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SENATE BILL 766

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Manny M. Aragon

AN ACT

RELATING TO TAXATION; PROVIDING INCOME TAX RELIEF BY ADDING A
ZERO BRACKET AMOUNT AND REDUCING THE RATES OF LOW- AND MIDDLE-
INCOME TAXPAYERS; CHANGING CERTAIN FILING REQUIREMENTS.

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

Section 1. Section 7-2-2 NMSA 1978 (being Laws 1986,
Chapter 20, Section 26, as amended) is amended to read:

"7-2-2. DEFINITIONS. -- For the purpose of the Income Tax
Act and unless the context requires otherwise:

A. "adjusted gross income" means adjusted gross
income as defined in Section 62 of the Internal Revenue Code,
as that section may be amended or renumbered;

B. "base income":

(1) means, for estates and trusts, that part
of the estate's or trust's income defined as taxable income

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1 and upon which the federal income tax is calculated in the
2 Internal Revenue Code for income tax purposes plus, for
3 taxable years beginning on or after January 1, 1991, the
4 amount of the net operating loss deduction allowed by Section
5 172(a) of the Internal Revenue Code, as that section may be
6 amended or renumbered, and taken by the taxpayer for that
7 year;

8 (2) means, for taxpayers other than estates
9 or trusts, that part of the taxpayer's income defined as
10 adjusted gross income plus, for taxable years beginning on or
11 after January 1, 1991, the amount of the net operating loss
12 deduction allowed by Section 172(a) of the Internal Revenue
13 Code, as that section may be amended or renumbered, and taken
14 by the taxpayer for that year; and

15 (3) includes, for all taxpayers, any other
16 income of the taxpayer not included in adjusted gross income
17 but upon which a federal tax is calculated pursuant to the
18 Internal Revenue Code for income tax purposes, except amounts
19 for which a calculation of tax is made pursuant to Section 55
20 of the Internal Revenue Code, as that section may be amended
21 or renumbered; "base income" also includes interest received
22 on a state or local bond;

23 C. "compensation" means wages, salaries,
24 commissions and any other form of remuneration paid to
25 employees for personal services;

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1 D. "department" means the taxation and revenue
2 department, the secretary of taxation and revenue or any
3 employee of the department exercising authority lawfully
4 delegated to that employee by the secretary;

5 E. "fiduciary" means a guardian, trustee,
6 executor, administrator, committee, conservator, receiver,
7 individual or corporation acting in any fiduciary capacity;

8 F. "filing status" means "married filing joint
9 returns", "married filing separate returns", "head of
10 household", "surviving spouse" and "single", as those terms
11 are generally defined for federal tax purposes;

12 G. "fiscal year" means any accounting period of
13 twelve months ending on the last day of any month other than
14 December;

15 H. "head of household" means "head of household"
16 as generally defined for federal income tax purposes;

17 I. "individual" means a natural person, an estate,
18 a trust or a fiduciary acting for a natural person, trust or
19 estate;

20 J. "Internal Revenue Code" means the United States
21 Internal Revenue Code of 1986, as amended;

22 K. "lump-sum amount" means an amount that, for the
23 purpose of determining liability for federal income tax, was
24 not included in adjusted gross income but upon which the five-
25 year-averaging or the ten-year-averaging method of tax

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1 computation provided in Section 402 of the Internal Revenue
2 Code, as that section may be amended or renumbered, was
3 applied;

4 L. "modified gross income" means all income of the
5 taxpayer and, if any, the taxpayer's spouse and dependents,
6 undiminished by losses and from whatever source derived,
7 including:

- 8 (1) compensation;
- 9 (2) net profit derived from business;
- 10 (3) gains derived from dealings in property;
- 11 (4) interest;
- 12 (5) net rents;
- 13 (6) royalties;
- 14 (7) dividends;
- 15 (8) alimony and separate maintenance
16 payments;
- 17 (9) annuities;
- 18 (10) income from life insurance and endowment
19 contracts;
- 20 (11) pensions;
- 21 (12) discharge of indebtedness;
- 22 (13) distributive share of partnership
23 income;
- 24 (14) income in respect of a decedent;
- 25 (15) income from an interest in an estate or

1 trust;

2 (16) social security benefits;

3 (17) unemployment compensation benefits;

4 (18) workers' compensation benefits;

5 (19) public assistance and welfare benefits;

6 (20) cost-of-living allowances; and

7 (21) gifts;

8 M "modified gross income" does not include:

9 (1) payments for hospital, dental, medical or
10 drug expenses whether made to or on behalf of the taxpayer;

