICO EXEMPTION FROM ALTERNATIVE FUEL EXCISE TAX

Brief Description: Alternative Fuel distributed to or used by the State of New Mexico, is exempt from the imposition of the alternative fuel excise tax.

Statutory Basis: 7-16B-5 (B) NMSA 1978

Intended Purpose: Presumably to reduce the costs to the government.

History: Originally enacted in 1995.

SALE OF PROSTHETIC DEVICES GRT AND GGRT DEDUCTION

Brief Description: Receipts from selling prosthetic devices to persons licensed to practice in several medical disciplines are deductible from gross receipts and governmental gross receipts.

The buyer must deliver a non-taxable transaction certificate and must deliver the prosthetic device incidental to the performance of a service and must include the value of the prosthetic device in his charge for the service.

Statutory Basis: 7-9-73 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding as the value of the prosthetic must be fully included in the final price of the service, and the nature of the final sale will determine whether it is taxable or not.

History: Originally enacted in 1970 and amended in 1992.

SALE OF SPECIAL FUEL SOLD TO THE STATE OF NEW MEXICO DEDUCTION FROM SPECIAL FUEL EXCISE TAX

Brief Description: Special Fuel sold to the state of New Mexico or any political subdivision, agency or instrumentality thereof, may be deducted from the total amount of special fuel excise tax.

Statutory Basis: 7-16A-10 (C) NMSA 1978

Intended Purpose: Presumably to reduce costs to government

History: Originally enacted in 1995.

SALE OR LEASE OF REAL PROPERTY & LEASE OF MANUFACTURED HOMES GRT DEDUCTION

Brief Description: Receipts from the sale or lease of real property, which includes the land and any permanent fixtures, from the lease of a manufactured home for at least one month, and from the rental of space for a manufactured home or recreational vehicle for at least one month, are deductible from gross receipts.

Statutory Basis: 7-9-53 NMSA 1978

Intended Purpose: Presumably to reduce tax burdens associated with occupancy of residential and commercial spaces on a non-transient basis.

History: Originally enacted in 1969 and amended in 1972, 1973, 1975, 1979, 1983, 1991, and 1998.

SALES TO FEDERAL GOVERNMENT, STATE OF NEW MEXICO, OR NEW MEXICO TRIBES EXEMPTION FROM CIGARETTE TAX AND TOBACCO PRODUCTS TAX

Brief Description: Sales of cigarettes and tobacco products to the U.S., the State of New Mexico, or an Indian nation, tribe, or pueblo are exempt from the cigarette tax and the tobacco products tax.

Statutory Basis: 7-12-4 and 7-12A-4 NMSA 1978

Intended Purpose: Presumably to reduce the costs to government.

History: The cigarette tax exemption was originally enacted in 1943. Section 7-12-4 NMSA 1978 was amended in 1971, 1992, and 2010. The 2010 legislation also included an increase of the cigarette tax by $0.75 per pack.

The tobacco products tax was originally enacted in 1986. Section 7-12A-4 NMSA 1978 amended in 2009 to expand the exemption to include the sale of tobacco to tribes or tribal members.

SALES TO GOVERNMENTAL AGENCIES
GRT AND GGRT DEDUCTION

Brief Description: Receipts from selling tangible personal property to the U.S., the State of New Mexico, or an Indian nation, tribe, or pueblo for use on an Indian reservation or pueblo grant are deductible from gross receipts and governmental gross receipts.

Statutory Basis: 7-9-54 NMSA 1978

Intended Purpose: Presumably to reduce the costs to government.

History: Originally enacted in 1969 and amended in 1976, 1985, 1989, 1992, 1993, 1995, 2000, 2001, and 2003.

TAX PAID ON SPECIAL FUEL USED
CREDIT AGAINST SPECIAL FUEL EXCISE TAX

Brief Description: A taxpayer is entitled to a credit against the calculated special fuel excise tax due for a reporting period for special fuel excise tax paid on special fuel used during the reporting period.

Statutory Basis: 7-16A-12 NMSA 1978

Intended Purpose: Presumably to avoid requiring a taxpayer to pay taxes on fuel that is not available to be sold.

History: Originally enacted in 1992 and amended in 1997.

TIDD – TAX INCREMENT FOR DEVELOPMENT DISTRICT DEDICATED GRT INCREMENTS

Category: Economic Development

Brief Description: State and local governments may dedicate a portion of incremental GRT revenue attributable to activities within a TIDD, and local governments may dedicate a portion of incremental property tax revenues for use by a TIDD to fund eligible activities of the TIDD.

