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HOUSE BILL 452

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Terry T. Marquardt

AN ACT

RELATING TO TAXATION; ENACTING SECTIONS OF THE INCOME TAX ACT AND THE 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--GROSS RECEIPTS TAX PAID ON RECEIPTS FROM MEDICAL AND OTHER HEALTH SERVICES PROVIDED BY PHYSICIANS--REFUND. --

A. A taxpayer 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 or of a pass-

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

11 B. The credit provided in this section may be
12 deducted from the taxpayer's New Mexico income tax liability
13 for the taxable year. If the credit exceeds the taxpayer's
14 income tax liability for the taxable year, the excess shall be
15 refunded to the taxpayer.

16 C. As used in this section:

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

25 (2) "pass-through business entity" means a

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1 business association other than:
2 (a) a sole proprietorship;
3 (b) an estate or trust; or
4 (c) a corporation, limited liability
5 company, partnership or other entity not a sole proprietorship
6 taxed as a corporation for federal income tax purposes for the
7 taxable year; and

8 (3) "physician" means:
9 (a) a physician licensed pursuant to the
10 provisions of Chapter 61, Article 6 NMSA 1978;
11 (b) a dentist licensed pursuant to the
12 provisions of the Dental Health Care Act;
13 (c) an optometrist licensed pursuant to
14 the provisions of the Optometry Act; and
15 (d) an osteopathic physician licensed
16 pursuant to the provisions of Chapter 61, Article 10 NMSA
17 1978. "

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

20 " [NEW MATERIAL] CREDIT--GROSS RECEIPTS TAX PAID ON
21 RECEIPTS FROM MEDICAL AND OTHER HEALTH SERVICES PROVIDED BY
22 PHYSICIANS-- REFUND. --

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

3 B. The credit provided in this section may be
4 deducted from the taxpayer's corporate income tax liability for
5 the taxable year. If the credit exceeds the taxpayer's
6 corporate income tax liability for the taxable year, the excess
7 shall be refunded to the taxpayer.

8 C. As used in this section, "physician" means:

9 (1) a physician licensed pursuant to the
10 provisions of Chapter 61, Article 6 NMSA 1978;

11 (2) a dentist licensed pursuant to the
12 provisions of the Dental Health Care Act;

13 (3) an optometrist licensed pursuant to the
14 provisions of the Optometry Act; and

15 (4) an osteopathic physician licensed pursuant
16 to the provisions of Chapter 61, Article 10 NMSA 1978. "

17 Section 3. APPLICABILITY. -- The provisions of this act
18 apply to taxable years beginning on or after January 1, 2004.