11 (2) the value of room and board provided by
12 federal, state or local governments or by private individuals
13 or agencies based upon financial need and not as a form of
14 compensation;

15 (3) payments made pursuant to a federal,
16 state or local government program directly or indirectly to a
17 third party on behalf of the taxpayer when identified to a
18 particular use or invoice by the payer; or

19 (4) payments made pursuant to Sections
20 7-2-14, [~~7-2-14.1~~] 7-2-18, 7-2-18.1 and 7-3-9 NMSA 1978;

21 N. "net income" means, for estates and trusts,
22 base income adjusted to exclude amounts that the state is
23 prohibited from taxing because of the laws or constitution of
24 this state or the United States and means, for taxpayers other
25 than estates or trusts, base income adjusted to exclude:

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1 (1) an amount equal to the standard deduction
2 allowed the taxpayer for the taxpayer's taxable year by
3 Section 63 of the Internal Revenue Code, as that section may
4 be amended or renumbered;

5 (2) an amount equal to the itemized
6 deductions, as defined in Section 63 of the Internal Revenue
7 Code, as that section may be amended or renumbered, allowed
8 the taxpayer for the taxpayer's taxable year less the amount
9 excluded pursuant to Paragraph (1) of this subsection;

10 (3) an amount equal to the product of the
11 exemption amount allowed for the taxpayer's taxable year by
12 Section 151 of the Internal Revenue Code, as that section may
13 be amended or renumbered, multiplied by the number of personal
14 exemptions allowed for federal income tax purposes;

15 (4) income from obligations of the United
16 States of America less expenses incurred to earn that income;

17 (5) other amounts that the state is
18 prohibited from taxing because of the laws or constitution of
19 this state or the United States;

20 (6) for taxable years that began prior to
21 January 1, 1991, an amount equal to the sum of:

22 (a) net operating loss carryback
23 deductions to that year from taxable years beginning prior to
24 January 1, 1991 claimed and allowed, as provided by the
25 Internal Revenue Code; and

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1 (b) net operating loss carryover
2 deductions to that year claimed and allowed; and

3 (7) for taxable years beginning on or after
4 January 1, 1991, an amount equal to the sum of any net
5 operating loss carryover deductions to that year claimed and
6 allowed, provided that the amount of any net operating loss
7 carryover from a taxable year beginning on or after January 1,
8 1991 may be excluded only as follows:

9 (a) in the case of a timely filed
10 return, in the taxable year immediately following the taxable
11 year for which the return is filed; or

12 (b) in the case of amended returns or
13 original returns not timely filed, in the first taxable year
14 beginning after the date on which the return or amended return
15 establishing the net operating loss is filed; and

16 (c) in either case, if the net
17 operating loss carryover exceeds the amount of net income
18 exclusive of the net operating loss carryover for the taxable
19 year to which the exclusion first applies, in the next four
20 succeeding taxable years in turn until the net operating loss
21 carryover is exhausted; in no event shall a net operating loss
22 carryover be excluded in any taxable year after the fourth
23 taxable year beginning after the taxable year to which the
24 exclusion first applies;

25 0. "net operating loss" means any net operating

1 loss, as defined by Section 172(c) of the Internal Revenue
2 Code, as that section may be amended or renumbered, for a
3 taxable year as further increased by the income, if any, from
4 obligations of the United States for that year less related
5 expenses;

6 P. "net operating loss carryover" means the
7 amount, or any portion of the amount, of a net operating loss
8 for any taxable year that, pursuant to Paragraph (6) or (7) of
9 Subsection N of this section, may be excluded from base
10 income;

11 Q. "nonresident" means every individual not a
12 resident of this state;

13 R. "person" means any individual, estate, trust,
14 receiver, cooperative association, club, corporation, company,
15 firm, partnership, limited liability company, joint venture,
16 syndicate or other association; "person" also means, to the
17 extent permitted by law, any federal, state or other
18 governmental unit or subdivision or agency, department or
19 instrumentality thereof;

20 S. "resident" means an individual who is domiciled
21 in this state during any part of the taxable year; but any
22 individual who, on or before the last day of the taxable year,
23 changed his place of abode to a place without this state with
24 the bona fide intention of continuing actually to abide
25 permanently without this state is not a resident for the

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1 purposes of the Income Tax Act;