Statutory Basis: 5-15-15 NMSA 1978

Intended Purpose: To create a mechanism for providing GRT and property tax increment financing to decrease developer costs of constructing public infrastructure to incentivize the support of economic development and job creation.

History: Originally enacted in 2006 and amended in 2009 and 2014.

The 2009 amendment clarified the following: that approval of the plan is by the governing body of the municipality or county within which the TIDD projects are proposed, that the deposit the petitioners make may be reimbursed from proceeds from the sale of bonds issued by the TIDD, to direct the governing body of the local government to notify Tax & Rev, DFA, and the LFC when a TIDD formation resolution is adopted, to add requirements for the content of the notice of hearing, and to clarify some administrative provisions.

The 2014 amendment created a mechanism for adjusting a base year one time. To date, the base year adjustment criteria has only been met by the Winrock TIDD.

TRAVEL AGENTS' COMMISSIONS GRT DEDUCTION

Brief Description: Receipts of travel agents from commissions paid by maritime transportation companies, and interstate airlines, railroads and passenger buses for booking, referral, reservation, or ticket services are deductible from gross receipts.

Statutory Basis: 7-9-76 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1977.

USE OF ELECTRICITY
EXEMPTION FROM COMPENSATING TAX

Brief Description: Electricity used in the production and transmission of electricity, including transmission using voltage source conversion technology is exempt from the compensating tax.

Statutory Basis: 7-9-38 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding

History: Originally enacted in 1969 and amended in 2012.

The 2012 amendment expanded the exemption to include electricity used in the transmission of electricity using voltage source conversion technology.

VETERINARY MEDICAL FOR TREATMENT OF CATTLE
GRT DEDUCTION

Brief Description: Receipts from sales of veterinary medical services, medicine or medical supplies used in the medical treatment of cattle may be deducted from gross receipts if the sale is made to:

(1) a person who states in writing that the person is regularly engaged in the business of ranching or farming, including dairy farming, in New Mexico, or

(2) a veterinarian who is providing veterinary medical services, medicine, or medical supplies in the treatment of cattle owned by that person.

Statutory Basis: 7-9-109 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 2007.

WIDE-AREA TELEPHONE AND PRIVATE COMMUNICATIONS SERVICE DEDUCTION FROM INTERSTATE TELECOMMUNCIATIONS GRT

Brief Description: Receipts from the provision of wide-area telephone service and private communications service in this state may be deducted from interstate telecommunications gross receipts.

Statutory Basis: 7-9C-6 NMSA 1978

Intended Purpose: Unclear.

History: Originally enacted in 1992 and amended in 1993.

APPENDIX A: TABLE OF EXPENDITURES BY CATEGORY

Citizen Benefit Expenditures	
Name of Expenditure	**Statute**
Affordable Housing Credit against Modified Combined Tax, PIT, or CIT	7-9I-5
Armed Forces Salaries Exemption from PIT	7-2-5.11
Back-to-School Tax-Free Weekend Deduction from GRT	7-9-95
Buses Operated by Religious and Nonprofit Charitable Organizations Exemption from WDT	7-15A-5(C)
Capital Gain Deduction from PIT	7-2-34
Certain Disabled Military Veteran Exemption from MVX	7-14-6(E)
Child Care to Prevent Indigency Credit against PIT	7-2-18.1
Contributions of Inventory to Nonprofit Organizations or Governmental Agencies Deduction from Compensating Tax	7-9-91
Corporate-Supported Child Care Credit against CIT	7-2A-14
Disabled Person Exemption from MVX	7-14-6(D)
Disabled Street Vendors Exemption from GRT	7-9-41.3
Disabled Veteran Exemption from Property Tax	7-37-5.1
Disabled Veteran Exemption from Special Benefit Property Tax Assessment	7-37.5.4
Education Trust Fund Payment Deduction from PIT	7-2-32
Electronic ID Reader Credit against PIT and CIT	7-2-18.8 and 7-2A-18
Excess of Elderly Taxpayers Maximum Property Tax Liability Rebate from PIT	7-2-18
Fees from Social Organizations Exemption from GRT	7-9-39
Foster Youth Employment Credit against PIT and CIT	7-2-18.30 and 7-2A-29
Head-of-Family Exemption from Property Tax	7-37-4
Hybrid Vehicle Exemption from MVX	7-14-6(G)
Income Tax Rebate 2020 Tax Year Filing	7-2-7.4
Income tax Rebate 2021 Tax Year Filing	7-2-7.6
Job Mentorship Credit against PIT and CIT	7-2-18.11 and 7-2A-17.1
Loan-Related Costs GRT Deduction	7-9-61.1
Low-Income Comprehensive Tax Rebate against PIT and Sixty-Five or Older Additional Rebate	7-2-14
Low-Income Property Tax Rebate against PIT	7-2-14.3
Low- and Middle-Income Taxpayers Exemption from PIT	7-2-5.8
Medical Care Savings Account Exemption from PIT	7-2-5.6
New Mexico National Guard Member Premiums Paid for Group Life Insurance Exemption from PIT	7-2-5.10
Nonathletic Special Event at New Mexico State University GRT Deduction	7-9-104
Nonprofit Elderly Care Facility Exemption from GRT	7-9-16
Nonprofit Organizations Exemption from GRT	7-9-29
Nonprofit Organizations Fundraisers GRT Deduction	7-9-85
Officiating at New Mexico Activities Association Events Exemption from GRT	7-9-41.4
Organ Donation Deduction from PIT	7-2-36
Persons One Hundred and Older Exemption from PIT	7-2-5.7

