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SENATE BILL 169

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY
Sue F. Wilson

AN ACT

RELATING TO TAXATION; PROVIDING A ONE-TIME TAX CREDIT FOR
EXPENSES INCURRED BY TAXPAYERS IN DEFENSE OF CERTAIN
ERRONEOUS CLAIMS BY THE TAXATION AND REVENUE DEPARTMENT OF
INCOME TAXES OWED.

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

Section 1. A new section of the Income Tax Act is
enacted to read:

"NEW MATERIAL TAX CREDIT--EXPENSES INCURRED IN DEFENSE
OF CERTAIN ERRONEOUS CLAIMS OF INCOME TAXES OWED.--

A. A taxpayer may claim a one-time credit in an
amount equal to qualified expenses incurred in defense of an
erroneous claim by the department in a letter of advisement
to the taxpayer stating that department records indicated
that the taxpayer owed an amount of income taxes for certain
prior tax years when no such taxes were owed.

underscored material = new
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B. The credit provided by Subsection A of this section may only be deducted from the taxpayer's New Mexico income tax liability for the taxable year. Any portion of the credit provided by this section that exceeds the taxpayer's income tax liability for the taxable year may be carried forward for one taxable year.

C. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the credit that would have been allowed on a joint return.

D. As used in this section:

(1) "letter of advisement" means the letter of advisement mailed by the secretary to taxpayers in March 1999 claiming that department records indicated the taxpayer owed an amount of income taxes for certain prior tax years and stating that if the amount owed was not paid or the taxpayer did not contact the department by April 1, 1999, the department would issue and mail to the taxpayer an official assessment of taxes, that may include penalty and interest; and

(2) "qualified expenses" means actual costs incurred for legal, accounting or other professional services, for obtaining or copying documents or for any other materials or services used directly in proving to the satisfaction of the department that the taxpayer did not owe the taxes the department erroneously claimed in the letter of advisement that the taxpayer owed."