2 T. "secretary" means the secretary of taxation and
3 revenue or the secretary's delegate;

4 U. "state" means any state of the United States,
5 the District of Columbia, the commonwealth of Puerto Rico, any
6 territory or possession of the United States or any political
7 subdivision of a foreign country;

8 V. "state or local bond" means a bond issued by a
9 state other than New Mexico or by a local government other
10 than one of New Mexico's political subdivisions, the interest
11 from which is excluded from income for federal income tax
12 purposes under Section 103 of the Internal Revenue Code, as
13 that section may be amended or renumbered;

14 W. "surviving spouse" means "surviving spouse" as
15 generally defined for federal income tax purposes;

16 X. "taxable income" means net income less any
17 lump-sum amount;

18 Y. "taxable year" means the calendar year or
19 fiscal year upon the basis of which the net income is computed
20 under the Income Tax Act and includes, in the case of the
21 return made for a fractional part of a year under the
22 provisions of the Income Tax Act, the period for which the
23 return is made; ~~and~~

24 Z. "taxpayer" means any individual subject to the
25 tax imposed by the Income Tax Act; and

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1	<u>Over \$ 2,500 but not over \$ 5,000</u>	<u>2.0% of excess over</u>
2		<u>\$2,500</u>
3	<u>Over \$ 5,000 but not over \$ 8,000</u>	<u>\$ 50.00 plus 3.0% of</u>
4		<u>excess over \$5,000</u>
5	<u>Over \$ 8,000 but not over \$ 12,000</u>	<u>\$ 140 plus 4.5% of</u>
6		<u>excess over \$8,000</u>
7	<u>Over \$ 12,000 but not over \$ 20,000</u>	<u>\$ 320 plus 5.5% of</u>
8		<u>excess over \$12,000</u>
9	<u>Over \$ 20,000 but not over \$ 32,000</u>	<u>\$ 760 plus 7.0% of</u>
10		<u>excess over \$20,000</u>
11	<u>Over \$ 32,000 but not over \$ 50,000</u>	<u>\$ 1,600 plus 7.9% of</u>
12		<u>excess over \$ 32,000</u>
13	<u>Over \$ 50,000</u>	<u>\$ 3,022 plus 8.2% of</u>
14		<u>excess over \$50,000.</u>

15 B. For surviving spouses and married individuals
16 filing joint returns:

17	If the taxable income is:	The tax shall be:
18	[Not over \$8,000	1.7% of taxable income
19	Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of
20		excess over \$ 8,000
21	Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of
22		excess over \$ 16,000
23	Over \$ 24,000 but not over \$ 40,000	\$ 768 plus 6.0% of
24		excess over \$ 24,000
25	Over \$ 40,000 but not over \$ 64,000	\$ 1,728 plus 7.1% of

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1		excess over \$ 40,000
2	Over \$ 64,000 but not over \$100,000	\$ 3,432 plus 7.9% of
3		excess over \$ 64,000
4	Over \$100,000	\$ 6,276 plus 8.2% of
5		excess over \$100,000]
6	<u>Not over \$5,000</u>	<u>\$ 0</u>
7	<u>Over \$ 5,000 but not over \$ 10,000</u>	<u>2.0% of excess over</u>
8		<u>\$5,000</u>
9	<u>Over \$ 10,000 but not over \$ 16,000</u>	<u>\$ 100 plus 3.0% of</u>
10		<u>excess over \$10,000</u>
11	<u>Over \$ 16,000 but not over \$ 24,000</u>	<u>\$ 280 plus 4.5% of</u>
12		<u>excess over \$16,000</u>
13	<u>Over \$ 24,000 but not over \$ 40,000</u>	<u>\$ 640 plus 5.5% of</u>
14		<u>excess over \$24,000</u>
15	<u>Over \$ 40,000 but not over \$ 64,000</u>	<u>\$1,520 plus 7.0% of</u>
16		<u>excess over \$40,000</u>
17	<u>Over \$ 64,000 but not over \$ 100,000</u>	<u>\$3,200 plus 7.9% of</u>
18		<u>excess over \$ 64,000</u>
19	<u>Over \$100,000</u>	<u>\$6,044 plus 8.2% of</u>
20		<u>excess over \$100,000.</u>

21 C. For single individuals and for estates and
22 trusts:

23	If the taxable income is:	The tax shall be:
24	[Not over \$5,500	1.7% of taxable income
25	Over \$ 5,500 but not over \$ 11,000	\$ 93.50 plus 3.2% of