Citizen Benefit Expenditures	
Name of Expenditure	**Statute**
Persons Sixty-Five and Older or Blind Exemption from PIT	7-2-5.2
Preservation of Cultural Property Credit against PIT and CIT	7-2-18.2 and 7-2A-8.6
Property Valuation Limitation for Low-Income Seniors or Disabled Home Owners under Property Ta	7-36-21.3
Sale of Food at Retail Food Stores GRT Deduction and Hold Harmless Distribution	7-9-92 and 7-1-6.46, 7-1-6.47
Sale of Textbooks in Certain Bookstores Exemption from GRT	7-9-13.4
Sales to Nonprofit Organizations GRT, GGRT, and Compensating Tax Deduction	7-9-60, 7-9-15
Special Needs Adopted Child Credit against PIT	7-2-18.16
Supplemental Tax Rebate 2021 Tax Year	7-2-7.5
Unreimbursed or Uncompensated Medical Care Expenses Credit From PIT	7-2-18.13
Unreimbursed or Uncompensated Medical Care Expenses Deduction From PIT	7-2-37
Unreimbursed or Uncompensated Medical Care Expenses Exemption From PIT	7-2-5.9
Vehicles Titled before July 1, 1991 Exemption from LVGRT	7-14A-9
Veteran Employment Credit against PIT and CIT	7-2-18.28 and 7-2A-27
Veteran Exemption from Property Tax	7-37-5
Veteran’s Organization Exemption from Property Tax	7-37-5.3
Welfare-to-Work Credit against PIT and CIT	7-2-18.5 and 7-2A-8.8
Working Families Credit against PIT	7-2-18.15

Economic Development Expenditures	
Name of Expenditure	**Statute**
Aircraft Sales or Services GRT Deduction	7-9-62.1
Alternative Energy Product Manufacturers Credit against Modified Combined Tax	7-9J-1 *et seq.*
Angel Investment Credit against PIT	7-2-18.17
Apportionment Election of CIT For Headquarters	7-4-10(C)
Apportionment Election of CIT For Manufacturers	7-4-10(B)
Border-Zone Trade-Support Company GRT Deduction	7-9-56.3
Business Facility Rehabilitation Credit against PIT and CIT	7-2-18.4 and 7-2A-15
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Environment, Conservation & Renewable Energy Expenditures	
Name of Expenditure	**Statute**
Advanced Energy Credit against GRT, Compensating Tax, Withholding Tax, PIT, or CIT	7-2-18.25, 7-2A-25, and 7-9G-2
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Biodiesel Blending Facility Tax Thirty Percent Credit against GRT and Compensating Tax	7-9-79.2
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Environment, Conservation & Renewable Energy Expenditures	
Name of Expenditure	**Statute**
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Health Care Incentive	
Name of Expenditure	**Statute**
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Construction of Sole Community Provider Hospitals GRT Deduction	7-9-99
DOH-Licensed Hospitals Sixty Percent GRT and GGRT Deduction	7-9-73.1
Health Care Practitioner Services GRT Deduction and Hold Harmless Distribution	7-9-93, 7-1-6.46, and 7-1-6.47
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Medical and Health Care Services GRT Deduction	7-9-77.1
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Physician Participating in Cancer Treatment Clinical Trials Credit against PIT	7-2-18.27
Prescription Drugs, Oxygen and Medical Cannabis GRT and GGRT Deduction	7-9-73.2
Rural Health Care Practitioner Credit against PIT	7-2-18.22

