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HOUSE BILL 131

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Ben Lujan

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; AMENDING THE INCOME TAX ACT TO CHANGE
THE CERTIFICATION DATE FOR PROPERTY TAX REBATE FOR LOW-INCOME
TAXPAYERS AND ADD A SPECIFICATION FOR A COUNTY RESOLUTION ON
ELDERLY HOMEOWNERS' PROPERTY TAX REBATE.

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

Section 1. Section 7-2-14.3 NMSA 1978 (being Laws 1994,
Chapter 111, Section 1, as amended) is amended to read:

"7-2-14.3. TAX REBATE OF PART OF PROPERTY TAX DUE FROM
LOW-INCOME TAXPAYER--LOCAL OPTION--REFUND.--

A. The tax rebate provided by this section may be
claimed for the taxable year for which the return is filed by
an individual who:

(1) has his principal place of residence in a
county that has adopted an ordinance pursuant to Subsection G

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1 of this section;

2 (2) is not a dependent of another individual;

3 (3) files a return; and

4 (4) incurred a property tax liability on his
5 principal place of residence in the taxable year.

6 B. The tax rebate provided by this section shall
7 be allowed for any individual eligible to claim the refund
8 pursuant to Subsection A of this section and who:

9 (1) was not an inmate of a public institution
10 for more than six months during the taxable year;

11 (2) was physically present in New Mexico for at
12 least six months during the taxable year for which the rebate
13 is claimed; and

14 (3) is eligible for the rebate as a low-income
15 property taxpayer in accordance with the provisions of
16 Subsection D of this section.

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

21 D. As used in the table in this subsection,
22 "property tax liability" means the amount of property tax
23 resulting from the imposition of the county and municipal
24 property tax operating impositions on the net taxable value of
25 the taxpayer's principal place of residence calculated for the

1 year for which the rebate is claimed. The tax rebate provided
2 in this section is as specified in the following table:

3 LOW-INCOME TAXPAYER'S PROPERTY TAX REBATE TABLE

4 Taxpayer's Modified Gross Income		Property Tax Rebate
5	But Not	
6 Over	Over	
7 \$0	\$8,000	75% of property tax liability
8 8,000	10,000	70% of property tax liability
9 10,000	12,000	65% of property tax liability
10 12,000	14,000	60% of property tax liability
11 14,000	16,000	55% of property tax liability
12 16,000	18,000	50% of property tax liability
13 18,000	20,000	45% of property tax liability
14 20,000	22,000	40% of property tax liability
15 22,000	24,000	35% of property tax liability.

16 E. If a taxpayer's modified gross income is zero,
17 the taxpayer may claim a tax rebate in the amount shown in the
18 first row of the table. The tax rebate provided for in this
19 section shall not exceed three hundred fifty dollars (\$350)
20 per return and, if a return is filed separately that could
21 have been filed jointly, the tax rebate shall not exceed one
22 hundred seventy-five dollars (\$175). No tax rebate shall be
23 allowed any taxpayer whose modified gross income exceeds
24 twenty-four thousand dollars (\$24,000).

25 F. The tax rebate provided for in this section may

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1 be deducted from the taxpayer's New Mexico income tax
2 liability for the taxable year. If the tax rebate exceeds the
3 taxpayer's income tax liability, the excess shall be refunded
4 to the taxpayer.

5 G. In January of every odd-numbered year in which
6 a county does not have in effect an ordinance adopted pursuant
7 to this subsection, the board of county commissioners of the
8 county shall conduct a public hearing on the question of
9 whether the property tax rebate provided in this section
10 benefiting low-income property taxpayers in the county should
11 be made available through adoption of a county ordinance.
12 Notice of the public hearing shall be published once at least
13 two weeks prior to the hearing date in at least one newspaper
14 of general circulation in the county and broadcast at some
15 time within the week before the hearing on at least one radio
16 station with substantial broadcasting coverage in the county.
17 At the public hearing, the board shall take action on the
18 question and if a majority of the members elected votes to
19 adopt an ordinance, it shall be adopted no later than thirty
20 days after the public hearing.