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1		excess over \$ 5,500
2	Over \$ 11,000 but not over \$ 16,000	\$ 269.50 plus 4.7% of
3		excess over \$ 11,000
4	Over \$ 16,000 but not over \$ 26,000	\$ 504.50 plus 6.0% of
5		excess over \$ 16,000
6	Over \$ 26,000 but not over \$ 42,000	\$1,104.50 plus 7.1% of
7		excess over \$ 26,000
8	Over \$ 42,000 but not over \$ 65,000	\$2,240.50 plus 7.9% of
9		excess over \$ 42,000
10	Over \$ 65,000	\$4,057.50 plus 8.2% of
11		excess over \$ 65,000]
12	<u>Not over \$2,500</u>	<u>\$ 0</u>
13	<u>Over \$ 2,500 but not over \$ 6,000</u>	<u>2.0% of excess over</u>
14		<u>\$2,500</u>
15	<u>Over \$ 6,000 but not over \$ 11,000</u>	<u>\$ 70.00 plus 3.0% of</u>
16		<u>excess over \$6,000</u>
17	<u>Over \$ 11,000 but not over \$ 16,000</u>	<u>\$ 220 plus 4.5% of</u>
18		<u>excess over \$11,000</u>
19	<u>Over \$ 16,000 but not over \$ 26,000</u>	<u>\$ 445 plus 5.5% of</u>
20		<u>excess over \$16,000</u>
21	<u>Over \$ 26,000 but not over \$ 42,000</u>	<u>\$ 995 plus 7.0% of</u>
22		<u>excess over \$26,000</u>
23	<u>Over \$ 42,000 but not over \$ 65,000</u>	<u>\$2,115 plus 7.9% of</u>
24		<u>excess over \$42,000</u>
25	<u>Over \$ 65,000</u>	<u>\$3,814 plus 7.7% of</u>

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1 excess over \$65,000.

2 D. For heads of household filing returns:

3 If the taxable income is: The tax shall be:

4	[Not over \$7,000	1.7% of taxable income
5	Over \$ 7,000 but not over \$ 14,000	\$ 119 plus 3.2% of
6		excess over \$ 7,000
7	Over \$ 14,000 but not over \$ 20,000	\$ 343 plus 4.7% of
8		excess over \$ 14,000
9	Over \$ 20,000 but not over \$ 33,000	\$ 625 plus 6.0% of
10		excess over \$ 20,000
11	Over \$ 33,000 but not over \$ 53,000	\$1,405 plus 7.1% of
12		excess over \$ 33,000
13	Over \$ 53,000 but not over \$ 83,000	\$2,825 plus 7.9% of
14		excess over \$ 53,000
15	Over \$83,000	\$5,195 plus 8.2% of
16		excess over \$ 83,000]
17	<u>Not over \$4,000</u>	<u>\$ 0</u>
18	<u>Over \$ 4,000 but not over \$ 9,000</u>	<u>2.0% of excess over</u>
19		<u>\$4,000</u>
20	<u>Over \$ 9,000 but not over \$ 14,000</u>	<u>\$ 100 plus 3.0% of</u>
21		<u>excess over \$9,000</u>
22	<u>Over \$ 14,000 but not over \$ 20,000</u>	<u>\$ 250 plus 4.5% of</u>
23		<u>excess over \$14,000</u>
24	<u>Over \$ 20,000 but not over \$ 33,000</u>	<u>\$ 520 plus 5.5% of</u>
25		<u>excess over \$20,000</u>

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1 States to file a federal income tax return [~~shall file a~~
2 ~~complete tax return with the department in form and content~~
3 ~~as prescribed by the secretary]~~ or files a federal income
4 tax return; and

5 (2) the taxpayer's taxable income exceeds
6 the zero bracket amount for the taxpayer's filing status.

7 B. Unless otherwise required under the Income
8 Tax Act or prescription of the secretary, in completing a
9 return for a taxable year, the taxpayer shall declare the
10 same filing status and number of personal exemptions as the
11 taxpayer declared for federal income tax purposes for that
12 same taxable year or, if the taxpayer was not required to
13 file a federal income tax return for the taxable year, the
14 filing status and number of personal exemptions that would
15 have been required or allowed for that taxpayer by the
16 Internal Revenue Code and regulations thereunder for the
17 taxable year.

18 C. The return required and the tax imposed on
19 individuals under the Income Tax Act are due and payment is
20 required on or before the fifteenth day of the fourth month
21 following the end of the taxable year. "

22 Section 4. APPLICABILITY. -- The provisions of this act
23 are applicable to taxable years beginning on or after
24 January 1, 2001.