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FISCAL IMPACT REPORT

SPONSOR:	Wilson	DATE TYPED:	02/06/00	HB	
SHORT TITLE:	Change Gross Receipts Provision			SB	103/aSWMC
				ANALYST:	Eaton

REVENUE

Estimated Revenue		Subsequent	Recurring	Fund
FY00	FY2001*	Years Impact	or Non-Rec	Affected
	<(25.0)		Recurring	General Fund Local Government

(Parenthesis () Indicate Revenue Decreases)

**Fiscal impact in FY01 does not incorporate SWMC amendment because a report had been received from the Taxation and Revenue Department prior to the time this report was written.*

SOURCES OF INFORMATION

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of SWMC Amendment

The amendment amends an additional section of the tax code: 7-9-54 - DEDUCTION - GROSS RECEIPTS TAX - SALES TO GOVERNMENTAL AGENCIES.--

The amendment reorganized this section of law to allow deductions from gross receipts or governmental gross receipts arising from transactions with tribes and pueblos in the sale of mineral ore, receipts from selling property that: is or will be incorporated metropolitan redevelopment projects; ingredient or component parts of construction project; or deductions for "services" as defined in Section 7-9-3(K). No fiscal impact report had been received prior to the time this report was written.

Synopsis of Bill

A detailed section by section description is included on the following page. This bill clarifies that "retaining wall, wall, fence, gate or similar structure" are "construction", subject to the gross receipts tax. Changes to improve administration and taxpayer convenience (but with negligible fiscal impact) include: (1) eliminating the requirement that the value of a purchased service be separately stated on its re-sale; (2) construction materials and construction sub-contract services for a project on Indian land are deductible, even though the completed construction project is not taxable ; (3) "backbone" Internet services deduction provision currently scheduled to sunset 6/30/00 made permanent.

TRD reports allowing contractors to present NTTCS for materials and sub-contract services for projects on Indian land removes a particularly onerous "gotcha". If the tribe and contractor are sophisticated, all sub-contracted services will be signed by the tribe and thereby receive the protection of federal preemption. Since this tax can be so easily avoided, there is little reason to keep the hurdle in the statutes. Similar reasoning applies to construction materials.

FISCAL IMPLICATIONS

SWMC Amendment

Fiscal impact in FY01 does not incorporate SWMC amendment because a report had not been received from the Taxation and Revenue Department prior to the time this report was written.

Impact of including fences, gates and retaining walls in "construction" is estimated at less than 25K. Most contractors have been remitting tax for these projects. The administrative provisions are not expected to cost any money. This may be offset by the potential loss on some construction materials used in construction projects for Indian nations, tribes and pueblos.

ADMINISTRATIVE IMPLICATIONS

Administrative activity consists of creating regulations and instructing auditors. This can be accomplished within existing resources.

TECHNICAL ISSUES

Effective date not stated. Effective 90 days after adjournment -- May 17, 2000. TRD requests certain effective date, for example, July 1, 2000, to aid administration.

SECTION by SECTION DESCRIPTION:

Bill NMSA

Section	Section	Description
1	7-9-3	Definitions: "retaining wall, wall, fence, gate or similar structure" to "construction".
2	7-9-48	Deduction—sale for re-sale of a service: Eliminates requirement that the value of the purchased service be separately stated on its re-sale. The Department occasionally sustains an audit assessment on this issue, but most taxpayers conform to the requirement as a somewhat gratuitous administrative provision required to claim an appropriate deduction for resale.
3	7-9-51	Deduction—construction materials: construction materials to be incorporated on a project on Indian land are deductible.
4	7-9-52	Deduction—construction services: construction services to be incorporated on a project on Indian land are deductible.
5	7-9-56.1	Deduction— "backbone" Internet services: provision made permanent (scheduled to sunset 6/30/00).
6	7-9-57	Deduction—export of services: makes the text conform to the catch line; the buyer must be an out-of-state buyer.

JE/njw:gm