Highly Specialized Industry Expenditures	
Name of Expenditure	**Statute**
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Fuel for Space Vehicles Exemption from GRT and Compensating Tax	7-9-26.1
Goods and Services for the DOD Related to Directed Energy and Satellites GRT Deduction	7-9-115
Liquor License Holders Deduction from GRT	7-9-119
Liquor License Lessor Deduction from PIT and CIT	7-2-40 and 7-2A31
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Lottery Retailer Receipts GRT Deduction	7-9-87
Microbrewer Beer and Small Wineries Rate Differential from Liquor Excise Tax	7-17-5(A)(5) and 7-17-5(A)(6)
Military Construction Services GRT Deduction	7-9-106
Military Transformational Acquisition Programs GRT Deduction	7-9-94
Molybdenum Rate Differential from Resources Tax and Processors Tax	7-25-4A(3) and 7-25-5A(4)
Natural Gas Exemption from Oil and Gas Severance Tax	7-29-4(B)(1)

Highly Specialized Industry Expenditures	
Name of Expenditure	**Statute**
Natural Gas Rate Differential from Oil and Gas Emergency School Tax	7-31-4(A)(6) and 7-31-4(A)(7)
Natural Gas Rate Differential from Oil and Gas Severance Tax	7-29-4(A)(4), 7-29-4(A)(6), and 7-29-4(A)(7)
Newspaper Sales GRT Deduction	7-9-64
Oil and Other Liquid Hydrocarbons Exemption from Oil and Gas Severance Tax	7-29-4(B)(2)
Oil and Other Liquid Hydrocarbons Rate Differential from Oil and Gas Emergency School Tax	7-31-4(A)(4) and 7-31-4(A)(5)
Oil and Other Liquid Hydrocarbons Rate Differential from Oil and Gas Severance Tax Rate	7-29-4(A)(3), 7-29-4(A)(5), 7-29-4(A)(8), and 7-29-4(A)(9)
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Processing Natural Gas Deduction from Oil and Gas Emergency School Tax	7-31-6, Reg. 3.18.6.10
Production or Staging of Professional Contests GRT Deduction	7-9-107
Publication Sales GRT Deduction	7-9-63
Purses and Jockey Remuneration at New Mexico Racetracks Exemption from GRT	7-9-40(A)
Railroad Equipment, Aircraft, and Space Vehicles Exemption from Compensating Tax	7-9-30
Real Estate Transactions GRT Deduction	7-9-66.1
Reasonable Expense of Trucking Product to Market Deduction from Oil and Gas Emergency School Tax	7-31-5(C)
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Sale of Software Development Services GRT Deduction	7-9-57.2
Spaceport-Related Activities GRT Deduction	7-9-54.2
Space-Related Test Articles Deduction from Compensating Tax	7-9-54.4
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Timber Rate Differential from Processors Tax	7-25-4A(2)
Transportation of Natural Gas Deduction from Oil and Gas Emergency School Tax	7-31-6, Reg. 3.18.6.9
Uranium Enrichment Plant Equipment Deduction from Compensating Tax	7-9-78.1
Uranium Hexafluoride and Uranium Enrichment GRT Deduction	7-9-90

APPENDIX B: FREQUENTLY USED ACRONYMS

ACA – Affordable Care Act

CIT - Corporate Income Tax

CREG – Consensus Revenue Estimating Group

CYFD – New Mexico Children, Youth and Families Department

DFA – New Mexico Department of Finance and Administration

DOH – New Mexico Department of Health

DWS – New Mexico Department of Workforce Solutions

EDD – New Mexico Economic Development Department

EMNRD – New Mexico Energy, Minerals, and Natural Resources Department

GGRT - Governmental Gross Receipts Tax

GRT - Gross Receipts Tax

HSD – New Mexico Human Services Department

IRS – Federal Government Internal Revenue Service

LVGRT - Leased Vehicle GRT

MCF - 1,000 Cubic Feet

MFA - New Mexico Mortgage Finance Authority

MVX - Motor Vehicle Excise Tax

NAICS – North American Industry Classification System

NMDOT – New Mexico Department of Transportation

NMENV – New Mexico Environment Department

ONGARD – Oil and Natural Gas Administration and Revenue Database

PIT - Personal Income Tax

PPLF – Petroleum Products Loading Fee

REPTC – Renewable Energy Production Tax Credit

RSTP – Revenue Stabilization and Tax Policy - an interim legislative committee

TIDD - Tax Increment Development District

TPP - Tangible Personal Property

Tax & Rev - New Mexico Taxation and Revenue Department

WDT - Weight Distance Tax

WTI - West Texas Intermediate

INDEX OF STATUTES

Please note that statutes are not listed in numerical order by tax program. The software orders the statutes numerically but does not recognize the hyphenated sections. In short, it lists, for example, 7-12-1 et seq. before 7-9-1.