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SENATE BILL 325

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

INTRODUCED BY

Mary Jane M Garcia

AN ACT

RELATING TO TAXATION; ENACTING SECTIONS OF THE INCOME TAX ACT AND CORPORATE INCOME AND FRANCHISE TAX ACT TO PROVIDE A CREDIT FOR GROSS RECEIPTS TAX PAID ON RECEIPTS FROM THE PROVISION OF MEDICAL AND OTHER HEALTH SERVICES BY PHYSICIANS.

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 CREDIT--PHYSICIANS--GROSS RECEIPTS TAX PAID ON RECEIPTS FROM THE PROVISION OF MEDICAL AND OTHER HEALTH SERVICES--REFUND. --

A. A physician who files an individual New Mexico income tax return may claim a credit for state and local option gross receipts taxes paid in the taxable year for which the credit is claimed on receipts of the taxpayer from the

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1 provision of medical and other health services or on receipts
2 of a pass-through business entity of which the taxpayer is an
3 owner from the provision of medical and other health services
4 by physicians. If the taxes were paid by a pass-through
5 business entity of which the taxpayer is an owner, the amount
6 of the gross receipts taxes paid by the taxpayer shall be
7 determined to be the taxes paid on that portion of the taxable
8 gross receipts of the pass-through business entity from the
9 provision of medical and other health services by physicians
10 that represents the taxpayer's proportionate ownership share
11 of the pass-through business entity.

12 B. The credit provided by this section may only be
13 deducted from the taxpayer's New Mexico income tax liability
14 for the taxable year. Any portion of the tax credit provided
15 by this section that remains unused at the end of the
16 taxpayer's taxable year may be carried forward for three
17 consecutive taxable years.

18 C. As used in this section:

19 (1) "owner" means a partner in a partnership
20 not taxed as a corporation for federal income tax purposes for
21 the taxable year, a shareholder of an S corporation or of a
22 corporation other than an S corporation that is not taxed as a
23 corporation for federal income tax purposes for the taxable
24 year, a member of a limited liability company or any similar
25 person holding an ownership interest in a pass-through

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1 business entity;

2 (2) "pass-through business entity" means any
3 business association other than:

4 (a) a sole proprietorship;

5 (b) an estate or trust; or

6 (c) a corporation, limited liability
7 company, partnership or other entity not a sole proprietorship
8 taxed as a corporation for federal income tax purposes for the
9 taxable year; and

10 (3) "physician" means a medical doctor
11 licensed as a physician to practice medicine pursuant to the
12 provisions of the Medical Practice Act or a person licensed as
13 an osteopathic physician pursuant to the provisions of Chapter
14 61, Article 10 NMSA 1978. "

15 Section 2. A new section of the Corporate Income and
16 Franchise Tax Act is enacted to read:

17 "[NEW MATERIAL] CREDIT--GROSS RECEIPTS TAX PAID ON
18 RECEIPTS FROM MEDICAL AND HEALTH SERVICES PROVIDED BY
19 PHYSICIANS-- REFUND. --

20 A. A taxpayer that files a corporate income tax
21 return may claim a credit for state and local option gross
22 receipts taxes paid in the taxable year for which the credit
23 is being claimed on receipts of the taxpayer from the
24 provision of medical and other health services by physicians.

25 B. The credit provided by this section may only be

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1 deducted from the taxpayer's corporate income tax liability
2 for the taxable year. Any portion of the tax credit provided
3 by this section that remains unused at the end of the
4 taxpayer's taxable year may be carried forward for three
5 consecutive taxable years.

6 C. As used in this section, "physician" means a
7 medical doctor licensed as a physician to practice medicine
8 pursuant to the provisions of the Medical Practice Act or a
9 person licensed as an osteopathic physician pursuant to the
10 provisions of Chapter 61, Article 10 NMSA 1978. "

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