21 H. An ordinance adopted pursuant to Subsection G
22 of this section shall specify the [~~first~~] taxable [~~year~~] years
23 to which it is applicable. The board of county commissioners
24 adopting an ordinance shall notify the department of the
25 adoption of the ordinance and furnish a copy of the ordinance

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1 to the department no later than September 1 of the first
2 taxable year to which the ordinance applies.

3 I. No later than [~~July 1~~] December 31 of the year
4 immediately following the first year in which the low-income
5 taxpayer property tax rebate provided in the Income Tax Act is
6 in effect for a county, and no later than [~~July 1~~] December 31
7 of each year thereafter in which the tax rebate is in effect,
8 the department shall certify to the county the amount of the
9 loss of income tax revenue to the state for the previous
10 taxable year attributable to the allowance of property tax
11 rebates to taxpayers of that county. The county shall
12 promptly pay the amount certified to the department. If a
13 county fails to pay the amount certified within thirty days of
14 the date of certification, the department may enforce
15 collection of the amount by action against the county and may
16 withhold from any revenue distribution to the county, not
17 dedicated or pledged, amounts up to the amount certified.

18 J. As used in this section, "principal place of
19 residence" means the dwelling owned and occupied by the
20 taxpayer and so much of the land surrounding it, not to exceed
21 five acres, as is reasonably necessary for use of the dwelling
22 as a home and may consist of a part of a multidwelling or a
23 multipurpose building and a part of the land upon which it is
24 built."

25 Section 2. Section 7-2-18 NMSA 1978 (being Laws 1977,

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1 Chapter 196, Section 1, as amended) is amended to read:

2 "7-2-18. TAX REBATE OF PROPERTY TAX DUE THAT EXCEEDS THE
3 ELDERLY TAXPAYER'S MAXIMUM PROPERTY TAX LIABILITY--REFUND.--

4 A. Any resident who has attained the age of sixty-
5 five and files an individual New Mexico income tax return and
6 is not a dependent of another individual may claim a tax
7 rebate for the taxable year for which the return is filed.
8 The tax rebate shall be the amount of property tax due on the
9 resident's principal place of residence for the taxable year
10 that exceeds the property tax liability indicated by the table
11 in Subsection F or G, as appropriate, of this section, based
12 upon the taxpayer's modified gross income.

13 B. Any resident otherwise qualified under this
14 section who rents a principal place of residence from another
15 person may calculate the amount of property tax due by
16 multiplying the gross rent for the taxable year by six
17 percent. The tax rebate shall be the amount of property tax
18 due on the taxpayer's principal place of residence for the
19 taxable year that exceeds the property tax liability indicated
20 by the table in Subsection F or G, as appropriate, of this
21 section, based upon the taxpayer's modified gross income.

22 C. As used in this section, "principal place of
23 residence" means the resident's dwelling, whether owned or
24 rented, and so much of the land surrounding it, not to exceed
25 five acres, as is reasonably necessary for use of the dwelling

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1 as a home and may consist of a part of a multidwelling or a
2 multipurpose building and a part of the land upon which it is
3 built.

4 D. No claim for the tax rebate provided in this
5 section shall be allowed a resident who was an inmate of a
6 public institution for more than six months during the taxable
7 year or who was not physically present in New Mexico for at
8 least six months during the taxable year for which the tax
9 rebate could be claimed.

10 E. A husband and wife who file separate returns
11 for a taxable year in which they could have filed a joint
12 return may each claim only one-half of the tax rebate that
13 would have been allowed on a joint return.

