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48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007 INTRODUCED BY Peter Wirth AN ACT RELATING TO TAXATION; AMENDING THE CORPORATE INCOME AND FRANCHISE TAX ACT TO MANDATE COMBINED REPORTING; REDUCING CORPORATE INCOME TAX RATES; REPEALING A SECTION OF THE NMSA 1978 PERTAINING TO CONSOLIDATED RETURNS. BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO: Section 1. Section 7-2A-5 NMSA 1978 (being Laws 1981, Chapter 37, Section 38, as amended) is amended to read: "7-2A-5. CORPORATE INCOME TAX RATES.--The corporate income tax imposed on corporations by Section 7-2A-3 NMSA 1978 shall be at the rates specified in the following table: If the net income is: The tax shall be: Not over \$500,000 $[\frac{4.8\%}{}]$ 4.0% of net

income

Over \$500,000 but not

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over \$1,000,000	\$24,000 plus
	[6.4%] <u>5.4%</u> of
	excess
	over \$500,000
Over \$1,000,000	\$56,000
	plus [7.6%] <u>6.4%</u>
	of excess over
	\$1,000,000."

Section 2. Section 7-2A-8.3 NMSA 1978 (being Laws 1983, Chapter 213, Section 12, as amended by Laws 1993, Chapter 307, Section 4 and also by Laws 1993, Chapter 309, Section 2) is amended to read:

"7-2A-8.3. COMBINED RETURNS.--

A unitary corporation that is subject to taxation under the Corporate Income and Franchise Tax Act [and that has not previously filed a combined return pursuant to this section or a consolidated return pursuant to Section 7-2A-8.4 NMSA 1978 may elect to | shall file a combined return with other unitary corporations as though the entire combined net income were that of one corporation. The return filed under this method of reporting shall include the net income of all the unitary corporations. Transactions among the unitary corporations may be eliminated by applying the appropriate rules for reporting income for a consolidated federal income tax return. corporation that has filed an income tax return with New Mexico

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pursuant to Section 7-2A-8.4 NMSA 1978 shall not file pursuant to this section unless the secretary gives prior permission to file on a combined return basis.

B. Once corporations have reported net income through a combined return for any taxable year, they shall file combined returns for subsequent taxable years, so long as they remain unitary corporations, [unless the corporations elect to file pursuant to Section 7-2A-8.4 NMSA 1978 or] unless the secretary grants prior permission for one or more of the corporations to file individually.

[C. For taxable years beginning on or after January 1, 1993, no unitary corporation once included in a combined return may elect, or be granted permission by the secretary, for any subsequent taxable year to separately account pursuant to Paragraph (4) of Subsection A of Section 7-2A-8 NMSA 1978.]"

Section 3. REPEAL.--Section 7-2A-8.4 NMSA 1978 (being Laws 1983, Chapter 213, Section 13, as amended) is repealed.

Section 4. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2008.

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