14 F. For taxpayers whose principal place of
15 residence is in a county that does not have in effect for the
16 taxable year a resolution in accordance with Subsection J of
17 this section, the tax rebate provided for in this section may
18 be claimed in the amount of the property tax due each taxable
19 year that exceeds the amount shown as property tax liability
20 in the following table:

21 ELDERLY HOMEOWNERS' MAXIMUM PROPERTY TAX LIABILITY TABLE

		Property Tax
Taxpayer's Modified Gross Income	But Not	Liability
Over	Over	

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1	\$0	\$1,000	\$20
2	1,000	2,000	25
3	2,000	3,000	30
4	3,000	4,000	35
5	4,000	5,000	40
6	5,000	6,000	45
7	6,000	7,000	50
8	7,000	8,000	55
9	8,000	9,000	60
10	9,000	10,000	75
11	10,000	11,000	90
12	11,000	12,000	105
13	12,000	13,000	120
14	13,000	14,000	135
15	14,000	15,000	150
16	15,000	16,000	180.

17 G. For taxpayers whose principal place of
18 residence is in a county that has in effect for the taxable
19 year a resolution in accordance with Subsection J of this
20 section, the tax rebate provided for in this section may be
21 claimed in the amount of the property tax due each taxable
22 year that exceeds the amount shown as property tax liability
23 in the following table:

24 ELDERLY HOMEOWNERS' MAXIMUM PROPERTY TAX LIABILITY TABLE

25 Property Tax

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1	Taxpayer's Modified Gross Income	Liability	
2	But Not		
3	Over	Over	
4	\$0	\$1,000	\$20
5	1,000	2,000	25
6	2,000	3,000	30
7	3,000	4,000	35
8	4,000	5,000	40
9	5,000	6,000	45
10	6,000	7,000	50
11	7,000	8,000	55
12	8,000	9,000	60
13	9,000	10,000	75
14	10,000	11,000	90
15	11,000	12,000	105
16	12,000	13,000	120
17	13,000	14,000	135
18	14,000	15,000	150
19	15,000	16,000	165
20	16,000	17,000	180
21	17,000	18,000	195
22	18,000	19,000	210
23	19,000	20,000	225
24	20,000	21,000	240
25	21,000	22,000	255

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1	22,000	23,000	270
2	23,000	24,000	285
3	24,000	25,000	300.

4 H. If a taxpayer's modified gross income is zero,
5 the taxpayer may claim a tax rebate based upon the amount
6 shown in the first row of the appropriate table. The tax
7 rebate provided for in this section shall not exceed two
8 hundred fifty dollars (\$250) per return, and, if a return is
9 filed separately that could have been filed jointly, the tax
10 rebate shall not exceed one hundred twenty-five dollars
11 (\$125). No tax rebate shall be allowed any taxpayer whose
12 modified gross income exceeds sixteen thousand dollars
13 (\$16,000) for taxpayers whose principal place of residence is
14 in a county that does not have in effect for the taxable year
15 a resolution in accordance with Subsection J of this section
16 and twenty-five thousand dollars (\$25,000) for all other
17 taxpayers.

18 I. The tax rebate provided for in this section may
19 be deducted from the taxpayer's New Mexico income tax
20 liability for the taxable year. If the tax rebate exceeds the
21 taxpayer's income tax liability, the excess shall be refunded
22 to the taxpayer.

23 J. The board of county commissioners may adopt a
24 resolution authorizing otherwise qualified taxpayers whose
25 principal place of residence is in the county to claim the

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1 rebate provided by this section in the amounts set forth in
2 Subsection G of this section. The resolution must also
3 provide that the county will reimburse the state for the
4 additional amount of tax rebates paid to such taxpayers over
5 the amount that would have been paid to such taxpayers under
6 Subsection F of this section. The resolution may apply to one
7 or more taxable years and should contain language specifying
8 the period of time for which the rebate provided by this
9 section may be claimed by qualified taxpayers. The county
10 must adopt the resolution and notify the department of the
11 adoption by no later than September 1 of the taxable year to
12 which the resolution first applies. The department shall
13 determine the additional amounts paid to taxpayers of the
14 county for each taxable year and shall bill the county for the
15 amount at the time and in the manner determined by the
16 department. If the county fails to pay any bill within thirty
17 days, the department may deduct the amount due from any amount
18 to be transferred or distributed to the county by the state,
19 other than debt interceptions."

20 Section 3. APPLICABILITY.--The provisions of this act
21 apply to taxable years beginning on or after January 1, 2002.

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